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# **Education Committee**

**Thursday, December 3, 2015  
12:00 p.m. – 3:00 p.m.**

**102 HOB**

**Meeting Packet**

**Steve Crisafulli  
Speaker**

**H. Marlene O'Toole  
Chair**



## AGENDA

Education Committee  
Thursday, December 3, 2015  
12:00 p.m. – 3:00 p.m.

102 HOB

- I. Call to Order and Roll Call – Chair O’Toole
- II. Welcome - Chair O’Toole
- III. Consideration of the following bill:
  - HB 7011 Educational Options by Education Appropriations Subcommittee, Fresen, Bileca
- IV. Consideration of the following proposed committee bill(s):
  - PCB EDC 16-03 -- Education, Fresen
  - PCB EDC 16-02 -- Child Care and Development Block Grant, O’Toole
  - PCB EDC 16-01 -- Extracurricular Activities, M. Diaz
- V. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7011    PCB EDAS 16-01    Educational Options  
**SPONSOR(S):** Education Appropriations Subcommittee, Fresen and others  
**TIED BILLS:**            **IDEN./SIM. BILLS:** SB 672

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Appropriations Subcommittee	11 Y, 0 N	Heflin	Heflin
1) Education Committee		Healy <i>JA</i>	Mizereck <i>JM</i>

### SUMMARY ANALYSIS

The proposed committee 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 proposed committee 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 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 takes effect July 1, 2016.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED 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.<sup>1</sup>

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.”<sup>2</sup>

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:<sup>3</sup>

- Is offered by an institution of higher education (IHE);
- Is delivered to students physically attending the IHE;<sup>4</sup>
- 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-Study<sup>5</sup> 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,<sup>6</sup> and

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

<sup>2</sup> 20 U.S.C. s. 1140(2).

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

<sup>4</sup> 34 C.F.R. s. 668.231(a)(2).

<sup>5</sup> 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.

- 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.<sup>7</sup>

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:<sup>8</sup>

- 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.<sup>9</sup>

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.<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup> Since initially awarding TPSID grants in 2010, funds have only been awarded for non-competing continuation grants.<sup>13</sup>

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

- 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;

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<sup>6</sup> 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).

<sup>7</sup> 34 C.F.R. s. 668.233(c).

<sup>8</sup> 34 C.F.R. s. 668.232.

<sup>9</sup> 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](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf), at 7 of 29.

<sup>10</sup> 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](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf), at 18 of 85.

<sup>11</sup> 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).

<sup>12</sup> 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).

<sup>13</sup> *Id.*

<sup>14</sup> 20 U.S.C. 1140g(d).

- Participates with the coordinating center in the evaluation of the model program;
- 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).<sup>15</sup> The National Center is responsible for:<sup>16</sup>

- 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.<sup>17</sup> 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.<sup>18</sup>

### 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.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

Seventeen non-traditional postsecondary program options are available across Florida for students with documented developmental disabilities<sup>22</sup> that provide activities such as auditing postsecondary courses, enrolling in vocational courses, participating in campus life, and job placement programs.<sup>23</sup> 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,

<sup>15</sup> 20 U.S.C. s. 1140q(a).

<sup>16</sup> 20 U.S.C. s. 1140q(a)(4).

<sup>17</sup> 20 U.S.C. s. 1140q(b) and i(b).

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

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

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

<sup>21</sup> s. 1009.40, F.S.

<sup>22</sup> 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.

<sup>23</sup> 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](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf) at 15 of 29.

or 33 percent, were employed and another 6 students, or 8 percent, received industry 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.<sup>24</sup>

- 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.<sup>25</sup> 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.<sup>26</sup>

### **Effect of Proposed Changes**

The proposed committee 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 proposed committee 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 proposed committee bill aligns the state approval requirements with federal requirements for comprehensive transition and postsecondary (CTP) programs. In addition to the federal requirements, an eligible institution<sup>27</sup> 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

<sup>24</sup> 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](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf) at 21 of 85.

<sup>25</sup> 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](http://www.flseate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2775.pdf) at 22 of 85.

<sup>26</sup> 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](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/HE/MeetingRecords/MeetingPacket_2743_2.pdf) at 13 of 29.

<sup>27</sup> PCB 15-02 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.



- A 5-year plan regarding enrollment and operational expectations.

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 proposed committee 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; support, 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 1<sup>st</sup> 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.<sup>28</sup> 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.<sup>29</sup> Qualifying districts would receive a payment of \$10 per each student in kindergarten through grade 8.<sup>30</sup>

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.<sup>31</sup> In addition, the GAA required the Department of Education to establish guidelines for determining whether a school district's policy met the eligibility requirements.<sup>32</sup>

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 Allocation<sup>33</sup>

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.

The commissioner must 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.<sup>34</sup>

### 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

<sup>28</sup> Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

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

<sup>30</sup> *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.

<sup>31</sup> *Id.*

<sup>32</sup> *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.

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

<sup>34</sup> Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

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.<sup>35</sup>
- 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.<sup>36</sup> 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.<sup>37</sup> Funds are distributed to qualified<sup>38</sup> Scholarship Funding Organizations (SFO) to establish accounts for eligible students.<sup>39</sup> 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, tuition, and contracted services.<sup>40</sup> 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.<sup>41</sup>

### **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:

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<sup>35</sup> 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).

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

<sup>37</sup> Section 16, ch. 2014-184, L.O.F.

<sup>38</sup> Section 1002.385(2)(e), F.S.

<sup>39</sup> Section 1002.385, F.S.

<sup>40</sup> Section 1002.385(5), F.S.

<sup>41</sup> Specific Appropriation 105, s. 2, ch.2015-232, L.O.F.

- 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 child<sup>42</sup>; 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.<sup>43</sup>

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.<sup>44</sup>

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.<sup>45</sup> 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.<sup>46</sup>

### **Effect of Proposed Changes**

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.<sup>47</sup> 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

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<sup>42</sup> Section 1002.385(2)(d), F.S.

<sup>43</sup> Section 1002.385(3)(a), F.S.

<sup>44</sup> Section 1002.385(4), F.S.

<sup>45</sup> Section 1002.385(3)(b), F.S.

<sup>46</sup> Section 5, ch. 2015-222, L.O.F.

<sup>47</sup> Section 393.063(3), F.S.

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.<sup>48</sup>

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.<sup>49</sup> 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.<sup>50</sup>
- Notify parents of their receipt of a scholarship on a first-come, first-served basis.<sup>51</sup>
- Establish a date by which a parent must confirm initial or continuing program participation.<sup>52</sup>
- Establish a date by which students on the wait list or late-filing applicants may participate, if funds are still available.<sup>53</sup>
- Establish and maintain separate accounts for each student.<sup>54</sup>
- Verify eligible expenditures.<sup>55</sup>
- Return any unused funds to DOE when a student is no longer eligible for the program.<sup>56</sup>

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.<sup>57</sup>

### **Effect of Proposed Changes**

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.

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

<sup>49</sup> Section 1002.385(2)(e), F.S.

<sup>50</sup> Section 1002.385(12)(a), F.S.

<sup>51</sup> Section 1002.385(12)(b), F.S.

<sup>52</sup> Section 1002.385(12)(c), F.S.

<sup>53</sup> Section 1002.385(12)(d), F.S.

<sup>54</sup> Section 1002.385(12)(e), F.S.

<sup>55</sup> Section 1002.385(12)(f), F.S.

<sup>56</sup> Section 1002.385(12)(g), F.S.

<sup>57</sup> Section 1002.385(9)(b), F.S.

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.<sup>58</sup>
- 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.<sup>59</sup>

### **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.
- 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:

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<sup>58</sup> Id.

<sup>59</sup> Section 5, ch. 2015-222, L.O.F.  
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- A provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the DOE.<sup>60</sup>
- 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.<sup>61</sup>
- 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.<sup>62</sup>

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

### **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.
- 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.<sup>64</sup>

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

<sup>60</sup> Section 1002.385(2)(a), F.S.

<sup>61</sup> Section 1002.385(2)(f), F.S.

<sup>62</sup> Section 1002.385(2)(g), F.S.

<sup>63</sup> Section 1002.385(5), F.S.

<sup>64</sup> Section 1002.385(11)(a), F.S.



- 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.<sup>65</sup>

### **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.

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 law<sup>66</sup>;
- 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.<sup>67</sup>

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.

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.

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<sup>66</sup> Section 1002.385(4), F.S.

<sup>67</sup> Section 1002.385(6), F.S.

## **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.<sup>68</sup>

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.<sup>69</sup> Use of program funds can also be denied, suspended, or revoked for material failure to comply with program requirements.<sup>70</sup>

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. 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.

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<sup>68</sup> Section 1002.385(9), F.S.

<sup>69</sup> Section 1002.385(10)(a)1. & 2., F.S.

<sup>70</sup> Section 1002.385(10)(a)3., F.S.

## **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.<sup>71</sup> SFOs were authorized retain and expend an administrative fee of three percent.<sup>72</sup>

### **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**

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 approval<sup>73</sup> and a different specified amount for renewal.<sup>74</sup>

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.<sup>75</sup>

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<sup>71</sup> Section 5, ch. 2015-222, L.O.F.

<sup>72</sup> Specific Appropriation 105, s. 2, ch. 2015-232, L.O.F.

<sup>73</sup> Section 1002.395(16)(a)10., F.S.

<sup>74</sup> Section 1002.395(16)(b)1., F.S.

<sup>75</sup> Section 1002.395(6)(j), F.S.

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.<sup>76</sup>

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.<sup>77</sup>

### **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.

#### **B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1004.6495, creating the Florida Postsecondary Comprehensive Transition Program and Florida Center for Students with Unique Abilities.

**Section 2.** Creates s. 1011.78, authorizing certain school districts and charter schools to be eligible to receive incentive payments for implementing a standard student attire policy; providing a short title and purpose; establishing eligibility requirements; providing for funding, subject to appropriation; requiring the district school superintendent or charter school governing board to certify certain information to the commissioner by a specified date; providing for reversion of the funds under certain circumstances; providing immunity from civil liability to a school district board or charter school governing board that establishes a standard student attire policy.

**Section 3.** Amends s. 1001.43; authorizing a district school board or charter school that implements a standard student attire policy to be eligible to receive incentive payments.

**Section 4.** Amends s. 1002.33; authorizing a charter school that implements a standard student attire policy to be eligible to receive incentive payments

**Section 5.** Amends s. 1002.385, F.S., to increase access and accountability and streamline administration of the Personal Learning Scholarships Account program.

**Section 6.** Amends s. 1002.395, F.S., to clarify language regarding surety bonds for nonprofit scholarship-funding organizations; to revise qualifications for a 3 percent administrative fee, and to clarify language regarding the disbursement of surety bonds or letters of credit for SFOs

**Section 7.** Amends s. 1009.971, F.S.; revising the duties of the Florida Prepaid College Board.

**Section 8.** Amends s. 1009.98, F.S., to provide implementation procedures for the Stanley G. Tate Florida Prepaid College Program and the Florida College Savings Program relating to plans purchased through the Personal Learning Scholarship Accounts Programs..

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<sup>76</sup> Section 1002.395(16)(f), F.S.

<sup>77</sup> Section 5, ch. 2015-222, L.O.F.

**Section 9.** Amends s. 1009.981, F.S., to provide implementation procedures for the Stanley G. Tate Florida Prepaid College Program and the Florida College Savings Program relating to plans purchased through the Personal Learning Scholarship Accounts Programs.

**Section 10.** Provides appropriations for the Personal Learning Scholarship Accounts Program, Standard Student Attire Incentive Program, and the Florida Postsecondary Comprehensive Transition Program.

**Section 11.** Provides an effective date of July 1, 2016.

## 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.

### 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.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

None.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
2           An act relating to educational options; creating s.  
3           1004.6495, F.S.; providing a short title; providing  
4           purposes and legislative intent; defining terms;  
5           establishing student eligibility requirements for  
6           enrollment in the Florida Postsecondary Comprehensive  
7           Transition Program; requiring eligible institutions to  
8           make student eligibility determinations; establishing  
9           the Florida Center for Students with Unique Abilities;  
10          specifying the responsibilities of the center and the  
11          center director; specifying amounts of funds to be  
12          used for start-up and enhancement grants; specifying  
13          application requirements for initial approval and  
14          renewal of approval; requiring an eligible institution  
15          with an approved program to submit an annual report to  
16          the center by a specified date; establishing a Florida  
17          Postsecondary Comprehensive Transition Program  
18          Scholarship for certain qualified students; specifying  
19          requirements for a student to maintain scholarship  
20          eligibility; providing for the distribution of  
21          scholarship funds; requiring an eligible institution  
22          to report certain data and information to the center;  
23          requiring an eligible institution to certify and  
24          report the amount of funds disbursed and undisbursed  
25          advances to the center by a specified date; specifying  
26          the amount of the scholarship for eligible students;



27 | authorizing awards to be prorated under certain  
 28 | circumstances; requiring the center, with the Board of  
 29 | Governors and the State Board of Education, to  
 30 | identify program progress and performance indicators;  
 31 | requiring an annual report to the Legislature, the  
 32 | Chancellor of the State University System, and the  
 33 | Commissioner of Education by a specified date;  
 34 | requiring the center, in collaboration with the Board  
 35 | of Governors, State Board of Education, Higher  
 36 | Education Coordinating Council, and other  
 37 | stakeholders, to submit to the Governor and  
 38 | Legislature statutory and budgetary recommendations  
 39 | for the program; requiring the Board of Governors and  
 40 | the State Board of Education, in consultation with the  
 41 | center, to adopt regulations and rules; creating s.  
 42 | 1011.78, F.S.; authorizing certain school districts  
 43 | and charter schools to be eligible to receive  
 44 | incentive payments for implementing a standard student  
 45 | attire policy that meets certain criteria; providing a  
 46 | short title and purpose; establishing the  
 47 | qualifications for such a payment; providing for  
 48 | funding, subject to availability in the General  
 49 | Appropriations Act; requiring the district school  
 50 | superintendent or charter school governing board to  
 51 | certify certain information to the commissioner by a  
 52 | specified date; providing for reversion of the funds

53 | under certain circumstances; providing immunity from  
 54 | civil liability to a school district board or charter  
 55 | school governing board that establishes a standard  
 56 | student attire policy; amending ss. 1001.43 and  
 57 | 1002.33, F.S.; authorizing a district school board or  
 58 | charter school that implements a standard student  
 59 | attire policy to be eligible to receive incentive  
 60 | payments; amending s. 1002.385, F.S.; revising terms  
 61 | for purposes of the Florida Personal Learning  
 62 | Scholarship Account Program; revising program  
 63 | eligibility criteria and program prohibitions for such  
 64 | accounts; authorizing a parent to submit a specified  
 65 | document to receive scholarship funds before confirmed  
 66 | eligibility; requiring that authorized program funds  
 67 | be used to support the student's educational needs;  
 68 | authorizing program funds to be spent for specified  
 69 | fees and services; revising the terms of the program;  
 70 | providing for the reversion of certain funds to the  
 71 | state; revising the obligations of school districts,  
 72 | parents, and the Department of Education with respect  
 73 | to the program; revising the authority of the  
 74 | Commissioner of Education to deny, suspend, or revoke  
 75 | certain program participation and use of program  
 76 | funds; specifying maximum periods for certain  
 77 | suspensions and revocations; authorizing the  
 78 | commissioner to recover program funds through certain

79 | means; revising information that must be provided for  
80 | the program by scholarship-funding organizations and  
81 | parents of applicants; specifying priority for  
82 | participation in the program; revising funding and  
83 | payment provisions for the program; requiring the  
84 | Auditor General to provide the commissioner with  
85 | program annual operational audits by a specified time;  
86 | amending s. 1002.395, F.S.; prohibiting a scholarship-  
87 | funding organization from charging an application fee;  
88 | deleting a requirement that certain fees be returned  
89 | to the General Revenue Fund; providing for the  
90 | transfer of contributions in excess of the amount that  
91 | may be carried forward; revising the surety bond or  
92 | letter of credit requirements for nonprofit  
93 | scholarship-funding organizations submitting initial  
94 | or renewal scholarship program participation  
95 | applications; providing for the deposit of certain  
96 | transferred funds by certain scholarship-funding  
97 | organizations; requiring that certain deposited funds  
98 | be separately disclosed; amending s. 1009.971, F.S.;  
99 | revising the duties of the Florida Prepaid College  
100 | Board; amending ss. 1009.98 and 1009.981, F.S.;  
101 | providing implementation procedures for the Stanley G.  
102 | Tate Florida Prepaid College Program and the Florida  
103 | College Savings Program relating to plans purchased  
104 | through the Personal Learning Scholarship Accounts

105 Programs; providing appropriations; providing an  
 106 effective date.

107  
 108 Be It Enacted by the Legislature of the State of Florida:

109  
 110 Section 1. Section 1004.6495, Florida Statutes, is created  
 111 to read:

112 1004.6495 Florida Postsecondary Comprehensive Transition  
 113 Program and Florida Center for Students with Unique Abilities.-

114 (1) SHORT TITLE.-This section may be cited as the "Florida  
 115 Postsecondary Comprehensive Transition Program Act."

116 (2) PURPOSE AND LEGISLATIVE INTENT.-The purpose of this  
 117 section is to increase independent living, inclusive and  
 118 experiential postsecondary education, and employment  
 119 opportunities for students with intellectual disabilities  
 120 through degree, certificate, or nondegree programs and to  
 121 establish statewide coordination of the dissemination of  
 122 information regarding programs and services for students with  
 123 disabilities. It is the intent of the Legislature that students  
 124 with intellectual disabilities and students with disabilities  
 125 have access to meaningful postsecondary education credentials  
 126 and be afforded the opportunity to have a meaningful campus  
 127 experience.

128 (3) DEFINITIONS.-As used in this section, the term:

129 (a) "Center" means the Florida Center for Students with  
 130 Unique Abilities established under subsection (5).

131 (b) "Director" means the director of the center.

132 (c) "Eligible institution" means a state university; a  
 133 Florida College System institution; a career center; a charter  
 134 technical career center; or an independent college or university  
 135 that is located and chartered in this state, is not for profit,  
 136 is accredited by the Commission on Colleges of the Southern  
 137 Association of Colleges and Schools, and is eligible to  
 138 participate in the William L. Boyd, IV, Florida Resident Access  
 139 Grant Program.

140 (d) "Florida Postsecondary Comprehensive Transition  
 141 Program Scholarship" or "scholarship" means the scholarship  
 142 established under this section to provide state financial  
 143 assistance awards to students who meet the student eligibility  
 144 requirements specified in subsection (4) and are enrolled in an  
 145 FPCTP.

146 (e) "FPCTP" means a Florida Postsecondary Comprehensive  
 147 Transition Program that is approved pursuant to paragraph (5)(c)  
 148 and offered by an eligible institution.

149 (f) "Transitional student" means a student who is 18 to 26  
 150 years of age and meets the student eligibility requirements  
 151 specified in subsection (4).

152 (4) STUDENT ELIGIBILITY.—To be eligible to enroll in an  
 153 FPCTP at an eligible institution, a student must, as determined  
 154 by the institution, based on guidelines established by the  
 155 center:

156 (a) Be a "student with an intellectual disability" as that

157 term is defined in 20 U.S.C. s. 1140(2), including, but not  
 158 limited to, a transitional student.

159 (b) Physically attend the eligible institution.

160 (c) Submit to the eligible institution documentation  
 161 regarding his or her intellectual disability. Such documentation  
 162 may include, but need not be limited to, a current  
 163 individualized plan for employment associated with a review  
 164 completed pursuant to s. 413.20(3) or a diagnosis from a  
 165 physician who is licensed under chapter 458 or chapter 459 or a  
 166 psychologist licensed under chapter 490.

167 (5) CENTER RESPONSIBILITIES.—The Florida Center for  
 168 Students with Unique Abilities is established within the  
 169 University of Central Florida. At a minimum, the center shall:

170 (a) Disseminate information to students with disabilities  
 171 and their parents, including, but not limited to:

172 1. Education programs, services, and resources that are  
 173 available at eligible institutions.

174 2. Supports, accommodations, technical assistance, or  
 175 training provided by eligible institutions, the advisory council  
 176 established pursuant to s. 383.141, and regional autism centers  
 177 established pursuant to s. 1004.55.

178 3. Mentoring, networking, and employment opportunities.

179 (b) Coordinate, facilitate, and oversee the statewide  
 180 implementation of this section. At a minimum, the director  
 181 shall:

182 1. Consult and collaborate with the National Center and

183 the Coordinating Center, as identified in 20 U.S.C. s. 1140q,  
 184 regarding guidelines established by the center for the effective  
 185 implementation of the programs for students with disabilities  
 186 and for students with intellectual disabilities which align with  
 187 the federal requirements and with standards, quality indicators,  
 188 and benchmarks identified by the National Center and the  
 189 Coordinating Center.

190 2. Consult and collaborate with the Higher Education  
 191 Coordinating Council to identify meaningful credentials for  
 192 FPCTPs and to engage businesses and stakeholders to promote  
 193 experiential training and employment opportunities for students  
 194 with intellectual disabilities.

195 3. Establish requirements and timelines for the:

196 a. Submission and review of an application.

197 b. Approval or disapproval of an initial or renewal  
 198 application.

199 c. Implementation of an FPCTP, which must begin no later  
 200 than the academic year immediately following the academic year  
 201 during which the approval is granted.

202 4. Administer scholarship funds.

203 5. Administer FPCTP start-up and enhancement grants. From  
 204 funds appropriated in the 2016-2017 fiscal year for the FPCTP,  
 205 \$3 million shall be used for such grants. Thereafter, funds  
 206 appropriated for the FPCTP may only be used for such grants if  
 207 specifically authorized in the General Appropriations Act. The  
 208 maximum annual start-up and enhancement grant award shall be

209 \$300,000 per institution.

210 6. Report on the implementation and administration of this  
 211 section by planning, advising, and evaluating approved degree,  
 212 certificate, and nondegree programs and the performance of  
 213 students and programs pursuant to subsection (8).

214 (c) Create the application for the initial approval and  
 215 renewal of approval as an FPCTP for use by an eligible  
 216 institution which, at a minimum, must align with the federal  
 217 comprehensive transition and postsecondary program application  
 218 requirements. Notwithstanding the program approval requirements  
 219 of s. 1004.03, the director shall review applications for the  
 220 initial approval of an application for, or renewal of approval  
 221 of, an FPCTP.

222 1. Within 30 days after receipt of an application, the  
 223 director shall issue his or her recommendation regarding  
 224 approval to the Chancellor of the State University System or the  
 225 Commissioner of Education, as applicable, or shall give written  
 226 notice to the applicant of any deficiencies in the application,  
 227 which the eligible institution must be given an opportunity to  
 228 correct. Within 15 days after receipt of a notice of  
 229 deficiencies, an eligible institution that chooses to continue  
 230 to seek program approval shall correct the application  
 231 deficiencies and return the application to the center. Within 30  
 232 days after receipt of a revised application, the director shall  
 233 recommend approval or disapproval of the revised application to  
 234 the chancellor or the commissioner, as applicable. Within 15



235 days after receipt of the director's recommendation, the  
 236 chancellor or the commissioner shall approve or disapprove the  
 237 recommendation. If the chancellor or the commissioner does not  
 238 act on the director's recommendation within 15 days after  
 239 receipt of such recommendation, the comprehensive transition  
 240 program proposed by the institution shall be considered  
 241 approved.

242 2. Initial approval of an application for an FPCTP that  
 243 meets the requirements of this section is valid for the 3  
 244 academic years immediately following the academic year during  
 245 which the approval is granted. An eligible institution may  
 246 submit an application to the center requesting that the initial  
 247 approval be renewed. If the approval is granted and the FPCTP  
 248 continues to meet the requirements of this section, including,  
 249 but not limited to, program and student performance outcomes,  
 250 and federal requirements, a renewal is valid for the 5 academic  
 251 years immediately following the academic year during which the  
 252 renewal is granted.

253 3. An application must, at a minimum:

254 a. Identify a credential associated with the proposed  
 255 program which will be awarded to eligible students upon  
 256 completion of the FPCTP.

257 b. Outline the program length and design, including, at a  
 258 minimum, inclusive and successful experiential education  
 259 practices relating to curricular, assessment, and advising  
 260 structure and internship and employment opportunities, which

261 must support students with intellectual disabilities who are  
 262 seeking to continue academic, career and technical, and  
 263 independent living instruction at an eligible institution,  
 264 including, but not limited to, opportunities to earn industry  
 265 certifications, to prepare students for gainful employment. If  
 266 an eligible institution offers a credit-bearing degree program,  
 267 the institution is responsible for maintaining the rigor and  
 268 effectiveness of a comprehensive transition degree program at  
 269 the same level as other comparable degree programs offered by  
 270 the institution pursuant to applicable accreditation standards.

271 c. Outline a plan for students with intellectual  
 272 disabilities to be integrated socially and academically with  
 273 nondisabled students, to the maximum extent possible, and to  
 274 participate on not less than a half-time basis, as determined by  
 275 the eligible institution, with such participation focusing on  
 276 academic components and occurring through one or more of the  
 277 following activities with nondisabled students:

278 (I) Regular enrollment in credit-bearing courses offered  
 279 by the institution.

280 (II) Auditing or participating in courses offered by the  
 281 institution for which the student does not receive academic  
 282 credit.

283 (III) Enrollment in noncredit-bearing, nondegree courses.

284 (IV) Participation in internships or work-based training.

285 d. Outline a plan for partnerships with businesses to  
 286 promote experiential training and employment opportunities for

287 students with intellectual disabilities.

288 e. Identify performance indicators pursuant to subsection  
 289 (8) and other requirements identified by the center.

290 f. Outline a 5-year plan incorporating enrollment and  
 291 operational expectations for the program.

292 (d) Provide technical assistance regarding programs and  
 293 services for students with intellectual disabilities to  
 294 administrators, instructors, staff, and others, as applicable,  
 295 at eligible institutions by:

296 1. Holding meetings and annual workshops to share  
 297 successful practices and to address issues or concerns.

298 2. Facilitating collaboration between eligible  
 299 institutions and school districts, private schools operating  
 300 pursuant to s. 1002.42, and parents of students enrolled in home  
 301 education programs operating pursuant to s. 1002.41 in assisting  
 302 students with intellectual disabilities and their parents to  
 303 plan for the transition of such students into an FPCTP or  
 304 another program at an eligible institution.

305 3. Assisting eligible institutions with FPCTP and federal  
 306 comprehensive transition and postsecondary program applications.

307 4. Assisting eligible institutions with the identification  
 308 of funding sources for an FPCTP and for student financial  
 309 assistance for students enrolled in an FPCTP.

310 5. Monitoring federal and state law relating to the  
 311 comprehensive transition program and notifying the Legislature,  
 312 the Governor, the Board of Governors, and the State Board of

313 Education of any change in law which may impact the  
 314 implementation of this section.

315 (6) INSTITUTION ELIGIBILITY AND RESPONSIBILITIES.-

316 (a) To offer an FPCTP, the president or executive director  
 317 of an eligible institution, as applicable, must submit to the  
 318 center, by a date established by the center, the following:

319 1. An application for approval of a comprehensive  
 320 transition program proposed by the eligible institution, which  
 321 must be approved by the institution's governing board and must  
 322 address the requirements of the federal comprehensive transition  
 323 and postsecondary program under 20 U.S.C. s. 1140 and the  
 324 requirements of this section.

325 2. Documented evidence that the institution currently  
 326 offers a federally approved comprehensive transition and  
 327 postsecondary program that is eligible for federal student aid  
 328 programs, documented evidence of the submission of an  
 329 application for such federal approval of a program proposed by  
 330 the institution, or documentation demonstrating the commitment  
 331 of the institution's governing board to submit an application  
 332 within the subsequent academic year for federal approval of a  
 333 program pursuant to 20 U.S.C. s. 1140.

334 (b) An eligible institution may submit an application to  
 335 the center for approval pursuant to the requirements of this  
 336 section for implementation of the FPCTP no later than the  
 337 academic year immediately following the academic year during  
 338 which the approval is granted. An eligible institution must

339 submit a renewal application to the center no later than 3 years  
 340 following the year during which the approval is initially  
 341 granted.

342 (c) By August 1 of each year, an eligible institution that  
 343 has an FPCTP shall submit an annual report to the center which,  
 344 at a minimum, for the prior academic year, addresses the  
 345 following performance indicators:

346 1. Efforts to recruit students in the FPCTP and the number  
 347 of students enrolled in the program.

348 2. Efforts to retain students in the FPCTP and the  
 349 retention rate of students in the program.

350 3. The completion rate of students enrolled in the FPCTP  
 351 and related courses, as applicable.

352 4. Transition success of students who complete the FPCTP,  
 353 as measured by employment rates and salary levels at 1 year and  
 354 5 years after completion.

355 5. Other performance indicators identified by the center  
 356 pursuant to subsection (8).

357 (d) An eligible institution shall notify students with  
 358 intellectual disabilities and their parents of the student  
 359 eligibility requirements specified in subsection (4) and the  
 360 scholarship requirements and eligibility requirements specified  
 361 in subsection (7).

362 (7) FLORIDA POSTSECONDARY COMPREHENSIVE TRANSITION PROGRAM  
 363 SCHOLARSHIP.—

364 (a) Beginning in the 2016-2017 academic year, the Florida

365 Postsecondary Comprehensive Transition Program Scholarship is  
 366 established for students who meet the student eligibility  
 367 requirements specified in subsection (4), are enrolled in an  
 368 FPCTP, and are not receiving services that are funded through  
 369 the Florida Education Finance Program or a scholarship under  
 370 part III of chapter 1002.

371 (b) To maintain eligibility to receive a scholarship, a  
 372 student must continue to meet the requirements of paragraph (a)  
 373 and must demonstrate satisfactory academic progress in the  
 374 FPCTP, as determined by the eligible institution that the  
 375 student attends, based on the indicators identified by the  
 376 center pursuant to subsection (8).

377 (c) Payment of scholarship funds shall be transmitted to  
 378 the director of the center or his or her designee in advance of  
 379 the registration period. The director or his or her designee  
 380 shall disburse the scholarship funds to the eligible  
 381 institutions that are responsible for awarding the scholarship  
 382 to students who meet the requirements of paragraphs (a) and (b).

383 (d) During each academic term, by a date established by  
 384 the center, an eligible institution shall report to the center  
 385 the number and value of all scholarships awarded under this  
 386 subsection. Each eligible institution shall also report to the  
 387 center necessary demographic and eligibility data and other data  
 388 requested by the center for students who received the  
 389 scholarship awards.

390 (e) By a date annually established by the center, each

391 eligible institution shall certify to the center the amount of  
 392 funds disbursed to each student and shall remit to the center  
 393 any undisbursed advances by June 1 of each year.

394 (f) For the 2016-2017 academic year, the amount of the  
 395 annual scholarship shall be \$7,000 for each student who meets  
 396 the eligibility requirements of subsection (4). Beginning in the  
 397 2017-2018 fiscal year, the funding for the program and the  
 398 annual amount of the scholarship to be provided to a student who  
 399 meets the eligibility requirements of subsection (4) shall be  
 400 the amounts specified in the General Appropriations Act. If  
 401 appropriated funds in any fiscal year are not adequate to  
 402 provide the maximum allowable award to each eligible student,  
 403 the awards may be prorated.

404 (8) ACCOUNTABILITY.—

405 (a) The center, in collaboration with the Board of  
 406 Governors and the State Board of Education, shall identify  
 407 indicators for the satisfactory progress of a student in an  
 408 FPCTP and for the performance of such programs. Each eligible  
 409 institution must address the indicators identified by the center  
 410 in its application for the approval of a proposed program and  
 411 for the renewal of an FPCTP and in the annual report that the  
 412 institution submits to the center.

413 (b) By October 1 of each year, the center shall provide to  
 414 the Governor, the President of the Senate, the Speaker of the  
 415 House of Representatives, the Chancellor of the State University  
 416 System, and the Commissioner of Education a report summarizing

417 information including, but not limited to:

418 1. The status of the statewide coordination of FPCTPs and  
 419 the implementation of FPCTPs at eligible institutions including,  
 420 but not limited to:

421 a. The number of applications approved and disapproved and  
 422 the reasons for each disapproval and no action taken by the  
 423 chancellor or the commissioner.

424 b. The number and value of all scholarships awarded to  
 425 students and undisbursed advances remitted to the center  
 426 pursuant to subsection (7).

427 2. Indicators identified by the center pursuant to  
 428 paragraph (a) and the performance of each eligible institution  
 429 based on the indicators identified in paragraph (6) (c).

430 3. The projected number of students with intellectual  
 431 disabilities who may be eligible to enroll in the FPCTPs within  
 432 the next academic year.

433 4. Education programs and services for students with  
 434 intellectual disabilities which are available at eligible  
 435 institutions.

436 (c) Beginning in the 2016-2017 fiscal year, the center, in  
 437 collaboration with the Board of Governors, State Board of  
 438 Education, Higher Education Coordinating Council, and other  
 439 stakeholders, by December 1 of each year, shall submit to the  
 440 Governor, the President of the Senate, and the Speaker of the  
 441 House of Representatives statutory and budget recommendations  
 442 for improving the implementation and delivery of FPCTPs and



443 other education programs and services for students with  
 444 disabilities.

445 (9) RULES.—The Board of Governors and the State Board of  
 446 Education, in consultation with the center, shall expeditiously  
 447 adopt any necessary regulations and rules, as applicable, to  
 448 allow the center to perform its responsibilities pursuant to  
 449 this section beginning in the 2016-2017 fiscal year.

450 Section 2. Section 1011.78, Florida Statutes, is created  
 451 to read:

452 1011.78 Standard student attire incentive payments.—There  
 453 is created an incentive payment for school districts and charter  
 454 schools that implement a standard student attire policy for all  
 455 students in kindergarten through grade 8 in accordance with this  
 456 section.

457 (1) SHORT TITLE.—This section may be cited as the  
 458 "Students Attired for Education (SAFE) Act."

459 (2) PURPOSE.—The purpose of a standard student attire  
 460 policy is to provide a safe environment for students which  
 461 fosters learning and improves school safety and discipline by:

462 (a) Encouraging students to express their individuality  
 463 through personality and academic achievements, rather than  
 464 outward appearance.

465 (b) Enabling students to focus on academics, rather than  
 466 fashion, because they are able to convey a neat, serious, and  
 467 studious image.

468 (c) Minimizing disciplinary problems because students are

469 not distracted by clothing.

470 (d) Reducing the time needed to correct dress code  
 471 violations through a readily available inventory of compliant  
 472 attire.

473 (e) Minimizing visible differences between students and  
 474 eliminating social pressures to wear brand-name clothing or  
 475 colors to show gang affiliation, thereby easing financial  
 476 pressures on parents and enhancing school safety.

477 (f) Creating a sense of school pride and belonging.

478 (3) QUALIFICATIONS.—To qualify for the incentive payment,  
 479 a school district or charter school must, at a minimum,  
 480 implement a standard attire policy that:

481 (a) Applies to all students in kindergarten through grade  
 482 8 in the school district or charter school, regardless of  
 483 individual school grade configurations.

484 (b) Prohibits certain types or styles of clothing and  
 485 requires solid-colored clothing and fabrics for pants, skirts,  
 486 shorts, or similar clothing and short- or long-sleeved shirts  
 487 with collars.

488 (c) Allows reasonable accommodations based on a student's  
 489 religion, disability, or medical condition.

490 (4) AWARD.—Subject to the appropriation of funds by the  
 491 Legislature, a qualified school district or charter school shall  
 492 receive an annual award of not less than \$10 per student in  
 493 kindergarten through grade 8, as specified in the General  
 494 Appropriations Act. Before the release of funds, but no later

495 than September 1 of each year, the district school  
 496 superintendent or the charter school governing board shall  
 497 certify to the commissioner that the school district or charter  
 498 school has implemented a districtwide or schoolwide standard  
 499 student attire policy, respectively, in accordance with this  
 500 section. A charter school may also qualify by participating in  
 501 its sponsor's qualifying policy. The commissioner shall make  
 502 payment of awards to school districts and charter schools in the  
 503 order in which certifications are received. As of June 30 of  
 504 each year, any funds provided pursuant to this section that have  
 505 not been disbursed to qualified school districts and charter  
 506 schools revert to the fund from which they were appropriated  
 507 pursuant to s. 216.301.

508 (5) IMMUNITY.—A district school board or governing board  
 509 of a charter school that implements a districtwide or schoolwide  
 510 standard student attire policy, respectively, is immune from  
 511 civil liability resulting from adoption of the policy in  
 512 accordance with this section.

513 Section 3. Paragraph (b) of subsection (1) of section  
 514 1001.43, Florida Statutes, is amended to read:

515 1001.43 Supplemental powers and duties of district school  
 516 board.—The district school board may exercise the following  
 517 supplemental powers and duties as authorized by this code or  
 518 State Board of Education rule.

519 (1) STUDENT MANAGEMENT.—The district school board may  
 520 adopt programs and policies to ensure the safety and welfare of

HB 7011

2016

521 individuals, the student body, and school personnel, which  
 522 programs and policies may:

523 (b) Require uniforms to be worn by the student body, or  
 524 impose other dress-related requirements, if the district school  
 525 board finds that those requirements are necessary for the safety  
 526 or welfare of the student body or school personnel. However,  
 527 students may wear sunglasses, hats, or other sun-protective wear  
 528 while outdoors during school hours, such as when students are at  
 529 recess. A district school board that implements a districtwide  
 530 standard student attire policy pursuant to s. 1011.78 is  
 531 eligible to receive incentive payments.

532 Section 4. Paragraph (g) is added to subsection (17) of  
 533 section 1002.33, Florida Statutes, to read:

534 1002.33 Charter schools.—

535 (17) FUNDING.—Students enrolled in a charter school,  
 536 regardless of the sponsorship, shall be funded as if they are in  
 537 a basic program or a special program, the same as students  
 538 enrolled in other public schools in the school district. Funding  
 539 for a charter lab school shall be as provided in s. 1002.32.

540 (g) A charter school that implements a schoolwide standard  
 541 student attire policy pursuant to s. 1011.78 is eligible to  
 542 receive incentive payments.

543 Section 5. Section 1002.385, Florida Statutes, is amended  
 544 to read:

545 1002.385 Florida personal learning scholarship accounts.—

546 (1) ESTABLISHMENT OF PROGRAM.—The Florida Personal

547 Learning Scholarship Accounts Program is established to provide  
 548 the option for a parent to better meet the individual  
 549 educational needs of his or her eligible child.

550 (2) DEFINITIONS.—As used in this section, the term:

551 (a) "Approved provider" means a provider approved by the  
 552 Agency for Persons with Disabilities, a health care practitioner  
 553 as defined in s. 456.001(4), or a provider approved by the  
 554 department pursuant to s. 1002.66.

555 (b) "Curriculum" means a complete course of study for a  
 556 particular content area or grade level, including any required  
 557 supplemental materials and associated online instruction.

558 (c) "Department" means the Department of Education.

559 (d) "Disability" means, for a 3- or 4-year-old child or  
 560 for a student in kindergarten to grade 12, autism spectrum  
 561 disorder, as defined in the Diagnostic and Statistical Manual of  
 562 Mental Disorders, Fifth Edition, published by the American  
 563 Psychiatric Association s. ~~393.063(3)~~; cerebral palsy, as  
 564 defined in s. 393.063(4); Down syndrome, as defined in s.  
 565 393.063(13); an intellectual disability, as defined in s.  
 566 393.063(21); Prader-Willi syndrome, as defined in s.  
 567 393.063(25); ~~or~~ spina bifida, as defined in s. 393.063(36); ~~for~~  
 568 ~~a student in kindergarten,~~ being a high-risk child, as defined  
 569 in s. 393.063(20)(a); muscular dystrophy; and Williams syndrome.

570 (e) "Eligible nonprofit scholarship-funding organization"  
 571 or "organization" means a nonprofit scholarship-funding  
 572 organization that is approved pursuant to s. 1002.395(16) has

573 ~~the same meaning as in s. 1002.395.~~

574 (f) "Eligible postsecondary educational institution" means  
 575 a Florida College System institution;; a state university;; a  
 576 school district technical center;; a school district adult  
 577 general education center; an independent college or university  
 578 that is eligible to participate in the William L. Boyd, IV,  
 579 Florida Resident Access Grant Program under s. 1009.89; or an  
 580 accredited independent nonpublic postsecondary educational  
 581 institution, as defined in s. 1005.02, which is licensed to  
 582 operate in the state pursuant to requirements specified in part  
 583 III of chapter 1005.

584 (g) "Eligible private school" means a private school, as  
 585 defined in s. 1002.01, which is located in this state, which  
 586 offers an education to students in any grade from kindergarten  
 587 to grade 12, and which meets the requirements of:

- 588 1. Sections 1002.42 and 1002.421; and
- 589 2. A scholarship program under s. 1002.39 or s. 1002.395,  
 590 as applicable, if the private school participates in a  
 591 scholarship program under s. 1002.39 or s. 1002.395.

592 (h) "IEP" means individual education plan.

593 (i) "Parent" means a resident of this state who is a  
 594 parent, as defined in s. 1000.21.

595 (j) "Program" means the Florida Personal Learning  
 596 Scholarship Accounts Program established in this section.

597 (3) PROGRAM ELIGIBILITY.—A parent of a student with a  
 598 disability may request and receive from the state a Florida

HB 7011

2016

599 personal learning scholarship account for the purposes specified  
600 in subsection (5) if:

601 (a) The student:

602 1. Is a resident of this state;

603 2. Is 3 or 4 years of age on or before September 1 of the  
604 year in which the student applies for program participation or  
605 is eligible to enroll in kindergarten through grade 12 in a  
606 public school in this state;

607 3. Has a disability as defined in paragraph (2)(d); and

608 4. Is the subject of an IEP written in accordance with  
609 rules of the State Board of Education or has received a  
610 diagnosis of a disability ~~as defined in subsection (2)~~ from a  
611 physician who is licensed under chapter 458 or chapter 459 or a  
612 psychologist who is licensed under chapter 490 ~~in this state.~~

613 (b) ~~Beginning January 2015,~~ The parent has applied to an  
614 eligible nonprofit scholarship-funding organization to  
615 participate in the program by February 1 before the school year  
616 in which the student will participate or an alternative date as  
617 set by the organization for any vacant, funded slots. The  
618 request must be communicated directly to the organization in a  
619 manner that creates a written or electronic record of the  
620 request and the date of receipt of the request. In addition to  
621 the application and any documentation required by the  
622 organization or by State Board of Education rule, the parent may  
623 submit a final verification document pursuant to this paragraph  
624 to receive scholarship funds in the student's account before the

625 department confirms program eligibility pursuant to paragraph  
 626 (9) (e). The final verification document must consist of one of  
 627 the following items applicable to the student:

628 1. A completed withdrawal form from the school district,  
 629 if the student was enrolled in a public school before the  
 630 determination of program eligibility.

631 2. A letter of admission or enrollment from an eligible  
 632 private school for the fiscal year in which the student wishes  
 633 to participate and, if applicable, a copy of the notification  
 634 from the private school that the student has withdrawn from the  
 635 John M. McKay Scholarships for Students with Disabilities  
 636 Program or the Florida Tax Credit Scholarship Program.

637 3. A copy of the notice of the parent's intent to  
 638 establish and maintain a home education program required by s.  
 639 1002.41(1) (a) or the annual educational evaluation of the  
 640 student in a home education program, which is required by s.  
 641 1002.41(2) ~~The organization shall notify the district and the~~  
 642 ~~department of the parent's intent upon receipt of the parent's~~  
 643 ~~request.~~

644 (4) PROGRAM PROHIBITIONS.—

645 ~~(a)~~ A student is not eligible for the program if ~~while~~ he  
 646 or she is:

647 ~~(a)1-~~ (a)1- Enrolled in a public school, including, but not  
 648 limited to, the Florida School for the Deaf and the Blind; the  
 649 Florida Virtual School; the College-Preparatory Boarding  
 650 Academy; a developmental research school authorized under s.



651 1002.32; a charter school authorized under s. 1002.33, s.  
 652 1002.331, or s. 1002.332; or a virtual education program  
 653 authorized under s. 1002.45. For purposes of this paragraph, a  
 654 3- or 4-year-old child who receives services funded through the  
 655 Florida Education Finance Program is considered to be a student  
 656 enrolled in a public school. Funding provided under this section  
 657 for a child eligible for enrollment in the Voluntary  
 658 Prekindergarten Education Program shall constitute funding for  
 659 the child under part V of this chapter, and no additional  
 660 funding shall be provided for the child under part V.†

661 (b)2. Enrolled in a school operating for the purpose of  
 662 providing educational services to youth in the Department of  
 663 Juvenile Justice commitment programs.†

664 (c)3. Receiving a scholarship pursuant to the Florida Tax  
 665 Credit Scholarship Program under s. 1002.395 or the John M.  
 666 McKay Scholarships for Students with Disabilities Program under  
 667 s. 1002.39.† ~~or~~

668 (d)4. Receiving any other educational scholarship pursuant  
 669 to this chapter.

670 ~~(b) A student is not eligible for the program if:~~

671 ~~1. The student or student's parent has accepted any~~  
 672 ~~payment, refund, or rebate, in any manner, from a provider of~~  
 673 ~~any services received pursuant to subsection (5);~~

674 ~~2. The student's participation in the program has been~~  
 675 ~~denied or revoked by the commissioner of Education pursuant to~~  
 676 ~~subsection (10); or~~

677 ~~3. The student's parent has forfeited participation in the~~  
 678 ~~program for failure to comply with requirements pursuant to~~  
 679 ~~subsection (11).~~

680 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must  
 681 be used to meet the individual educational needs of an eligible  
 682 student and may be spent for the following purposes:

683 (a) Instructional materials, including digital devices,  
 684 digital periphery devices, and assistive technology devices that  
 685 allow a student to access instruction or instructional content  
 686 and training on the use of and maintenance agreements for these  
 687 devices.

688 (b) Curriculum as defined in paragraph (2)(b).

689 (c) Specialized services by approved providers that are  
 690 selected by the parent. These specialized services may include,  
 691 but are not limited to:

692 1. Applied behavior analysis services as provided in ss.  
 693 627.6686 and 641.31098.

694 2. Services provided by speech-language pathologists as  
 695 defined in s. 468.1125.

696 3. Occupational therapy services as defined in s. 468.203.

697 4. Services provided by physical therapists as defined in  
 698 s. 486.021.

699 5. Services provided by listening and spoken language  
 700 specialists and an appropriate acoustical environment for a  
 701 child who is deaf or hard of hearing and who has received an  
 702 implant or assistive hearing device.

703 (d) Enrollment in, or tuition or fees associated with  
 704 enrollment in, a home education program, an eligible private  
 705 school, an eligible postsecondary educational institution or a  
 706 program offered by the institution, a private tutoring program  
 707 authorized under s. 1002.43, a virtual program offered by a  
 708 department-approved private online provider that meets the  
 709 provider qualifications specified in s. 1002.45(2)(a), the  
 710 Florida Virtual School as a private paying student, or an  
 711 approved online course offered pursuant to s. 1003.499 or s.  
 712 1004.0961.

713 (e) Fees for nationally standardized, norm-referenced  
 714 achievement tests, Advanced Placement Examinations, industry  
 715 certification examinations, assessments related to postsecondary  
 716 education, or other assessments.

717 (f) Contributions to the Stanley G. Tate Florida Prepaid  
 718 College Program pursuant to s. 1009.98 or the Florida College  
 719 Savings Program pursuant to s. 1009.981, for the benefit of the  
 720 eligible student.

721 (g) Contracted services provided by a public school or  
 722 school district, including classes. A student who receives  
 723 services under a contract under this paragraph is not considered  
 724 enrolled in a public school for eligibility purposes as  
 725 specified in subsection (4).

726 (h) Tuition and fees for part-time tutoring services  
 727 provided by a person who holds a valid Florida educator's  
 728 certificate pursuant to s. 1012.56; a person who holds an

729 adjunct teaching certificate pursuant to s. 1012.57; or a person  
 730 who has demonstrated a mastery of subject area knowledge  
 731 pursuant to s. 1012.56(5). As used in this paragraph, the term  
 732 "part-time tutoring services" does not qualify as regular school  
 733 attendance as defined in s. 1003.01(13)(e).

- 734 (i) Fees for specialized summer education programs.
- 735 (j) Fees for specialized after-school education programs.
- 736 (k) Transition services provided by job coaches.
- 737 (l) Fees for an annual evaluation of educational progress  
 738 by a state-certified teacher under s. 1002.41(1)(c), if this  
 739 option is chosen for a home education student.

740 (m) Tuition and fees associated with programs offered by  
 741 Voluntary Prekindergarten Education Program providers approved  
 742 pursuant to s. 1002.55 and school readiness providers approved  
 743 pursuant to s. 1002.88.

744

745 A provider of any services ~~specialized service provider,~~  
 746 ~~eligible private school, eligible postsecondary educational~~  
 747 ~~institution, private tutoring program provider, online or~~  
 748 ~~virtual program provider, public school, school district, or~~  
 749 ~~other entity~~ receiving payments pursuant to this subsection may  
 750 not share, refund, or rebate any moneys from the Florida  
 751 personal learning scholarship account with the parent or  
 752 participating student in any manner.

753 (6) TERM OF THE PROGRAM.—For purposes of continuity of  
 754 educational choice and program integrity:

755           (a)1. The Program payments made by the state to an  
 756 organization for a personal learning scholarship account under  
 757 this section shall continue ~~remain in force~~ until:

758           a. The parent does not renew program eligibility;

759           b. The organization determines that the student is not  
 760 eligible for program renewal;

761           c. The Commissioner of Education suspends or revokes  
 762 program participation or use of funds;

763           d. The student's parent has forfeited participation in the  
 764 program for failure to comply with subsection (11);

765           e. The student enrolls in a public school; or

766           f. The student graduates from high school or attains 22  
 767 years of age, whichever occurs first ~~a student participating in~~  
 768 ~~the program participates in any of the prohibited activities~~  
 769 ~~specified in subsection (4), has funds revoked by the~~  
 770 ~~Commissioner of Education pursuant to subsection (10), returns~~  
 771 ~~to a public school, graduates from high school, or attains 22~~  
 772 ~~years of age, whichever occurs first. A participating student~~  
 773 ~~who enrolls in a public school or public school program is~~  
 774 ~~considered to have returned to a public school for the purpose~~  
 775 ~~of determining the end of the program's term.~~

776           2. Reimbursements for program expenditures may continue  
 777 until the account balance is expended or the account is closed  
 778 pursuant to paragraph (b).

779           (b)1. A student's personal learning scholarship account  
 780 must be closed and any remaining funds, including, but not

781 limited to, contributions made to the Stanley G. Tate Florida  
 782 Prepaid College Program or earnings from or contributions made  
 783 to the Florida College Savings Program using program funds  
 784 pursuant to paragraph (5)(f), shall revert to the state upon:

785 a. Denial or revocation of program eligibility by the  
 786 commissioner for fraud or abuse, including, but not limited to,  
 787 the student or student's parent accepting any payment, refund,  
 788 or rebate, in any manner, from a provider of any services  
 789 received pursuant to subsection (5); or

790 b. After any period of 3 consecutive years after high  
 791 school completion or graduation during which the student has not  
 792 been enrolled in an eligible postsecondary educational  
 793 institution or a program offered by the institution.

794 2. The commissioner must notify the parent and the  
 795 organization when a personal learning scholarship account is  
 796 closed and program funds revert to the state.

797 (7) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

798 (a)1. The parent of ~~For~~ a student with a disability who  
 799 does not have an IEP in accordance with subparagraph (3)(a)4. or  
 800 who seeks a reevaluation of an existing IEP may request an IEP  
 801 meeting and evaluation from the school district in order to  
 802 obtain or revise a matrix of services. The school district shall  
 803 notify a parent who has made a request for an IEP that the  
 804 district is required to complete the IEP and matrix of services  
 805 within 30 days after receiving notice of the parent's request.  
 806 The school district shall conduct a meeting and develop an IEP

807 and a matrix of services within 30 days after receipt of the  
 808 parent's request in accordance with State Board of Education  
 809 rules. ~~a matrix of services under s. 1011.62(1)(e) and for whom~~  
 810 ~~the parent requests a matrix of services,~~ The school district  
 811 must complete a matrix that assigns the student to one of the  
 812 levels of service as they existed before the 2000-2001 school  
 813 year.

814 2.a. ~~Within 10 school days after a school district~~  
 815 ~~receives notification of a parent's request for completion of a~~  
 816 ~~matrix of services, the school district must notify the~~  
 817 ~~student's parent if the matrix of services has not been~~  
 818 ~~completed and inform the parent that the district is required to~~  
 819 ~~complete the matrix within 30 days after receiving notice of the~~  
 820 ~~parent's request for the matrix of services. This notice must~~  
 821 ~~include the required completion date for the matrix.~~

822 b. ~~The school district shall complete the matrix of~~  
 823 ~~services for a student whose parent has made a request. The~~  
 824 school district must provide the student's parent and the  
 825 department with the student's matrix level within 10 calendar  
 826 ~~school~~ days after its completion.

827 ~~b.e.~~ The department shall notify the parent and the  
 828 ~~eligible nonprofit scholarship funding~~ organization of the  
 829 amount of the funds awarded within 10 days after receiving the  
 830 school district's notification of the student's matrix level.

831 ~~c.d.~~ A school district may change a matrix of services  
 832 only if the change is a result of an IEP reevaluation or to

833 correct a technical, typographical, or calculation error.

834 (b) For each student participating in the program who  
 835 chooses to participate in statewide, standardized assessments  
 836 under s. 1008.22 or the Florida Alternate Assessment, the school  
 837 district in which the student resides must notify the student  
 838 and his or her parent about the locations and times to take all  
 839 statewide, standardized assessments.

840 ~~(c) For each student participating in the program, a~~  
 841 ~~school district shall notify the parent about the availability~~  
 842 ~~of a reevaluation at least every 3 years.~~

843 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An  
 844 eligible private school may be sectarian or nonsectarian and  
 845 shall:

846 (a) Comply with all requirements for private schools  
 847 participating in state school choice scholarship programs  
 848 pursuant to s. 1002.421.

849 (b) Provide to the ~~eligible nonprofit scholarship funding~~  
 850 organization, upon request, all documentation required for the  
 851 student's participation, including the private school's and  
 852 student's fee schedules.

853 (c) Be academically accountable to the parent for meeting  
 854 the educational needs of the student by:

855 1. At a minimum, annually providing to the parent a  
 856 written explanation of the student's progress.

857 2. Annually administering or making provision for students  
 858 participating in the program in grades 3 through 10 to take one



859 of the nationally norm-referenced tests identified by the  
 860 Department of Education or the statewide assessments pursuant to  
 861 s. 1008.22. Students with disabilities for whom standardized  
 862 testing is not appropriate are exempt from this requirement. A  
 863 participating private school shall report a student's scores to  
 864 the parent.

865 3. Cooperating with the scholarship student whose parent  
 866 chooses to have the student participate in the statewide  
 867 assessments pursuant to s. 1008.22 or, if a private school  
 868 chooses to offer the statewide assessments, administering the  
 869 assessments at the school.

870 a. A participating private school may choose to offer and  
 871 administer the statewide assessments to all students who attend  
 872 the private school in grades 3 through 10.

873 b. A participating private school shall submit a request  
 874 in writing to the Department of Education by March 1 of each  
 875 year in order to administer the statewide assessments in the  
 876 subsequent school year.

877 (d) Employ or contract with teachers who have regular and  
 878 direct contact with each student receiving a scholarship under  
 879 this section at the school's physical location.

880 (e) Annually contract with an independent certified public  
 881 accountant to perform the agreed-upon procedures developed under  
 882 s. 1002.395(6)(o) ~~s. 1002.395(6)(n)~~ and produce a report of the  
 883 results if the private school receives more than \$250,000 in  
 884 funds from scholarships awarded under this section in the 2014-

885 2015 state fiscal year or a state fiscal year thereafter. A  
 886 private school subject to this paragraph must submit the report  
 887 by September 15, 2015, and annually thereafter to the  
 888 ~~scholarship-funding~~ organization that awarded the majority of  
 889 the school's scholarship funds. The agreed-upon procedures must  
 890 be conducted in accordance with attestation standards  
 891 established by the American Institute of Certified Public  
 892 Accountants.

893  
 894 The inability of a private school to meet the requirements of  
 895 this subsection constitutes a basis for the ineligibility of the  
 896 private school to participate in the program as determined by  
 897 the commissioner ~~department~~.

898 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department  
 899 shall:

900 (a) Maintain on its website a list of approved providers  
 901 as required in s. 1002.66, eligible postsecondary educational  
 902 institutions, eligible private schools, and organizations and  
 903 may identify or provide links to lists of other approved  
 904 providers.

905 (b) Require each ~~eligible nonprofit scholarship-funding~~  
 906 organization to verify eligible expenditures before the  
 907 distribution of funds for any expenditures made pursuant to  
 908 paragraphs (5)(a) and (b). Review of expenditures made for  
 909 services specified in paragraphs (5)(c)-(m) ~~(5)(e)-(g)~~ may be  
 910 completed after the purchase is ~~payment has been~~ made.

HB 7011

2016

911 (c) Investigate any written complaint of a violation of  
 912 this section by a parent, a student, a private school, a public  
 913 school or a school district, an organization, a provider, or  
 914 another appropriate party in accordance with the process  
 915 established by s. 1002.395(9)(f).

916 (d) Require quarterly reports by an ~~eligible nonprofit~~  
 917 ~~scholarship-funding~~ organization, which must, at a minimum,  
 918 include regarding the number of students participating in the  
 919 program; the demographics of program participants; the  
 920 disability category of program participants; the matrix level of  
 921 services, if known; the program award amount per student; the  
 922 total expenditures for the purposes specified in subsection  
 923 (5); ~~the~~ types of providers of services to students; ~~and~~ any  
 924 other information deemed necessary by the department.

925 (e) Compare the list of students participating in the  
 926 program with the public school student enrollment lists,  
 927 Voluntary Prekindergarten Education Program enrollment lists,  
 928 and the list of students participating in school choice  
 929 scholarship programs established pursuant to this chapter before  
 930 each scholarship award is provided to the organization, and  
 931 subsequently throughout the school year, each program payment to  
 932 avoid duplicate payments and confirm program eligibility. A  
 933 parent who files a final verification pursuant to paragraph  
 934 (3)(b) shall receive scholarship funds before the department  
 935 confirms program eligibility.

936 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

937 (a) The Commissioner of Education:

938 1. ~~Shall deny, suspend, or revoke a student's~~

939 ~~participation in the program if the health, safety, or welfare~~

940 ~~of the student is threatened or fraud is suspected.~~

941 2. ~~Shall deny, suspend, or revoke an authorized use of~~

942 ~~program funds if the health, safety, or welfare of the student~~

943 ~~is threatened or fraud is suspected.~~

944 3. ~~May deny, suspend, or revoke an authorized use of~~

945 ~~program funds for material failure to comply with this section~~

946 ~~and applicable department rules if the noncompliance is~~

947 ~~correctable within a reasonable period of time. Otherwise, the~~

948 ~~commissioner shall deny, suspend, or revoke an authorized use~~

949 ~~for failure to materially comply with the law and rules adopted~~

950 ~~under this section.~~

951 4. ~~Shall require compliance by the appropriate party by a~~

952 ~~date certain for all nonmaterial failures to comply with this~~

953 ~~section and applicable department rules. The commissioner May~~

954 ~~deny, suspend, or revoke program participation or use of program~~

955 funds by the student or participation or eligibility of an

956 organization, eligible private school, eligible postsecondary

957 educational institution, approved provider, or other party for a

958 violation of this section.

959 2. May determine the length of, and conditions for

960 lifting, a suspension or revocation specified in this

961 subsection.

962 3. May recover unexpended program funds or withhold

HB 7011

2016

963 payment of an equal amount of program funds to recover program  
 964 funds that were not authorized for use.

965 4. Shall deny or terminate program participation upon a  
 966 parent's forfeiture of a personal learning scholarship account  
 967 pursuant to subsection (11) ~~under this section thereafter.~~

968 (b) In determining whether to ~~deny,~~ suspend, or revoke  
 969 participation or lift a suspension or revocation in accordance  
 970 with this subsection, the commissioner may consider factors that  
 971 include, but are not limited to, acts or omissions that by a  
 972 ~~participating entity which~~ led to a previous suspension denial  
 973 or revocation of participation in a state or federal program or  
 974 an education scholarship program; failure to reimburse the  
 975 ~~eligible nonprofit scholarship funding~~ organization for program  
 976 funds improperly received or retained by the entity; failure to  
 977 reimburse government funds improperly received or retained;  
 978 imposition of a prior criminal sanction related to the person or  
 979 entity or its officers or employees; imposition of a civil fine  
 980 or administrative fine, license revocation or suspension, or  
 981 program eligibility suspension, termination, or revocation  
 982 related to a person's or an entity's management or operation; or  
 983 other types of criminal proceedings in which the person or  
 984 entity or its officers or employees were found guilty of,  
 985 regardless of adjudication, or entered a plea of nolo contendere  
 986 or guilty to, any offense involving fraud, deceit, dishonesty,  
 987 or moral turpitude.

988 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM

989 PARTICIPATION.—A parent who applies for program participation  
 990 under this section is exercising his or her parental option to  
 991 determine the appropriate placement or the services that best  
 992 meet the needs of his or her child. The scholarship award for a  
 993 student is based on a matrix that assigns the student to support  
 994 Level III services. If a parent receives ~~chooses to request and~~  
 995 ~~receive~~ an IEP and a matrix of services from the school district  
 996 pursuant to subsection (7), the amount of the payment shall be  
 997 adjusted as needed, when the school district completes the  
 998 matrix.

999 (a) To satisfy or maintain program eligibility, including  
 1000 eligibility to receive and spend program payments ~~enroll an~~  
 1001 ~~eligible student in the program~~, the parent must sign an  
 1002 agreement with the ~~eligible nonprofit scholarship funding~~  
 1003 organization and annually submit a notarized, sworn compliance  
 1004 statement to the organization to:

1005 1. Affirm that the student is enrolled in a program that  
 1006 meets regular school attendance requirements as provided in s.  
 1007 1003.01(13)(b)-(d).

1008 2. Affirm that ~~Use~~ the program funds are used only for  
 1009 authorized purposes serving the student's educational needs, as  
 1010 described in subsection (5).

1011 3. Affirm that the parent is responsible for the education  
 1012 of his or her student by, as applicable: ~~takes all appropriate~~  
 1013 ~~standardized assessments as specified in this section.~~

1014 a. Requiring the student to ~~If the parent enrolls the~~

1015 ~~child in an eligible private school, the student must take an~~  
 1016 ~~assessment in accordance with paragraph (8) (c); selected by the~~  
 1017 ~~private school pursuant to s. 1002.395(7)(e).~~

1018       b. ~~Providing an~~ If the parent enrolls the child in a home  
 1019 ~~education program, the parent may choose to participate in an~~  
 1020 ~~assessment as part of the annual evaluation in accordance with~~  
 1021 ~~provided for in s. 1002.41(1)(c); or.~~

1022       c. Requiring the child to take any pre- and post-  
 1023 assessments selected by the provider if the child is 4 years of  
 1024 age and is enrolled in a program provided by an eligible  
 1025 Voluntary Prekindergarten Education Program provider. A student  
 1026 with disabilities for whom a pre- and post-assessment is not  
 1027 appropriate is exempt from this requirement. A participating  
 1028 provider shall report a student's scores to the parent.

1029       ~~4. Notify the school district that the student is~~  
 1030 ~~participating in the Personal Learning Scholarship Accounts if~~  
 1031 ~~the parent chooses to enroll in a home education program as~~  
 1032 ~~provided in s. 1002.41.~~

1033       ~~5. Request participation in the program by the date~~  
 1034 ~~established by the eligible nonprofit scholarship funding~~  
 1035 ~~organization.~~

1036       ~~4.6.~~ Affirm that the student remains in good standing with  
 1037 the provider or school if those options are selected by the  
 1038 parent.

1039       ~~7. Apply for admission of his or her child if the private~~  
 1040 ~~school option is selected by the parent.~~

1041 ~~8. Annually renew participation in the program.~~  
 1042 ~~Notwithstanding any changes to the student's IEP, a student who~~  
 1043 ~~was previously eligible for participation in the program shall~~  
 1044 ~~remain eligible to apply for renewal as provided in subsection~~  
 1045 ~~(6).~~

1046 ~~9. Affirm that the parent will not transfer any college~~  
 1047 ~~savings funds to another beneficiary.~~

1048 ~~10. Affirm that the parent will not take possession of any~~  
 1049 ~~funding provided by the state for the Florida Personal Learning~~  
 1050 ~~Scholarship Accounts.~~

1051 ~~11. Maintain a portfolio of records and materials which~~  
 1052 ~~must be preserved by the parent for 2 years and be made~~  
 1053 ~~available for inspection by the district school superintendent~~  
 1054 ~~or the superintendent's designee upon 15 days' written notice.~~  
 1055 ~~This paragraph does not require the superintendent to inspect~~  
 1056 ~~the portfolio. The portfolio of records and materials must~~  
 1057 ~~consist of:~~

1058 ~~a. A log of educational instruction and services which is~~  
 1059 ~~made contemporaneously with delivery of the instruction and~~  
 1060 ~~services and which designates by title any reading materials~~  
 1061 ~~used; and~~

1062 ~~b. Samples of any writings, worksheets, workbooks, or~~  
 1063 ~~creative materials used or developed by the student.~~

1064 (b) The parent must file an application for initial  
 1065 program participation with an organization by the dates  
 1066 established pursuant to this section.



1067        (c) The parent must notify the school district that the  
 1068 student is participating in the Personal Learning Scholarship  
 1069 Program if the parent chooses to enroll the student in a home  
 1070 education program as provided in s. 1002.41. This notification  
 1071 is not in lieu of the required notification a parent must submit  
 1072 to the district when establishing a home education program  
 1073 pursuant to s. 1002.41(1)(a).

1074        (d) The parent must enroll his or her child in a program  
 1075 from a Voluntary Prekindergarten Education Program provider  
 1076 authorized under s. 1002.55, a school readiness provider  
 1077 authorized under s. 1002.88, or an eligible private school if  
 1078 either option is selected by the parent.

1079        (e) The parent must annually renew participation in the  
 1080 program. Notwithstanding any changes to the student's IEP, a  
 1081 student who was previously eligible for participation in the  
 1082 program shall remain eligible to apply for renewal. However, for  
 1083 a high-risk child to continue to participate in the program in  
 1084 the school year after he or she reaches 6 years of age, the  
 1085 child's application for renewal of program participation must  
 1086 contain documentation that the child has a disability defined in  
 1087 paragraph (2)(d) other than high-risk status.

1088        (f) ~~(b)~~ The parent is responsible for procuring the  
 1089 services necessary to educate the student. When the student  
 1090 receives a personal learning scholarship account, the district  
 1091 school board is not obligated to provide the student with a free  
 1092 appropriate public education. For purposes of s. 1003.57 and the

HB 7011

2016

1093 Individuals with Disabilities in Education Act, a participating  
 1094 student has only those rights that apply to all other  
 1095 unilaterally parentally placed students, except that, when  
 1096 requested by the parent, school district personnel must develop  
 1097 an individual education plan or matrix level of services.

1098 (g) ~~(e)~~ The parent is responsible for ~~the payment of~~ all  
 1099 eligible expenses in excess of the amount of the personal  
 1100 learning scholarship account ~~in accordance with the terms agreed~~  
 1101 ~~to between the parent and the providers.~~

1102 (h) The parent may not transfer any prepaid college plan  
 1103 or college savings plan funds contributed pursuant to paragraph  
 1104 (5)(f) to another beneficiary while the plan contains funds  
 1105 contributed pursuant to this section.

1106 (i) The parent may not receive a payment, refund, or  
 1107 rebate from an approved provider of any services under this  
 1108 program.

1109  
 1110 A parent who fails to comply with this subsection forfeits the  
 1111 personal learning scholarship account.

1112 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS  
 1113 ~~ADMINISTRATION OF PERSONAL LEARNING SCHOLARSHIP ACCOUNTS.~~—An  
 1114 ~~eligible nonprofit scholarship funding~~ organization  
 1115 ~~participating in the Florida Tax Credit Scholarship Program~~  
 1116 ~~established under s. 1002.395~~ may establish personal learning  
 1117 scholarship accounts for eligible students by:

1118 (a) Receiving applications and determining student

HB 7011

2016

1119 eligibility in accordance with the requirements of this section.  
 1120 ~~The organization shall notify the department of the applicants~~  
 1121 ~~for the program by March 1 before the school year in which the~~  
 1122 ~~student intends to participate.~~ When an application is approved  
 1123 ~~received,~~ the ~~scholarship funding~~ organization must provide the  
 1124 department with information on the student to enable the  
 1125 department to determine ~~report the student for~~ funding in  
 1126 accordance with subsection (13).

1127 (b) Notifying parents of their receipt of a scholarship on  
 1128 a first-come, first-served basis, based upon the funds provided  
 1129 ~~for this program in the General Appropriations Act.~~

1130 (c) Establishing a date pursuant to paragraph (3)(b) by  
 1131 which a parent must confirm initial or continuing participation  
 1132 in the program ~~and confirm the establishment or continuance of a~~  
 1133 ~~personal learning scholarship account.~~

1134 (d) Reviewing applications and awarding scholarship funds  
 1135 to approved applicants using the following priorities:

- 1136 1. Renewing students from the previous school year;
- 1137 2. Students retained on the previous school year's wait  
 1138 list;
- 1139 3. Newly approved applicants; and
- 1140 4. Late-filed applicants.

1141  
 1142 An approved student who does not receive a scholarship must be  
 1143 placed on the wait list in the order in which his or her  
 1144 application is approved. ~~The Establishing a date and process by~~

HB 7011

2016

1145 ~~which~~ students on the wait list or subsequent late-filing  
 1146 applicants may be allowed to participate in the program during  
 1147 the fiscal school year, within the amount of funds provided ~~for~~  
 1148 ~~this program in the General Appropriations Act.~~ A student who  
 1149 does not receive a scholarship within the fiscal year shall be  
 1150 retained on the wait list for the subsequent year.

1151 (e) Establishing and maintaining separate accounts for  
 1152 each eligible student. For each account, the organization must  
 1153 maintain a record of accrued interest that is retained in the  
 1154 student's account and available only for authorized program  
 1155 expenditures.

1156 (f) Verifying qualifying educational expenditures pursuant  
 1157 to the requirements of paragraph (9) (b) ~~(8) (b)~~.

1158 (g) Returning any remaining program ~~unused~~ funds to the  
 1159 department pursuant to paragraph (6) (b) ~~when the student is no~~  
 1160 ~~longer eligible for a personal scholarship learning account.~~

1161 (h) Notifying the parent about the availability of, and  
 1162 the requirements associated with, requesting an initial IEP or  
 1163 IEP reevaluation every 3 years for each student participating in  
 1164 the program.

1165 (i) Notifying the department of any violation of this  
 1166 section.

1167 (j) Documenting each scholarship student's eligibility for  
 1168 a fiscal year before granting a scholarship for that fiscal year  
 1169 pursuant to paragraph (3) (b).

1170 (13) FUNDING AND PAYMENT.—

1171 (a)1. The maximum funding amount granted for an eligible  
 1172 student with a disability, pursuant to subsection (3), shall be  
 1173 equivalent to the base student allocation in the Florida  
 1174 Education Finance Program multiplied by the appropriate cost  
 1175 factor for the educational program which would have been  
 1176 provided for the student in the district school to which he or  
 1177 she would have been assigned, multiplied by the district cost  
 1178 differential.

1179 2. In addition, an amount equivalent to a share of the  
 1180 guaranteed allocation for exceptional students in the Florida  
 1181 Education Finance Program shall be determined and added to the  
 1182 amount in subparagraph 1. The calculation shall be based on the  
 1183 methodology and the data used to calculate the guaranteed  
 1184 allocation for exceptional students for each district in chapter  
 1185 2000-166, Laws of Florida. Except as provided in subparagraph  
 1186 3., the calculation shall be based on the student's grade, the  
 1187 matrix level of services, and the difference between the 2000-  
 1188 2001 basic program and the appropriate level of services cost  
 1189 factor, multiplied by the 2000-2001 base student allocation and  
 1190 the 2000-2001 district cost differential for the sending  
 1191 district. The calculated amount must also include an amount  
 1192 equivalent to the per-student share of supplemental academic  
 1193 instruction funds, instructional materials funds, technology  
 1194 funds, and other categorical funds as provided in the General  
 1195 Appropriations Act.

1196 3. Except as otherwise provided in subsection (7), the

HB 7011

2016

1197 calculation for all students participating in the program shall  
 1198 be based on the matrix that assigns the student to support Level  
 1199 III of services. If a parent chooses to request and receive a  
 1200 matrix of services from the school district, when the school  
 1201 district completes the matrix, the amount of the payment shall  
 1202 be adjusted as needed.

1203 (b) The amount of the awarded funds shall be 90 percent of  
 1204 the calculated amount. One hundred percent of the funds  
 1205 appropriated for the program shall be released to the department  
 1206 at the beginning of the first quarter of each fiscal year.

1207 (c) Upon notification from the organization that a parent  
 1208 has filed a final verification document pursuant to paragraph  
 1209 (3)(b) or upon notification from the organization that a 3- or  
 1210 4-year-old child's application has been approved for the  
 1211 program, the department shall release the student's scholarship  
 1212 funds to the organization to be deposited into the student's  
 1213 account ~~an eligible student's graduation from an eligible~~  
 1214 ~~postsecondary educational institution or after any period of 4~~  
 1215 ~~consecutive years after high school graduation in which the~~  
 1216 ~~student is not enrolled in an eligible postsecondary educational~~  
 1217 ~~institution, the student's personal learning scholarship account~~  
 1218 ~~shall be closed, and any remaining funds shall revert to the~~  
 1219 ~~state.~~

1220 (d) For initial eligibility for the program, students  
 1221 determined eligible by the organization for a personal learning  
 1222 scholarship amount by:

HB 7011

2016

1223 1. September 1 shall receive 100 percent of the total  
 1224 awarded funds.

1225 2. November 1 shall receive 75 percent of the total  
 1226 awarded funds.

1227 3. February 1 shall receive 50 percent of the total  
 1228 awarded funds.

1229 4. April 1 shall receive 25 percent of the total awarded  
 1230 funds.

1231 (e) Accrued interest in the student's account is in  
 1232 addition to, and not part of, the awarded funds. Program funds  
 1233 include both the awarded funds and accrued interest.

1234 (f) (d) The eligible nonprofit scholarship funding  
 1235 organization may shall develop a system for payment of benefits  
 1236 by electronic funds transfer, including, but not limited to,  
 1237 debit cards, electronic payment cards, or any other means of  
 1238 electronic payment that the department deems to be commercially  
 1239 viable or cost-effective. A student's scholarship award may not  
 1240 be reduced for debit card or electronic payment fees.

1241 Commodities or services related to the development of such a  
 1242 system shall be procured by competitive solicitation unless they  
 1243 are purchased from a state term contract pursuant to s. 287.056.

1244 (g) In addition to funds appropriated for scholarship  
 1245 awards and subject to a separate, specific legislative  
 1246 appropriation, an organization may receive an amount equivalent  
 1247 to not more than 3 percent of the amount of each scholarship  
 1248 award from state funds for administrative expenses if the

1249 organization has operated as a nonprofit entity for at least the  
 1250 preceding 3 fiscal years and did not have any findings of  
 1251 material weakness or material noncompliance in its most recent  
 1252 audit under s. 1002.395(6)(m). Such administrative expenses must  
 1253 be reasonable and necessary for the organization's management  
 1254 and distribution of scholarships under this section. Funds  
 1255 authorized under this paragraph may not be used for lobbying or  
 1256 political activity or expenses related to lobbying or political  
 1257 activity. An organization may not charge an application fee for  
 1258 a scholarship. Administrative expenses may not be deducted from  
 1259 funds appropriated for scholarship awards.

1260 (h)(e) Moneys received pursuant to this section do not  
 1261 constitute taxable income to the qualified student or parent of  
 1262 the qualified student.

1263 (14) OBLIGATIONS OF THE AUDITOR GENERAL.—

1264 (a) The Auditor General shall conduct an annual ~~financial~~  
 1265 ~~and~~ operational audit of accounts and records of each ~~eligible~~  
 1266 ~~scholarship-funding~~ organization that participates in the  
 1267 program. As part of this audit, the Auditor General shall  
 1268 verify, at a minimum, the total amount of students served and  
 1269 the eligibility of reimbursements made by the each-eligible  
 1270 ~~nonprofit scholarship-funding~~ organization and transmit that  
 1271 information to the department. The Auditor General shall provide  
 1272 the commissioner with a copy of each annual operational audit  
 1273 performed pursuant to this subsection within 10 days after the  
 1274 audit is finalized.



HB 7011

2016

1275 (b) The Auditor General shall notify the department of any  
 1276 ~~eligible nonprofit scholarship funding~~ organization that fails  
 1277 to comply with a request for information.

1278 (15) OBLIGATIONS RELATED TO APPROVED PROVIDERS.—The  
 1279 Department of Health, the Agency for Persons with Disabilities,  
 1280 and the Department of Education shall work with an ~~eligible~~  
 1281 ~~nonprofit scholarship funding~~ organization for easy or automated  
 1282 access to lists of licensed providers of services specified in  
 1283 paragraph (5)(c) to ensure efficient administration of the  
 1284 program.

1285 (16) LIABILITY.—The state is not liable for the award or  
 1286 any use of awarded funds under this section.

1287 (17) SCOPE OF AUTHORITY.—This section does not expand the  
 1288 regulatory authority of this state, its officers, or any school  
 1289 district to impose additional regulation on participating  
 1290 private schools, independent ~~nonpublic~~ postsecondary educational  
 1291 institutions, and private providers beyond those reasonably  
 1292 necessary to enforce requirements expressly set forth in this  
 1293 section.

1294 (18) RULES.—The State Board of Education shall adopt rules  
 1295 pursuant to ss. 120.536(1) and 120.54 to administer this  
 1296 section.

1297 ~~(19) IMPLEMENTATION SCHEDULE FOR THE 2014-2015 SCHOOL~~  
 1298 ~~YEAR. Notwithstanding the provisions of this section related to~~  
 1299 ~~notification and eligibility timelines, an eligible nonprofit~~  
 1300 ~~scholarship funding organization may enroll parents on a rolling~~

1301 ~~schedule on a first come, first served basis, within the amount~~  
 1302 ~~of funds provided in the General Appropriations Act.~~

1303 Section 6. Paragraph (j) of subsection (6) and paragraphs  
 1304 (a), (b), and (f) of subsection (16) of section 1002.395,  
 1305 Florida Statutes, are amended to read:

1306 1002.395 Florida Tax Credit Scholarship Program.—

1307 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
 1308 ORGANIZATIONS.—An eligible nonprofit scholarship-funding  
 1309 organization:

1310 (j)1. May use up to 3 percent of eligible contributions  
 1311 received during the state fiscal year in which such  
 1312 contributions are collected for administrative expenses if the  
 1313 organization has operated as an eligible nonprofit scholarship-  
 1314 funding organization ~~under this section~~ for at least the  
 1315 preceding 3 state fiscal years and did not have any ~~negative~~  
 1316 ~~financial~~ findings of material weakness or material  
 1317 noncompliance in its most recent audit under paragraph (m). Such  
 1318 administrative expenses must be reasonable and necessary for the  
 1319 organization's management and distribution of eligible  
 1320 contributions under this section. No funds authorized under this  
 1321 subparagraph shall be used for lobbying or political activity or  
 1322 expenses related to lobbying or political activity. Up to one-  
 1323 third of the funds authorized for administrative expenses under  
 1324 this subparagraph may be used for expenses related to the  
 1325 recruitment of contributions from taxpayers. ~~If~~ An eligible  
 1326 nonprofit scholarship-funding organization may not charge

HB 7011

2016

1327 ~~charges an application fee for a scholarship, the application~~  
1328 ~~fee must be immediately refunded to the person that paid the fee~~  
1329 ~~if the student is not enrolled in a participating school within~~  
1330 ~~12 months.~~

1331 2. Must expend for annual or partial-year scholarships an  
1332 amount equal to or greater than 75 percent of the net eligible  
1333 contributions remaining after administrative expenses during the  
1334 state fiscal year in which such contributions are collected. No  
1335 more than 25 percent of such net eligible contributions may be  
1336 carried forward to the following state fiscal year. All amounts  
1337 carried forward, for audit purposes, must be specifically  
1338 identified for particular students, by student name and the name  
1339 of the school to which the student is admitted, subject to the  
1340 requirements of ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g,  
1341 and the applicable rules and regulations issued pursuant  
1342 thereto. Any amounts carried forward shall be expended for  
1343 annual or partial-year scholarships in the following state  
1344 fiscal year. Net eligible contributions remaining on June 30 of  
1345 each year that are in excess of the 25 percent that may be  
1346 carried forward shall be transferred to other eligible nonprofit  
1347 scholarship-funding organizations to provide scholarships for  
1348 eligible students. All transferred funds must be deposited by  
1349 each eligible nonprofit scholarship-funding organization  
1350 receiving such funds into its scholarship account. All  
1351 transferred amounts received by any eligible nonprofit  
1352 scholarship-funding organization must be separately disclosed in

1353 the annual financial audit required under paragraph (m) ~~returned~~  
 1354 ~~to the State Treasury for deposit in the General Revenue Fund.~~

1355 3. Must, before granting a scholarship for an academic  
 1356 year, document each scholarship student's eligibility for that  
 1357 academic year. A scholarship-funding organization may not grant  
 1358 multiyear scholarships in one approval process.

1359  
 1360 Information and documentation provided to the Department of  
 1361 Education and the Auditor General relating to the identity of a  
 1362 taxpayer that provides an eligible contribution under this  
 1363 section shall remain confidential at all times in accordance  
 1364 with s. 213.053.

1365 (16) NONPROFIT SCHOLARSHIP-FUNDING ORGANIZATIONS;  
 1366 APPLICATION.—In order to participate in the scholarship program  
 1367 created under this section, a charitable organization that seeks  
 1368 to be a nonprofit scholarship-funding organization must submit  
 1369 an application for initial approval or renewal to the Office of  
 1370 Independent Education and Parental Choice no later than  
 1371 September 1 of each year before the school year for which the  
 1372 organization intends to offer scholarships.

1373 (a) An application for initial approval must include:

1374 1. A copy of the organization's incorporation documents  
 1375 and registration with the Division of Corporations of the  
 1376 Department of State.

1377 2. A copy of the organization's Internal Revenue Service  
 1378 determination letter as a s. 501(c)(3) not-for-profit

1379 organization.

1380 3. A description of the organization's financial plan that  
 1381 demonstrates sufficient funds to operate throughout the school  
 1382 year.

1383 4. A description of the geographic region that the  
 1384 organization intends to serve and an analysis of the demand and  
 1385 unmet need for eligible students in that area.

1386 5. The organization's organizational chart.

1387 6. A description of the criteria and methodology that the  
 1388 organization will use to evaluate scholarship eligibility.

1389 7. A description of the application process, including  
 1390 deadlines and any associated fees.

1391 8. A description of the deadlines for attendance  
 1392 verification and scholarship payments.

1393 9. A copy of the organization's policies on conflict of  
 1394 interest and whistleblowers.

1395 10. A copy of a surety bond or letter of credit to secure  
 1396 the faithful performance of the obligations of the eligible  
 1397 nonprofit scholarship-funding organization in accordance with  
 1398 this section in an amount equal to 25 percent of the scholarship  
 1399 funds anticipated for each school year or \$100,000, whichever is  
 1400 greater. The surety bond or letter of credit must specify that  
 1401 any claim against the bond or letter of credit may be made only  
 1402 by an eligible nonprofit scholarship-funding organization to  
 1403 provide scholarships to and on behalf of students who would have  
 1404 had scholarships funded if it were not for the diversion of

HB 7011

2016

1405 funds giving rise to the claim against the bond or letter of  
 1406 credit.

1407 (b) In addition to the information required by  
 1408 subparagraphs (a)1.-9., an application for renewal must include:

1409 1. A surety bond or letter of credit to secure the  
 1410 faithful performance of the obligations of the eligible  
 1411 nonprofit scholarship-funding organization in accordance with  
 1412 this section equal to the amount of undisbursed donations held  
 1413 by the organization based on the annual report submitted  
 1414 pursuant to paragraph (6) (m). The amount of the surety bond or  
 1415 letter of credit must be at least \$100,000, but not more than  
 1416 \$25 million. The surety bond or letter of credit must specify  
 1417 that any claim against the bond or letter of credit may be made  
 1418 only by an eligible nonprofit scholarship-funding organization  
 1419 to provide scholarships to and on behalf of students who would  
 1420 have had scholarships funded if it were not for the diversion of  
 1421 funds giving rise to the claim against the bond or letter of  
 1422 credit.

1423 2. The organization's completed Internal Revenue Service  
 1424 Form 990 submitted no later than November 30 of the year before  
 1425 the school year that the organization intends to offer the  
 1426 scholarships, notwithstanding the September 1 application  
 1427 deadline.

1428 3. A copy of the statutorily required audit to the  
 1429 Department of Education and Auditor General.

1430 4. An annual report that includes:

HB 7011

2016

1431 a. The number of students who completed applications, by  
 1432 county and by grade.

1433 b. The number of students who were approved for  
 1434 scholarships, by county and by grade.

1435 c. The number of students who received funding for  
 1436 scholarships within each funding category, by county and by  
 1437 grade.

1438 d. The amount of funds received, the amount of funds  
 1439 distributed in scholarships, and an accounting of remaining  
 1440 funds and the obligation of those funds.

1441 e. A detailed accounting of how the organization spent the  
 1442 administrative funds allowable under paragraph (6)(j).

1443 (f) All remaining funds held by a nonprofit scholarship-  
 1444 funding organization that is disapproved for participation must  
 1445 be transferred ~~revert to the Department of Revenue for~~  
 1446 ~~redistribution~~ to other eligible nonprofit scholarship-funding  
 1447 organizations to provide scholarships for eligible students. All  
 1448 transferred funds must be deposited by each eligible nonprofit  
 1449 scholarship-funding organization receiving such funds into its  
 1450 scholarship account. All transferred amounts received by any  
 1451 eligible nonprofit scholarship-funding organization must be  
 1452 separately disclosed in the annual financial audit required  
 1453 under subsection (6).

1454 Section 7. Paragraph (aa) is added to subsection (4) of  
 1455 section 1009.971, Florida Statutes, to read:

1456 1009.971 Florida Prepaid College Board.—

HB 7011

2016

1457 (4) FLORIDA PREPAID COLLEGE BOARD; POWERS AND DUTIES.—The  
 1458 board shall have the powers and duties necessary or proper to  
 1459 carry out the provisions of ss. 1009.97-1009.988, including, but  
 1460 not limited to, the power and duty to:

1461 (aa) Adopt rules relating to the purchase and use of a  
 1462 prepaid college plan authorized under s. 1009.98 or a college  
 1463 savings plan authorized under s. 1009.981 for the Florida  
 1464 Personal Learning Scholarship Accounts Program pursuant to s.  
 1465 1002.385, which may include, but need not be limited to:

1466 1. The use of such funds for postsecondary education  
 1467 programs for students with disabilities;

1468 2. Effective procedures that allow program funds to be  
 1469 used in conjunction with other funds used by a parent in the  
 1470 purchase of a prepaid college plan or a college savings plan;

1471 3. The tracking and accounting of program funds separately  
 1472 from other funds contributed to a prepaid college plan or a  
 1473 college savings plan;

1474 4. The reversion of program funds, including, but not  
 1475 limited to, earnings from contributions to the Florida College  
 1476 Savings Plan;

1477 5. The use of program funds only after private payments  
 1478 have been used for prepaid college plan or college savings plan  
 1479 expenditures;

1480 6. Contracting with each eligible nonprofit scholarship-  
 1481 funding organization to establish mechanisms to implement s.  
 1482 1002.385, including, but not limited to, identifying the source



HB 7011

2016

1483 of funds being deposited in the plans; and

1484 7. The development of a written agreement that defines the  
 1485 owner and beneficiary of an account and outlines  
 1486 responsibilities for the use of the advance payment contract  
 1487 funds or savings program funds.

1488 Section 8. Subsection (11) is added to section 1009.98,  
 1489 Florida Statutes, to read:

1490 1009.98 Stanley G. Tate Florida Prepaid College Program.—

1491 (11) IMPLEMENTATION PROCEDURES.—

1492 (a) A prepaid college plan may be purchased, accounted  
 1493 for, used, and terminated as provided in s. 1002.385.

1494 (b) A qualified beneficiary may apply the benefits of an  
 1495 advance payment contract toward the program fees of a program  
 1496 designed for students with disabilities conducted by a state  
 1497 postsecondary institution. A transfer authorized under this  
 1498 subsection may not exceed the redemption value of the advance  
 1499 payment contract at a state postsecondary institution or the  
 1500 number of semester credit hours contracted on behalf of a  
 1501 qualified beneficiary. A qualified beneficiary may not be  
 1502 changed while a prepaid college plan contains funds contributed  
 1503 under s. 1002.385.

1504 Section 9. Subsection (10) is added to section 1009.981,  
 1505 Florida Statutes, to read:

1506 1009.981 Florida College Savings Program.—

1507 (10) IMPLEMENTATION PROCEDURES.—

1508 (a) A college savings plan may be purchased, accounted

1509 for, used, and terminated as provided in s. 1002.385.

1510 (b) A designated beneficiary may apply the benefits of a  
 1511 participation agreement toward the program fees of a program  
 1512 designed for students with disabilities conducted by a state  
 1513 postsecondary institution. A designated beneficiary may not be  
 1514 changed while a college savings plan contains funds contributed  
 1515 under s. 1002.385.

1516 Section 10. For the 2016-2017 fiscal year:

1517 (1) The sum of \$71.2 million in recurring funds from the  
 1518 General Revenue Fund is appropriated to the Department of  
 1519 Education for scholarship awards under the Personal Learning  
 1520 Scholarship Accounts Program. In addition to the funds  
 1521 appropriated for the scholarship awards, the sum of \$2,136,000  
 1522 in recurring funds from the General Revenue Fund is appropriated  
 1523 to the Department of Education for reasonable and necessary  
 1524 administrative expenses for each scholarship-funding  
 1525 organization's management and distribution of scholarship awards  
 1526 under the program; however, the amount paid to each scholarship-  
 1527 funding organization may not exceed 3 percent of the amount of  
 1528 each scholarship award.

1529 (2) The sum of \$14 million in recurring funds from the  
 1530 General Revenue Fund is appropriated to the Department of  
 1531 Education for incentive payments for the Standard Student Attire  
 1532 Incentive Program.

1533 (3) The sum of \$8 million in recurring funds from the  
 1534 General Revenue Fund is appropriated for the Florida

HB 7011

2016

1535 Postsecondary Comprehensive Transition Program to be  
 1536 administered by the Florida Center for Students with Unique  
 1537 Abilities at the University of Central Florida, as follows:

1538 (a) The sum of \$1.5 million shall be provided to the  
 1539 Florida Center for Students with Unique Abilities for costs  
 1540 solely associated with the center serving as the statewide  
 1541 coordinating center for the program.

1542 (b) The sum of \$3 million shall be distributed for startup  
 1543 and enhancement grants to eligible institutions pursuant to s.  
 1544 1004.6495(5)(b)5., Florida Statutes.

1545 (c) The sum of \$3.5 million shall be distributed as  
 1546 Florida Postsecondary Comprehensive Transition Program  
 1547 scholarships for students who are enrolled in eligible programs.

1548 Section 11. This act shall take effect July 1, 2016.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDC 16-03 Education
SPONSOR(S): Education Committee
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: Orig. Comm.: Education Committee, Bishop, Mizereck

SUMMARY ANALYSIS

The bill maintains the following programs created in the 2015-2016 General Appropriations Act by:

- Requiring the Board of Governors (BOG) to adopt a regulation implementing the State University System Performance-Based Incentive Program.
Requiring the State Board of Education (SBE) to establish, by rule, performance-based metrics for the Florida College System...
Eliminating the July 1, 2016, expiration date of the educator liability insurance program...
Establishing, in law, the "Best and Brightest Teacher Scholarship Program"...

As part of the educator liability insurance program, the bill prohibits postsecondary educational institutions and school districts from requiring a student participating in a clinical field experience to purchase liability insurance as a condition of participation.

The bill also amends the Preeminent State Research Universities Program to require the Board of Governors to designate each state university that meets at least six of the 12 academic and research excellence standards identified in law as an "emerging preeminent state research university."

See fiscal comments.

The bill is effective July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **State University System Performance-Based Incentive**

###### Present Situation

During the 2012 Legislative Session, the Legislature adopted a performance funding model for the State University System (SUS) based on indicators of system and institutional attainment of performance expectations.<sup>1</sup> The Legislature appropriated SUS performance funding in the amount of \$15 million<sup>2</sup> in 2012, \$50 million<sup>3</sup> in 2013, and \$200 million<sup>4</sup> in 2014.

In 2014, the General Appropriations Act specified that performance funding (including \$100 million in new funding and \$100 million in funding redistributed from the base) be allocated based on the performance funding model adopted by the Board of Governors (BOG) on January 16, 2014.<sup>5</sup> The BOG model is based on four guiding principles:<sup>6</sup>

- Use metrics that align with Strategic Plan goals;
- Reward excellence or improvement;
- Have a few clear, simple metrics; and
- Acknowledge the unique mission of the different institutions.

In 2015, the Legislature appropriated \$400 million in performance funding to the State University System to be allocated based on indicators of institutional attainment of performance metrics adopted by the Board of Governors as updated by the Board on November 6, 2015.<sup>7</sup> The funds available for allocation to the universities based on the performance funding model consisted of the state's investment of \$150 million in performance funding plus an institutional investment of \$250 million to be redistributed from the base funding of the State University System.<sup>8</sup> Currently, the SUS Performance-Based Incentive is scheduled to expire on July 1, 2016.

The Board of Governors Performance Funding Model contains ten performance metrics that evaluate the state universities on the following:<sup>9</sup>

- Percent of bachelor's degree graduates employed and/or continuing their education 1 year after graduation.
- Median average full-time wages of undergraduates employed in Florida 1 year after graduation.
- Average cost per undergraduate degree to the institution.
- Six year graduation rate (full-time and part-time First-Time-In-College).
- Academic progress rate (2<sup>nd</sup> year retention with GPA above 2.0).
- Bachelor's degrees awarded in areas of strategic emphasis (includes STEM).
- University access rate (percent of undergraduates with a Pell Grant).

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<sup>1</sup> Section 1011.905, F.S.

<sup>2</sup> Specific Appropriation 129, Ch. 2012-118, L.O.F.

<sup>3</sup> Specific Appropriation 142, Ch. 2013-40, L.O.F.

<sup>4</sup> Specific Appropriation 143, Ch. 2014-51, L.O.F.

<sup>5</sup> *Id.*

<sup>6</sup> Florida Board of Governors, *Performance Based Funding: hearing before the House Higher Education & Workforce Subcommittee* (October 6, 2015).

<sup>7</sup> Specific Appropriation 138, Ch. 2015-232, L.O.F.

<sup>8</sup> *Id.*

<sup>9</sup> Florida Board of Governors, *Performance Based Funding: hearing before the House Higher Education & Workforce Subcommittee* (October 6, 2015).

- Graduate degrees awarded in areas of strategic emphasis (includes STEM).
- Institution-specific metrics, including:
  - Board of Governors choice.
  - Board of Trustees choice .

Institutions receive scores on each metric based on the achievement of both excellence and improvement. The higher of the two scores for each metric is applied to the overall score for each institution. Any institution that fails to meet the Board's minimum performance funding threshold (a total score of less than 26 points) will not be eligible for the state's investment, will have a portion of its institutional investment withheld, and is required to submit an improvement plan that specifies the activities and strategies for improving its performance.<sup>10</sup> A state university is limited to submitting an improvement plan for only one fiscal year.

### Effect of Proposed Changes

The bill makes the State University System Performance-Based Incentive (Incentive) permanent by eliminating the July 1, 2016, statutory expiration date and requiring the Board of Governors to adopt a regulation. The bill modifies the Incentive by:

- Requiring the performance-based metrics to include wage thresholds that reflect the added value of a baccalaureate degree.
- Requiring the Board of Governors to establish minimum performance funding eligibility thresholds for both the state's investment and the institutional investment.
- Specifying that any institution that does not meet the BOG's performance threshold for the state's investment is not eligible for a share of the state's investment in performance funding.
- Requiring that any institution that fails to meet the BOG's performance threshold for the institutional investment shall have its entire institutional investment withheld (previous practice was to withhold a portion of the institutional investment).

Currently, the Incentive only allows an institution, in an effort to restore its institutional investment, to file an improvement plan with the BOG once during the fiscal year. This is consistent with the expiration of the Incentive each fiscal year. However, because the Incentive is made permanent by the bill, any university that falls below the minimum performance threshold in more than one fiscal year, will not be able to submit an improvement plan for restoration of its institutional (base funding) investment in subsequent years.

## **Florida College System Performance Funding**

### Present Situation

In the 2014 General Appropriations Act, the Legislature required the Commissioner of Education to, no later than December 31, 2014, recommend to the Governor, the President of the Senate and the Speaker of the House of Representatives a performance funding formula that may be used to allocate funds to Florida College System institutions.<sup>11</sup> The recommendations had to include up to 10 performance measures, appropriate performance benchmarks for each measure, and a detailed methodology for allocating performance funds to the colleges. More specifically, the measures were required to include, at a minimum, job placement rates, cost per degree, and graduation/retention rates. In addition, the performance benchmarks and allocation methodology was required to consider both effective performance and rates of improvement.<sup>12</sup>

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<sup>10</sup> Specific Appropriation 138, Ch. 2015-232, L.O.F.

<sup>11</sup> Specific Appropriation 126, Ch. 2014-51, L.O.F.

<sup>12</sup> *Id.*

The Commissioner's original performance funding recommendation included nine measures<sup>13</sup>: job placement/continuing education, completion rates, retention rates, entry level wages, time to degree, cost per degree, credit milestone attainment, Pell Grant completion rates, and one institution specific measure determined by the Board of Trustees.<sup>14</sup> However, the 2015 Legislature appropriated \$40 million (\$20 million in new funding and \$20 million redistributed from the base) and required the State Board of Education (SBE) to allocate the funds based on a modified version of the Commissioner's recommended model, with measures limited to job placement, program completion and graduation rates, retention rates, and completer entry level wages.<sup>15</sup>

When the model was initially designed in 2014, all measures were worth 10 points, however, due to a realization that some data sources were less accessible than others, a decision was made by the State Board of Education to weigh some measures less than others. As a result, the measures relating to completion rates and retention rates have a maximum value of 10 points, the measure relating to job placement has a maximum value of 7.5 points, and the measure relating to entry level earnings has a maximum value of only 3 points (for a total of 30.5 possible points).<sup>16</sup> Points are earned either by meeting an excellence benchmark, which compares colleges against each other on a particular measure, or by meeting an improvement benchmark, based on the college's prior performance. A college's performance is calculated by using the higher score of the excellence and improvement benchmark scores on each measure and then doubling them.<sup>17</sup>

The State Board of Education was required to establish minimum performance thresholds in a manner to ensure that not all colleges are eligible for new funding. All institutions eligible for new funding will have their base funding restored. Any institution that fails to meet the Board's minimum performance threshold will have a portion of its base funding withheld and must submit an improvement plan that specifies activities and strategies for improving the institution's performance. If upon monitoring the institution's progress in implementing its improvement plan, the Board determines that satisfactory progress has been made, the institution may have its base funding restored. Any institution that does not meet satisfactory progress as, determined by the SBE, may not have its full based funding restored.<sup>18</sup>

On July 23, 2015, the State Board of Education adopted the 2015-16 Florida College System Performance Funding Model which separated colleges into three categories based on their scores achieved on each measure. The seven colleges with the highest point total are placed into the Gold category. All of these colleges have their base funding restored and are eligible to receive a proportionate share of performance funds. In addition, Gold Colleges receive a proportionate share of the performance dollars that would have been allocated to the colleges in the Bronze category. Colleges whose total scores are above one standard deviation below the mean, are placed into the Silver category. Silver Colleges have their base funding restored and receive a proportionate amount of performance funding. Colleges whose total scores fall more than one standard deviation below the mean are placed into the Bronze category. Bronze Colleges are not eligible to receive new funding, have a percentage of their based funding withheld, and must submit an improvement plan to the State Board of Education. Upon showing progress in implementing the plan, Bronze Colleges may have their base funding restored.<sup>19</sup>

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<sup>13</sup> State Board of Education, Board Meeting Action Item, *Approval of Performance Funding for the Florida College System* (July 23, 2015). Available at: <http://www.fldoe.org/contact-us/search.shtml?q=performance+funding>

<sup>14</sup> State of the Florida, *Legislative Bill Analysis for CS/CS/SB 948* (2015).

<sup>15</sup> Specific Appropriation 122, Ch. 2015-232, L.O.F.

<sup>16</sup> Florida Department of Education, *Florida College System Performance Funding: hearing before the House Higher Education & Workforce Subcommittee* (October 6, 2015).

<sup>17</sup> *Id.*

<sup>18</sup> Specific Appropriation 122, Ch. 2015-232, L.O.F.

<sup>19</sup> State Board of Education, Board Meeting Action Item, *Approval of Performance Funding for the Florida College System* (July 23, 2015). Available at: <http://www.fldoe.org/contact-us/search.shtml?q=performance+funding>



## Effect of Proposed Changes

The bill requires the State Board of Education to adopt rules implementing the Florida College System Performance Based Incentive. The bill:

- Modifies the performance-based metrics to specifically include metrics that measure retention; program completion and graduation rates; postgraduation employment, salaries, and continuing education for workforce education and baccalaureate degree programs, with wage thresholds that reflect the added value of the certificate or degree; and outcome measures appropriate for associate degree recipients.
- Requires the State Board of Education to establish minimum performance funding eligibility thresholds for both the state's investment and the institutional investment.
- Specifies that any institution that does not meet the SBE's performance threshold for the state's investment is not eligible for a share of the state's investment in performance funding.
- Specifies that each institution's share of performance funding shall be calculated based on its relative performance on the established metrics in conjunction with the institution's size and scope.
- Requires that any institution that fails to meet the SBE's performance threshold for the institutional investment shall have a portion of its institutional investment withheld.
- Requires the SBE, by October 1 of each year, to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the previous fiscal year's performance funding allocation which must reflect the rankings and award distributions.

## **Emerging Preeminence**

### Present Situation

In 2013, the Legislature created the Preeminent State Research Universities Program, a collaborative partnership between the Board of Governors (BOG) and the Legislature to raise the academic and research excellence and national preeminence of the highest performing state research universities in Florida.<sup>20</sup> The partnership was based on the March 24, 2010 State University System (SUS) Governance Agreement<sup>21</sup> that affirmed the commitment of the BOG and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data.

Effective July 1, 2013, the following academic and research excellence standards were established for the preeminent state universities program<sup>22</sup>:

1. An average weighted grade point average of 4.0 or higher on a 4.0 scale and an average SAT score of 1800 or higher for fall semester incoming freshman, as reported annually.
2. A top 50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
3. A freshman retention rate of 90 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
4. A 6-year graduation rate of 70 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.

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<sup>20</sup> Section 1001.7065, Florida Statutes.

<sup>21</sup> Florida Legislature, *State University System Governance Agreement* (March 24, 2010); *See also* ch. 2010-78, L.O.F.; staff of the Florida House of Representatives, *Legislative Bill Analysis for 7237* (2010).

<sup>22</sup> Section 1001.7065, Florida Statutes.

5. Six or more faculty members at the state university who are members of a national academy, as reported annually by TARU annual report.
6. Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the NSF.
7. Total annual research expenditures in diversified nonmedical sciences of \$150 million or more, as reported annually by the NSF.
8. A top 100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
9. One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.
10. Four hundred or more doctoral degrees awarded annually, as reported in the BOG Annual Accountability Report.
11. Two hundred or more post-doctoral appointees annually, as reported in the TARU annual report.
12. An endowment of \$500 million or more, as reported annually by the BOG Annual Accountability Report.

The Board of Governors shall designate each state university that meets at least 11 of the 12 academic and research excellence standards above as a “preeminent state research university.”<sup>23</sup> Currently, the University of Florida and the Florida State University are designated as preeminent state research universities.

#### Effect of Proposed Changes

The bill modifies the academic and research excellence standards of the preeminent state research universities program in the following ways:

- Aligns the required average SAT score for incoming freshman with recent changes to the SAT examination scoring rubric;
- Specifies that the U.S. News and World Report rankings is one of the rankings that should be considered for the Top-50 Ranking requirement;
- Includes the official membership directories maintained by each national academy (in addition to the Top American Research Universities (TARU) annual report) as a source for verification of recognition of faculty members in a national academy; and
- Includes professional degrees awarded in medical and healthcare disciplines in the calculation of the number of doctoral degrees awarded annually.

Currently, each state university that meets at least 11 of the 12 academic and research excellence standards above is designated as a “preeminent state research university.” The bill requires the Board of Governors to also designate each state university that meets at least six of the 12 academic and research excellence standards as an “emerging preeminent state research university.” However, the Board of Governors may temporarily suspend or rescind the “preeminent” or “emerging preeminent” designation upon petition from a designated institution. The Board of Governors may also revoke either designation of an institution with concurrence of the Governor, the President of the Senate and the Speaker of the House of Representatives.

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<sup>23</sup> Section 1001.7065, Florida Statutes.

The bill requires a state university that is designated as an “emerging preeminent state research university” to submit to the BOG a 5-year benchmark plan with target rankings on key performance metrics for national excellence. Once approved by the BOG and upon the university meeting the benchmark goals annually, the BOG shall award the university its proportional share of any funds provided annually in the GAA to support the program.

Unless otherwise specified in the GAA, funding increases appropriated to support the program must be distributed equally to each designated “preeminent state research university” and each university designated as an “emerging preeminent state research university” shall receive an amount equal to one-half of the total increased amount awarded to each designated “preeminent state research university.”

## **Educator Liability Insurance Program**

### Present Situation

Legislation passed in 2015 requires the Department of Education to administer a liability insurance program to protect public school educators from liability for claims arising from incidents occurring while performing job responsibilities.<sup>24</sup> The program must provide coverage amounting to \$2 million to all full-time instructional personnel.<sup>25</sup> Part-time instructional personnel, administrative personnel, and student teachers participating in clinical field experience through a state-approved teacher preparation program may opt to receive liability coverage, at cost.<sup>26</sup>

The law required the department, by August 1, 2015, to notify eligible personnel of the pending procurement for liability coverage. In addition, the law required each school district, by September 1, 2015, to notify eligible personnel of the liability coverage using a postcard which included:

- The amount of the coverage;
- A general description of the nature of the coverage; and
- The contact information for coverage and claims questions.<sup>27</sup>

The law required each district school board to certify to the department by September 15, 2015, that the district had provided the notification to the eligible personnel.<sup>28</sup>

The department must consult with the Department of Financial Services to select the “most economically prudent and cost-effective means of implementing the program through self-insurance, a risk management program, or competitive procurement.”<sup>29</sup>

The law establishing the educator liability insurance program will expire on July 1, 2016.<sup>30</sup>

### Effect of Proposed Changes

The bill makes the educator liability insurance program permanent by eliminating the July 1, 2016, statutory expiration date. The program requires the department and each school district to provide annual notification of the \$2 million insurance coverage to eligible personnel. District school boards must annually certify to the department that the notification has been provided.

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<sup>24</sup> See s. 1012.75(3), F.S., as amended by s. 10, ch. 2015-222, L.O.F.

<sup>25</sup> Section 1012.75(3)(a), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 1012.75(3)(b), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 1012.75(3)(c), F.S.

<sup>30</sup> Section 1012.75(3)(d), F.S.

In addition, the bill requires a district school board providing clinical field experience to students in teacher preparation programs to notify the student electronically or in writing of the availability of educator liability insurance. Postsecondary educational institutions and district school boards are prohibited from requiring a student in a teacher preparation program to purchase liability insurance as a condition of participation in any clinical field experience or related activity on the premises of an elementary or secondary school.

## **Best and Brightest**

### Present Situation

The 2015 General Appropriations Act (GAA) established the “Best and Brightest Teacher Scholarship Program” and appropriated \$44,022,483 to fund the program.<sup>31</sup> Under the program, up to 4,402 teachers who are rated “highly effective”<sup>32</sup> and who scored at or above the 80th percentile on either the SAT or the ACT at the time the assessment was taken can be provided a payment of \$10,000. First-year teachers who did not yet have an evaluation can qualify if they scored at or above the 80th percentile on the SAT or ACT at the time the assessment was taken.

To demonstrate eligibility for an award, an eligible teacher was required to submit to the school district, no later than October 1, 2015, an official record of his or her SAT or ACT score demonstrating that the teacher scored at or above the 80th percentile based upon the percentile ranks in effect when the teacher took the assessment.

By December 1, 2015, each school district, charter school governing board, and the Florida School for the Deaf and blind must submit to the department the number of eligible teachers who qualify for the award. By February 1, 2016, the department must disburse funds to each school district for each eligible teacher to receive the award. By April 1, 2016, each school district, charter school governing board, and the Florida School for the Deaf and the Blind must provide payment of the award to each eligible teacher. If the number of eligible teachers exceeds the total appropriated amount, then the department must prorate the per teacher award amount.<sup>33</sup>

As of November 23, 2015, 25 school districts have submitted 913 teachers as eligible for the award.<sup>34</sup>

### Effect of Proposed Changes

The bill codifies the “Best and Brightest Teacher Scholarship Program” into law. The bill maintains the same criteria a teacher must meet to qualify for an award, requires the department to continue administering the program, and establishes deadlines for reporting qualifying teachers and disbursing award payments annually. Once a teacher is deemed eligible by the school district, including a teacher deemed eligible in the 2015-2016 fiscal year, the teacher remains eligible as long as he or she is employed by the school district and maintains a highly effective rating or, if a first-year teacher, is rated highly effective. The bill authorizes funding for the program as provided in the GAA beginning with the 2016-2017 school year.

## **B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1001.66, F.S., establishing the Florida College System Performance-Based Incentive.

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<sup>31</sup> Specific Appropriation 99A, s. 2, ch. 2015-232, L.O.F.

<sup>32</sup> As determined by the district evaluation system pursuant to s. 1012.34, F.S.

<sup>33</sup> Specific Appropriation 99A, s. 2, ch. 2015-232, L.O.F.

<sup>34</sup> Email, Florida Department of Education, Office of Governmental Relations (Nov. 23, 2015).

**Section 2.** Amends s. 1001.7065, F.S., revising the criteria for the preeminent state research universities program and establishing the “emerging preeminent state research university” designation.

**Section 3.** Amends s. 1001.92, F.S., revising the State University System Performance-Based Incentive.

**Section 4.** Amends s. 1012.39, F.S., prohibiting postsecondary educational institutions and district school boards from requiring a student in a teacher preparation program to purchase liability insurance as a condition of participation in any clinical field experience or related activity on the premises of an elementary or secondary school.

**Section 5.** Creates s. 1012.731, F.S., establishing the Best and Brightest Teacher Scholarship Program.

**Section 6.** Amends s. 1012.75, F.S., repealing expiration date of the educator liability insurance program.

**Section 7.** Provides an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

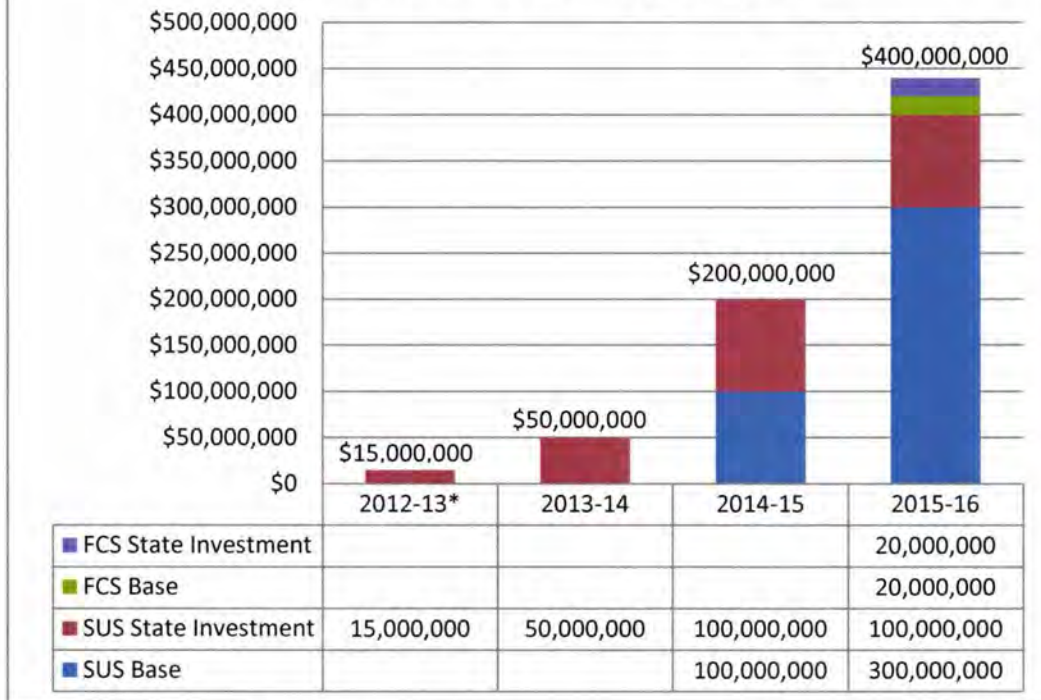
1. Revenues:

None.

2. Expenditures:

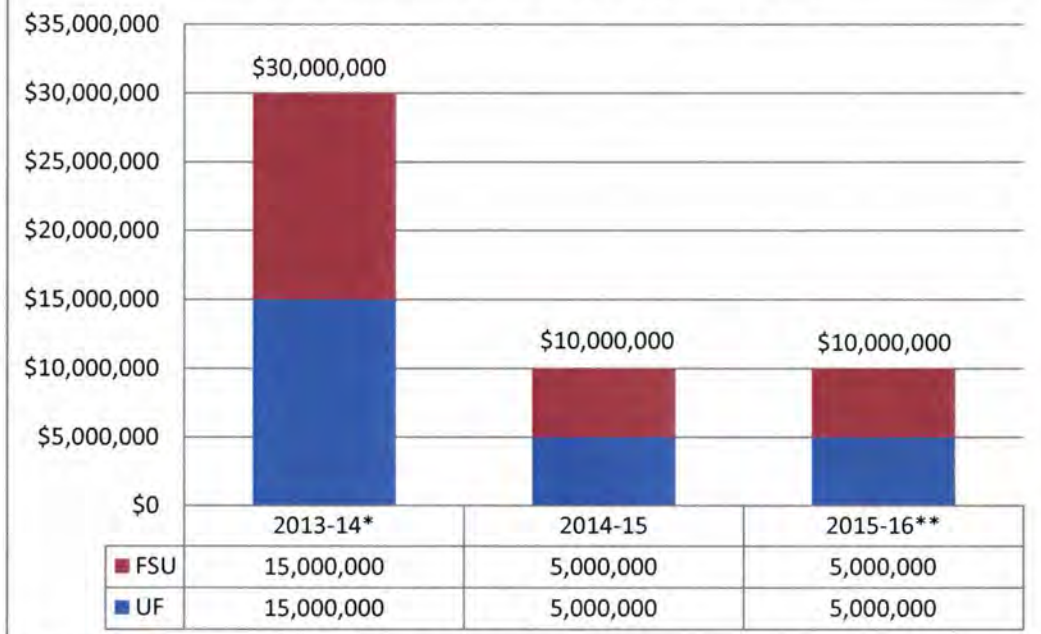
State University System Performance Funding, Florida College System Performance Funding, Preeminence and Emerging Preeminence funding are subject to appropriations in the General Appropriations Act. The legislature began appropriating general revenue for Performance Funding in Fiscal Year 2012-13; the state has invested a total of \$285,000,000 into Performance Based Funding for colleges and universities. The legislature began appropriating general revenue for Preeminent Universities (FSU and UF) in Fiscal Year 2013-14; the state has invested a total of \$50,000,000 into Preeminence Funding. The following charts show Performance Funding History and Preeminence Funding History.

## Performance Funding History



\*FY 2012-13 funds were nonrecurring

## Preeminence Funding History



\*In addition, UF received \$5 M for the Preeminent Institute for Online Learning.

\*\* \$3.4 M of the \$5 M appropriated is nonrecurring.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The 2015-16 GAA provides \$1.2 million in recurring General Revenue for the Educator Liability Insurance Program.

The 2015-16 GAA provides \$44,022,483 in General Revenue, of which \$4,950,000 is recurring, for the Best and Brightest Teacher Scholarship Program. Under the program, up to 4,402 teachers who are rated "highly effective" and who scored at or above the 80th percentile on either the SAT or the ACT at the time the assessment was taken can be provided a payment of \$10,000. The number of teachers participating in the current year program is due to the Department of Education from each school district by December 1, 2015.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules to implement the Florida College System Performance-Based Incentive. The bill also requires the Board of Governors to adopt regulations to implement the State University System Performance-Based Incentive.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1                                   A bill to be entitled  
2       An act relating to education; creating s. 1001.66,  
3       F.S.; creating a Florida College System Performance-  
4       Based Incentive for Florida College System  
5       institutions; requiring the State Board of Education  
6       to adopt certain metrics and benchmarks; providing for  
7       funding and allocation of the incentives; authorizing  
8       the state board to withhold an institution's incentive  
9       under certain circumstances; providing for reporting  
10      and rulemaking; amending s. 1001.7065, F.S.; deleting  
11      obsolete provisions; revising the academic and  
12      research excellence standards for the preeminent state  
13      research universities program; creating the "emerging  
14      preeminent state research university" designation;  
15      authorizing the Board of Governors to suspend,  
16      rescind, or revoke a university's designation under  
17      certain circumstances; requiring an emerging  
18      preeminent state research university to submit a  
19      certain plan to the board and meet certain  
20      expectations to receive certain funds; providing for  
21      the distribution of certain funding increases;  
22      deleting the preeminent state research university  
23      enhancement initiative; authorizing a preeminent state  
24      research university to require that certain courses be  
25      taken at the university; requiring the board to  
26      identify and grant certain authority and flexibility



27 | to preeminent state research universities and emerging  
 28 | preeminent state research universities; amending s.  
 29 | 1001.92, F.S.; requiring performance-based metrics to  
 30 | include specified wage thresholds; requiring the board  
 31 | to establish minimum performance funding eligibility  
 32 | thresholds; prohibiting a state university that fails  
 33 | to meet the state's threshold from eligibility for a  
 34 | share of the state's investment performance funding;  
 35 | requiring the board to adopt regulations; amending s.  
 36 | 1012.39, F.S.; providing requirements regarding  
 37 | liability insurance for students performing clinical  
 38 | field experience; creating s. 1012.731, F.S.;  
 39 | providing legislative intent; establishing the Florida  
 40 | Best and Brightest Teacher Scholarship Program;  
 41 | providing eligibility criteria; requiring a school  
 42 | district to annually submit the number of eligible  
 43 | teachers to the Department of Education; providing for  
 44 | funding and the disbursement of funds; defining the  
 45 | term "school district"; amending s. 1012.75, F.S.;  
 46 | requiring annual notification of liability insurance  
 47 | to specified personnel; abrogating the scheduled  
 48 | expiration of the educator liability insurance  
 49 | program; providing an effective date.

51 | Be It Enacted by the Legislature of the State of Florida:  
 52 |

53 Section 1. Section 1001.66, Florida Statutes, is created  
 54 to read:

55 1001.66 Florida College System Performance-Based  
 56 Incentive.—

57 (1) A Florida College System Performance-Based Incentive  
 58 shall be awarded to Florida College System institutions using  
 59 performance-based metrics adopted by the State Board of  
 60 Education. The performance-based metrics must include retention  
 61 rates; program completion and graduation rates; postgraduation  
 62 employment, salaries, and continuing education for workforce  
 63 education and baccalaureate programs, with wage thresholds that  
 64 reflect the added value of the certificate or degree; and  
 65 outcome measures appropriate for associate of arts degree  
 66 recipients. The state board shall adopt benchmarks to evaluate  
 67 each institution's performance on the metrics to measure the  
 68 institution's achievement of institutional excellence or need  
 69 for improvement and minimum requirements for eligibility to  
 70 receive performance funding.

71 (2) Each fiscal year, the amount of funds available for  
 72 allocation to the Florida College System institutions based on  
 73 the performance-based funding model shall consist of the state's  
 74 investment in performance funding plus institutional investments  
 75 consisting of funds to be redistributed from the base funding of  
 76 the Florida College System Program Fund as determined in the  
 77 General Appropriations Act. The State Board of Education shall  
 78 establish minimum performance funding eligibility thresholds for

79 the state's investment and the institutional investments. An  
 80 institution that fails to meet the minimum state investment  
 81 performance funding eligibility threshold is ineligible for a  
 82 share of the state's investment in performance funding. The  
 83 institutional investment shall be restored for all institutions  
 84 eligible for the state's investment under the performance-based  
 85 funding model.

86 (3) (a) Each Florida College System institution's share of  
 87 the performance funding shall be calculated based on its  
 88 relative performance on the established metrics in conjunction  
 89 with the institutional size and scope.

90 (b) A Florida College System institution that fails to  
 91 meet the State Board of Education's minimum institutional  
 92 investment performance funding eligibility threshold shall have  
 93 a portion of its institutional investment withheld by the state  
 94 board and must submit an improvement plan to the state board  
 95 that specifies the activities and strategies for improving the  
 96 institution's performance. The state board must review and  
 97 approve the improvement plan and, if the plan is approved, must  
 98 monitor the institution's progress in implementing the  
 99 activities and strategies specified in the improvement plan. The  
 100 institution shall submit monitoring reports to the state board  
 101 by December 31 and May 31 of each year in which an improvement  
 102 plan is in place.

103 (c) The Commissioner of Education shall withhold  
 104 disbursement of the institutional investment until the

105 monitoring report is approved by the State Board of Education. A  
 106 Florida College System institution determined by the state board  
 107 to be making satisfactory progress on implementing the  
 108 improvement plan shall receive no more than one-half of the  
 109 withheld institutional investment in January and the balance of  
 110 the withheld institutional investment in June. An institution  
 111 that fails to make satisfactory progress may not have its full  
 112 institutional investment restored. Any institutional investment  
 113 funds that are not restored shall be redistributed in accordance  
 114 with the state board's performance-based metrics.

115 (4) Distributions of performance funding, as provided in  
 116 this section, shall be made to each of the Florida College  
 117 System institutions listed in the Florida Colleges category in  
 118 the General Appropriations Act.

119 (5) By October 1 of each year, the State Board of  
 120 Education shall submit to the Governor, the President of the  
 121 Senate, and the Speaker of the House of Representatives a report  
 122 on the previous fiscal year's performance funding allocation,  
 123 which must reflect the rankings and award distributions.

124 (6) The State Board of Education shall adopt rules to  
 125 administer this section.

126 Section 2. Subsection (1) of section 1001.7065, Florida  
 127 Statutes, is reenacted, and subsections (2), (3), and (5)  
 128 through (8) of that section are amended, to read:

129 1001.7065 Preeminent state research universities program.—

130 (1) STATE UNIVERSITY SYSTEM SHARED GOVERNANCE

131 COLLABORATION.—A collaborative partnership is established  
 132 between the Board of Governors and the Legislature to elevate  
 133 the academic and research preeminence of Florida's highest-  
 134 performing state research universities in accordance with this  
 135 section. The partnership stems from the State University System  
 136 Governance Agreement executed on March 24, 2010, wherein the  
 137 Board of Governors and leaders of the Legislature agreed to a  
 138 framework for the collaborative exercise of their joint  
 139 authority and shared responsibility for the State University  
 140 System. The governance agreement confirmed the commitment of the  
 141 Board of Governors and the Legislature to continue collaboration  
 142 on accountability measures, the use of data, and recommendations  
 143 derived from such data.

144 (2) ACADEMIC AND RESEARCH EXCELLENCE STANDARDS.—~~Effective~~  
 145 ~~July 1, 2013,~~ The following academic and research excellence  
 146 standards are established for the preeminent state research  
 147 universities program:

148 (a) An average weighted grade point average of 4.0 or  
 149 higher on a 4.0 scale and an average SAT score of 1800 or higher  
 150 on a 2400-point scale or 1200 or higher on a 1600-point scale  
 151 for fall semester incoming freshmen, as reported annually.

152 (b) A top-50 ranking on at least two well-known and highly  
 153 respected national public university rankings, including, but  
 154 not limited to, the U.S. News and World Report rankings,  
 155 reflecting national preeminence, using most recent rankings.

156 (c) A freshman retention rate of 90 percent or higher for

157 full-time, first-time-in-college students, as reported annually  
 158 to the Integrated Postsecondary Education Data System (IPEDS).

159 (d) A 6-year graduation rate of 70 percent or higher for  
 160 full-time, first-time-in-college students, as reported annually  
 161 to the IPEDS.

162 (e) Six or more faculty members at the state university  
 163 who are members of a national academy, as reported by the Center  
 164 for Measuring University Performance in the Top American  
 165 Research Universities (TARU) annual report or the official  
 166 membership directories maintained by each national academy.

167 (f) Total annual research expenditures, including federal  
 168 research expenditures, of \$200 million or more, as reported  
 169 annually by the National Science Foundation (NSF).

170 (g) Total annual research expenditures in diversified  
 171 nonmedical sciences of \$150 million or more, based on data  
 172 reported annually by the NSF.

173 (h) A top-100 university national ranking for research  
 174 expenditures in five or more science, technology, engineering,  
 175 or mathematics fields of study, as reported annually by the NSF.

176 (i) One hundred or more total patents awarded by the  
 177 United States Patent and Trademark Office for the most recent 3-  
 178 year period.

179 (j) Four hundred or more doctoral degrees awarded  
 180 annually, including professional doctoral degrees awarded in  
 181 medical and health care disciplines, as reported in the Board of  
 182 Governors Annual Accountability Report.

183 (k) Two hundred or more postdoctoral appointees annually,  
 184 as reported in the TARU annual report.

185 (1) An endowment of \$500 million or more, as reported in  
 186 the Board of Governors Annual Accountability Report.

187 (3) PREEMINENT STATE RESEARCH UNIVERSITY DESIGNATION.—

188 (a) The Board of Governors shall designate each state  
 189 ~~research~~ university that meets at least 11 of the 12 academic  
 190 and research excellence standards identified in subsection (2)  
 191 as a "preeminent state research university."

192 (b) The Board of Governors shall designate each state  
 193 university that meets at least six of the 12 academic and  
 194 research excellence standards identified in subsection (2) as an  
 195 "emerging preeminent state research university."

196  
 197 The Board of Governors may, upon petition of a university  
 198 designated under this subsection, temporarily suspend or rescind  
 199 the designation, or may, with the concurrence of the Governor,  
 200 the President of the Senate, and the Speaker of the House of  
 201 Representatives, revoke the designation of a university under  
 202 this subsection.

203 (5) PREEMINENT STATE RESEARCH UNIVERSITIES PROGRAM  
 204 UNIVERSITY SUPPORT.—

205 (a) A state ~~research~~ university that is designated as a  
 206 preeminent state research university, as of July 1, 2013, meets  
 207 all 12 of the academic and research excellence standards  
 208 identified in subsection (2), as verified by the Board of

209 ~~Governors,~~ shall submit to the Board of Governors a 5-year  
 210 benchmark plan with target rankings on key performance metrics  
 211 for national excellence. Upon approval by the Board of  
 212 Governors, and upon the university's meeting the benchmark plan  
 213 goals annually, the Board of Governors shall award the  
 214 university its proportionate share of any funds provided  
 215 annually to support the program created under this section an  
 216 amount specified in the General Appropriations Act to be  
 217 provided annually throughout the 5 year period. Funding for this  
 218 purpose is contingent upon specific appropriation in the General  
 219 Appropriations Act.

220 (b) A state university designated as an emerging  
 221 preeminent state research university shall submit to the Board  
 222 of Governors a 5-year benchmark plan with target rankings on key  
 223 performance metrics for national excellence. Upon approval by  
 224 the Board of Governors, and upon the university's meeting the  
 225 benchmark plan goals annually, the Board of Governors shall  
 226 award the university its proportionate share of any funds  
 227 provided annually to support the program created under this  
 228 section.

229 (c) The award of funds under this subsection is contingent  
 230 upon funding provided in the General Appropriations Act to  
 231 support the preeminent state research universities program  
 232 created under this section. Funding increases appropriated  
 233 beyond the amounts funded in the previous fiscal year shall be  
 234 distributed as follows:



235 1. Each designated preeminent state research university  
 236 that meets the criteria in paragraph (a) shall receive an equal  
 237 amount of funding.

238 2. Each designated emerging preeminent state research  
 239 university that meets the criteria in paragraph (b) shall  
 240 receive an amount of funding that is equal to one-half of the  
 241 total increased amount awarded to each designated preeminent  
 242 state research university.

243 ~~(6) PREEMINENT STATE RESEARCH UNIVERSITY ENHANCEMENT~~  
 244 ~~INITIATIVE. A state research university that, as of July 1,~~  
 245 ~~2013, meets 11 of the 12 academic and research excellence~~  
 246 ~~standards identified in subsection (2), as verified by the Board~~  
 247 ~~of Governors, shall submit to the Board of Governors a 5 year~~  
 248 ~~benchmark plan with target rankings on key performance metrics~~  
 249 ~~for national excellence. Upon the university's meeting the~~  
 250 ~~benchmark plan goals annually, the Board of Governors shall~~  
 251 ~~award the university an amount specified in the General~~  
 252 ~~Appropriations Act to be provided annually throughout the 5 year~~  
 253 ~~period for the purpose of recruiting National Academy Members,~~  
 254 ~~expediting the provision of a master's degree in cloud~~  
 255 ~~virtualization, and instituting an entrepreneurs in residence~~  
 256 ~~program throughout its campus. Funding for this purpose is~~  
 257 ~~contingent upon specific appropriation in the General~~  
 258 ~~Appropriations Act.~~

259 (6)-(7) PREEMINENT STATE RESEARCH UNIVERSITY SPECIAL COURSE  
 260 REQUIREMENT AUTHORITY.—In order to provide a jointly shared

261 educational experience, a university that is designated a  
 262 preeminent state research university may require its incoming  
 263 first-time-in-college students to take a 9-to-12-credit set of  
 264 unique courses specifically determined by the university and  
 265 published on the university's website. The university may  
 266 require ~~stipulate that~~ credit for such courses to be earned at  
 267 the university and may not ~~be earned~~ through any acceleration  
 268 mechanism pursuant to s. 1007.27 or s. 1007.271 or any other  
 269 transfer credit. All accelerated credits earned up to the limits  
 270 specified in ss. 1007.27 and 1007.271 shall be applied toward  
 271 graduation at the student's request.

272 (7) ~~(8)~~ PREEMINENT STATE RESEARCH UNIVERSITY FLEXIBILITY  
 273 REQUIREMENT AUTHORITY.—The Board of Governors shall ~~is~~  
 274 ~~encouraged to~~ identify and grant all reasonable, ~~feasible~~  
 275 authority and flexibility to ensure that each a designated  
 276 preeminent state research university and each designated  
 277 emerging preeminent state research university is free from  
 278 unnecessary restrictions that inhibit the university's chances  
 279 of competing with its national peers and increasing its national  
 280 ranking and reputation.

281 Section 3. Section 1001.92, Florida Statutes, is amended  
 282 to read:

283 1001.92 State University System Performance-Based  
 284 Incentive.—

285 (1) A State University System Performance-Based Incentive  
 286 shall be awarded to state universities using performance-based

287 metrics adopted by the Board of Governors of the State  
 288 University System. The performance-based metrics must include  
 289 graduation rates;; retention rates;; postgraduation education  
 290 rates;; degree production;; affordability;; postgraduation  
 291 employment and salaries, including wage thresholds that reflect  
 292 the added value of a baccalaureate degree; access;; and other  
 293 metrics approved by the board in a formally noticed meeting. The  
 294 board shall adopt benchmarks to evaluate each state university's  
 295 performance on the metrics to measure the state university's  
 296 achievement of institutional excellence or need for improvement  
 297 and minimum requirements for eligibility to receive performance  
 298 funding.

299 (2) Each fiscal year, The amount of funds available for  
 300 allocation to the state universities based on the performance-  
 301 based funding model metries shall consist of the state's  
 302 investment in appropriation for performance funding, ~~including~~  
 303 ~~increases in base funding~~ plus institutional investments  
 304 consisting of funds deducted from the base funding of each state  
 305 university in the State University System, in an amount provided  
 306 in the General Appropriations Act. The Board of Governors shall  
 307 establish minimum performance funding eligibility thresholds for  
 308 the state's investment and the institutional investments. A  
 309 state university that fails to meet the minimum state investment  
 310 performance funding eligibility threshold is ineligible for a  
 311 share of the state's investment in performance funding. The  
 312 institutional investment shall be restored for each institution

313 eligible for the state's investment under the performance-based  
 314 funding model metrics.

315 (3) (a) A state university that fails to meet the Board of  
 316 Governors' minimum institutional investment performance funding  
 317 eligibility threshold shall have a ~~portion of~~ its institutional  
 318 investment withheld by the board and must submit an improvement  
 319 plan to the board that specifies the activities and strategies  
 320 for improving the state university's performance. The board must  
 321 review and approve the improvement plan and, if the plan is  
 322 approved, must monitor the state university's progress in  
 323 implementing the activities and strategies specified in the  
 324 improvement plan. The state university shall submit monitoring  
 325 reports to the board by December 31 and May 31 of each year in  
 326 which an improvement plan is in place. The ability of a state  
 327 university to submit an improvement plan to the board is limited  
 328 to 1 fiscal year.

329 (b) The Chancellor of the State University System shall  
 330 withhold disbursement of the institutional investment until the  
 331 monitoring report is approved by the Board of Governors. A state  
 332 university ~~that is~~ determined by the board to be making  
 333 satisfactory progress on implementing the improvement plan shall  
 334 receive no more than one-half of the withheld institutional  
 335 investment in January and the balance of the withheld  
 336 institutional investment in June. A state university that fails  
 337 to make satisfactory progress may not have its full  
 338 institutional investment restored. Any institutional investment

339 funds that are not restored shall be redistributed in accordance  
 340 with the board's performance-based metrics.

341 (4) Distributions of performance funding, as provided in  
 342 this section, shall be made to each of the state universities  
 343 listed in the Education and General Activities category in the  
 344 General Appropriations Act.

345 (5) By October 1 of each year, the Board of Governors  
 346 shall submit to the Governor, the President of the Senate, and  
 347 the Speaker of the House of Representatives a report on the  
 348 previous fiscal year's performance funding allocation which must  
 349 reflect the rankings and award distributions.

350 (6) The Board of Governors shall adopt regulations to  
 351 administer this section ~~expires July 1, 2016.~~

352 Section 4. Subsection (3) of section 1012.39, Florida  
 353 Statutes, is amended to read:

354 1012.39 Employment of substitute teachers, teachers of  
 355 adult education, nondegreed teachers of career education, and  
 356 career specialists; students performing clinical field  
 357 experience.—

358 (3) A student who is enrolled in a state-approved teacher  
 359 preparation program in a postsecondary educational institution  
 360 that is approved by rules of the State Board of Education and  
 361 who is jointly assigned by the postsecondary educational  
 362 institution and a district school board to perform a clinical  
 363 field experience under the direction of a regularly employed and  
 364 certified educator shall, while serving such supervised clinical

365 field experience, be accorded the same protection of law as that  
 366 accorded to the certified educator except for the right to  
 367 bargain collectively as an employee of the district school  
 368 board. The district school board providing the clinical field  
 369 experience shall notify the student electronically or in writing  
 370 of the availability of educator liability insurance under s.  
 371 1012.75. A postsecondary educational institution or district  
 372 school board may not require a student enrolled in a state-  
 373 approved teacher preparation program to purchase liability  
 374 insurance as a condition of participation in any clinical field  
 375 experience or related activity on the premises of an elementary  
 376 or secondary school.

377 Section 5. Section 1012.731, Florida Statutes, is created  
 378 to read:

379 1012.731 The Florida Best and Brightest Teacher  
 380 Scholarship Program.—

381 (1) The Legislature recognizes that, second only to  
 382 parents, teachers play the most critical role within schools in  
 383 preparing students to achieve a high level of academic  
 384 performance. The Legislature further recognizes that research  
 385 has linked student outcomes to a teacher's own academic  
 386 achievement. Therefore, it is the intent of the Legislature to  
 387 designate teachers who have achieved high academic standards  
 388 during their own education as Florida's best and brightest  
 389 teacher scholars.

390 (2) There is created the Florida Best and Brightest

391 Teacher Scholarship Program to be administered by the Department  
 392 of Education. The scholarship program shall provide categorical  
 393 funding for scholarships to be awarded to teachers who have  
 394 demonstrated a high level of academic achievement.

395 (3) (a) To be eligible for a scholarship, a teacher:

396 1. Must have scored at or above the 80th percentile on  
 397 either the SAT or the ACT based on the percentile ranks in  
 398 effect when the teacher took the assessment and have been  
 399 evaluated as highly effective pursuant to s. 1012.34; or

400 2. If the teacher is a first-year teacher who has not been  
 401 evaluated pursuant to s. 1012.34, must have scored at or above  
 402 the 80th percentile on either the SAT or the ACT based on the  
 403 percentile ranks in effect when the teacher took the assessment.

404 (b) In order to demonstrate eligibility for an award, an  
 405 eligible teacher must submit to the school district, no later  
 406 than October 1, an official record of his or her SAT or ACT  
 407 score demonstrating that the teacher scored at or above the 80th  
 408 percentile based on the percentile ranks in effect when the  
 409 teacher took the assessment. Once a teacher is deemed eligible  
 410 by the school district, including teachers deemed eligible in  
 411 the 2015-2016 fiscal year, the teacher shall remain eligible as  
 412 long as he or she is employed by the school district and  
 413 maintains or, if the teacher is a first-year teacher, earns the  
 414 evaluation designation of highly effective pursuant to s.  
 415 1012.34.

416 (4) Annually, by December 1, each school district shall

417 submit to the department the number of eligible teachers who  
 418 qualify for the scholarship.

419 (5) Annually, by February 1, the department shall disburse  
 420 scholarship funds, in an amount prescribed annually by the  
 421 Legislature in the General Appropriations Act, to each school  
 422 district for each eligible teacher to receive a scholarship. If  
 423 the number of eligible teachers exceeds the total appropriation  
 424 authorized in the General Appropriations Act, the department  
 425 shall prorate the per-teacher scholarship amount.

426 (6) Annually, by April 1, each school district shall  
 427 provide payment of the scholarship to each eligible teacher.

428 (7) For purposes of this section, the term "school  
 429 district" includes the Florida School for the Deaf and the Blind  
 430 and charter school governing boards.

431 Section 6. Subsection (3) of section 1012.75, Florida  
 432 Statutes, is amended to read:

433 1012.75 Liability of teacher or principal; excessive  
 434 force.—

435 (3) The Department of Education shall administer an  
 436 educator liability insurance program, as provided in the General  
 437 Appropriations Act, to protect full-time instructional personnel  
 438 from liability for monetary damages and the costs of defending  
 439 actions resulting from claims made against the instructional  
 440 personnel arising out of occurrences in the course of activities  
 441 within the instructional personnel's professional capacity. For  
 442 purposes of this subsection, the terms "full-time," "part-time,"



PCB EDC 16-03

Original

2016

443 and "administrative personnel" shall be defined by the  
444 individual district school board. For purposes of this  
445 subsection, the term "instructional personnel" has the same  
446 meaning as provided in s. 1012.01(2).

447 (a) Liability coverage of at least \$2 million shall be  
448 provided to all full-time instructional personnel. Liability  
449 coverage may be provided to the following individuals who choose  
450 to participate in the program, at cost: part-time instructional  
451 personnel, administrative personnel, and students enrolled in a  
452 state-approved teacher preparation program pursuant to s.  
453 1012.39(3).

454 (b) By August 1 of each year, the department shall notify  
455 the personnel specified in paragraph (a) of the pending  
456 procurement for liability coverage. By September 1 of each year,  
457 each district school board shall notify the personnel specified  
458 in paragraph (a) of the liability coverage provided pursuant to  
459 this subsection. The department shall develop the form of the  
460 notice which shall be used by each district school board. The  
461 notice must be on an 8 1/2-inch by 5 1/2-inch postcard and  
462 include the amount of coverage, a general description of the  
463 nature of the coverage, and the contact information for coverage  
464 and claims questions. The notification shall be provided  
465 separately from any other correspondence. Each district school  
466 board shall certify to the department, by September 15 of each  
467 year, that the notification required by this paragraph has been  
468 provided.

Page 18 of 19

PCB EDC 16-03

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

PCB EDC 16-03

Original

2016

469 (c) The department shall consult with the Department of  
470 Financial Services to select the most economically prudent and  
471 cost-effective means of implementing the program through self-  
472 insurance, a risk management program, or competitive  
473 procurement.

474 ~~(d) This subsection expires July 1, 2016.~~

475 Section 7. This act shall take effect July 1, 2016.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB EDC 16-02 Child Care and Development Block Grant  
**SPONSOR(S):** Education Committee  
**TIED BILLS:**           **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Dehmer <i>DD</i>	Mizereck <i>DM</i>

**SUMMARY ANALYSIS**

Florida's Office of Early Learning (OEL) administers the Child Care and Development Fund (CCDF) and provides state-level administration for the school readiness program. On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996. The new law requires that parents and the general public be provided better information about available child care choices and establishes health and safety requirements for school readiness program providers.

The bill implements the requirements of the Child Care and Development Block Grant (CCDBG) Act by:

- Increasing public information on, and background screening of, child care providers;
- Aligning eligibility requirements with the grant;
- Requiring inspection of, and standards for emergency preparedness plans for, school readiness program providers; and
- Requiring pre-service and in-service training for personnel of school readiness program providers.

See fiscal impact on state government.

This bill takes effect July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Child Care and Development Block Grant (CCDBG)

The Office of Child Care (OCC) of the United States Department of Health and Human Services supports low-income working families by providing access to affordable, high-quality early care and afterschool programs. OCC administers the Child Care and Development Fund (CCDF) and works with state, territory and tribal governments to provide support for children and their families to promote family economic self-sufficiency and to help children succeed in school and life through affordable, high-quality early care and afterschool programs.<sup>1</sup>

##### School Readiness Program

Florida's Office of Early Learning (OEL)<sup>2</sup> is the designated lead agency for purposes of administering the CCDF Block Grant Trust Fund and provides state-level administration for the school readiness program. The school readiness program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.<sup>3</sup> The school readiness program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF), the federal Temporary Assistance for Needy Families (TANF) block grant, general revenue and other state funds.<sup>4</sup> The school readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

The program utilizes a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.<sup>5</sup> The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, regulates child care providers that provide early learning programs.<sup>6</sup>

The program is administered at the county or regional level by early learning coalitions (ELC).<sup>7</sup>

In order to be eligible to deliver the school readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or non-public school;

<sup>1</sup> Office of Child Care, *What We Do*, at <http://www.acf.hhs.gov/programs/occ/about/what-we-do> (last visited Nov. 13, 2015).

<sup>2</sup> In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the school readiness program and the Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

<sup>3</sup> Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

<sup>4</sup> Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

<sup>5</sup> Section 1002.88(1)(a), F.S.

<sup>6</sup> *See* ss. 402.301-319, F.S., and Part VI, ch. 1002, F.S.

<sup>7</sup> *Sections 1002.83-1002.85, F.S.* There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Feb. 5, 2014), <http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>.

- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.<sup>8</sup>

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996. The new law prescribes health and safety requirements for school readiness program providers and requires better information to parents and the general public about available child care choices.<sup>9</sup>

While Florida's school readiness programs meet many of the new federal requirements, there are specific requirements of the grant that will necessitate changes to Florida law which include:

- Screening for child care staff to include searches of the National Sex Offender Registry, as well as searches of state criminal records, sex offender registry and child abuse and neglect registry of any state in which the child care personnel resided during the preceding 5 years.<sup>10</sup>
- Posting of monitoring and inspection reports through electronic means.<sup>11</sup>
- Providing parents and the general public, information, via a website, regarding:
  - The availability of child care services to promote informed child care choices;
  - The process for licensing child care providers;
  - The conducting of background screening;
  - The monitoring and inspection of child care providers; and
  - The offenses that would prevent individuals and entities from serving as child care providers in the state.<sup>12</sup>
- Inspecting license-exempt providers receiving CCDBG funds for compliance with health, safety, and fire standards.<sup>13</sup>
- Requiring disaster preparedness plan to include procedures for staff and volunteer emergency preparedness training and practice drills.<sup>14</sup>
- Certifying in the state plan, compliance with the child abuse reporting requirements of the Child Abuse Prevention and Treatment Act.<sup>15</sup>

### Effect of Proposed Changes

Under current law all child care personnel must be of good moral character based upon screening conducted pursuant to chapter 435 using the level 2 standards.<sup>16</sup> The level 2 screening standards include "a statewide criminal history records check through the Department of Law Enforcement, national criminal history checks through the Federal Bureau of Investigation, and may include local criminal records check through local law enforcement agencies."<sup>17</sup> The screening also includes a search of the National Crime Information Center database<sup>18</sup> which consists of 21 files, including the

<sup>8</sup> Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. See Florida's Office of Early Learning, *Florida's Child Care and Development Fund State Plan FFY 2014-15*, at 71 (Oct. 1, 2013), available at [http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015\\_CCDF\\_Plan\\_%20Optimized.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf).

<sup>9</sup> Office of Child Care, *CCDF Reauthorization*, at <http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization> (last visited Nov. 13, 2015).

<sup>10</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b)

<sup>11</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

<sup>12</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)

<sup>13</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(K).

<sup>14</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(U).

<sup>15</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(L).

<sup>16</sup> Section 402.305(2)(a), F.S.

<sup>17</sup> Section 435.04(1)(a), F.S.

<sup>18</sup> Letter, Florida Department of Law Enforcement, Criminal Justice Information Center (April 20, 2015).

National Sex Offender Registry.<sup>19</sup> To implement the federal requirements of the grant, the bill clarifies that screenings for child care providers must include employment history checks over the previous 5 years and searches of the state criminal records, the sex offender registry, and the child abuse and neglect registry of any state in which the individual resided during the preceding 5 years. The bill also provides the Office of Early Learning with access to records of the child abuse, abandonment, or neglect registry for employment screening and approval of providers who receive school readiness funding. Each child care facility, family day care home, and large family day care home must annually submit an affidavit of compliance with s. 39.201, F.S. regarding the mandatory reporting of child abuse, abandonment, or neglect.

A provider who receives school readiness funding may not employ a person who has been convicted of:

- Any felony offense relating to:
  - Domestic violence;
  - Murder;
  - Manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, firefighter, an emergency medical technician or paramedic;
  - Aggravated assault;
  - Aggravated battery;
  - Kidnapping;
  - Luring or enticing a child;
  - Leading, taking, enticing or removing a minor beyond state limits; or concealing the location of a minor, with criminal intent pending custody proceedings, dependency proceeding or proceeding concerning alleged abuse or neglect of a minor;
  - Sexual battery;
  - Sexual activity with or solicitation of a child by a person in familial or custodial authority;
  - Unlawful sexual activity with certain minors;
  - Female genital mutilation;
  - Arson;
  - Incest;
  - Child abuse, aggravated child abuse or neglect of a child;
  - Contributing to the delinquency or dependency of a child;
  - Sexual performance by a child;
  - Sexual misconduct in juvenile justice programs;
- Any misdemeanor offense prohibited under:
  - Section 784.03, F.S., relating to battery of a minor;
  - Section 787.025, F.S., relating to luring or enticing a child;
- Any criminal act committed in another state or under federal law which, if committed in Florida, constitutes an offense listed above.

To increase public information on available child care options, DCF and local licensing agencies must include within their current dissemination of information on child care:

- Health and safety standards for school readiness providers;
- Monitoring and inspection reports;
- Location and contact information for school readiness providers;
- Data on the number of deaths, serious injuries, and instances of substantiated child abuse in the child care setting;

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<sup>19</sup> See Federal Bureau of Investigation, *National Crime Information Center*, <https://www.fbi.gov/about-us/cjis/ncic> (last visited November 24, 2015).

- Research and best practices in child development; and
- Resources regarding social and emotional development, parent and family engagement, health eating, and physical activity.

Currently, child care providers must provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children. Licensed providers may satisfy this requirement through compliance with current licensing standards for child care facilities, large family child care homes, or family day care homes. Faith-based child care providers, informal child care providers and nonpublic schools exempt from licensure satisfy this requirement by posting a health and safety checklist adopted by OEL.

Under the grant, all school readiness program providers must meet a minimum level of health and safety and receive at least one annual inspection. Consequently, the bill authorizes OEL to enter into memorandum of understanding with DCF and local licensing agencies to conduct inspections and verify compliance with requirements of the federal grant by all providers who receive school readiness funding. DCF or the local licensing agency, as applicable, will conduct inspections to determine compliance with the school readiness program provider standards through exercise of their discretionary power to enforce compliance with the laws. The authority to inspect includes access to facilities, personnel, and records. A school readiness program provider that refuses entry or inspection shall have its provider contract terminated.

School readiness providers must:

- Provide more information to the public to promote informed child care choices.
- Provide training on child care development research and best practices and cardiopulmonary resuscitation training.
- Provide an appropriate group size as well as an appropriate staff-to-child ratio.
- Employ child care personnel who have satisfied the screening requirements of chapter 402, and fulfilled the training requirements of OEL.

The OEL must:

- Establish pre-service and in-service training requirements that, at a minimum, address:
  - School readiness child development standards;
  - Health and safety standards; and
  - Social-emotional behavior intervention models.
- Establish standards for emergency preparedness plans for school readiness providers.
- Develop and implement strategies to increase the supply and improve the quality of child care services for children in underserved and impoverished areas along with areas where children have disabilities and require care during non-traditional hours.
- Establish group size and staff-to-child ratios for school readiness program providers.
- Establish eligibility criteria for the school readiness program consistent with state and federal law.
- Establish a sliding fee scale that provides for a parent copayment that is not a barrier to families receiving school readiness program services.

Once a child is determined eligible for the school readiness program, the child remains eligible for a period of twelve months. Consequently, the bill repeals the requirement that each early learning coalition redetermine eligibility twice per year for an additional 50 percent the coalition's enrollment.

A parent of a child enrolled in the school readiness program must notify the coalition within 10 day of any change in employment status or failure to maintain attendance at a job training or educational program in accordance with program requirements. If a child from a working family becomes ineligible due to a parent's unemployment or nonattendance at a job training or education program, the parent has 90 days to reestablish employment or resume attendance at a job training or education program.



The child remains eligible during the 90 day period. In addition, the bill authorizes coalitions to temporarily waive the copayment for a child whose family income is at or below the federal poverty level.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 39.202, F.S., providing the Office of Early Learning with access to records of the child abuse registry to approve providers who receive school readiness funding.

**Section 2.** Amends s. 402.302, F.S., revising the definition of screening.

**Section 3.** Amends s. 402.306, F.S., requiring the Department of Children and Families and local licensing agencies to disseminate, through electronic means, additional child care information to families and the public.

**Section 4.** Amends s. 402.311, F.S., authorizing the department to conduct inspections of child care facilities.

**Section 5.** Amends s. 402.319, F.S., requiring all providers to submit an affidavit of compliance with the mandatory reporting requirements of the child abuse, abandonment, or neglect registry.

**Section 6.** Amends s. 435.07, F.S., prohibiting an individual with certain offenses from working with child care providers who receive school readiness funding.

**Section 7.** Amends s. s. 1002.82, F.S., revising the powers and duties of the Office of Early Learning.

**Section 8.** Amends s. 1002.84, F.S., repealing requirement for redetermination of child eligibility.

**Section 9.** Amends s. 1002.87, F.S., revising eligibility criteria for participation in the school readiness program.

**Section 10.** Amends s. 1002.88, F.S., revising provider eligibility.

**Section 11.** Amends s. 1002.89, F.S., revising requirements for the school readiness program.

**Section 12.** Provides an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

Failure to adopt this bill will result in the loss of the state's draw-down of the federal dollars in the CCDBG. The federal draw down of the CCDBG for the 2015 federal fiscal year is estimated to be \$273,745,303. Due to the overlap in the state and federal fiscal years, budget authority for the CCDBG in the 2015-2016 General Appropriations Act is higher than the federal draw-down amount, totaling \$374,111,331.

2. Expenditures:

The state's draw-down for the federal dollars in the CCDBG requires a matching fund. To implement the additional licensure, background screening, and public awareness requirements of the reauthorized grant, it's estimated the Department of Children and Families (DCF) will require \$614,755 for additional personnel resources. Currently, these functions are funded by DCF using the CCDBG.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not Applicable.

1 A bill to be entitled  
 2 An act relating to the Child Care and Development  
 3 Block Grant Program; amending s. 39.201, F.S. ;  
 4 providing an exception from a prohibition against the  
 5 use of information in the Department of Children and  
 6 Families central abuse hotline for employment  
 7 screening of certain child care personnel; amending s.  
 8 39.202, F.S. ; expanding the list of entities that have  
 9 access to child abuse records for purposes of  
 10 approving providers of school readiness services;  
 11 amending s. 402.302, F.S. ; revising the definition of  
 12 the term "screening" for purposes of child care  
 13 licensing requirements; amending s. 402.306, F.S. ;  
 14 requiring the Department of Children and Families and  
 15 local licensing agencies to electronically post  
 16 certain information relating to child care and school  
 17 readiness providers; amending s. 402.311, F.S. ;  
 18 requiring school readiness program providers to  
 19 provide the department or local licensing agencies  
 20 with access to facilities, personnel, and records for  
 21 inspection purposes; amending s. 402.319, F.S. ;  
 22 requiring certain child care providers to submit an  
 23 affidavit of compliance with certain mandatory  
 24 reporting requirements; amending s. 435.07, F.S. ;  
 25 providing criteria for disqualification from  
 26 employment with a school readiness program provider;

27 amending s. 1002.82, F.S.; revising the duties of the  
 28 Office of Early Learning of the Department of  
 29 Education; requiring the office to coordinate with the  
 30 Department of Children and Families and local  
 31 licensing agencies for inspections of school readiness  
 32 program providers; amending s. 1002.84, F.S.; revising  
 33 provisions relating to determination of child  
 34 eligibility for school readiness programs; revising  
 35 requirements for determining parent copayments for  
 36 participation in the program; amending s. 1002.87,  
 37 F.S.; revising school readiness program eligibility  
 38 requirements for parents; amending s. 1002.88, F.S.;  
 39 revising requirements for school readiness program  
 40 providers; amending s. 1002.89, F.S.; providing for  
 41 additional uses of funds for school readiness  
 42 programs; providing an effective date.

43

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

45

46 Section 1. Subsection (6) of section 39.201, Florida  
 47 Statutes, is amended to read:

48 39.201 Mandatory reports of child abuse, abandonment, or  
 49 neglect; mandatory reports of death; central abuse hotline.—

50 (6) Information in the central abuse hotline may not be  
 51 used for employment screening, except as provided in s.

52 39.202(2) (a) and (h) or s. 402.302(15). Information in the

53 central abuse hotline and the department's automated abuse  
 54 information system may be used by the department, its authorized  
 55 agents or contract providers, the Department of Health, or  
 56 county agencies as part of the licensure or registration process  
 57 pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

58 Section 2. Paragraph (a) of subsection (2) of section  
 59 39.202, Florida Statutes, is amended to read:

60 39.202 Confidentiality of reports and records in cases of  
 61 child abuse or neglect.—

62 (2) Except as provided in subsection (4), access to such  
 63 records, excluding the name of the reporter which shall be  
 64 released only as provided in subsection (5), shall be granted  
 65 only to the following persons, officials, and agencies:

66 (a) Employees, authorized agents, or contract providers of  
 67 the department, the Department of Health, the Agency for Persons  
 68 with Disabilities, the Office of Early Learning, or county  
 69 agencies responsible for carrying out:

- 70 1. Child or adult protective investigations;
- 71 2. Ongoing child or adult protective services;
- 72 3. Early intervention and prevention services;
- 73 4. Healthy Start services;
- 74 5. Licensure or approval of adoptive homes, foster homes,  
 75 child care facilities, facilities licensed under chapter 393, ~~or~~  
 76 family day care homes, ~~or informal child care~~ providers who  
 77 receive school readiness funding under part VI of chapter 1002,  
 78 or other homes used to provide for the care and welfare of

79 children; or

80 6. Services for victims of domestic violence when provided  
 81 by certified domestic violence centers working at the  
 82 department's request as case consultants or with shared clients.

83  
 84 Also, employees or agents of the Department of Juvenile Justice  
 85 responsible for the provision of services to children, pursuant  
 86 to chapters 984 and 985.

87 Section 3. Subsection (15) of section 402.302, Florida  
 88 Statutes, is amended to read:

89 402.302 Definitions.—As used in this chapter, the term:

90 (15) "Screening" means the act of assessing the background  
 91 of child care personnel, in accordance with state and federal  
 92 law, and volunteers and includes, but is not limited to:

93 (a) Employment history checks, including documented  
 94 attempts to contact each employer that employed the applicant  
 95 within the preceding 5 years and documentation of the findings.

96 (b) A search of the criminal history records, sexual  
 97 predator and sexual offender registry, and child abuse and  
 98 neglect registry of any state in which the applicant resided  
 99 during the preceding 5 years.

100  
 101 A fingerprint-based identification system is required for  
 102 purposes of local criminal records checks through local law  
 103 enforcement agencies, fingerprinting for all purposes and checks  
 104 in this subsection, statewide criminal records checks through

105 the Department of Law Enforcement, and federal criminal records  
 106 checks through the Federal Bureau of Investigation.

107 Section 4. Subsection (3) of section 402.306, Florida  
 108 Statutes, is amended to read:

109 402.306 Designation of licensing agency; dissemination by  
 110 the department and local licensing agency of information on  
 111 child care.—

112 (3) The department and local licensing agencies, or the  
 113 designees thereof, shall be responsible for coordination and  
 114 dissemination of information on child care to the community and  
 115 shall make available through electronic means ~~upon request~~ all  
 116 licensing standards and procedures, health and safety standards  
 117 for school readiness providers, monitoring and inspection  
 118 reports, and in addition to the names and addresses of licensed  
 119 child care facilities, school readiness program providers, and,  
 120 where applicable pursuant to s. 402.313, licensed or registered  
 121 family day care homes. This information shall also include the  
 122 number of deaths, serious injuries, and instances of  
 123 substantiated child abuse that have occurred in child care  
 124 settings each year; research and best practices in child  
 125 development; and resources regarding social-emotional  
 126 development, parent and family engagement, healthy eating, and  
 127 physical activity.

128 Section 5. Section 402.311, Florida Statutes, is amended  
 129 to read:

130 402.311 Inspection.—

131           (1) A licensed child care facility shall accord to the  
 132 department or the local licensing agency, whichever is  
 133 applicable, the privilege of inspection, including access to  
 134 facilities and personnel and to those records required in s.  
 135 402.305, at reasonable times during regular business hours, to  
 136 ensure compliance with ~~the provisions of~~ ss. 402.301-402.319.  
 137 The right of entry and inspection shall also extend to any  
 138 premises which the department or local licensing agency has  
 139 reason to believe are being operated or maintained as a child  
 140 care facility without a license, but no such entry or inspection  
 141 of any premises shall be made without the permission of the  
 142 person in charge thereof unless a warrant is first obtained from  
 143 the circuit court authorizing such entry or inspection ~~same~~. Any  
 144 application for a license or renewal made pursuant to this act  
 145 or the advertisement to the public for the provision of child  
 146 care as defined in s. 402.302 shall constitute permission for  
 147 any entry or inspection of the premises for which the license is  
 148 sought in order to facilitate verification of the information  
 149 submitted on or in connection with the application. In the event  
 150 a licensed facility refuses permission for entry or inspection  
 151 to the department or local licensing agency, a warrant shall be  
 152 obtained from the circuit court authorizing entry or inspection  
 153 before ~~same prior to~~ such entry or inspection. The department or  
 154 local licensing agency may institute disciplinary proceedings  
 155 pursuant to s. 402.310~~7~~ for such refusal.

156           (2) A school readiness program provider shall accord to



157 the department or the local licensing agency, whichever is  
 158 applicable, the privilege of inspection, including access to  
 159 facilities, personnel, and records, to verify compliance with  
 160 the requirements of s. 1002.88. Entry, inspection, and issuance  
 161 of an inspection report by the department or the local licensing  
 162 agency to verify compliance with the requirements of s. 1002.88  
 163 is an exercise of a discretionary power to enforce compliance  
 164 with the laws duly enacted by a governmental body.

165 (3) The department's issuance, transmittal, or publication  
 166 of an inspection report resulting from an inspection under this  
 167 section does not constitute agency action subject to chapter  
 168 120.

169 Section 6. Subsection (3) is added to section 402.319,  
 170 Florida Statutes, to read:

171 402.319 Penalties.—

172 (3) Each child care facility, family day care home, and  
 173 large family day care home shall annually submit an affidavit of  
 174 compliance with s. 39.201.

175 Section 7. Paragraph (c) is added to subsection (4) of  
 176 section 435.07, Florida Statutes, to read:

177 435.07 Exemptions from disqualification.—Unless otherwise  
 178 provided by law, the provisions of this section apply to  
 179 exemptions from disqualification for disqualifying offenses  
 180 revealed pursuant to background screenings required under this  
 181 chapter, regardless of whether those disqualifying offenses are  
 182 listed in this chapter or other laws.

183 (4)

184 (c) A person is ineligible for employment with a provider

185 that receives school readiness funding under part VI of chapter

186 1002 if the person has been convicted of:

187 1. A felony offense prohibited under any of the following

188 statutes:

189 a. Chapter 741, relating to domestic violence.

190 b. Section 782.04, relating to murder.

191 c. Section 782.07, relating to manslaughter, aggravated

192 manslaughter of an elderly person or disabled adult, aggravated

193 manslaughter of a child, or aggravated manslaughter of an

194 officer, a firefighter, an emergency medical technician, or a

195 paramedic.

196 d. Section 784.021, relating to aggravated assault.

197 e. Section 784.045, relating to aggravated battery.

198 f. Section 787.01, relating to kidnapping.

199 g. Section 787.025, relating to luring or enticing a

200 child.

201 h. Section 787.04(2), relating to leading, taking,

202 enticing, or removing a minor beyond the state limits, or

203 concealing the location of a minor, with criminal intent pending

204 custody proceedings.

205 i. Section 787.04(3), relating to leading, taking,

206 enticing, or removing a minor beyond the state limits, or

207 concealing the location of a minor, with criminal intent pending

208 dependency proceedings or proceedings concerning alleged abuse

- 209 or neglect of a minor.
- 210 j. Section 794.011, relating to sexual battery.
- 211 k. Former s. 794.041, relating to sexual activity with or
- 212 solicitation of a child by a person in familial or custodial
- 213 authority.
- 214 l. Section 794.05, relating to unlawful sexual activity
- 215 with certain minors.
- 216 m. Section 794.08, relating to female genital mutilation.
- 217 n. Section 806.01, relating to arson.
- 218 o. Section 826.04, relating to incest.
- 219 p. Section 827.03, relating to child abuse, aggravated
- 220 child abuse, or neglect of a child.
- 221 q. Section 827.04, relating to contributing to the
- 222 delinquency or dependency of a child.
- 223 r. Section 827.071, relating to sexual performance by a
- 224 child.
- 225 s. Section 985.701, relating to sexual misconduct in
- 226 juvenile justice programs.
- 227 2. A misdemeanor offense prohibited under any of the
- 228 following statutes:
- 229 a. Section 784.03, relating to battery, if the victim of
- 230 the offense was a minor.
- 231 b. Section 787.025, relating to luring or enticing a
- 232 child.
- 233 3. A criminal act committed in another state or under
- 234 federal law which, if committed in this state, constitutes an

235 offense prohibited under any statute listed in subparagraph 1.  
 236 or subparagraph 2.

237 Section 8. Paragraph (i) of subsection (2) of section  
 238 1002.82, Florida Statutes, is amended, and paragraphs (s)  
 239 through (w) are added to that subsection, to read:

240 1002.82 Office of Early Learning; powers and duties.—

241 (2) The office shall:

242 (i) Enter into a memorandum of understanding with local  
 243 licensing agencies and Develop, in coordination with the Child  
 244 Care Services Program Office of the Department of Children and  
 245 Families for inspections of school readiness program providers  
 246 that are registered family day care homes or are not subject to  
 247 licensure or registration by the Department of Children and  
 248 Families to monitor and verify compliance with the health and  
 249 safety checklist adopted by the office. The provider contract of  
 250 a school readiness program provider that refuses permission for  
 251 entry or inspection shall be terminated. The, and adopt a health  
 252 and safety checklist may to be completed by license exempt  
 253 providers that does not exceed the requirements of s. 402.305  
 254 and the Child Care and Development Fund pursuant to 45 C.F.R.  
 255 part 98.

256 (s) Develop and implement strategies to increase the  
 257 supply and improve the quality of child care services for  
 258 infants and toddlers, children with disabilities, children who  
 259 receive care during nontraditional hours, children in  
 260 underserved areas, and children in areas that have significant

261 concentrations of poverty and unemployment.

262 (t) Establish preservice and inservice training  
 263 requirements that address, at a minimum, school readiness child  
 264 development standards, health and safety requirements, and  
 265 social-emotional behavior intervention models, which may include  
 266 positive behavior intervention and support models.

267 (u) Establish standards for emergency preparedness plans  
 268 for school readiness program providers.

269 (v) Establish group sizes and staff-to-children ratios for  
 270 school readiness program providers.

271 (w) Establish eligibility criteria, including limitations  
 272 based on income and family assets, in accordance with s. 1002.87  
 273 and federal law.

274 Section 9. Subsections (7) and (8) of section 1002.84,  
 275 Florida Statutes, are amended to read:

276 1002.84 Early learning coalitions; school readiness powers  
 277 and duties.—Each early learning coalition shall:

278 (7) Determine child eligibility pursuant to s. 1002.87 and  
 279 provider eligibility pursuant to s. 1002.88. ~~At a minimum, Child~~  
 280 ~~eligibility must be redetermined annually. Redetermination must~~  
 281 ~~also be conducted twice per year for an additional 50 percent of~~  
 282 ~~a coalition's enrollment through a statistically valid random~~  
 283 ~~sampling.~~ A coalition must document the reason ~~why~~ a child is no  
 284 longer eligible for the school readiness program according to  
 285 the standard codes prescribed by the office.

286 (8) Establish a parent sliding fee scale that provides for

287 ~~requires~~ a parent copayment that is not a barrier to families  
 288 receiving to participate in the school readiness program  
 289 services. Providers are required to collect the parent's  
 290 copayment. A coalition may, on a case-by-case basis, waive the  
 291 copayment for an at-risk child or temporarily waive the  
 292 copayment for a child whose family's income is at or below the  
 293 federal poverty level and whose family experiences a natural  
 294 disaster or an event that limits the parent's ability to pay,  
 295 such as incarceration, placement in residential treatment, or  
 296 becoming homeless, or an emergency situation such as a household  
 297 fire or burglary, or while the parent is participating in  
 298 parenting classes. A parent may not transfer school readiness  
 299 program services to another school readiness program provider  
 300 until the parent has submitted documentation from the current  
 301 school readiness program provider to the early learning  
 302 coalition stating that the parent has satisfactorily fulfilled  
 303 the copayment obligation.

304 Section 10. Subsections (4), (5), and (6) of section  
 305 1002.87, Florida Statutes, are amended to read:

306 1002.87 School readiness program; eligibility and  
 307 enrollment.—

308 (4) The parent of a child enrolled in the school readiness  
 309 program must notify the coalition or its designee within 10 days  
 310 after any change in employment status, income, or family size or  
 311 failure to maintain attendance at a job training or educational  
 312 program in accordance with program requirements. ~~Upon~~

313 ~~notification by the parent, the child's eligibility must be~~  
 314 ~~reevaluated.~~

315 (5) A child whose eligibility priority category requires  
 316 the child to be from a working family ceases to be eligible for  
 317 the school readiness program if a parent with whom the child  
 318 resides does not reestablish employment or resume attendance at  
 319 a job training or educational program within 90 60 days after  
 320 becoming unemployed or ceasing to attend a job training or  
 321 educational program.

322 (6) Eligibility for each child must be reevaluated  
 323 annually. Upon reevaluation, a child may not continue to receive  
 324 school readiness program services if he or she has ceased to be  
 325 eligible under this section. A child who is ineligible due to a  
 326 parent's job loss or cessation of education or job training  
 327 shall continue to receive school readiness program services for  
 328 at least 3 months to enable the parent to obtain employment.

329 Section 11. Paragraphs (c), (d), and (e) of subsection (1)  
 330 of section 1002.88, Florida Statutes, are amended to read:

331 1002.88 School readiness program provider standards;  
 332 eligibility to deliver the school readiness program.—

333 (1) To be eligible to deliver the school readiness  
 334 program, a school readiness program provider must:

335 (c) Provide basic health and safety of its premises and  
 336 facilities and compliance with requirements for age-appropriate  
 337 immunizations of children enrolled in the school readiness  
 338 program.

339        1. For a provider that is licensed child care facility, a  
 340 large family child care home, or a licensed family day care  
 341 home, compliance with s. 402.305, s. 402.3131, or s. 402.313 and  
 342 this subsection, as verified pursuant to s. 402.311, satisfies  
 343 this requirement.

344        2. For a provider that is a registered family day care  
 345 home or is not subject to licensure or registration by the  
 346 Department of Children and Families, compliance with this  
 347 subsection, as verified pursuant to s. 402.311, satisfies this  
 348 requirement. Upon verification pursuant to s. 402.311, the  
 349 provider ~~For a public or nonpublic school, compliance with s.~~  
 350 ~~402.3025 or s. 1003.22 satisfies this requirement. A faith based~~  
 351 ~~child care provider, an informal child care provider, or a~~  
 352 ~~nonpublic school, exempt from licensure under s. 402.316 or s.~~  
 353 ~~402.3025,~~ shall annually post ~~complete~~ the health and safety  
 354 checklist adopted by the office, ~~post the checklist~~ prominently  
 355 on its premises in plain sight for visitors and parents, and  
 356 shall annually submit the checklist ~~it annually~~ to its local  
 357 early learning coalition.

358        (d) Provide an appropriate group size and staff-to-  
 359 children ratio, ~~pursuant to s. 402.305(4) or s. 402.302(8) or~~  
 360 ~~(11), as applicable, and as verified pursuant to s. 402.311.~~

361        (e) Employ child care personnel, as defined in s.  
 362 402.302(3), who have satisfied the screening requirements of  
 363 chapter 402 and fulfilled the training requirements of the  
 364 office ~~Provide a healthy and safe environment pursuant to s.~~



365 ~~402.305(5), (6), and (7), as applicable, and as verified~~  
 366 ~~pursuant to s. 402.311.~~

367 Section 12. Subsections (6) and (7) of section 1002.89,  
 368 Florida Statutes, are amended to read:

369 1002.89 School readiness program; funding.—

370 (6) Costs shall be kept to the minimum necessary for the  
 371 efficient and effective administration of the school readiness  
 372 program with the highest priority of expenditure being direct  
 373 services for eligible children. However, no more than 5 percent  
 374 of the funds described in subsection (5) may be used for  
 375 administrative costs and no more than 22 percent of the funds  
 376 described in subsection (5) may be used in any fiscal year for  
 377 any combination of administrative costs, quality activities, and  
 378 nondirect services as follows:

379 (a) Administrative costs as described in 45 C.F.R. s.  
 380 98.52, which shall include monitoring providers using the  
 381 standard methodology adopted under s. 1002.82 to improve  
 382 compliance with state and federal regulations and law pursuant  
 383 to the requirements of the statewide provider contract adopted  
 384 under s. 1002.82(2)(m).

385 (b) Activities to improve the quality of child care as  
 386 described in 45 C.F.R. s. 98.51, which shall be limited to the  
 387 following:

388 1. Developing, establishing, expanding, operating, and  
 389 coordinating resource and referral programs specifically related  
 390 to the provision of comprehensive consumer education to parents

391 and the public to promote informed child care choices specified  
 392 in 45 C.F.R. s. 98.33 ~~regarding participation in the school~~  
 393 ~~readiness program and parental choice.~~

394 2. Awarding grants and providing financial support to  
 395 school readiness program providers and their staff to assist  
 396 them in meeting applicable state requirements for child care  
 397 performance standards, implementing developmentally appropriate  
 398 curricula and related classroom resources that support  
 399 curricula, providing literacy supports, and providing continued  
 400 professional development and training. Any grants awarded  
 401 pursuant to this subparagraph shall comply with ~~the requirements~~  
 402 ~~of~~ ss. 215.971 and 287.058.

403 3. Providing training, and technical assistance, and  
 404 financial support to ~~for~~ school readiness program providers,  
 405 staff, and parents on standards, child screenings, child  
 406 assessments, child development research and best practices,  
 407 developmentally appropriate curricula, character development,  
 408 teacher-child interactions, age-appropriate discipline  
 409 practices, health and safety, nutrition, first aid,  
 410 cardiopulmonary resuscitation, the recognition of communicable  
 411 diseases, and child abuse detection, and prevention, and  
 412 reporting.

413 4. Providing, from among the funds provided for the  
 414 activities described in subparagraphs 1.-3., adequate funding  
 415 for infants and toddlers as necessary to meet federal  
 416 requirements related to expenditures for quality activities for

417 infant and toddler care.

418 5. Improving the monitoring of compliance with, and  
 419 enforcement of, applicable state and local requirements as  
 420 described in and limited by 45 C.F.R. s. 98.40.

421 6. Responding to Warm-Line requests by providers and  
 422 parents ~~related to school readiness program children~~, including  
 423 providing developmental and health screenings to school  
 424 readiness program children.

425 (c) Nondirect services as described in applicable Office  
 426 of Management and Budget instructions are those services not  
 427 defined as administrative, direct, or quality services that are  
 428 required to administer the school readiness program. Such  
 429 services include, but are not limited to:

- 430 1. Assisting families to complete the required application  
 431 and eligibility documentation.
- 432 2. Determining child and family eligibility.
- 433 3. Recruiting eligible child care providers.
- 434 4. Processing and tracking attendance records.
- 435 5. Developing and maintaining a statewide child care  
 436 information system.

437  
 438 As used in this paragraph, the term "nondirect services" does  
 439 not include payments to school readiness program providers for  
 440 direct services provided to children who are eligible under s.  
 441 1002.87, administrative costs as described in paragraph (a), or  
 442 quality activities as described in paragraph (b).

PCB EDC 16-02

Original

2016

443 (7) Funds appropriated for the school readiness program  
444 may not be expended for the purchase or improvement of land; for  
445 the purchase, construction, or permanent improvement of any  
446 building or facility; or for the purchase of buses. However,  
447 funds may be expended for minor remodeling and upgrading of  
448 child care facilities which is necessary for the administration  
449 of the program and to ensure that providers meet state and local  
450 child care standards, including applicable health and safety  
451 requirements.

452 Section 13. This act shall take effect July 1, 2016.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB EDC 16-01 Extracurricular Activities  
**SPONSOR(S):** Education Committee  
**TIED BILLS:**                   **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Fudge <i>FF</i>	Mizereck <i>KM</i>

**SUMMARY ANALYSIS**

The Florida High School Athletic Association (FHSAA) governs high school athletics in grades 6 through 12. The bill increases accountability for the FHSAA by:

- Providing that special event fees, sanctioning fees, and gate receipts annually collected by FHSAA must reflect its actual cost in performing the function that is the basis of the fee;
- Requiring admission prices based upon the day, multiple-days or per-event basis;
- Requiring FHSAA to provide for resolution of eligibility disputes through an informal conference procedure, including waiver of its bylaws, and neutral third party review;
- Prohibiting a student from being declared ineligible until the neutral third party review is completed;
- Requiring eligibility proceedings to be conducted in the county where the student resides;
- Establishing escalating penalties for recruiting; and
- Allowing member schools to participate in FHSAA on a per-sport basis.

The bill authorizes any public school student, home education student, or student enrolled in an unaffiliated private school to participate in extracurricular activities offered by a school if the activity is not offered by the student's school or program. All students participating under these provisions must meet established academic and conduct standards. Regarding participation in interscholastic athletics, students enrolled in an unaffiliated private school, home education, full-time public virtual education, or any public school that does not offer any athletic programs may participate only at the public school where the student is first registered. The parent of a student participating under these provisions is responsible for transporting the student to and from the public school.

Additionally, the bill limits the reasons a student may be declared ineligible for interscholastic athletics and prohibits school boards and private schools from establishing transfer eligibility policies that are more stringent than the policies established by FHSAA or that treat transfers by student athletes differently than transfers by other students.

The bill does not have a fiscal impact on state or local governments.

Except as otherwise provided, the bill takes effect July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Florida High School Athletic Association

###### **Present Situation**

The Florida High School Athletic Association (FHSAA) is statutorily designated as the governing nonprofit organization for interscholastic athletics in Florida public schools in grades 6 through 12. The FHSAA is not a state agency, but is assigned quasi-governmental functions. If the FHSAA fails to meet its obligations and responsibilities, the Commissioner of Education (commissioner) is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education.<sup>1</sup>

###### Membership

Any high school, middle school, or combination school,<sup>2</sup> including charter schools, virtual schools, private schools and home education cooperatives,<sup>3</sup> may become a member of the FHSAA and participate in FHSAA activities. Membership is not mandatory for any school.<sup>4</sup> FHSAA may not deny or discourage interscholastic competition between member and nonmember Florida schools, including members of another athletic governing organization.<sup>5</sup> However, FHSAA member schools may not join other athletic governing associations or participate in FHSAA sanctioned activities on a per sport basis.<sup>6</sup>

###### Appeals of Eligibility Disputes

The FHSAA must adopt bylaws specifying the process and standards for eligibility determinations. The bylaws must provide that:

- Ineligibility must be established by clear and convincing evidence;
- Student athletes, parents, and schools must have notice of the initiation of any investigation or other eligibility inquiry and may present information or evidence to the investigator and to the individual making the eligibility determination;
- Eligibility determinations must be made by the executive director or designee for an unbiased and objective determination of eligibility; and
- A determination of ineligibility must be made in writing, setting forth the findings of fact and specific violation upon which the decision is based.<sup>7</sup>

<sup>1</sup> Section 1006.20(1), F.S.

<sup>2</sup> A combination school is any school that serves both students in high school and the middle school grades; elementary, middle or high school grades combined; or elementary and middle grades combined, e.g., K-12, K-8, 6-12, or 7-12. Bylaw 3.2.2.3, FHSAA.

<sup>3</sup> A "home education cooperative" is a parent-directed group of individual home education students that provides opportunities for interscholastic athletic competition to those students and may include students in grades 6 through 12. Bylaw 3.2.2.4, FHSAA.

<sup>4</sup> Bylaws 3.2.2 (types of member schools) and 3.7, FHSAA (procedures for admittance).

<sup>5</sup> Section 1006.20(1), F.S. FHSAA has adopted bylaws that require non-FHSAA member Florida schools that compete with FHSAA member schools to verify, among other things, that the school holds liability insurance coverage and that their student athletes meet the same eligibility requirements as member school student athletes, undergo medical evaluations, have medical insurance coverage, and submit liability waivers. Bylaw 8.3.1, FHSAA.

<sup>6</sup> Bylaw 3.3.1, FHSAA. Member schools must adopt the FHSAA bylaws annually as the rules governing its interscholastic athletic programs. *Id.*

<sup>7</sup> Section 1006.20(2)(g), F.S. As an alternative, the law authorizes FHSAA to instead provide the procedural safeguards of ss. 120.569 and 120.57, F.S., making appropriate provision for appointment of unbiased and qualified hearing officers. Section 1006.20(2)(h), F.S.

The appeals process for eligibility violations is as follows:

- FHSAA's executive director makes the initial determination of ineligibility.
- The member school principal may appeal the ruling if the principal takes issue with the ruling or the student requests an appeal.<sup>8</sup>
- Initial appeals of ineligibility determinations are heard by the Sectional Appeals Committee.
- An unfavorable decision on the initial appeal may be appealed to the Sectional Appeals Committee if the student athlete wishes to submit new evidence in his or her defense.
- An unfavorable decision on the initial appeal may be appealed to the FHSAA Board of Directors if the student athlete has no new evidence to submit in his or her defense.<sup>9</sup>
- A member school may request mediation in lieu of appealing to the Board of Directors. The mediator is selected by FHSAA from a panel of mediators established by the Board of Directors. If an agreement is not reached through mediation, the school may proceed with the appeal to the Board of Directors.<sup>10</sup>
- The decision of the Board of Directors is final.<sup>11</sup>

At no stage in the appeals process is the determination regarding eligibility issued by a neutral third party.

### **Effect of Proposed Changes**

The bill increases the accountability of the FHSAA by, among other things, limiting certain fees to actual costs and providing for neutral third party review of eligibility disputes. The bill also limits the reasons a student may be declared ineligible for interscholastic athletics and expands student opportunities to participate in extracurricular activities as a whole.

### Membership

The bill authorizes schools to join FHSAA on a per-sport basis. Schools would also be allowed to join other organizations for some sports, while maintaining membership in FHSAA for others. The FHSAA is prohibited from discriminating against its member schools that join other associations for a sport for which they are not a member of the FHSAA. The commissioner may identify other associations that govern interscholastic athletic competition that comply with the requirements of the National Federation of State High School Associations (NFSHA) and the FHSAA may not withhold its approval of an application to become a member of the NFSHA filed by an association that meets the requirements of the NFSHA.

### Appeals of Eligibility Disputes

The bill requires FHSAA to provide an opportunity to resolve ineligibility determinations through an informal conference, which may include waiver of the bylaws governing the eligibility determination. The conference must be held within 10 days of the initial ineligibility determination. If the eligibility dispute is not resolved at the informal conference, FHSAA must provide for a cost-effective and timely neutral third-party review, which may include use of retired or former judges, mediation, or arbitration. The neutral third party must be selected by the parent and the review must be completed within 30 days of the informal conference. A student athlete may not be declared ineligible until the neutral third-party review is completed. All eligibility proceedings must be conducted in the county where the student resides. Informal conferences and neutral third party hearings may be conducted by telephone, videoconference, or other electronic means.

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<sup>8</sup> Bylaw 10.4.1, FHSAA.

<sup>9</sup> Bylaws 10.5.5 and 10.5.6, FHSAA.

<sup>10</sup> Bylaw 10.6.5, FHSAA.

<sup>11</sup> Bylaw 10.7.3.1, FHSAA.



## Participation in Extracurricular Activities

### **Present Situation**

Florida law defines interscholastic extracurricular activities as any school-authorized athletic or education-related student activity that occurs during or outside of the regular instructional school day.<sup>12</sup> Extracurricular activities include such activities as interscholastic and intramural athletics, drama, marching band, chorus, and academic and social clubs.

Florida law requires all students participating in extracurricular activities to meet basic academic and conduct requirements. It also provides opportunities for students enrolled in home education, certain public schools of choice, and certain private schools to participate in extracurricular activities at a traditional public school, because the extracurricular activities available to these students are limited due to their choice of school or program.<sup>13</sup> Outside these statutory requirements, nonathletic activities are largely governed by district school board or private school policies. Governance of interscholastic athletics is shared by the FHSAA and its member public and private schools. The law provides specific direction to FHSAA on such eligibility matters as residency, transfer, recruiting, and medical evaluations. FHSAA has discretion to adopt any other regulations on eligibility, provided they do not conflict with statutory requirements.<sup>14</sup> FHSAA bylaws authorize member schools and school districts to adopt more stringent eligibility requirements for interscholastic athletics than FHSAA's requirements.<sup>15</sup>

### General Eligibility

Florida law specifies general academic and conduct requirements a student must meet in order to be eligible for participation in any extracurricular activity. To be eligible, a high school student<sup>16</sup> must:

- Maintain either a 2.0 grade point average (GPA) or above on a 4.0 scale in the semester preceding participation;<sup>17</sup>
- Execute and fulfill the requirements of an academic performance contract if the student's GPA falls below 2.0;<sup>18</sup>
- Have a cumulative GPA of 2.0 or above in his or her junior or senior year; and
- Maintain satisfactory conduct in accordance with the school's code of student conduct.<sup>19</sup>

The law authorizes a school district to set additional eligibility requirements, but the requirements must not make participation less accessible to home education students than to other students.<sup>20</sup>

### Eligibility and School Choice

Florida law authorizes students who are enrolled in a charter school, the Florida Virtual School (FLVS), or a home education program to participate in extracurricular activities at a traditional public school, if

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<sup>12</sup> See s. 1006.15(2), F.S.

<sup>13</sup> Section 1006.15(3)(b), (c), (d), and (e), F.S.

<sup>14</sup> Section 1006.20(1) and (2)(a)-(c), F.S.

<sup>15</sup> Bylaw 9.1.1.1, FHSAA.

<sup>16</sup> For purposes of athletics in public K-12 schools, high school includes grade six through 12. Section 1006.20(1), F.S.

<sup>17</sup> A home education student must submit form EL9, which requires the parent to list courses taken by the student and calculate a GPA. FHSAA, *Form EL9- Home Education Student Academic Progress Report* (June 2010), available at [http://www.fhsaa.org/sites/default/files/el09\\_home\\_rep.pdf](http://www.fhsaa.org/sites/default/files/el09_home_rep.pdf).

<sup>18</sup> An academic performance contract is an agreement between the student, the district school board, the appropriate governing association, and the student's parents, which at a minimum requires the student to attend summer school or its graded equivalent, between grades nine and 10 or grades 10 and 11, as necessary. Section 1006.15(3)(a), F.S.

<sup>19</sup> Section 1006.15(3)(a), F.S. The eligibility of a student who is convicted of, or found to have committed, a felony or delinquent act that would have been a felony if committed by an adult is governed by district school board policy. *Id.*

<sup>20</sup> Section 1006.15(4), F.S.

requirements are met.<sup>21</sup> Additionally, FHSAA has adopted a bylaw allowing a student enrolled in a magnet school, alternative school, or other public school of choice to participate in interscholastic athletics at a traditional public school.<sup>22</sup> Such eligibility is provided because these choice options offer limited or no extracurricular activities. Generally speaking, such students must:

- Demonstrate educational progress or meet GPA requirements;
- Meet the same residency requirements as other students in the school;
- Meet the same standards of acceptance, behavior, and performance required of other participating students; and
- Register their intent to participate in extracurricular activities before the beginning date of the activity with the public school where the student wishes to participate.<sup>23</sup>

The conditions placed upon participation vary. For example FLVS and home education students may participate in any extracurricular activity offered by the traditional public school. Charter school students may participate in any activity offered by the traditional public school that is not offered by the charter school. Fewer options are available to magnet school and alternative school students. They may only play a sport at a traditional public school if their school does not offer any sport programs at all.<sup>24</sup>

The law also authorizes a student attending a private middle school or high school to participate in interscholastic or intrascholastic sports at a public school that is zoned for the physical address at which the student resides if the private school where the student is enrolled is not a member of the FHSAA, has an enrollment of less than 125 students, and does not offer any interscholastic or intrascholastic athletic programs.<sup>25</sup>

The FHSAA and district school board must adopt guidelines that establish:

- Registration deadlines and procedures for each sport; and
- Student participation requirements that include, but are not limited to, the same standards of eligibility, acceptance, behavior, educational progress, and performance which apply to students attending FHSAA member public and private schools.<sup>26</sup>

A private school student may only participate at the public school in which the student first registers or is a candidate for participation by engaging in a practice. The parents of a participating private school student are responsible for transporting the student to and from the public school. The student's private school, the public school where the student participates in athletics, the district school board, and the FHSAA are exempt from liability arising from any injury that occurs during such transportation.<sup>27</sup>

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<sup>21</sup> Section 1006.15(3)(c), (d), and (e), F.S. (home education, charter schools, and FLVS).

<sup>22</sup> Bylaws 9.2.2.4 and 9.2.2.4.1, FHSAA (alternative schools and magnet schools).

<sup>23</sup> Section 1006.15(3)(c), (d), and (e), F.S.

<sup>24</sup> Section 1006.15(3)(c), (d), and (e), F.S.; bylaw 9.2.2.4, FHSAA.

<sup>25</sup> Section 1006.15(8), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 1006.15(8)(b), F.S.

Extracurricular Eligibility by School Type <sup>28</sup>		
Educational Choice Program	The district school at which the student may participate:	Activity the student may participate in:
<b>FLVS</b>	Zoned school or any public school they could attend through controlled open enrollment	Any activity (because FLVS does not offer any extracurriculars)
<b>Homeschool</b>	Zoned school or any public school they could attend through controlled open enrollment	Any activity (because the student does not attend a school)
<b>Charter School</b>	Zoned school or any public school they could attend through controlled open enrollment	<ul style="list-style-type: none"> <li>• Any activity that is not offered by the charter school</li> <li>• May participate in that particular activity <u>even if the charter school offers other activities</u></li> </ul>
<b>Magnet School or Alternative School</b>	Zoned school or any public school they could attend through controlled open enrollment	Any <u>SPORT</u> , but <u>only if</u> their school does not offer any sports programs
<b>FHSAA Non-Member Private School</b>	Zoned school	Any <u>SPORT</u> , but <u>only if</u> the school: <ul style="list-style-type: none"> <li>• Is not an FHSAA member;</li> <li>• Enrolls 125 students or less; and</li> <li>• Does not offer any sports programs</li> </ul>

### Residency and Transfer

A student may participate in interscholastic athletics at the school in which he or she first enrolls each school year or, at the school in which the student becomes a candidate for an athletic team by engaging in a practice prior to enrolling in the school.<sup>29</sup>

A student may also be eligible to participate in interscholastic athletics in the school to which the student has transferred during the school year if the transfer is made by a deadline established by the FHSAA,<sup>30</sup> which may not be prior to the date authorized for the beginning of practice for the sport.<sup>31</sup>

Although the law requires FHSAA to allow transfer eligibility in its bylaws, it authorizes each district school board and private school to adopt policies regarding such transfers.<sup>32</sup> Consequently, some school districts have adopted policies that require transfer students to wait one calendar year before being eligible to compete in athletics, only allow transfer eligibility if the student makes a full and complete move with all members of his or her household, or require transfer students to compete at the junior varsity level for a period of one year.<sup>33</sup> Some courts have held that school district transfer policies that are more stringent than FHSAA's transfer policies conflict with state law.<sup>34</sup>

### Recruiting

Florida law requires the FHSAA to adopt bylaws prohibiting the recruitment of student athletes. Currently, the bylaws prohibit member schools from recruiting student athletes for athletic purposes.

<sup>28</sup> Section 1006.15(3) and (8), F.S.; bylaw 9.2.2.4, FHSAA.

<sup>29</sup> Section 1006.20(2)(a), F.S.

<sup>30</sup> The FHSAA is the designated governing nonprofit organization of athletics in Florida public schools. Section 1006.20(1), F.S.

<sup>31</sup> Section 2, ch. 2012-188, L.O.F.; 1006.20(2)(a), F.S.

<sup>32</sup> Section 1006.20(2)(a), F.S.

<sup>33</sup> See, e.g., Policy 4.43, Clay County School Board, Policy 8.801, Bay County School Board, and Policy 2431.01, Hillsborough County School Board. These types of residency and transfer policies are similar to the FHSAA residency and transfer bylaws that resulted in the creation of the Student Athlete Recruiting Task Force and recent legislative changes requiring the FHSAA to change its bylaws regarding recruiting.

<sup>34</sup> See *School Board of Hillsborough County v. Kayla Jo Fernandez*, 151 So.3d 1251 (Fla. 2d DCA 2014)(Affirming circuit court order granting transfer student injunctive relief regarding school board determination of ineligibility).

"Athletic recruiting" is "any effort by a school employee, athletic department staff member, or representative of a school's athletic interests to pressure, urge or entice a student to attend that school for the purpose of participating in interscholastic athletics." The bylaws set forth specific behaviors that constitute recruiting, as well as identify persons who are considered to represent a school's athletic interests.<sup>35</sup>

A student may only be declared ineligible based upon violation of recruiting rules if the student or parent has:

- Falsified any enrollment or eligibility document; or
- Accepted an impermissible benefit, i.e., any benefit or any promise of benefit not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.<sup>36</sup>

The law places certain limitations on recruiting penalties. The bylaws may not prospectively limit the competition of student athletes for rule violations of their adult representatives, their school or its coaches. A student athlete may not be unfairly punished for eligibility or recruiting violations perpetrated by a teammate, coach, or administrator. Contests may not be forfeited for inadvertent eligibility violations unless the coach or a school administrator should have known of the violation. Contests may not be forfeited for other eligibility violations or recruiting violations in excess of the number of contests that the coaches and adult representatives responsible for the violations are prospectively suspended.<sup>37</sup>

## **Effect of Proposed Changes**

### Eligibility and School Choice

Currently, the law only addresses eligibility for extracurricular activities for home education, charter school, FLVS, and certain non-FHSAA-member private school students. The bill repeals these provisions and consolidates them under one provision that accounts for all public school choice options, as well as home education and certain private schools. Accordingly, the bill defines:

- "Public school student" to mean a student who is attending a traditional public school, charter school, magnet school, alternative school, developmental research laboratory school, other public school of choice, or public virtual school.
- "Unaffiliated private school" to mean a private school that is not a member of FHSAA.

Under the bill, a public school student, a student attending an unaffiliated private school, or a home education student is eligible to participate in an extracurricular activity that is not offered by the student's school or home education program. Participation may occur at any public school in the school district in which the student resides or a public school in another school district which the student could choose to attend pursuant to an interdistrict controlled open enrollment policy. A home education student may also develop an agreement to participate at a private school.

All students participating under these provisions must:

- Meet the same academic and conduct standards applicable to other students participating in the activity; and

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<sup>35</sup> Section 1006.20(2)(b), F.S.; Policy 36, FHSAA.

<sup>36</sup> Section 1006.20(2)(b), F.S. If it is determined that a school has recruited a student in violation of FHSAA bylaws, the FHSAA may require the school to participate in a higher classification for the sport in which the recruited student competes for a minimum of one classification cycle, in addition to any other appropriate fine and sanction imposed on the school, its coaches, or adult representative.

*Id.*

<sup>37</sup> Section 1006.20(2)(i), F.S.

- Register with the public school his or her intent to participate in extracurricular activities before the beginning date of the activity.

In general, a student may only participate at another public school in extracurricular activities not offered by his or her home school. However, students enrolled in an unaffiliated private school, a home education program, a full-time public virtual school, or a public school that does not offer any interscholastic athletic programs may only participate in athletics at the school in which the student first engages in practice. Thus, if such a student seeks participation in athletics, they must choose one school that offers all of the sports the student seeks to play. Students enrolled in a school that has athletic programs must play the sports offered by their school at that school, but may participate at another public school for sports not offered by their school.

The parent of a student who participates pursuant to these provisions is responsible for transporting the student to and from the school at which the student participates.

### Recruiting

The bill limits the grounds for declaring a student ineligible to participate in interscholastic athletics to:

- Failure to meet medical, academic and conduct requirements;
- Exhaustion of four years of athletic eligibility, graduation from high school, or attainment of the maximum age established by a nonprofit association, whichever occurs first;
- Forfeiture of amateur status;<sup>38</sup> or
- Recruitment when sanctions have been imposed against the responsible parties.

The bill clarifies that a home education student is academically eligible to participate in extracurricular activities if he or she has a satisfactory evaluation of educational progress conducted in accordance with the home education law, rather than meeting GPA requirements. The bill prohibits district school boards or private schools from establishing policies regarding transfer student eligibility for extracurricular activities which are more stringent than the policies established by the governing nonprofit association. Any additional requirements placed on participation in extracurricular activities must be applied equally to all students, regardless of the type of activity, and may not make participation less accessible to a transfer student or a student enrolled in a public school of choice, an unaffiliated private school, or a home education program.

The bill establishes the following escalating penalties for adults who are found, by a preponderance of the evidence, to have committed recruiting:

- First offense, a \$5,000 fine.
- Second offense, a \$7,500 fine, and if the individual is employed by the school district, suspension without pay from any coaching, directing, or promoting any extracurricular activity.
- Third offense, a \$10,000 fine, and revocation, for a period of three years, of any temporary or professional certificate held by the individual.

No school board, alumni association, foundation, parent-teacher association, or booster association may pay the fine or penalty assessed against the individual.

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<sup>38</sup> FHSAA bylaws prohibit a student athlete from participating in interscholastic athletics if he or she competes for money or other monetary compensations; receives any award or prize of monetary value which has not been approved by the FHSAA; capitalizes on athletic fame by receiving money or gifts of a monetary nature; signs a professional playing contract in any sport or hires an agent to manage his/her athletic career; or competes under an assumed name. Bylaw 9.9, FHSAA.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.20, F.S., conforming cross-references; revising provisions related to participation in extracurricular activities.

**Section 2.** Amends s. 1002.33, F.S., conforming cross-references; revising provisions related to participation in extracurricular activities.

**Section 3.** Amends s. 1006.15, F.S., providing definitions; revising academic eligibility requirements; specifying grounds for student ineligibility for participation in interscholastic athletics; specifying conditions under which students who are enrolled in public schools, certain private schools, or home education programs may participate in the extracurricular activities; deleting obsolete provisions.

**Section 4.** Amends s. 1006.20, F.S., providing requirements regarding fees and admission prices; authorizing member schools to join other associations; revising provisions regarding eligibility, transfer, and recruiting; providing procedures for resolving student eligibility disputes.

**Section 5.** Amend s. 1012.795, F.S., authorizing the Education Practices Commission to suspend the educator certificate of any person who has committed a third recruiting violation.

**Section 6.** Amends s. 1012.796, F.S., prohibiting the commissioner from entering a deferred prosecution agreement if there is probable cause to believe the person engaged in recruiting.

**Section 7.** Provides an effective date of July 1, 2016.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

None.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

1                                   A bill to be entitled  
2           An act relating to extracurricular activities;  
3           amending s. 1002.20, F.S.; conforming cross-  
4           references; revising provisions related to  
5           participation in extracurricular activities; amending  
6           s. 1002.33, conforming cross-references; conforming  
7           provisions; amending s. 1006.15, F.S.; providing  
8           definitions; revising academic eligibility  
9           requirements; specifying grounds for student  
10          ineligibility for participation in interscholastic  
11          athletics; specifying conditions under which students  
12          who are enrolled in public schools, certain private  
13          schools, or home education programs may participate in  
14          the extracurricular activities of a public school;  
15          deleting obsolete provisions; amending s. 1006.20,  
16          F.S.; providing requirements regarding fees and  
17          admission prices; authorizing member schools to join  
18          other associations; revising provisions regarding  
19          eligibility, transfer, and recruiting; providing  
20          procedures for resolving student eligibility disputes;  
21          deleting provisions relating to the appeals committees  
22          of the Florida High School Athletic Association  
23          (FHSAA); amending s. 1012.795, F.S.; authorizing the  
24          Education Practices Commission to suspend the educator  
25          certificate of a person who has committed a third  
26          recruiting offense as determined by the FHSAA;



27 requiring the FHSAA to report certain information to  
 28 the department; amending s. 1012.796, F.S.; requiring  
 29 department staff to advise the commissioner of all  
 30 referrals by the FHSAA relating to recruiting offenses  
 31 by certain individuals; providing an effective date.  
 32

33 Be It Enacted by the Legislature of the State of Florida:  
 34

35 Section 1. Subsections (17) and (18) of section 1002.20,  
 36 Florida Statutes, are amended to read:

37 1002.20 K-12 student and parent rights.—Parents of public  
 38 school students must receive accurate and timely information  
 39 regarding their child's academic progress and must be informed  
 40 of ways they can help their child to succeed in school. K-12  
 41 students and their parents are afforded numerous statutory  
 42 rights including, but not limited to, the following:

43 (17) ATHLETICS; PUBLIC HIGH SCHOOL.—

44 (a) Eligibility.—Eligibility requirements for all students  
 45 participating in interscholastic ~~high school~~ athletic  
 46 competition must allow a student to be eligible in the school in  
 47 which he or she first enrolls each school year, the school in  
 48 which the student makes himself or herself a candidate for an  
 49 athletic team by engaging in practice before enrolling, or the  
 50 school to which the student has transferred ~~with approval of the~~  
 51 ~~district school board~~, in accordance with ~~the provisions of s.~~  
 52 1006.20 ~~1006.20(2)(a)~~.

53 (b) Medical evaluation.—Students must satisfactorily pass  
 54 a medical evaluation each year before participating in  
 55 athletics, unless the parent objects in writing based on  
 56 religious tenets or practices, in accordance with ~~the provisions~~  
 57 ~~of s. 1006.20~~ 1006.20(2)(d).

58 (18) EXTRACURRICULAR ACTIVITIES.—In accordance with ~~the~~  
 59 ~~provisions of s. 1006.15:~~

60 (a) Eligibility.—Students who meet specified academic and  
 61 conduct requirements are eligible to participate in  
 62 extracurricular activities.

63 (b) Participation Home education students.—All public  
 64 school students, including those enrolled in public schools of  
 65 choice or virtual education, all home education students, and  
 66 students attending an unaffiliated private school may  
 67 participate in an extracurricular activity not offered by the  
 68 student's school or home education program at any public school  
 69 in the school district in which the student resides or a public  
 70 school in another school district which the student could choose  
 71 to attend pursuant to an interdistrict controlled open  
 72 enrollment policy ~~who meet specified academic and conduct~~  
 73 ~~requirements are eligible to participate in extracurricular~~  
 74 ~~activities at the public school to which the student would be~~  
 75 ~~assigned or could choose to attend according to district school~~  
 76 ~~board policies, or may develop an agreement to participate at a~~  
 77 ~~private school.~~

78 ~~(c) Charter school students.—Charter school students who~~

79 ~~meet specified academic and conduct requirements are eligible to~~  
 80 ~~participate in extracurricular activities at the public school~~  
 81 ~~to which the student would be assigned or could choose to attend~~  
 82 ~~according to district school board policies, unless such~~  
 83 ~~activity is provided by the student's charter school.~~

84 ~~(d) Florida Virtual School full-time students. Florida~~  
 85 ~~Virtual School full-time students who meet specified academic~~  
 86 ~~and conduct requirements are eligible to participate in~~  
 87 ~~extracurricular activities at the public school to which the~~  
 88 ~~student would be assigned or could choose to attend according to~~  
 89 ~~district school board policies.~~

90 ~~(c)(e)~~ Discrimination prohibited.—Organizations that  
 91 regulate or govern extracurricular activities of public schools  
 92 shall not discriminate against any eligible student based on an  
 93 educational choice of public, private, or home education.

94 Section 2. Subsection (11) of section 1002.33, Florida  
 95 Statutes, is amended to read:

96 1002.33 Charter schools.—

97 (11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR  
 98 ACTIVITIES.—A charter school student is eligible to participate  
 99 in an interscholastic extracurricular activity at another the  
 100 public school ~~to which the student would be otherwise assigned~~  
 101 ~~to attend pursuant to s. 1006.15 1006.15(3)(d).~~

102 Section 3. Subsections (2), (3), (4), and (8) of section  
 103 1006.15, Florida Statutes, are amended to read:

104 1006.15 Student standards for eligibility to participate

105 ~~participation in interscholastic and intrascholastic~~  
 106 ~~extracurricular student activities; regulation.-~~

107 (2) Interscholastic extracurricular student activities are  
 108 an important complement to the academic curriculum.

109 Participation in a comprehensive extracurricular and academic  
 110 program contributes to student development of the social and  
 111 intellectual skills necessary to become a well-rounded adult. As  
 112 used in this ~~part section~~, the term:

113 (a) "Eligible to participate" means meeting the  
 114 requirements of this section to participate in extracurricular  
 115 activities, including tryouts, off-season conditioning, summer  
 116 workouts, preseason conditioning, in-season practice, or  
 117 contests. However, such participation may be limited if the  
 118 activity is at maximum capacity or if the student does not have  
 119 the requisite skill and ability to participate.

120 (b) "Extracurricular activity" means a any school-  
 121 authorized or education-related activity occurring during or  
 122 outside the regular instructional school day.

123 (c) "Home education cooperative" means a parent-directed  
 124 group of individual home education students that provides  
 125 opportunities for extracurricular activities for students in the  
 126 group.

127 (d) "Nonprofit association" means the nonprofit  
 128 association that governs interscholastic athletic competition in  
 129 this state pursuant to s. 1006.20.

130 (e) "Public school student" means a student who is

131 attending a traditional public school, charter school, magnet  
 132 school, alternative school, developmental research laboratory  
 133 school, other public school of choice, or public virtual school.

134 (f) "Unaffiliated private school" means a private school  
 135 that is not a member of the nonprofit association.

136 (3) (a) A student is ~~To be~~ eligible to participate in  
 137 interscholastic extracurricular ~~student~~ activities if the, a  
 138 student ~~must~~:

139 1. Maintains ~~Maintain~~ a grade point average of 2.0 or  
 140 above on a 4.0 scale, or its equivalent, in the previous  
 141 semester or a cumulative grade point average of 2.0 or above on  
 142 a 4.0 scale, or its equivalent, ~~in the courses required by s.~~  
 143 ~~1002.3105(5) or s. 1003.4282.~~

144 2. Executes ~~Execute~~ and fulfills ~~fulfill~~ the requirements  
 145 of an academic performance contract between the student, the  
 146 district school board or private school, the appropriate  
 147 governing association, and the student's parents, ~~if the~~  
 148 student's cumulative grade point average falls below 2.0, or its  
 149 equivalent, on a 4.0 scale ~~in the courses required by s.~~  
 150 ~~1002.3105(5) or s. 1003.4282.~~ At a minimum, the contract must  
 151 require that the student attend summer school, or its graded  
 152 equivalent, between grades 9 and 10 or grades 10 and 11, as  
 153 necessary.

154 3. Has ~~Have~~ a cumulative grade point average of 2.0 or  
 155 above on a 4.0 scale, or its equivalent, ~~in the courses required~~  
 156 ~~by s. 1002.3105(5) or s. 1003.4282~~ during his or her junior or

157 senior year.

158 4. Maintains ~~Maintain~~ satisfactory conduct as prescribed  
 159 by the district school board's or private school's code,  
 160 ~~including adherence to appropriate dress and other codes of~~  
 161 student conduct and complies with sports ethics and substance  
 162 abuse policies of the Florida High School Athletic Association  
 163 (FHSAA) policies described in s. 1006.07(2). If a student is  
 164 convicted of, or is found to have committed, a felony or a  
 165 delinquent act that would have been a felony if committed by an  
 166 adult, regardless of whether adjudication is withheld, the  
 167 student's participation in ~~interscholastic~~ extracurricular  
 168 activities is contingent upon established and published district  
 169 school board or private school policy.

170 5. Is a home education student who meets the requirements  
 171 of the home education program pursuant to s. 1002.41, which must  
 172 satisfy the requirements of subparagraphs 1., 2., and 3.

173 (b) A student may only be declared ineligible to  
 174 participate in interscholastic athletic competition if:

175 1. The student fails to achieve compliance with paragraph  
 176 (a);

177 2. The student has been recruited, as defined by s.  
 178 1006.20(2)(b), and sanctions have been imposed against the  
 179 responsible parties;

180 3. The student has exhausted 4 years of athletic  
 181 eligibility, graduated from high school, or attained the maximum  
 182 age established by the nonprofit association, whichever occurs

183 first;

184 4. The student forfeits his or her amateur status, as  
 185 defined by the nonprofit association; or

186 5. The student does not pass a medical evaluation pursuant  
 187 to s. 1006.20(2)(c), except as otherwise provided in s.  
 188 1006.20(2)(d).

189 (c)1.~~(b)~~ A ~~Any~~ student who is exempt from attending a full  
 190 school day based on rules adopted by the district school board  
 191 for double session schools or programs, experimental schools, or  
 192 schools operating under emergency conditions must maintain the  
 193 grade point average required by this section and pass each class  
 194 for which he or she is enrolled.

195 2. A student who transfers from a home education program  
 196 to a public or private school before or during the first  
 197 semester of the school year is academically eligible to  
 198 participate in extracurricular activities during the first  
 199 semester if the student has a successful evaluation from the  
 200 previous school year pursuant to s. 1002.41.

201 3. A public school or private school student who transfers  
 202 into a home education program after being declared ineligible  
 203 for participation in extracurricular activities pursuant to  
 204 subparagraph (b)1. is ineligible to participate in such  
 205 activities as a home education student until the student has  
 206 successfully completed one semester in a home education program  
 207 pursuant to s. 1002.41.

208 4. A public school student who transfers to a private

209 school or another public school, or a private school student who  
 210 transfers to a public school or another private school, after  
 211 being declared ineligible to participate in extracurricular  
 212 activities pursuant to subparagraph (b)1. is ineligible to  
 213 participate in such activities until the student has  
 214 successfully completed one semester at the school to which he or  
 215 she transfers and meets the requirements of paragraph (a).

216 (d)(e) A public school student, a student attending an  
 217 unaffiliated private school, or a ~~An individual~~ home education  
 218 student is eligible to participate in an extracurricular  
 219 activity that is not offered by the student's school or home  
 220 education program. Participation may occur at any the public  
 221 school in the school district in which the student resides ~~to~~  
 222 ~~which the student would be assigned according to district school~~  
 223 ~~board attendance area policies or a public school in another~~  
 224 ~~school district~~ which the student could choose to attend  
 225 pursuant to ~~an district or~~ interdistrict controlled open  
 226 enrollment policy. A home education student ~~provisions, or~~ may  
 227 ~~also~~ develop an agreement to participate at a private school, in  
 228 the interscholastic ~~or~~ extracurricular activities of that  
 229 school. In order to participate under this paragraph, a student  
 230 must meet, ~~provided the following conditions are met:~~

231 1. ~~The home education student must meet the requirements~~  
 232 ~~of the home education program pursuant to s. 1002.41.~~

233 2. ~~During the period of participation at a school, the~~  
 234 ~~home education student must demonstrate educational progress as~~



235 ~~required in paragraph (b) in all subjects taken in the home~~  
 236 ~~education program by a method of evaluation agreed upon by the~~  
 237 ~~parent and the school principal which may include: review of the~~  
 238 ~~student's work by a certified teacher chosen by the parent;~~  
 239 ~~grades earned through correspondence; grades earned in courses~~  
 240 ~~taken at a Florida College System institution, university, or~~  
 241 ~~trade school; standardized test scores above the 35th~~  
 242 ~~percentile; or any other method designated in s. 1002.41.~~

243 ~~3. The home education student must meet the same residency~~  
 244 ~~requirements as other students in the school at which he or she~~  
 245 ~~participates.~~

246 1.4. The home education student must meet the same  
 247 standards of acceptance, behavior, and performance as required  
 248 of other students in extracurricular activities.

249 2.5. The student must register with the school his or her  
 250 intent to participate in interscholastic extracurricular  
 251 activities as a representative of the school before the  
 252 beginning date of the nonathletic activity or season for the  
 253 athletic activity in which he or she wishes to participate. A  
 254 ~~home education~~ student must be able to participate in curricular  
 255 activities if that is a requirement for an extracurricular  
 256 activity.

257 3. A student who is enrolled in an unaffiliated private  
 258 school, home education program, full-time public virtual school,  
 259 or a public school that does not offer any interscholastic  
 260 athletic programs may only participate in interscholastic

261 athletics at the school in which the student first makes himself  
 262 or herself a candidate for an athletic team by engaging in  
 263 practice.

264 4. The student's parent is responsible for transporting  
 265 the student to and from the school at which the student  
 266 participates. The school the student attends, the school at  
 267 which the student participates in the extracurricular activity,  
 268 the district school board, and the nonprofit association are  
 269 exempt from civil liability arising from any injury to the  
 270 student which occurs during such transportation.

271 ~~6. A student who transfers from a home education program~~  
 272 ~~to a public school before or during the first grading period of~~  
 273 ~~the school year is academically eligible to participate in~~  
 274 ~~interscholastic extracurricular activities during the first~~  
 275 ~~grading period provided the student has a successful evaluation~~  
 276 ~~from the previous school year, pursuant to subparagraph 2.~~

277 ~~7. Any public school or private school student who has~~  
 278 ~~been unable to maintain academic eligibility for participation~~  
 279 ~~in interscholastic extracurricular activities is ineligible to~~  
 280 ~~participate in such activities as a home education student until~~  
 281 ~~the student has successfully completed one grading period in~~  
 282 ~~home education pursuant to subparagraph 2. to become eligible to~~  
 283 ~~participate as a home education student.~~

284 ~~(d) An individual charter school student pursuant to s.~~  
 285 ~~1002.33 is eligible to participate at the public school to which~~  
 286 ~~the student would be assigned according to district school board~~

287 ~~attendance area policies or which the student could choose to~~  
 288 ~~attend, pursuant to district or interdistrict controlled open~~  
 289 ~~enrollment provisions, in any interscholastic extracurricular~~  
 290 ~~activity of that school, unless such activity is provided by the~~  
 291 ~~student's charter school, if the following conditions are met:~~

292 1. ~~The charter school student must meet the requirements~~  
 293 ~~of the charter school education program as determined by the~~  
 294 ~~charter school governing board.~~

295 2. ~~During the period of participation at a school, the~~  
 296 ~~charter school student must demonstrate educational progress as~~  
 297 ~~required in paragraph (b).~~

298 3. ~~The charter school student must meet the same residency~~  
 299 ~~requirements as other students in the school at which he or she~~  
 300 ~~participates.~~

301 4. ~~The charter school student must meet the same standards~~  
 302 ~~of acceptance, behavior, and performance that are required of~~  
 303 ~~other students in extracurricular activities.~~

304 5. ~~The charter school student must register with the~~  
 305 ~~school his or her intent to participate in interscholastic~~  
 306 ~~extracurricular activities as a representative of the school~~  
 307 ~~before the beginning date of the season for the activity in~~  
 308 ~~which he or she wishes to participate. A charter school student~~  
 309 ~~must be able to participate in curricular activities if that is~~  
 310 ~~a requirement for an extracurricular activity.~~

311 6. ~~A student who transfers from a charter school program~~  
 312 ~~to a traditional public school before or during the first~~

313 ~~grading period of the school year is academically eligible to~~  
 314 ~~participate in interscholastic extracurricular activities during~~  
 315 ~~the first grading period if the student has a successful~~  
 316 ~~evaluation from the previous school year, pursuant to~~  
 317 ~~subparagraph 2.~~

318 ~~7. Any public school or private school student who has~~  
 319 ~~been unable to maintain academic eligibility for participation~~  
 320 ~~in interscholastic extracurricular activities is ineligible to~~  
 321 ~~participate in such activities as a charter school student until~~  
 322 ~~the student has successfully completed one grading period in a~~  
 323 ~~charter school pursuant to subparagraph 2. to become eligible to~~  
 324 ~~participate as a charter school student.~~

325 ~~(e) A student of the Florida Virtual School full time~~  
 326 ~~program may participate in any interscholastic extracurricular~~  
 327 ~~activity at the public school to which the student would be~~  
 328 ~~assigned according to district school board attendance area~~  
 329 ~~policies or which the student could choose to attend, pursuant~~  
 330 ~~to district or interdistrict controlled open enrollment~~  
 331 ~~policies, if the student.~~

332 ~~1. During the period of participation in the~~  
 333 ~~interscholastic extracurricular activity, meets the requirements~~  
 334 ~~in paragraph (a).~~

335 ~~2. Meets any additional requirements as determined by the~~  
 336 ~~board of trustees of the Florida Virtual School.~~

337 ~~3. Meets the same residency requirements as other students~~  
 338 ~~in the school at which he or she participates.~~

339 ~~4. Meets the same standards of acceptance, behavior, and~~  
 340 ~~performance that are required of other students in~~  
 341 ~~extracurricular activities.~~

342 ~~5. Registers his or her intent to participate in~~  
 343 ~~interscholastic extracurricular activities with the school~~  
 344 ~~before the beginning date of the season for the activity in~~  
 345 ~~which he or she wishes to participate. A Florida Virtual School~~  
 346 ~~student must be able to participate in curricular activities if~~  
 347 ~~that is a requirement for an extracurricular activity.~~

348 ~~(f) A student who transfers from the Florida Virtual~~  
 349 ~~School full time program to a traditional public school before~~  
 350 ~~or during the first grading period of the school year is~~  
 351 ~~academically eligible to participate in interscholastic~~  
 352 ~~extracurricular activities during the first grading period if~~  
 353 ~~the student has a successful evaluation from the previous school~~  
 354 ~~year pursuant to paragraph (a).~~

355 ~~(g) A public school or private school student who has been~~  
 356 ~~unable to maintain academic eligibility for participation in~~  
 357 ~~interscholastic extracurricular activities is ineligible to~~  
 358 ~~participate in such activities as a Florida Virtual School~~  
 359 ~~student until the student successfully completes one grading~~  
 360 ~~period in the Florida Virtual School pursuant to paragraph (a).~~

361 (4) The student standards for participation in  
 362 interscholastic extracurricular activities must be applied  
 363 beginning with the student's first semester of the 9th grade.  
 364 Each student must meet such other requirements for participation

365 as may be established by the district school board; however,  
 366 such requirements must apply on an equal basis to all students  
 367 and a district school board may not make establish requirements  
 368 for participation in interscholastic extracurricular activities  
 369 which make participation in such activities less accessible to a  
 370 transfer student or a student enrolled in a public school of  
 371 choice, an unaffiliated private school, or a home education  
 372 program students than to other students. A district school board  
 373 or private school must equitably apply its transfer policies  
 374 regardless of the reason for the transfer and may not establish  
 375 transfer student eligibility policies which are more stringent  
 376 than the policies established by the nonprofit association  
 377 ~~Except as set forth in paragraph (3) (c), evaluation processes or~~  
 378 ~~requirements that are placed on home education student~~  
 379 ~~participants may not go beyond those that apply under s. 1002.41~~  
 380 ~~to home education students generally.~~

381 ~~(8) (a) The Florida High School Athletic Association~~  
 382 ~~(FHSAA), in cooperation with each district school board, shall~~  
 383 ~~facilitate a program in which a middle school or high school~~  
 384 ~~student who attends a private school shall be eligible to~~  
 385 ~~participate in an interscholastic or intrascholastic sport at a~~  
 386 ~~public high school, a public middle school, or a 6-12 public~~  
 387 ~~school that is zoned for the physical address at which the~~  
 388 ~~student resides if:~~

389 ~~1. The private school in which the student is enrolled is~~  
 390 ~~not a member of the FHSAA and does not offer an interscholastic~~

391 ~~or intrascholastic athletic program.~~

392 ~~2. The private school student meets the guidelines for the~~  
 393 ~~conduct of the program established by the FHSAA's board of~~  
 394 ~~directors and the district school board. At a minimum, such~~  
 395 ~~guidelines shall provide:~~

396 ~~a. A deadline for each sport by which the private school~~  
 397 ~~student's parents must register with the public school in~~  
 398 ~~writing their intent for their child to participate at that~~  
 399 ~~school in the sport.~~

400 ~~b. Requirements for a private school student to~~  
 401 ~~participate, including, but not limited to, meeting the same~~  
 402 ~~standards of eligibility, acceptance, behavior, educational~~  
 403 ~~progress, and performance which apply to other students~~  
 404 ~~participating in interscholastic or intrascholastic sports at a~~  
 405 ~~public school or FHSAA member private school.~~

406 ~~(b) The parents of a private school student participating~~  
 407 ~~in a public school sport under this subsection are responsible~~  
 408 ~~for transporting their child to and from the public school at~~  
 409 ~~which the student participates. The private school the student~~  
 410 ~~attends, the public school at which the student participates in~~  
 411 ~~a sport, the district school board, and the FHSAA are exempt~~  
 412 ~~from civil liability arising from any injury that occurs to the~~  
 413 ~~student during such transportation.~~

414 ~~(c) For each academic year, a private school student may~~  
 415 ~~only participate at the public school in which the student is~~  
 416 ~~first registered under sub-subparagraph (a)2.a. or makes himself~~

417 ~~or herself a candidate for an athletic team by engaging in a~~  
 418 ~~practice.~~

419 ~~(d) The athletic director of each participating FHSAA~~  
 420 ~~member public school shall maintain the student records~~  
 421 ~~necessary for eligibility, compliance, and participation in the~~  
 422 ~~program.~~

423 ~~(e) Any non-FHSAA member private school that has a student~~  
 424 ~~who wishes to participate in this program must make all student~~  
 425 ~~records, including, but not limited to, academic, financial,~~  
 426 ~~disciplinary, and attendance records, available upon request of~~  
 427 ~~the FHSAA.~~

428 ~~(f) A student must apply to participate in this program~~  
 429 ~~through the FHSAA program application process.~~

430 ~~(g) Only students who are enrolled in non-FHSAA member~~  
 431 ~~private schools consisting of 125 students or fewer are eligible~~  
 432 ~~to participate in the program in any given academic year.~~

433 Section 4. Subsection (1), paragraphs (a), (b), (f), (g),  
 434 (h), and (i) of subsection (2), and subsection (7) of section  
 435 1006.20, Florida Statutes, are amended to read:

436 1006.20 Athletics in public K-12 schools.—

437 (1) GOVERNING NONPROFIT ASSOCIATION ORGANIZATION.—The  
 438 Florida High School Athletic Association (FHSAA) is designated  
 439 as the governing nonprofit association for purposes of  
 440 membership in the National Federation of State High School  
 441 Associations organization of athletics in Florida public  
 442 schools. If, at any time, the FHSAA fails to meet the provisions



443 of this ~~part section~~, the commissioner, with the approval of the  
 444 State Board of Education, shall designate another a nonprofit  
 445 association organization to govern interscholastic athletic  
 446 competition in this state and serve as Florida's voting member  
 447 association of the National Federation of State High School  
 448 Associations ~~athletics with the approval of the State Board of~~  
 449 ~~Education~~. The FHSAA is not a state agency as defined in s.  
 450 120.52 ~~but is~~. ~~The FHSAA shall be subject to ss. 1006.15-~~  
 451 1006.19. Any special event fees, sanctioning fees, including  
 452 third-party sanctioning fees, or contest receipts collected  
 453 annually by the FHSAA may not exceed its actual costs to perform  
 454 the function or duty that is the subject of or justification for  
 455 the fee ~~the provisions of s. 1006.19~~. The FHSAA shall offer  
 456 spectators seeking admission to interscholastic athletic  
 457 competitions the option of purchasing a single-day pass or a  
 458 multiple-day pass that is at a cost below that which one would  
 459 pay on a per-event basis for the same number of contests. A  
 460 ~~private school that wishes to engage in high school athletic~~  
 461 ~~competition with a public high school may become a member of the~~  
 462 ~~FHSAA~~. Any high school in the state, including private schools,  
 463 traditional public schools, charter schools, virtual schools,  
 464 and home education cooperatives, may become a member of the  
 465 FHSAA and participate in the activities of the FHSAA. ~~However,~~  
 466 Membership in the FHSAA is not mandatory for any school. The  
 467 FHSAA shall allow a school the option of joining the association  
 468 as a full-time member or on a per-sport basis and may not

469 prohibit or discourage any school from simultaneously  
 470 maintaining membership in the FHSAA and another athletic  
 471 association. The FHSAA may not:

472 (a) Deny or discourage interscholastic athletic  
 473 competition between its member schools and nonmember non-FHSAA  
 474 member Florida schools, including members of another athletic  
 475 association. governing organization, and may not take

476 (b) Engage in any retributory or discriminatory action  
 477 against any of its member schools that seek to participate in  
 478 interscholastic athletic competition with nonmember non-FHSAA  
 479 member Florida schools or become members in other associations  
 480 for a sport for which they are not a member of the FHSAA. The  
 481 FHSAA may not unreasonably withhold

482 (c) Withhold its approval of an application to become an  
 483 affiliate member of the National Federation of State High School  
 484 Associations submitted by any other association organization  
 485 that governs interscholastic athletic competition in this state  
 486 which meets the requirements of the National Federation of State  
 487 High School Associations. The commissioner may identify other  
 488 associations that govern interscholastic athletic competition in  
 489 compliance with the requirements of the National Federation of  
 490 State High School Associations. The bylaws of the FHSAA are the  
 491 rules by which high school athletic programs in its member  
 492 schools, and the students who participate in them, are governed,  
 493 unless otherwise specifically provided by statute. For the  
 494 purposes of this section, "high school" includes grades 6

495 through 12.

496 (2) STUDENT ELIGIBILITY REQUIREMENTS; RECRUITING ADOPTION  
 497 ~~OF BYLAWS, POLICIES; ELIGIBILITY DISPUTE RESOLUTION, OR~~  
 498 ~~GUIDELINES.~~—

499 (a) The FHSAA shall ~~adopt bylaws that, unless specifically~~  
 500 ~~provided by statute,~~ establish eligibility requirements for all  
 501 students who participate in interscholastic high school athletic  
 502 competition in its member schools. A ~~The bylaws governing~~  
 503 ~~residence and transfer shall allow the student~~ is to be eligible  
 504 in the school in which he or she first enrolls each school year  
 505 or the school in which the student makes himself or herself a  
 506 candidate for an athletic team by engaging in a practice before  
 507 ~~prior to enrolling in the school.~~ A student who transfers ~~The~~  
 508 ~~bylaws shall also allow the student to be eligible in the school~~  
 509 ~~to which the student has transferred during the school year~~ is  
 510 eligible in the school to which he or she transfers ~~if the~~  
 511 ~~transfer is made by a deadline established by the FHSAA, which~~  
 512 ~~may not be prior to the date authorized for the beginning of~~  
 513 ~~practice for the sport. These transfers shall be allowed~~  
 514 ~~pursuant to the district school board policies in the case of~~  
 515 ~~transfer to a public school or pursuant to the private school~~  
 516 ~~policies in the case of transfer to a private school. The~~  
 517 ~~student shall be eligible in that school so long as he or she~~  
 518 ~~remains enrolled in that school. Subsequent eligibility shall be~~  
 519 ~~determined and enforced through the FHSAA's bylaws. Requirements~~  
 520 ~~governing eligibility and transfer between member schools shall~~

521 ~~be applied similarly to public school students and private~~  
 522 ~~school students.~~

523 (b) ~~The FHSAA shall adopt bylaws that specifically~~  
 524 ~~prohibit the recruiting of students for athletic purposes and.~~  
 525 ~~The bylaws shall prescribe penalties and an appeals process for~~  
 526 ~~athletic recruiting violations. Recruiting is any effort by a~~  
 527 ~~school employee or athletic department staff member to pressure,~~  
 528 ~~urge, or entice a student to attend that school for the purpose~~  
 529 ~~of participating in interscholastic athletic competition as~~  
 530 ~~determined by a neutral third party based upon a preponderance~~  
 531 ~~of the evidence.~~

532 1. If it is determined that a school has recruited a  
 533 ~~student in violation of FHSAA bylaws,~~ the FHSAA may require the  
 534 school to participate in a higher classification for the sport  
 535 in which the recruited student competes for a minimum of one  
 536 classification cycle, in addition to any other appropriate fine  
 537 and sanction imposed on the school, its coaches, or adult  
 538 representatives who commit violate recruiting violations rules.

539 2. Any recruitment by an adult in violation of FHSAA  
 540 bylaws shall result in forfeiture of every competition in which  
 541 the recruited student participates and an escalating punishment,  
 542 as follows:

543 a. For a first offense, a \$5,000 fine.

544 b. For a second offense, a \$7,500 fine and, if the  
 545 individual who committed the violation is employed by the school  
 546 district, suspension without pay from any coaching, directing,

547 or promoting any extracurricular activity for 12 months.  
 548 c. For a third offense, a \$10,000 fine and, if the  
 549 individual who committed the violation holds a temporary or  
 550 professional certificate under s. 1012.55 or s. 1012.56, the  
 551 FHSAA shall refer the violation to the department for  
 552 investigation pursuant to s. 1012.796. If the complaint is  
 553 upheld, the individual's Florida educator's certificate must be  
 554 revoked for a period of 3 years, in addition to the available  
 555 penalties under s. 1012.796.

556  
 557 A school board, alumni association, foundation, parent-teacher  
 558 association, or booster association may not directly or  
 559 indirectly pay a fine or penalty assessed against an individual  
 560 under this paragraph. A student may only ~~not~~ be declared  
 561 ineligible based on a recruiting violation if the FHSAA has  
 562 imposed sanctions against the individuals or member school  
 563 engaging in recruiting ~~of recruiting rules unless the student or~~  
 564 parent has falsified any enrollment or eligibility document or  
 565 accepted any benefit or any promise of benefit if such benefit  
 566 is not generally available to the school's students or family  
 567 members or is based in any way on athletic interest, potential,  
 568 or performance.

569 (f) The FHSAA shall adopt bylaws that establish sanctions  
 570 for coaches who have committed major violations of the FHSAA's  
 571 bylaws and policies.

572 1. Major violations include, but are not limited to,

573 knowingly allowing an ineligible student to participate in a  
 574 contest representing a member school in an interscholastic  
 575 contest or committing a violation of the FHSAA's recruiting or  
 576 sports ethics ~~sportsmanship~~ policies.

577 2. Sanctions placed upon an individual coach may include,  
 578 but are not limited to, prohibiting or suspending the coach from  
 579 coaching, participating in, or attending any athletic activity  
 580 sponsored, recognized, or sanctioned by the FHSAA and the member  
 581 school for which the coach committed the violation. If a coach  
 582 is sanctioned by the FHSAA and the coach transfers to another  
 583 member school, those sanctions remain in full force and effect  
 584 during the term of the sanction.

585 3. If a member school is assessed a financial penalty as a  
 586 result of a coach committing a major violation, the coach shall  
 587 reimburse the member school before being allowed to coach,  
 588 participate in, or attend any athletic activity sponsored,  
 589 recognized, or sanctioned by the FHSAA and a member school.

590 4. The FHSAA shall establish a due process procedure for  
 591 coaches sanctioned under this paragraph, ~~consistent with the~~  
 592 ~~appeals procedures set forth in subsection (7).~~

593 (g) The FHSAA shall provide a process for the resolution  
 594 of student eligibility disputes. The FHSAA shall provide an  
 595 opportunity to resolve eligibility issues through an informal  
 596 conference procedure, which may include waiver of the bylaws  
 597 governing the eligibility determination. The FHSAA must provide  
 598 written notice to the student athlete, parent, and member school

599 stating specific findings of fact that support a determination  
 600 of ineligibility. The student athlete must request an informal  
 601 conference if he or she intends to contest the charges. The  
 602 informal conference must be held within 10 days after receipt of  
 603 the student athlete's request. If the eligibility dispute is not  
 604 resolved at the informal conference, the FHSAA shall provide a  
 605 process for the timely and cost-effective resolution of an  
 606 eligibility dispute using a neutral third party, including the  
 607 use of retired or former judges, mediation, or arbitration. The  
 608 neutral third party shall be selected by the parent of the  
 609 student athlete from a list maintained by the FHSAA. A final  
 610 determination regarding the eligibility dispute must be issued  
 611 no later than 30 days after the informal conference. The FHSAA  
 612 ~~shall adopt bylaws establishing the process for resolving~~  
 613 ~~eligibility disputes must and standards by which FHSAA~~  
 614 ~~determinations of eligibility are made. Such bylaws shall~~  
 615 provide that:

616 1. Ineligibility must be established by a preponderance of  
 617 the clear and convincing evidence.†

618 2. Student athletes, parents, and schools must have notice  
 619 of the initiation of any investigation or other inquiry into  
 620 eligibility and may present, to the investigator and to the  
 621 individual or body making the eligibility determination, any  
 622 information or evidence that is credible, persuasive, and of a  
 623 kind reasonably prudent persons rely upon in the conduct of  
 624 serious affairs.†

625 3. An investigator may not determine matters of  
 626 eligibility but must submit information and evidence to the  
 627 individual or body designated by the FHSAA executive director or  
 628 a person designated by the executive director or by the board of  
 629 directors for an unbiased and objective determination of  
 630 eligibility. ~~and~~

631 4. A determination of ineligibility must be made in  
 632 writing, setting forth the findings of fact and specific  
 633 violation upon which the decision is based.

634 5. Any proceedings concerning student athlete eligibility  
 635 must be held in the county in which the student athlete resides  
 636 and may be conducted by telephone, videoconference, or other  
 637 electronic means.

638 6. A student athlete may not be declared ineligible to  
 639 participate in interscholastic athletic competition until a  
 640 final decision is issued by the neutral third party unless the  
 641 determination of ineligibility is based on s. 1006.15(3)(b). It  
 642 is the responsibility of the member school to assess the facts  
 643 underlying the eligibility dispute and any potential penalties  
 644 that may result from a determination of ineligibility in  
 645 deciding whether to allow the student athlete to continue to  
 646 participate before a final eligibility determination.

647 ~~(h) In lieu of bylaws adopted under paragraph (g), the~~  
 648 ~~FHSAA may adopt bylaws providing as a minimum the procedural~~  
 649 ~~safeguards of ss. 120.569 and 120.57, making appropriate~~  
 650 ~~provision for appointment of unbiased and qualified hearing~~



651 ~~officers.~~

652 ~~(i) The FHSAA bylaws may not limit the competition of~~  
 653 ~~student athletes prospectively for rule violations of their~~  
 654 ~~school or its coaches or their adult representatives. The FHSAA~~  
 655 ~~bylaws may not unfairly punish student athletes for eligibility~~  
 656 ~~or recruiting violations perpetrated by a teammate, coach, or~~  
 657 ~~administrator. Contests may not be forfeited for inadvertent~~  
 658 ~~eligibility violations unless the coach or a school~~  
 659 ~~administrator should have known of the violation. Contests may~~  
 660 ~~not be forfeited for other eligibility violations or recruiting~~  
 661 ~~violations in excess of the number of contests that the coaches~~  
 662 ~~and adult representatives responsible for the violations are~~  
 663 ~~prospectively suspended.~~

664 ~~(7) APPEALS.—~~

665 ~~(a) The FHSAA shall establish a procedure of due process~~  
 666 ~~which ensures each student the opportunity to appeal an~~  
 667 ~~unfavorable ruling with regard to his or her eligibility to~~  
 668 ~~compete. The initial appeal shall be made to a committee on~~  
 669 ~~appeals within the administrative region in which the student~~  
 670 ~~lives. The FHSAA's bylaws shall establish the number, size, and~~  
 671 ~~composition of each committee on appeals.~~

672 ~~(b) No member of the board of directors is eligible to~~  
 673 ~~serve on a committee on appeals.~~

674 ~~(c) Members of a committee on appeals shall serve terms of~~  
 675 ~~3 years and are eligible to succeed themselves only once. A~~  
 676 ~~member of a committee on appeals may serve a maximum of 6~~

677 ~~consecutive years. The FHSAA's bylaws shall establish a rotation~~  
 678 ~~of terms to ensure that a majority of the members' terms do not~~  
 679 ~~expire concurrently.~~

680 ~~(d) The authority and duties of a committee on appeals~~  
 681 ~~shall be to consider requests by member schools seeking~~  
 682 ~~exceptions to bylaws and regulations, to hear undue hardship~~  
 683 ~~eligibility cases filed by member schools on behalf of student~~  
 684 ~~athletes, and to hear appeals filed by member schools or student~~  
 685 ~~athletes.~~

686 ~~(e) A student athlete or member school that receives an~~  
 687 ~~unfavorable ruling from a committee on appeals shall be entitled~~  
 688 ~~to appeal that decision to the board of directors at its next~~  
 689 ~~regularly scheduled meeting or called meeting. The board of~~  
 690 ~~directors shall have the authority to uphold, reverse, or amend~~  
 691 ~~the decision of the committee on appeals. In all such cases, the~~  
 692 ~~decision of the board of directors shall be final.~~

693 ~~(f) The FHSAA shall expedite the appeals process on~~  
 694 ~~determinations of ineligibility so that disposition of the~~  
 695 ~~appeal can be made before the end of the applicable sports~~  
 696 ~~season, if possible.~~

697 ~~(g) In any appeal from a decision on eligibility made by~~  
 698 ~~the executive director or a designee, a school or student~~  
 699 ~~athlete filing the appeal must be permitted to present~~  
 700 ~~information and evidence that was not available at the time of~~  
 701 ~~the initial determination or if the determination was not made~~  
 702 ~~by an unbiased, objective individual using a process allowing~~

703 ~~full due process rights to be heard and to present evidence. If~~  
 704 ~~evidence is presented on appeal, a de novo decision must be made~~  
 705 ~~by the committee or board hearing the appeal, or the~~  
 706 ~~determination may be suspended and the matter remanded for a new~~  
 707 ~~determination based on all the evidence. If a de novo decision~~  
 708 ~~is made on appeal, the decision must be made in writing, setting~~  
 709 ~~forth the findings of fact and specific violation upon which the~~  
 710 ~~decision is based. If a de novo decision is not required, the~~  
 711 ~~decision appealed must be set aside if the decision on~~  
 712 ~~ineligibility was not based on clear and convincing evidence.~~  
 713 ~~Any further appeal shall be considered on a record that includes~~  
 714 ~~all evidence presented.~~

715 Section 5. Subsection (5) of section 1012.795, Florida  
 716 Statutes, is amended, and paragraph (o) is added to subsection  
 717 (1) of that section, to read:

718 1012.795 Education Practices Commission; authority to  
 719 discipline.—

720 (1) The Education Practices Commission may suspend the  
 721 educator certificate of any person as defined in s. 1012.01(2)  
 722 or (3) for up to 5 years, thereby denying that person the right  
 723 to teach or otherwise be employed by a district school board or  
 724 public school in any capacity requiring direct contact with  
 725 students for that period of time, after which the holder may  
 726 return to teaching as provided in subsection (4); may revoke the  
 727 educator certificate of any person, thereby denying that person  
 728 the right to teach or otherwise be employed by a district school

729 board or public school in any capacity requiring direct contact  
 730 with students for up to 10 years, with reinstatement subject to  
 731 the provisions of subsection (4); may revoke permanently the  
 732 educator certificate of any person thereby denying that person  
 733 the right to teach or otherwise be employed by a district school  
 734 board or public school in any capacity requiring direct contact  
 735 with students; may suspend the educator certificate, upon an  
 736 order of the court or notice by the Department of Revenue  
 737 relating to the payment of child support; or may impose any  
 738 other penalty provided by law, if the person:

739 (o) Has committed a third recruiting offense as determined  
 740 by the Florida High School Athletic Association pursuant to s.  
 741 1006.20(2)(b).

742 (5) Each district school superintendent and the governing  
 743 authority of each university lab school, state-supported school,  
 744 or private school and the Florida High School Athletic  
 745 Association shall report to the department the name of any  
 746 person certified pursuant to this chapter or employed and  
 747 qualified pursuant to s. 1012.39:

748 (a) Who has been convicted of, or who has pled nolo  
 749 contendere to, a misdemeanor, felony, or any other criminal  
 750 charge, other than a minor traffic infraction;

751 (b) Who that official has reason to believe has committed  
 752 or is found to have committed any act which would be a ground  
 753 for revocation or suspension under subsection (1); or

754 (c) Who has been dismissed or severed from employment

755 because of conduct involving any immoral, unnatural, or  
 756 lascivious act.

757 Section 6. Subsection (3) of section 1012.796, Florida  
 758 Statutes, is amended to read:

759 1012.796 Complaints against teachers and administrators;  
 760 procedure; penalties.—

761 (3) The department staff shall advise the commissioner  
 762 concerning the findings of the investigation and of all  
 763 referrals by the Florida High School Athletic Association  
 764 pursuant to ss. 1006.20(2)(b) and 1012.795. The department  
 765 general counsel or members of that staff shall review the  
 766 investigation or referral and advise the commissioner concerning  
 767 probable cause or lack thereof. The determination of probable  
 768 cause shall be made by the commissioner. The commissioner shall  
 769 provide an opportunity for a conference, if requested, prior to  
 770 determining probable cause. The commissioner may enter into  
 771 deferred prosecution agreements in lieu of finding probable  
 772 cause if, in his or her judgment, such agreements are in the  
 773 best interests of the department, the certificateholder, and the  
 774 public. Such deferred prosecution agreements shall become  
 775 effective when filed with the clerk of the Education Practices  
 776 Commission. However, a deferred prosecution agreement shall not  
 777 be entered into if there is probable cause to believe that a  
 778 recruiting offense, felony, or an act of moral turpitude, as  
 779 defined by rule of the State Board of Education, has occurred.  
 780 Upon finding no probable cause, the commissioner shall dismiss

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781 | the complaint.

782 |       Section 7. This act shall take effect July 1, 2016.