

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 7011

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Fresen; Bileca; and others

109 Y's

1 N's

**COMPANION
BILLS:** SB 672

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 7011 passed the House on January 14, 2016, as SB 672. The bill creates the "Florida Postsecondary Comprehensive Transition Program Act" to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities. The bill establishes a process for postsecondary institutions in Florida to voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and creates the Florida Center for Students with Unique Abilities (center) to serve as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families.

The bill creates the "Students Attired for Education (SAFE) Act" and enumerates the benefits of a standard student attire policy and consequently removes the requirement that school boards individually make such findings. The bill encourages district school boards and charter schools to enact a policy requiring standard student attire in at least kindergarten through eighth grade by providing immunity from civil liability based upon adoption of the policy and providing additional funds to school boards that enact a standard student attire policy. Funding of \$10 per student in kindergarten through eighth grade is provided for qualifying districts.

The 2014 Legislature established the Florida Personal Learning Scholarship Account (PLSA) program to enable parents of students with disabilities to customize their child's education. Parents can request and receive a scholarship that can be used to purchase a wide range of services. Scholarship accounts are established by eligible nonprofit scholarship funding organizations (SFO), and parents are reimbursed for instructional materials, curriculum, and approved services. The bill includes a number of provisions that increase access, strengthen accountability, and streamline administration including increasing the pool of eligible applicants by expanding the definition of autism to include all students on the autism spectrum disorder, and including students who have muscular dystrophy and 3-and 4-year-olds who are high-risk. The bill renames the Florida Personal Learning Scholarship Account program to the Gardiner Scholarship program.

The bill appropriates a total of \$95.3 million from the General Revenue Funds for the 2016-2017 fiscal year. The bill provides \$73.3 million (\$71.2 million for scholarships and \$2.1 million for program administration) for the Personal Learning Scholarship Accounts Program, \$14 million for the Standard Student Attire Incentive Program and \$8 million for the Florida Postsecondary Comprehensive Transition Program (\$1.5 million for the Florida Center for Students with Unique Abilities, \$3 million for start-up grants, and \$3.5 million for scholarships).

The bill was approved by the Governor on January 21, 2016, ch. 2016-2, L.O.F., and will become effective on July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7011z.EDAS

DATE: March 16, 2016

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Florida Postsecondary Comprehensive Transition Program Act

Present Situation

Federal Law

The Higher Education Act of 1965, amended and extended by the Higher Education Opportunity Act of 2008, includes new provisions to support quality higher education programs for students with disabilities. The federal law establishes comprehensive transition and postsecondary (CTP) programs, transition programs for students with intellectual disabilities (TPSID) grants, and national coordination of CTP programs for students with intellectual disabilities.¹

A student with an intellectual disability is defined as a student “with a cognitive impairment, characterized by significant limitations in intellectual and cognitive functioning and adaptive behavior who is currently, or was formerly, eligible for a free appropriate public education under the Individuals with Disabilities Education Act.”²

Federal law also defines a comprehensive transition and postsecondary (CTP) program as a degree, certificate, or nondegree program that meets each of the following criteria:³

- Is offered by an institution of higher education (IHE);
- Is delivered to students physically attending the IHE;⁴
- Is designed to support students with intellectual disabilities who are seeking to continue academic, career and technical, and independent living instruction at an IHE in order to prepare for gainful employment;
- Includes an advising and curriculum structure; and
- Requires students with intellectual disabilities to participate on not less than a half-time basis, as determined by the institution, with such participation focusing on academic components, and occurring through one or more of the following activities with nondisabled peers:
 - Regular enrollment in credit-bearing courses offered by the institution.
 - Auditing or participating in courses offered by the institution for which the student does not receive regular academic credit.
 - Participation in noncredit-bearing, nondegree courses.
 - Participation in internships or work-based training.
- Requires students with intellectual disabilities to be socially and academically integrated with nondisabled students to the maximum extent possible.

Students attending CTP programs may qualify to receive federal financial aid in the form of a Federal Pell Grant, Federal Supplemental Educational Opportunity Grant and/or Federal Work-Study⁵ provided the student:

- Is enrolled or accepted for enrollment in a CTP program for students with intellectual disabilities at an IHE that participates in the federal student aid programs;
- Maintains satisfactory academic progress, as determined by the institution;⁶ and

¹ 20 U.S.C. s. 1140 et. Seq.; Pub. L. No. 110-315, 122 Stat.3361 (Aug. 14, 2008).

² 20 U.S.C. s. 1140(2).

³ 20 U.S.C. s. 1140(1); 34 C.F.R. s. 231(a).

⁴ 34 C.F.R. s. 668.231(a)(2).

⁵ Federal Student Aid, U.S. Department of Education, *Students with Intellectual Disabilities May Be Able to Get Certain Types of Federal Student Aid*, <https://studentaid.ed.gov/eligibility/intellectual-disabilities> (last visited Feb. 16, 2015); see also 34 C.F.R. ss.668.233 and 68.32.

⁶ An institution is responsible for publishing the institution’s standards for students enrolled in its comprehensive transition and postsecondary (CTP) program. 34 C.F.R. s. 668.233(a)(3).

- Meets the basic federal student aid eligibility requirements, except that the student is not required to have a high school diploma or General Educational Development (GED) and is not required to pursue a degree or certification.

The student must provide documentation establishing that the student has an intellectual disability.⁷

An institution that offers a CTP program must apply to the Secretary of the United State Department of Education (USDOE) to be determined eligible for federal student aid programs. The application must include:⁸

- A detailed description of the program;
- The institution's policy for determining the achievement of satisfactory academic progress;
- The length of the program (credit hours, semesters, clock hours, etc.);
- A detailed description of the educational credential or identified outcome of students enrolled in the program; and
- A copy of the letter or notice sent to the institution's accrediting agency indicating approval of the CTP program.⁹

According to data provided by the Office of Program Policy Analysis and Government Accountability (OPPAGA), this approval process takes between 3 and 6 months to complete, depending on the quality of the application and associated materials.¹⁰

Transition Programs for Students with Intellectual Disabilities (TPSID) Grants are provided by USDOE as five-year cooperative agreements to institutions of higher education or consortia of institutions of higher education to enable these institutions the ability to create or expand high quality CTP programs for students with intellectual disabilities.¹¹ Grants totaling approximately \$10.5 million were first awarded in Fiscal Year 2010 to 27 two- and four-year institutions across 23 states, including the University of South Florida – St. Pete, Florida's sole awardee.¹² Since initially awarding TPSID grants in 2010, funds have only been awarded for non-competing continuation grants.¹³

An institution or consortium that receives a TPSID grant shall use the funds to establish a model CTP program that:¹⁴

- Serves students with intellectual disabilities;
- Provides supports and services for the academic and social inclusion of students with intellectual disabilities in academic courses, extracurricular activities, and other aspects of the institution of higher education's regular postsecondary program;
- Focuses on academic enrichment, socialization, independent living skills, and integrated work experiences and career skills that lead to gainful employment;
- Integrates person-centered planning in the development of the course of study for each student with an intellectual disability participating in the model program;
- Participates with the coordinating center in the evaluation of the model program;

⁷ 34 C.F.R. s. 668.233(c).

⁸ 34 C.F.R. s. 668.232.

⁹ Think College, as the National Coordinating Center, is working with the United States Congress regarding a specialized accreditation for programs for students with disabilities. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf, at 7 of 29.

¹⁰ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf, at 18 of 85.

¹¹ U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/index.html> (last visited Feb. 16, 2015).

¹² U.S. Department of Education, *Transition and Postsecondary Programs for Students with Intellectual Disabilities*, <http://www2.ed.gov/programs/tpsid/awards.html> (last visited Feb. 16, 2015).

¹³ *Id.*

¹⁴ 20 U.S.C. 1140g(d).

- Partners with one or more local educational agencies (LEA's) to support students with intellectual disabilities participating in the model program who are still eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA);
- Plans for sustainability of the model program after the end of the grant period; and
- Creates and offers a meaningful credential for students with intellectual disabilities upon completion of the program.

The Higher Education Opportunity Act of 2008 established a National Center for Information and Technical Support for Postsecondary Students with Disabilities (National Center).¹⁵ The National Center is responsible for:¹⁶

- Providing assistance to students and families and institutions of higher education;
- Building, maintaining, and updating a database of disability support services information;
- Working with organizations and individuals with proven expertise to evaluate, improve, and disseminate information related to the delivery of high quality disability support services at institutions of higher education; and
- Reporting to the United State Secretary of Education an analysis of the condition of postsecondary success for students with disabilities.

The act also establishes a national coordinating center for institutions of higher education that offer inclusive CTP programs for students with intellectual disabilities, including those participating in TPSID grants.¹⁷ Think College, a project of the Institute for Community Inclusion at the University of Massachusetts – Boston, was selected in October 2010, to provide support, coordination, training and evaluation services to the TPSID grant recipients.¹⁸

State Law

Florida law provides for students with disabilities to be eligible for reasonable substitution of any requirement for admission to postsecondary educational institutions if the student can provide documentation that the failure to meet the requirement is related to the disability.¹⁹ While Florida law allows for “reasonable substitution for any requirement for graduation, for admission into a program of study, or for entry into the upper division”, these substitutions may not constitute a fundamental alteration in the nature of the program.²⁰ Additionally, to be eligible for state student financial aid awards, students must meet specified eligibility criteria, which includes, minimum number of credit hours per term or the equivalent.²¹

Seventeen non-traditional postsecondary program options are available across Florida for students with documented developmental disabilities²² that provide activities such as auditing postsecondary courses, enrolling in vocational courses, participating in campus life, and job placement programs.²³ Of these programs:

- Nine are available to students who are no longer enrolled in district ESE programs. In the 2013-14 year, 222 students were enrolled and 125 graduated. Of these 125 graduates, 41 students, or 33 percent, were employed and another 6 students, or 8 percent, received industry

¹⁵ 20 U.S.C. s. 1140q(a).

¹⁶ 20 U.S.C. s. 1140q(a)(4).

¹⁷ 20 U.S.C. s. 1140q(b) and i(b).

¹⁸ Think College! *National Coordinating Center and College Options for People with Intellectual Disabilities*, <http://www.thinkcollege.net> (last visited Feb. 16, 2015).

¹⁹ s. 1007.264, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

²⁰ s. 1007.265, F.S.; Rule 6A-10.041, F.A.C. and Board of Governors Regulation 6.018.

²¹ s. 1009.40, F.S.

²² Developmental disability means “ a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” Section 393.063(9), F.S.

²³ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf at 15 of 29.

certification, went on to other postsecondary options or pursued a GED. The cost to the student for these programs varies and can be as high as \$10,000.²⁴

- Eight are available to students through age 21 who are still receiving district ESE services. In the 2013-14 year, 85 students were enrolled and 14 graduated. Of these 14 graduates, 10 students, or 67 percent, were employed and another 2 students, or 13 percent, were enrolled in postsecondary education.²⁵ Since these students still receive district ESE services, there is no program cost to the student.

None of the 17 programs offered award college credit or a college degree, but some allow students to complete courses that can be applied toward a workforce credential.²⁶

Effect of Proposed Changes

The bill creates the “Florida Postsecondary Comprehensive Transition Program Act” to increase independent living, inclusive and experiential postsecondary education, and employment opportunities for students with intellectual disabilities. Specifically, the bill:

- establishes a process by which postsecondary institutions may voluntarily seek approval to offer a Florida Postsecondary Comprehensive Transition Program (FPCTP) for students with intellectual disabilities; and
- creates the Florida Center for Students with Unique Abilities (center) as the statewide coordinating center for the dissemination of information regarding programs and services available to students with disabilities and their families.

Florida Postsecondary Comprehensive Transition Program (FPCTP)

FPCTP’s are established for students with intellectual disabilities. The bill aligns the state approval requirements with federal requirements for comprehensive transition and postsecondary (CTP) programs. In addition to the federal requirements, an eligible institution²⁷ must submit to the center no later than the academic year immediately following the academic year in which federal approval was granted. An application must, at a minimum:

- Identification of a credential associated with the proposed program that is awarded to a student with an intellectual disability after the student completes the FPCTP;
- Program length and design that includes, at a minimum, inclusive and experiential education practices related to curricular, assessment, and advising structure and internship and employment opportunities and if a college credit-bearing degree program, at the same rigor and effectiveness of a comparable program offered by the institution;
- Plan for students with intellectual disabilities to be integrated socially and academically with nondisabled students;
- Plan for partnerships with businesses to promote experiential training and employment opportunities for students with intellectual disabilities;
- Identification of performance indicators and other requirements identified by the center; and
- A 5-year plan regarding enrollment and operational expectations.

²⁴ Program costs reflect base tuition only and does not include the cost of a residential option which ranges from \$11,000-14,000 per year. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf at 21 of 85.

²⁵ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 20, 2015), available at http://www.flseate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf at 22 of 85.

²⁶ Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Committee on Higher Education (Jan. 5, 2015), available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf at 13 of 29.

²⁷ The bill defines eligible institution as a state university; a Florida College System (FCS) institution; a technical center; or an independent college or university that is located and chartered in Florida, is not for profit, is accredited by the Southern Association of Colleges and Schools (SACS), and is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

To be eligible to enroll in a FPCTP program, a student must meet the definition of a “student with an intellectual disability” as defined in 20 U.S.C. s. 1140(2), physically attend the eligible institution, and submit to the institution documentation regarding his or her intellectual disability.

The Florida Center for Students with Unique Abilities

This bill creates the Florida Center for Students with Unique Abilities (center) at the University of Central Florida. The responsibilities of the center include, but are not limited to disseminating information regarding: education programs, services and resources available at eligible institutions; supports, accommodations, technical assistance or training provided by eligible institutions, the advisory council or regional autism centers; and mentoring, networking and employment opportunities; and coordinating, facilitating and overseeing statewide implementation.

The director of the center shall consult and collaborate with the National Center and the Coordinating Center regarding guidelines for effective implementation of the programs which align with federal requirements and standards, quality indicators and benchmarks; consult and collaborate with the Higher Education Coordinating Council to identify meaningful credentials and engage businesses and stakeholders to promote experiential training and employment opportunities to students with intellectual disabilities; establish requirements and timelines for the submission and review of an application, approval or disapproval of an initial or renewal application, and implementation of an FPCTP, which must begin no later than the academic year immediately following the academic year during which the approval is granted; administer the scholarship funds; administer the FPCTP start-up and enhancement grants; and report on the implementation and administration by planning, advising, and evaluating approved degree, certificate, and nondegree programs and the performance of students and programs.

The center shall create the application for the initial approval and renewal of approval as an FPCTP for use by an eligible institution. Within 30 days after receipt of an application, the director shall make a recommendation regarding approval of state university programs to the State University System Chancellor and all other programs to the Commissioner of Education or give written notice to the applicant regarding any application deficiencies. In the event of notice of application deficiencies, the applicant has 15 days to correct the application and submit a revised application, at such time the director has 30 days from the time of receipt to make a recommendation. The State University System Chancellor or Commissioner of Education, as appropriate, has 15 days after receipt of the recommendation to approve or disapprove the recommendation. If no action is taken, the program will be considered an approved FPCTP by default.

The center shall provide technical assistance regarding programs and services for students with intellectual disabilities to administrators, instructors and staff at eligible institutions by holding meetings and annual workshops, facilitating collaboration between institutions and school districts, private schools, and parents of students enrolled in home education programs, assisting eligible institutions with applications, and monitoring federal and state law relating to the program.

The center, in collaboration with the Board of Governors and the State Board of Education, shall identify indicators for satisfactory academic progress and performance of FPCTP programs.

The center shall report to the Governor, President of the Senate, Speaker of the House of Representatives, Chancellor of the State University System and Commissioner of Education, by October 1 of each year, the following:

- Status of the statewide coordination and implementation of FPCTP’s, including the number of applications approved and disapproved, reasons for each disapproval or no action taken by the Chancellor or Commissioner, number and value of all scholarships awarded and amount of all undisbursed funds;
- Indicators identified and performance of each eligible institution;
- Projected number of students with intellectual disabilities eligible to enroll within the next academic year; and

- Education programs and services for students with intellectual disabilities available at an eligible institution.

Beginning in the 2016-17 fiscal year, the center, in collaboration with the Board of Governors, State Board of Education, Higher Education Coordinating Council and other stakeholders, shall submit to the Governor, President of the Senate, and Speaker of the House of Representative, statutory or budget recommendations for improving the implementation and delivery of FPCTP's by December 1 of each year.

The Board of Governors and the State Board of Education, in consultation with the center, shall expeditiously adopt and necessary regulations and rules to allow the center to perform its responsibilities.

Institution Eligibility and Responsibilities

To offer an FPCTP, the president or executive director of an eligible institution must submit to the center, by a date determined by the center the following:

1. An application for approval of a comprehensive transition program proposed by the eligible institution, which must be approved by the institution's governing board and must address the requirements of the federal comprehensive transition and postsecondary program.
2. Documented evidence of a federally approved program that is determined to be eligible for federal student financial aid programs and is currently offered at the institution, documented evidence of the submission of an application for such federal approval, or documentation demonstrating the intent to submit an application within the subsequent academic year.

An institution submitting a renewal application must do so within 3 years following the year during which initial approval was granted.

Additional responsibilities of the institutions include the submission of an annual report by August 1st of each year. This report shall address, at a minimum, the program's efforts to recruit and retain students; enrollment, retention and completion data; transition success of completers as measured by employment rates and salary levels at 1 and 5 years after completion; and any other performance indicators identified by the center.

An eligible institution shall notify students with intellectual disabilities and their parents of the student eligibility requirements.

Florida Postsecondary Comprehensive Transition Program Scholarship

Beginning in the 2016-17 academic year, this scholarship is established for students meeting eligibility requirements to enroll in a FPCTP program. To remain eligible, a student must continue to meet eligibility requirements and demonstrate satisfactory academic progress, as determined by the institution and based on indicators identified by the center. Payment of the scholarship funds will be transmitted to the director of the center for disbursement to eligible institutions.

Eligible institutions must report to the center, during each academic term, the number and value of all scholarships awarded, including any necessary demographic and eligibility data for all students receiving the award. Additionally, each eligible institution must certify, by a date determined by the center, the amount of funds disbursed and remit to the center any undisbursed funds by June 1 of each year.

For the 2016-2017 academic year, the amount of annual scholarship shall be \$7,000 for each student who meets eligibility requirements. Funding and maximum award amounts for this program must be provided annually in the General Appropriations Act beginning in the 2017-2018 fiscal year.

Standard Student Attire

The 2015-2016 General Appropriations Act (GAA) established a \$10,000,000 Standard Student Attire Incentive Fund for school districts that implement a districtwide, standard student attire policy for all students in kindergarten through grade 8.²⁸ To qualify a district for the incentive payment, the district's school superintendent had to certify to the Commissioner of Education that the district school board implemented a policy meeting the requirements established in the GAA.²⁹ Qualifying districts would receive a payment of \$10 per each student in kindergarten through grade 8.³⁰

The policy must have covered all students in kindergarten through grade 8 across the district; required solid colored clothing and fabrics for pants, skirts, shorts, or similar clothing, and short or long sleeved shirts with collars; and allowed parents to opt their child out of the policy for religious purposes or because of a disability. In addition, policies could prohibit certain types or styles of clothing and authorize a small logo; however, the policy could not authorize a motto or slogan.³¹ In addition, the GAA required the Department of Education to establish guidelines for determining whether a school district's policy met the eligibility requirements.³²

The following school districts received incentive funds for the 2015-2016 school year for implementing qualifying policies:

Florida Department of Education 2015-16 Student Attire Allocation³³

District	K-8 Full-Time Equivalent Students	Allocation
Alachua	18,067.94	\$180,679
Bay	19,115.14	\$191,151
Miami-Dade	217,998.99	\$2,179,990
Flagler	8,651.34	\$86,513
Madison	1,658.47	\$16,585
Osceola	39,550.70	\$395,507
Polk	68,052.14	\$680,521
Taylor	2,022.98	\$20,230
Total	375,117.70	\$3,751,176

The 2015-2016 GAA granted school districts that implement a district-wide, K-8 standard student attire policy immunity from civil liability resulting from adoption of the policy.

²⁸ Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

²⁹ The deadline for submitting certification of a qualifying policy to the commissioner was September 1, 2015. *Id.*

³⁰ *Id.* Language in the 2015 GAA allowed charter schools to participate and receive incentive funds but did not expressly authorize charter schools to certify a qualifying policy directly to the commissioner.

³¹ *Id.*
³² *Id.* See Florida Department of Education, *Memorandum, DPS 2015-111: District Certification for Standard Student Attire Incentive Fund – Due September 1, 2015* (July 24, 2015), on file with the Education Committee staff.

³³ Email, Florida Department of Education, Office of Governmental Relations (Nov. 4, 2015).

The commissioner was required to report the status of the program to the Governor and Legislature by December 1, 2015, and, on June 30, 2016, submit a final report summarizing the program and its effect on student learning.³⁴

Effect of Proposed Changes

The bill codifies the standard student attire incentive fund in statute as the “Student’s Attired for Education (SAFE) Act.” The bill enumerates some of the benefits of standard student attire, which encourages students to express their individuality through personality and academic achievements instead of outward appearances; enables students to focus on academics by projecting a neat, serious, studious image; minimizes discipline problems because students are not distracted by clothing; minimizes visible differences among students by using clothing that is more economical for parents; reduces time for correcting dress code violations through a readily available inventory of compliant attire; and eliminates social pressures to wear brand name clothing or colors that show gang affiliation, thereby easing financial pressure on parents and enhancing school safety.

The bill makes it easier for charter schools to receive incentive funds by expressly allowing a charter school to participate through its sponsoring district’s qualifying policy or to certify directly to the commissioner that it has implemented a qualifying, schoolwide policy directly to the commissioner.

Consistent with the 2015-2016 GAA, a qualifying standard student attire policy must:

- Apply to all students in kindergarten through grade 8 in the school district or charter school.³⁵
- Prohibit certain types of clothing and require solid-colored clothing and fabrics for pants, skirts, shorts, or similar clothing and short- or long-sleeved shirts with collars.
- Allow reasonable accommodations based on a student’s religion, disability, or medical condition.

Subject to appropriation, the bill provides qualifying school districts and charter schools with an annual award of at least \$10 per student in kindergarten through grade 8.³⁶ Certification must be received from the district school superintendent or charter school governing board by September 1 of each year. As of June 30 each year, any appropriated funds that have not been disbursed must revert to the fund from which they were appropriated.

The bill also grants district school boards and charter school governing boards that implement a districtwide or schoolwide policy, respectively, immunity from civil liability resulting from adoption of the policy in accordance with the bill.

Personal Learning Scholarship Account

The 2014 Legislature created the Florida Personal Learning Scholarship Account (PLSA) program to provide parents of students with disabilities more flexibility to customize their child’s education.³⁷ Funds are distributed to qualified³⁸ Scholarship Funding Organizations (SFO) to establish accounts for eligible students.³⁹ Parents can use funds from their account to choose from a variety of approved items for their student including, but not limited to: specialized services, curriculum, instructional materials,

³⁴ Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

³⁵ Any students in kindergarten through grade 8 served by a school are included, regardless of the school’s grade configuration (e.g., kindergarten through grade 2 or grades 6 through 12).

³⁶ The bill does not establish a cap on the amount that may be appropriated for this purpose.

³⁷ Section 16, ch. 2014-184, L.O.F.

³⁸ Section 1002.385(2)(e), F.S.

³⁹ Section 1002.385, F.S.

tuition, and contracted services.⁴⁰ A total of \$55.0 million (\$53.4 million for scholarships and \$1.6 million for program administration) was allocated for the 2015-16 school year.⁴¹

The bill renames the Florida Personal Learning Scholarship Account program the Gardiner Scholarship program.

Student Eligibility

Present Situation

The parent of a student, who is a resident of this state, may request and receive an account if the student:

- Is eligible to enroll in kindergarten through 12th grade in a public school in this state;
- Has one of the following disabilities: autism, cerebral palsy, down syndrome, an intellectual disability, Prader-Willi syndrome, or spina bifida, Williams syndrome; or for a student in kindergarten, as a high-risk child⁴²; and
- Has an Individual Education Plan (IEP) written in accordance with rules of the state board or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.⁴³

A student is not eligible for the program:

- While enrolled in a public school;
- While enrolled in a Department of Juvenile Justice school commitment program;
- While receiving a scholarship from the Florida Tax Credit Scholarship Program or the McKay Scholarship for Students with Disabilities Program;
- If the student or parent has accepted any payment, refund, or rebate from a program provider;
- If the Commissioner of Education has denied or revoked the student's participation in the program; or
- If the parent forfeits participation in the program by failing to comply with program requirements.⁴⁴

Parents must apply to an eligible SFO to participate in the program by February 1 before the school year in which the student wishes to participate or an alternative date set by the SFO. The SFO must notify the district and the Department of Education (DOE) of the parent's intent to participate.⁴⁵ The PLSA is provided on a first-come, first-served basis based upon the funding in the General Appropriations Act (GAA).

During the 2015A Special Session, the PLSA program was amended to increase student eligibility by expanding the definition of autism and including students with muscular dystrophy and 3- and 4-year-olds who are high-risk. Additionally, the renewing students were given first priority for re-enrollment the subsequent year.⁴⁶

Effect of Proposed Changes

⁴⁰ Section 1002.385(5), F.S.

⁴¹ Specific Appropriation 105, s. 2, ch.2015-232, L.O.F.

⁴² Section 1002.385(2)(d), F.S.

⁴³ Section 1002.385(3)(a), F.S.

⁴⁴ Section 1002.385(4), F.S.

⁴⁵ Section 1002.385(3)(b), F.S.

⁴⁶ Section 5, ch. 2015-222, L.O.F.

The bill codifies the expanded definition of autism and the inclusion of students with muscular dystrophy and 3- and 4-year olds who are high-risk as well as giving priority to renewing students to continue participation in the subsequent year.

The current statutory definition of “autism” means a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.⁴⁷ This definition requires that the individual exhibit severe and substantial deficits in certain areas.

The new definition of “autism spectrum disorder” as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) includes autism, Asperger’s syndrome, and any pervasive developmental disorder not otherwise specified. This broader definition allows students with an Autism Spectrum Disorder with lesser degrees of severity to be eligible for the program.⁴⁸

The bill clarifies that a high-risk child who reaches six years of age must have documentation of an eligible disability in order to continue in the program.

Scholarship Funding Organization Responsibilities

Present Situation

An eligible participating scholarship funding organization is a nonprofit scholarship funding organization that is approved by DOE to participate in the Florida Tax Credit Scholarship Program.⁴⁹ An SFO is required to:

- Receive applications, determine student eligibility, and notify the DOE of the applicants by March 1 the year prior to a student’s participation.⁵⁰
- Notify parents of their receipt of a scholarship on a first-come, first-served basis.⁵¹
- Establish a date by which a parent must confirm initial or continuing program participation.⁵²
- Establish a date by which students on the wait list or late-filing applicants may participate, if funds are still available.⁵³
- Establish and maintain separate accounts for each student.⁵⁴
- Verify eligible expenditures.⁵⁵
- Return any unused funds to DOE when a student is no longer eligible for the program.⁵⁶

An SFO must verify that expenditures for curriculum and instructional materials are eligible before reimbursing a parent for such expenditures. However, an SFO can review expenditures made for all other services after the payment has been made.⁵⁷

Effect of Proposed Changes

⁴⁷ Section 393.063(3), F.S.

⁴⁸ Email, Florida Department of Education, Independent Education and Parental Choice (March 6, 2015).

⁴⁹ Section 1002.385(2)(e), F.S.

⁵⁰ Section 1002.385(12)(a), F.S.

⁵¹ Section 1002.385(12)(b), F.S.

⁵² Section 1002.385(12)(c), F.S.

⁵³ Section 1002.385(12)(d), F.S.

⁵⁴ Section 1002.385(12)(e), F.S.

⁵⁵ Section 1002.385(12)(f), F.S.

⁵⁶ Section 1002.385(12)(g), F.S.

⁵⁷ Section 1002.385(9)(b), F.S.

The bill requires an SFO to maintain a record of accrued interest that can be retained in each student's account and used for authorized program purchases. Additionally, the SFO must verify that all expenditures are eligible prior to purchases being made.

The bill clarifies SFO program responsibilities and specifies that the SFO must review applications and award scholarship funds using the following priorities:

- Renewing students from the previous year;
- Students retained on the previous school year's wait list;
- Newly approved applicants; and
- Late-filed applicants.

The SFO must also notify parents about the availability of, and requirements associated with, requesting an initial IEP or IEP reevaluation every three years for each participating student.

The bill prohibits an SFO from charging an application fee for the program.

Allowable Expenditures

Present Situation

Program funds must be used to meet the individual educational needs of the student. Program funds may be spent for the following purposes:

- Instructional materials and curriculum.
- Specialized services, including but not limited to, applied behavior analysis, speech language pathologist, occupational therapy, physical therapy, and services provided by listening and spoken language specialists.
- Enrollment in, or tuition and fees for enrollment in an eligible private school or postsecondary education institution, a private tutoring program, or virtual education programs or courses.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contributions to the Stanley G. Tate Florida Prepaid College Program.
- Contracted services provided by a public school or school district, including classes.⁵⁸
- Tuition and fees for part-time tutoring services provided by an individual who has a valid Florida educator's certificate, an adjunct teaching certificate, or has demonstrated mastery of subject area knowledge.⁵⁹

Effect of Proposed Changes

The bill codifies that program funds must be used for the individual educational needs of the student and that funds may be used for part-time tutoring.

The bill expands the types of services available to program participants by including:

- Fees for the training on the use of and maintenance agreements for digital devices, digital periphery devices and assistive technology devices.
- Fees for an annual evaluation of educational progress for a home education student.
- Tuition and fees associated with enrollment in a home education program or a program offered by an eligible postsecondary institution.

⁵⁸ Id.

⁵⁹ Section 5, ch. 2015-222, L.O.F.

- Contributions to the Florida College Savings Program.
- Fees for specialized summer or after-school education programs.
- Fees for transition services provided by job coaches.
- Fees for an annual evaluation utilized by home education students.
- Tuition and fees associated with programs offered by VPK education and school readiness providers.

Eligible Providers

Present Situation

Entities eligible to provide specialized services or educational programs include:

- A provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the DOE.⁶⁰
- A postsecondary educational institution including a Florida College System institution, a state university, a school district technical center, a school district adult general education center, or an accredited, postsecondary educational institution which is licensed to operate in this state.⁶¹
- A private school that is located in this state, offers education to students in any grade from kindergarten to grade 12, meets all the requirements of a private school operating in Florida, and meets all the requirements of a private school participating in the John M. McKay Scholarship Program or the Florida Tax Credit Scholarship Program.⁶²

Eligible providers may not share, refund, or rebate any money from a student's Personal Learning Scholarship account with the parent or participating student.⁶³

Effect of Proposed Changes

The bill expands eligible providers to include an independent college or university that is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant Program.

Parent Responsibilities

Present Situation

Current law requires a parent to sign an agreement with an eligible SFO and annually submit a notarized, sworn compliance statement to the organization to:

- Affirm that the student participating in the PLSA program meets regular school attendance requirements.
- Affirm that program funds are used only for authorized purposes.
- Affirm that the student takes all appropriate standardized assessments, whether enrolled in a private school or a home education program.
- Notify the school district that the student is enrolled in the PLSA program, if the parent chooses to enroll in a home education program.
- Request participation in the program by the date established by the SFO.
- Affirm the student remains in good standing with the provider or school.
- Apply for admission of the student to a private school, if this option is chosen.
- Annually renew participation in the program.

⁶⁰ Section 1002.385(2)(a), F.S.

⁶¹ Section 1002.385(2)(f), F.S.

⁶² Section 1002.385(2)(g), F.S.

⁶³ Section 1002.385(5), F.S.

- Affirm the parent will not transfer any college savings funds to another beneficiary.
- Affirm the parent will not take possession of any PLSA funds.
- Maintain a portfolio of records and materials which must be preserved for 2 years and made available for inspection by the district superintendent or designee upon 15 days' written notice.⁶⁴

Parents must submit one of the following verifiable documents in order for their application to be considered for approval:

- A filed public school withdrawal form;
- A letter of admission or enrollment in an eligible private school;
- Documentation verifying their intent to establish and maintain a home education program or a copy of the home education student's required annual educational evaluation; or
- A formal notice from an eligible private school that the student has withdrawn from the McKay Scholarship Program or the Florida Tax Credit Scholarship Program.

Timely filed, completed applications take precedence over late-filed, completed applications for purposes of creating a wait list.⁶⁵

Effect of Proposed Changes

The bill specifies that the parental agreement and sworn, notarized compliance form are not only for enrollment in the program, but are necessary to maintain program eligibility, including receiving and expending program payments.

The bill further clarifies the parent responsibilities by delineating what affirmations are included in the sworn compliance statement and what duties the parent must execute. The parent must submit the compliance statement to the organization to:

- Affirm that the student participating in the PLSA program meets regular school attendance requirements.
- Affirm that program funds are used only for authorized purposes.
- Affirm that the student takes all appropriate standardized assessments, whether enrolled in a private school, a home education program, or an eligible VPK education program provider.
- Affirm that the student remains in good standing with the selected provider or school.

Additionally, the parent must:

- File an application for initial program participation by specified deadlines.
- Notify the school district of the student's participation in PLSA, if the student chooses to enroll in a home education program to meet regular school attendance requirements.
- Enroll the student with an eligible VPK provider or school readiness provider, if either option is selected.
- Annually renew participation in the PLSA program.
- Procure the services necessary to educate the student.
- Cover all eligible expenses in excess of the PLSA award amount.
- Not transfer any prepaid college plan or college savings plan to another beneficiary if PLSA funds have been contributed to such plan.
- Not receive any payment, refund, or rebate from an approved provider of any services in the program.

⁶⁴ Section 1002.385(11)(a), F.S.

⁶⁵ Section 5, ch. 2015-222, L.O.F.

The bill allows a parent to request that their student participate in statewide, standardized assessments and removes the requirement that all participants maintain a portfolio of records and materials. Only parents who choose to enroll their child in a home education program will have to maintain a portfolio in compliance with current home education law.

The bill no longer requires verifiable documents in order to approve an application, but provides a list of final verification documents that parents may submit in order to expedite the awarding of scholarship funds. The documents must consist of one of the following, applicable to the student:

- A withdrawal form from the school district, if the student was enrolled in public school.
- A letter of admission or enrollment from an eligible private school, and if applicable, verification of withdrawal from the John M. McKay Scholarship Program or Florida Tax Credit Scholarship Program.
- A notice that the parent intends to establish and maintain a home education program.

An applicant who submits final verification to DOE can be awarded a scholarship without waiting for the DOE verification check against public school files. This will expedite disbursement of funds to student's accounts and parents' ability to begin requesting reimbursements for expenditures.

Term of the Program

Present Situation

Program payments to a student's PLSA remain in effect until:

- A student participates in any of the prohibited activities outlined in law⁶⁶;
- The commissioner revokes funds;
- The student returns to public school; or
- The student graduates from high school or turns 22 years old, whichever occurs first.⁶⁷

A student's account shall be closed and any remaining funds revert to the state:

- When the student graduates from an eligible postsecondary educational institution; or
- After any period of 4 consecutive years after high school graduation in which the student is not enrolled in an eligible postsecondary educational institution.

Effect of Proposed Changes

The bill clarifies the conditions under which payments to an account cease and the conditions under which an account is closed and funds revert to the state.

Program payments to a student's PLSA remain in effect until:

- The parent does not renew program eligibility;
- The organization determines the student is ineligible;
- The commissioner suspends or revokes program participation or use of funds;
- The student's parent has forfeited participation in the program for failure to comply with program requirements;
- The student enrolls in a public school; or
- The student graduates from high school or attains 22 years of age, whichever occurs first.

⁶⁶ Section 1002.385(4), F.S.

⁶⁷ Section 1002.385(6), F.S.

The bill allows reimbursements for allowable expenditures to continue until the account balance is expended or the account is closed and all remaining funds revert to the state, which shall occur when:

- A student's program eligibility has been denied or revoked for fraud or abuse;
- A student does not enroll in an eligible postsecondary education institution or a program offered by the institution within 3 years after high school graduation or completion.

The bill requires the Commissioner of Education to notify the parent and the organization when a PLSA is closed and funds revert to the state.

DOE and Commissioner of Education Responsibilities

Present Situation

The DOE is required to:

- Maintain a list of approved providers.
- Require eligible SFOs to verify eligible expenditures.
- Investigate any written complaint of a program violation.
- Require quarterly reports from SFOs, with specified information.
- Compare lists of PLSA students against public school enrollment lists before payments to a PLSA account.⁶⁸

The commissioner is authorized to deny, suspend, or revoke a student's participation in the program or the use of program funds, if the health, safety, or welfare of the student is threatened or fraud is suspected.⁶⁹ Use of program funds can also be denied, suspended, or revoked for material failure to comply with program requirements.⁷⁰

The law identifies several factors that the commissioner may consider in determining whether to deny, suspend, or revoke an entity or its officers' participation in the program or ability to expend funds, including but not limited to:

- Acts or omissions that led to an entity's previous denial or revocation in an education scholarship program;
- Failure to reimburse an SFO for funds improperly received or retained by an entity;
- Imposition of a prior criminal sanction;
- Imposition of a civil fine or administrative fine, license revocation or suspension, or program eligibility suspension, termination, or revocation.

The commissioner may determine the length of, and conditions for lifting, a suspension or revocation; however, the suspension or revocation may not exceed 5 years, except in cases of fraud in which the penalty may not exceed 10 years. The commissioner may recover unexpended program funds or withhold payment of an equal amount of program funds to recover funds expended for unauthorized uses.

Effect of Proposed Changes

The bill provides the commissioner discretion to determine the length of suspensions and revocations by removing the statutory limitations as well as the authority to recover unexpended funds or withhold payment to cover any amount of program funds expended in violation of the program requirements.

⁶⁸ Section 1002.385(9), F.S.

⁶⁹ Section 1002.385(10)(a)1. & 2., F.S.

⁷⁰ Section 1002.385(10)(a)3., F.S.

The bill specifically authorizes the commissioner to deny or terminate a student's participation if the parent forfeits the PLSA for violation of any program requirements.

The bill specifies that the commissioner's authority to deny, suspend, or revoke program participation or use of program funds applies to all of the following: students; SFOs; eligible private schools; eligible postsecondary institutions; approved providers; or any other appropriate party that violates program requirements.

The bill requires DOE to compare the list of PLSA students to those students participating in the Florida Tax Credit Scholarship Program, the John M. McKay Scholarship Program, and the VPK program throughout the year to avoid duplicate payments and confirm program eligibility.

Program Administration and Accountability

Present Situation

During the 2015A Special Session, the program was amended to require 100% of the appropriated funds for the PLSA program to be released to the DOE in the beginning of the first quarter of each fiscal year and to disburse funds to a student's account upon verification of a student's eligibility by an SFO that must have included one of the verifiable documents.⁷¹ SFOs were authorized retain and expend an administrative fee of three percent.⁷²

Effect of Proposed Changes

The bill codifies the release of 100% of funds to DOE at the beginning of the first quarter of each fiscal year and maintains the administrative fee of three percent.

Additionally, the bill provides that, for initial program eligibility, students determined eligible by:

- September 1 shall receive 100% of the total awarded funds.
- November 1 shall receive 75% of the total awarded funds.
- February 1 shall receive 50% of the total awarded funds.
- April 1 shall receive 25% of the total awarded funds.

The bill removes a duplicative requirement that the Auditor General conduct an annual financial audit of an SFO. Current law already requires an SFO to have an annual financial audit conducted by an independent certified public accountant.

The bill directs the Florida Prepaid College Board to adopt rules to allow parents to contribute PLSA funds, in conjunction with other funds, to purchase a prepaid college plan. PLSA funds must be tracked and accounted for separately from other funds and may be used only after private payments have been used for prepaid college plan expenditures. PLSA contributions and earnings to a college savings plan must revert to the state if the PLSA account is closed,

Finally, the bill removes obsolete language regarding the program implementation schedule for the 2014-2015 school year.

Florida Tax Credit Scholarship Program

Present Situation

⁷¹ Section 5, ch. 2015-222, L.O.F.

⁷² Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

In order to participate in the Florida Tax Credit (FTC) Scholarship Program, a SFO must meet a number of requirements, including securing a surety bond or letter of credit for a specified amount for initial approval⁷³ and a different specified amount for renewal.⁷⁴

If an SFO has participated in the FTC Scholarship Program for at least three years and did not have any negative financial findings in its most recent audit, it may use up to 3 percent of the eligible contributions received during the state fiscal year in which the contributions are collected for administrative expenses.⁷⁵

Finally, if an SFO is disapproved to participate in the scholarship program, all remaining funds held by that SFO revert to the Department of Revenue for redistribution to other eligible SFOs.⁷⁶

The 2015A Special Session amendments clarified that claims against the surety bond or letter of credit may only be made by another eligible SFO to provide scholarships to eligible students and authorized an SFO that has operated a tax credit scholarship program for at least 3 years in any state and has not had any findings of material weakness or material noncompliance in its most recent audit to qualify for the 3 percent administrative fee. Additionally, any remaining funds held by a SFO that is disapproved from participation must go to other eligible SFOs to provide scholarships to eligible students who transferred from the ineligible SFO.⁷⁷

Effect of Proposed Changes

The bill codifies the surety bond language, the three percent administrative fee and the disbursement of funds held by an SFO that was determined ineligible.

Additionally, the bill prohibits a SFO from charging an application fee for the Florida Tax Credit Scholarship Program.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:
See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

2. Expenditures:
None.

⁷³ Section 1002.395(16)(a)10., F.S.
⁷⁴ Section 1002.395(16)(b)1., F.S.
⁷⁵ Section 1002.395(6)(j), F.S.
⁷⁶ Section 1002.395(16)(f), F.S.
⁷⁷ Section 5, ch. 2015-222, L.O.F.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill appropriates \$8 million in recurring general revenue to the Florida Center for Students with Unique Abilities, which includes \$1.5 million for center costs, \$3 million for start-up grants, and \$3.5 million for scholarships. For the 2016-2017 academic year, the amount of annual scholarship shall be \$7,000 for each student who meets eligibility requirements. Funding and maximum award amounts for this program must be provided annually in the General Appropriations Act beginning in the 2017-2018 fiscal year.

The bill appropriates \$14 million in recurring funds from the General Revenue Fund to the Department of Education for standard student attire incentive payments. Any unused funds as of June 30 each year revert back to the fund from which they were appropriated. In the 2014-15 school year, there were over 1.8 million K-8 students attending public schools.

The 2015-16 appropriation of \$53.4 million recurring general revenue would continue the funding for the first year cohort of students, 1,616 students through March 13, 2015. The PLSA is provided on a first-come, first-served basis based upon funding appropriated in the GAA. The bill appropriates \$71.2 million in recurring general revenue funding for scholarships for the 2016-17 fiscal year, which is an increase of \$18.3 million from the 2015-16 appropriation. Since total funding of \$71.2 million for scholarships is provided in the legislation there will not be a need to provide the base funding in the GAA for the 2016-17 fiscal year. It is unknown how many additional students will be served by the increased funding. The bill also appropriates \$2.1 million in recurring general revenue funding for a three percent administrative fee for administration of the scholarship program.