

1 A bill to be entitled

2 An act relating to students with disabilities;  
3 creating s. 1002.411, F.S.; establishing the Florida  
4 Personal Learning Account Program; defining terms;  
5 providing student eligibility criteria for receipt of  
6 a Florida Personal Learning Account; providing parent  
7 and student responsibilities for program  
8 participation; specifying allowable expenditures of  
9 account funds; requiring an annual evaluation of each  
10 participating student's educational progress and  
11 school district review of the evaluation; specifying  
12 that parents are responsible for procuring educational  
13 services for a participating student; specifying that  
14 school districts are not obligated to provide a free  
15 appropriate public education for participating  
16 students; prohibiting participating students from  
17 having multiple accounts or participating in school  
18 choice scholarship programs; authorizing a nonprofit  
19 scholarship-funding organization to establish accounts  
20 for eligible students; specifying duties of nonprofit  
21 scholarship-funding organizations for administration  
22 and funding of accounts, annual audits, and quarterly  
23 reporting; specifying Department of Education duties  
24 regarding approved service providers, oversight of  
25 nonprofit scholarship-funding organizations,  
26 investigation and adjudication of complaints, and

27 reporting by nonprofit scholarship-funding  
28 organizations; specifying school district duties  
29 regarding initial evaluations and individual  
30 educational plan development and review; providing a  
31 calculation for funding accounts; requiring school  
32 districts to report participating students to the  
33 department for funding; requiring quarterly transfer  
34 of funds by the department to nonprofit scholarship-  
35 funding organizations; providing for the carryforward  
36 of funds remaining in an account at the end of a  
37 fiscal year; specifying the conditions under which an  
38 account is terminated and providing for the reversion  
39 of funds; exempting the state from liability regarding  
40 the award or use of accounts; requiring rulemaking;  
41 amending s. 1003.01, F.S.; revising the definition of  
42 the term "regular school attendance" to add  
43 participation in the Florida Personal Learning Account  
44 Program; amending s. 11.45, F.S.; authorizing the  
45 Auditor General to conduct audits of the accounts and  
46 records of nonprofit scholarship-funding organizations  
47 participating in the Florida Personal Learning Account  
48 Program; repealing s. 1003.438, F.S., relating to  
49 special high school graduation requirements for  
50 certain exceptional students; amending s. 120.81,  
51 F.S.; correcting cross-references; providing an  
52 effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 1002.411, Florida Statutes, is created to read:

1002.411 Florida Personal Learning Account Program.—

(1) FLORIDA PERSONAL LEARNING ACCOUNT PROGRAM.—The Florida Personal Learning Account Program is established to enable parents of students with disabilities to customize their child's education using a wide range of instructional services.

(2) DEFINITIONS.—

(a) "Approved provider" means a provider of specialized instructional services approved by the department, individuals providing services through the Agency for Persons with Disabilities, and providers approved pursuant to s. 1002.66.

(b) "Certified teacher" means a teacher who holds a valid Florida professional certificate issued pursuant to s. 1012.56 to teach academic subjects at the elementary or secondary level.

(c) "Curriculum" means a complete course of study for a particular content area or grade level, including any required supplemental materials.

(d) "Eligible student" or "participating student" means a student with a disability who is eligible for, or is participating in, the Florida Personal Learning Account Program, as applicable.

(e) "Student with a disability" means a student in

79 kindergarten through grade 5 who has autism, cerebral palsy,  
80 Down syndrome, an intellectual disability, Prader-Willi  
81 syndrome, or spina bifida, as defined in s. 393.063. For a  
82 student in kindergarten, the term also means a high-risk child  
83 as defined in s. 393.063(20) (a).

84 (3) FLORIDA PERSONAL LEARNING ACCOUNT ELIGIBILITY.—The  
85 parent of a student who resides in this state may request and  
86 receive a Florida Personal Learning Account if:

87 (a) The student is eligible to enter kindergarten or grade  
88 1 through grade 5 or received a Florida Personal Learning  
89 Account established pursuant to this section in the previous  
90 school year;

91 (b) The student has been identified as a student with a  
92 disability by the school district in which he or she resides and  
93 the district has completed an individual educational plan  
94 written in accordance with rules of the State Board of  
95 Education; and

96 (c) The student is assigned to matrix Support Level IV or  
97 Support Level V pursuant to s. 1011.62(1).

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99 For a student who is a first-time applicant, an administrative  
100 or a judicial proceeding may not be pending regarding the  
101 contents of the student's individual educational plan. For a  
102 student who is applying to renew a current Florida Personal  
103 Learning Account, the existence of a pending administrative or  
104 judicial proceeding about a subsequent individual educational

105 plan does not affect continued eligibility for an account.

106 (4) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 107 PARTICIPATION.—

108 (a) To receive a Florida Personal Learning Account, the  
 109 parent of an eligible student must:

110 1. No later than 60 days before one of the payment  
 111 transfer dates specified in paragraph (8)(d), submit an  
 112 application to an eligible nonprofit scholarship-funding  
 113 organization in order to receive that payment and, if the  
 114 student does not already have an active individual educational  
 115 plan, request an evaluation from the school district in which  
 116 the student resides; and

117 2. Obtain an individual educational plan in accordance  
 118 with subsection (7) no later than 30 days before one of the  
 119 payment transfer dates specified in paragraph (8)(d) in order to  
 120 receive that payment.

121 (b) To maintain eligibility in the Florida Personal  
 122 Learning Account Program, the parent of an eligible student  
 123 must:

124 1. Register the student's participation in the program  
 125 with the school district in which the student resides and  
 126 release the school district from all obligations to educate the  
 127 student.

128 2. Participate in the initial development of the  
 129 individual educational plan and the annual review of the plan  
 130 under subsection (7).

131 3. Submit eligible expenses to the nonprofit scholarship-  
 132 funding organization designated by the parent for reimbursement  
 133 of qualifying expenditures. Reimbursement requests must be  
 134 supported by documentation of services rendered, such as  
 135 receipts or invoices, and accompanied by an affidavit signed by  
 136 the parent certifying his or her compliance with the  
 137 requirements of this section. Eligible expenses include:

138 a. Specialized instructional services by an approved  
 139 provider.

140 b. Tuition and fees for instructional services from an  
 141 eligible private school under s. 1002.39(8) or s. 1002.395(8).

142 c. Private tutoring pursuant to s. 1002.43.

143 d. Tuition and fees for enrollment in a virtual education  
 144 program provided by an approved virtual education provider  
 145 pursuant to s. 1002.37 or s. 1002.45 or in an approved online  
 146 course offered pursuant to s. 1003.499 or s. 1004.0961.

147 e. Curriculum.

148 f. Costs incurred to comply with the annual educational  
 149 evaluation required in this paragraph.

150 g. The fee authorized by paragraph (5)(a).

151 h. Services such as applied behavior analysis as defined  
 152 in s. 627.6686, speech-language pathology as defined in s.  
 153 468.1125, occupational therapy as defined in s. 468.203, and  
 154 physical therapy as defined in s. 486.021.

155 4. Maintain a portfolio of records and materials that  
 156 consists of:

157 a. A log of educational instruction and services that is  
158 made contemporaneously with delivery of the instruction and  
159 services and that designates by title any reading materials  
160 used.

161 b. Samples of writings, worksheets, workbooks, or creative  
162 materials used or developed by the student.

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164 The portfolio must be preserved by the parent for 2 years and  
165 made available for inspection by the district school  
166 superintendent, or his or her designee, upon 15 days' written  
167 notice. This subparagraph does not require the district school  
168 superintendent to inspect the portfolio.

169 5. Provide for an annual educational evaluation which  
170 documents the student's demonstration of educational progress at  
171 a level commensurate with his or her ability, which may include:

172 a. Evaluation of the student's work portfolio by a  
173 certified teacher selected by the parent;

174 b. Any nationally normed student achievement test  
175 administered by a certified teacher;

176 c. A statewide, standardized assessment administered by a  
177 certified teacher, at a location and under testing conditions  
178 approved by the school district;

179 d. Evaluation by an individual holding a valid, active  
180 license pursuant to the provisions of s. 490.003(7) or (8); or

181 e. Any other valid measurement tool mutually agreed upon  
182 by the district school superintendent of the district in which

183 the student resides and the student's parent.

184 (c) The district school superintendent must review and  
185 accept the results of the annual educational evaluation of a  
186 participating student. If the student does not demonstrate  
187 educational progress at a level commensurate with his or her  
188 ability, the district school superintendent must notify the  
189 parent, in writing, that such progress has not been achieved. If  
190 the student remains eligible for a Florida Personal Learning  
191 Account, the parent has 1 year after the date of receipt of the  
192 written notification to provide remedial instruction to the  
193 student. At the end of the 1-year probationary period, the  
194 student must be reevaluated pursuant to subparagraph (b)5.  
195 Continued participation in the Florida Personal Learning Account  
196 Program is contingent upon the student demonstrating educational  
197 progress commensurate with her or his ability at the end of the  
198 probationary period.

199 (d) The parent is responsible for procuring the services  
200 necessary to educate the student. Once the student receives a  
201 Florida Personal Learning Account, the district school board is  
202 not obligated to provide the student with a free appropriate  
203 public education. For purposes of s. 1003.57 and the Individuals  
204 with Disabilities Education Act, a participating student has  
205 only those rights that apply to all other unilaterally  
206 parentally placed students, except that, when requested by the  
207 parent, school district personnel must develop an individual  
208 educational plan in accordance with subsection (7).

209       (e) The parent is responsible for the payment of all  
 210 eligible expenses in excess of the amount in the Florida  
 211 Personal Learning Account in accordance with the terms agreed to  
 212 between the parent and the providers and may not receive any  
 213 refund or rebate of any expenditures made in accordance with  
 214 subparagraph (b)3.

215       (f) A student is eligible for only one Florida Personal  
 216 Learning Account and may not receive a scholarship under part  
 217 III of this chapter.

218       (5) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
 219 ORGANIZATIONS.—A nonprofit scholarship-funding organization  
 220 participating in the Florida Tax Credit Scholarship Program  
 221 under s. 1002.395 may establish Florida Personal Learning  
 222 Accounts for eligible students. An eligible nonprofit  
 223 scholarship-funding organization must:

224       (a) Receive applications and determine student eligibility  
 225 in accordance with the requirements of this section. Once an  
 226 application is approved, the nonprofit scholarship-funding  
 227 organization must provide the department with information on the  
 228 student to enable the school district to report the student for  
 229 funding in accordance with subsection (8). A nonprofit  
 230 scholarship-funding organization may charge the parent of an  
 231 eligible student up to a \$25 fee to establish the Florida  
 232 Personal Learning Account but may not receive any other fees.

233       (b) Establish and maintain separate accounts for each  
 234 eligible student.

235 (c) Verify qualifying expenditures before receipt of the  
236 quarterly distribution by the department.

237 (d) Return any unused funds to the department when a  
238 student is no longer eligible for a Florida Personal Learning  
239 Account.

240 (e) Provide to the Auditor General and the department an  
241 annual financial and compliance audit of its accounts and  
242 records conducted by an independent certified public accountant  
243 in accordance with rules adopted by the Auditor General. The  
244 audit must be conducted in compliance with generally accepted  
245 auditing standards and must include a report on financial  
246 statements presented in accordance with generally accepted  
247 accounting principles set forth by the American Institute of  
248 Certified Public Accountants for not-for-profit organizations  
249 and a determination of compliance with requirements in this  
250 section. Audits must be provided to the Auditor General and the  
251 Department of Education within 180 days after completion of the  
252 nonprofit scholarship-funding organization's fiscal year. If a  
253 nonprofit scholarship-funding organization does not submit an  
254 annual audit, the Auditor General shall conduct the audit  
255 required by this paragraph.

256 (f) Prepare and submit quarterly reports to the department  
257 pursuant to paragraph (6) (f). In addition, a nonprofit  
258 scholarship-funding organization must submit in a timely manner  
259 any information requested by the department relating to the  
260 Florida Personal Learning Account Program.

261        (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department  
 262 must:  
 263        (a) Maintain a list of approved providers.  
 264        (b) Require each eligible nonprofit scholarship-funding  
 265 organization to verify eligible expenditures as provided in  
 266 subparagraph (4)(b)3. before reimbursement.  
 267        (c) Investigate any written complaint of a violation of  
 268 this section in accordance with the process established by s.  
 269 1002.395(9)(f).  
 270        (d) Notify an eligible nonprofit scholarship-funding  
 271 organization of any of the organization's identified students  
 272 who are receiving educational scholarships pursuant to part III  
 273 of this chapter.  
 274        (e) Notify an eligible nonprofit scholarship-funding  
 275 organization of any of the organization's identified students  
 276 who have established a Florida Personal Learning Account with  
 277 another eligible nonprofit scholarship-funding organization or  
 278 have been reported for funding by a school district or the  
 279 Florida Virtual School.  
 280        (f) Require quarterly reports by an eligible nonprofit  
 281 scholarship-funding organization regarding the number of  
 282 students participating in the program, the providers of services  
 283 to students, and other information deemed necessary by the  
 284 department.  
 285        (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—  
 286        (a) Upon the request of a parent submitted at least 60

287 days before a payment transfer date specified in paragraph  
288 (8) (d), the school district in which the student resides shall  
289 conduct an initial evaluation of a student in accordance with s.  
290 1003.57. If a determination is made that the student has a  
291 disability and needs special education and related services, an  
292 individual educational plan must be developed.

293 (b) Evaluations and individual educational plans must be  
294 completed within the timeframes set forth in rules of the State  
295 Board of Education. If a student has been identified as a  
296 student with a disability under the Individuals with  
297 Disabilities Education Act pursuant to a current evaluation team  
298 report but the student does not have an individual educational  
299 plan because the student is not currently enrolled in a public  
300 school, the school district shall prepare an individual  
301 educational plan for the student.

302 (c) Upon completion of a student's individual educational  
303 plan, the school district shall provide the parent with an  
304 estimate of the approximate amount of funds that the student may  
305 receive in a Florida Personal Learning Account.

306 (d) The school district in which an eligible student  
307 resides must:

308 1. Review the annual educational evaluation in accordance  
309 with paragraph (4) (c).

310 2. Annually review the individual educational plan of each  
311 student with a Florida Personal Learning Account in consultation  
312 with the personnel of providers of the services selected by the

313 parent for the student under subparagraph (4) (b) 3.

314 (e) The school district developing the individual  
315 educational plan is not obligated to provide a participating  
316 student with a free appropriate public education. However, if,  
317 at any time, a parent of a participating student decides to  
318 enroll the student in the school district, the school district  
319 must provide the student with a free appropriate public  
320 education.

321 (8) FLORIDA PERSONAL LEARNING ACCOUNT FUNDING AND  
322 PAYMENT.—

323 (a) The maximum amount granted for an eligible student  
324 with disabilities shall be calculated in accordance with s.  
325 1002.39(10) (a) .

326 (b) The school district shall report to the department for  
327 funding all students who are receiving a Florida Personal  
328 Learning Account. These students must be reported separately  
329 from other students reported for purposes of the Florida  
330 Education Finance Program.

331 (c) Following notification on July 1, September 1,  
332 December 1, or February 1 of the number of program participants,  
333 the department shall transfer, from general revenue funds only,  
334 the amount calculated under paragraph (a) from the school  
335 district's total funding entitlement under the Florida Education  
336 Finance Program and from authorized categorical accounts to a  
337 separate account for the Florida Personal Learning Account  
338 Program for quarterly disbursement to the nonprofit scholarship-

339 funding organization for participating students.

340 (d) After the department verifies the establishment of a  
341 Florida Personal Learning Account for a participating student by  
342 the nonprofit scholarship-funding organization, the department  
343 shall make payments to the nonprofit scholarship-funding  
344 organization selected by the parent in four equal amounts no  
345 later than September 1, November 1, February 1, and April 1 of  
346 each academic year in which the account is in force.

347 (e) Any funds remaining in a Florida Personal Learning  
348 Account for an eligible student are carried forward to the next  
349 fiscal year until termination of the account. A Florida Personal  
350 Learning Account shall be terminated if the student enrolls in  
351 and is reported for funding in any public educational program  
352 under s. 1000.04(1), (3), or (4); is determined ineligible for a  
353 Florida Personal Learning Account under this section; graduates  
354 from high school; or reaches 22 years of age, whichever occurs  
355 first. Once an account is terminated, all remaining funds revert  
356 to the state.

357 (9) LIABILITY.—No liability shall arise on the part of the  
358 state based on the award or use of a Florida Personal Learning  
359 Account.

360 (10) RULES.—The State Board of Education shall adopt rules  
361 to implement this section, including rules necessary to  
362 coordinate the respective responsibilities of the department,  
363 school districts, and nonprofit scholarship-funding  
364 organizations regarding the funding and administration of

365 Florida Personal Learning Accounts; criteria, timelines, and a  
 366 reporting format for quarterly reports by nonprofit scholarship-  
 367 funding organizations; and a standard application form to be  
 368 used by parents and nonprofit scholarship-funding organizations.

369 Section 2. Subsection (13) of section 1003.01, Florida  
 370 Statutes, is amended to read:

371 1003.01 Definitions.—As used in this chapter, the term:

372 (13) "Regular school attendance" means the actual  
 373 attendance of a student during the school day as defined by law  
 374 and rules of the State Board of Education. Regular attendance  
 375 within the intent of s. 1003.21 may be achieved by ~~attendance~~  
 376 ~~in~~:

377 (a) Attendance in a public school supported by public  
 378 funds;

379 (b) Attendance in a parochial, religious, or  
 380 denominational school;

381 (c) Attendance in a private school supported in whole or  
 382 in part by tuition charges or by endowments or gifts;

383 (d) Participation in a home education program under s.  
 384 1002.41; ~~that meets the requirements of chapter 1002; or~~

385 (e) Attendance in a private tutoring program under s.  
 386 1002.43; or

387 (f) Participation in the Florida Personal Learning Account  
 388 Program under s. 1002.411 ~~that meets the requirements of chapter~~  
 389 1002.

390 Section 3. Paragraph (y) is added to subsection (3) of

391 section 11.45, Florida Statutes, to read:  
 392 11.45 Definitions; duties; authorities; reports; rules.—  
 393 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The  
 394 Auditor General may, pursuant to his or her own authority, or at  
 395 the direction of the Legislative Auditing Committee, conduct  
 396 audits or other engagements as determined appropriate by the  
 397 Auditor General of:  
 398 (y) The accounts and records of a nonprofit scholarship-  
 399 funding organization participating in the Florida Personal  
 400 Learning Account Program established by s. 1002.411.  
 401 Section 4. Section 1003.438, Florida Statutes, is  
 402 repealed.  
 403 Section 5. Paragraph (c) of subsection (1) of section  
 404 120.81, Florida Statutes, is amended to read:  
 405 120.81 Exceptions and special requirements; general  
 406 areas.—  
 407 (1) EDUCATIONAL UNITS.—  
 408 (c) Notwithstanding s. 120.52(16), any tests, test scoring  
 409 criteria, or testing procedures relating to student assessment  
 410 which are developed or administered by the Department of  
 411 Education pursuant to s. 1003.4282 ~~1003.428~~, ~~s. 1003.429~~, ~~s.~~  
 412 ~~1003.438~~, s. 1008.22, or s. 1008.25, or any other statewide  
 413 educational tests required by law, are not rules.  
 414 Section 6. This act shall take effect July 1, 2014.