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# **PreK-12 Innovation Subcommittee**

**March 7, 2017**

**1:00 PM**

**Mashburn Hall (306 HOB)**

**Meeting Packet**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### PreK-12 Innovation Subcommittee

**Start Date and Time:** Tuesday, March 07, 2017 01:00 pm  
**End Date and Time:** Tuesday, March 07, 2017 03:30 pm  
**Location:** Mashburn Hall (306 HOB)  
**Duration:** 2.50 hrs

**Consideration of the following bill(s):**


HB 15 Educational Options by Sullivan  
HB 373 Education by Grant, M.  
HB 833 Student Eligibility for K-12 Virtual Instruction by Sullivan

**NOTICE FINALIZED on 03/03/2017 4:19PM by Jones.Missy**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 15 Educational Options  
**SPONSOR(S):** Sullivan  
**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer DD	Healy 
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

The bill expands access to the Gardiner Scholarship Program (GSP) and strengthens accountability by:

- expanding student eligibility;
- expanding the authorized uses of scholarship funds;
- revising the eligibility requirements of private schools participating in the GSP; and
- clarifying a student's eligibility to receive scholarship payments.

The bill expands access to the John M. McKay Scholarship for Students with Disabilities Program by allowing students to be reported in either the October or February Florida Education Finance Program (FEFP) survey, in order to be eligible. The bill also clarifies that the instructional and work experience hours that a transition-to-work student must receive are on a per week basis.

The bill revises the Florida Tax Credit (FTC) Scholarship Program by:

- increasing the base annual scholarship amount, differentiated by grade level, for students enrolled in eligible private schools;
- increasing the amount of a transportation scholarship for a student who chooses a public school outside their district from \$500 to \$750;
- allowing a dependent child of a parent who is a member of the U.S. Armed Forces to apply for a scholarship at any time;
- authorizing an SFO to make scholarship payments on behalf of a parent only if the SFO receives prior approval from the parent each time;
- providing that a private school that has consecutive years of material exceptions listed in their annual financial reports may be ineligible to participate in the FTC;
- requiring the Department of Revenue (DOR) to provide a copy of a denial letter to the SFO specified by the taxpayer seeking the tax credit;
- revising the date that a private school's agreed upon procedures report from a CPA is due to the SFO from September 15, to August 15, of each year; and
- removing obsolete language regarding student eligibility and funding.

The bill appropriates \$200 million for Gardiner scholarship funds and \$6 million for administrative fees for eligible SFO's to administer the GSP.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### The Gardiner Scholarship

###### Present Situation

The GSP provides parents of eligible students with disabilities more flexibility to customize their child's education.<sup>1</sup> Funds are distributed to qualified<sup>2</sup> SFOs to establish accounts for eligible students.<sup>3</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>4</sup>

A student participating in the GSP must meet the requirements for regular school attendance by enrolling in:

- a parochial, religious or denominational school;
- a private school supported in whole or in part by tuition charges or by endowments or gifts; or
- a home education program.<sup>5</sup>

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

- is 3- or 4-years-old or eligible to enroll in kindergarten through 12th grade in a public school in this state;
- has one of the following disabilities: autism spectrum disorder, cerebral palsy, Down syndrome, an intellectual disability, Phelan-McDermid syndrome, Prader-Willi syndrome, spina bifida, muscular dystrophy, is identified as a high-risk child, or Williams syndrome;<sup>6</sup> and
- has an Individual Education Plan (IEP) written in accordance with rules of the State Board of Education (SBE) or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.<sup>7</sup>

The parent of a student with a disability who does not have an IEP or who seeks a reevaluation of an existing IEP may request an IEP meeting and evaluation from the school district in order to obtain or revise a matrix of services.<sup>8</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.<sup>9</sup> The scholarship is provided on a first-come, first-served basis.<sup>10</sup>

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<sup>1</sup> Section 1002.385(1), F.S.

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

<sup>3</sup> Section 1002.385, F.S.

<sup>4</sup> Section 1002.385(5), F.S.

<sup>5</sup> Section 1003.01(13)(b)-(d), F.S.

<sup>6</sup> Section 1002.385(2)(d), F.S.

<sup>7</sup> Section 1002.385(3)(a), F.S.

<sup>8</sup> Section 1002.385(7)(a)1., F.S.

<sup>9</sup> Section 1002.385(3)(b), F.S.

<sup>10</sup> Section 1002.385(12)(b), F.S.

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 FTC or the McKay Scholarship; or
- while receiving any other educational scholarship pursuant to chapter 1002.<sup>11</sup>

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 by approved providers, 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 a home education program, an eligible private school or postsecondary education institution or a program offered by the 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 or the Florida College Savings Program.
- Contracted services provided by a public school or school district, including classes 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.
- 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 Voluntary Pre-Kindergarten education and school readiness providers.<sup>12</sup>

Entities eligible to provide specialized services or educational programs include:

- a provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the DOE to offer specialized instructional services for children with disabilities;<sup>13</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; an independent college or university eligible to participate in the William L. Boyd, IV Florida Resident Access Grant Program; or an accredited, independent postsecondary educational institution which is licensed to operate in this state;<sup>14</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 McKay Scholarship Program or the FTC Program;<sup>15</sup>

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<sup>11</sup> Section 1002.385(4), F.S.

<sup>12</sup> Section 1002.385(5)(m), F.S.

<sup>13</sup> Section 1002.385(2)(a), F.S. See list of eligible providers at <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/gardiner/>.

<sup>14</sup> Section 1002.385(2)(f), F.S.

<sup>15</sup> Section 1002.385(2)(g), F.S.

Eligible providers may not share, refund or rebate any money from a student's GSP account with the parent or participating student.<sup>16</sup>

### **Effect of Proposed Changes**

The bill expands access to the GSP by:

- including rare diseases (diseases which affect patient populations of fewer than 200,000 individuals in the United States) anaphylaxis, orthopedically impaired, deaf, visually impaired, hospital or homebound, dual sensory impaired, traumatic brain injured or other health impaired within the definition of disability;
- providing that an IEP used to qualify for a scholarship does not need to be reviewed or revised within the past 12 months;
- removing the requirement that a student be 3 or 4 years of age by September 1, before applying to the GSP;
- allowing those who enter the program with a high-risk disability to remain in the program without being reassessed to document another eligible disability when they turn 6 years old; and
- extending eligibility to any student who has an IEP written in Florida or in another state. A student with an IEP whose sole exceptionality is gifted is not eligible for a GSP.

The bill includes Florida hospitals as approved providers and expands eligible uses of funds to include fees for services provided by:

- members of the Professional Association of Therapeutic Horsemanship International; and
- a therapist certified by the Certification Board of Music Therapists or credentialed by the Art Therapy Credentials Boards.

The bill increases accountability by:

- prohibiting parents, students or a provider of services from billing an insurance company, Medicaid or any other agency for the same services that are paid using GSP funds;
- providing that a private school may not be eligible to participate in the program if its financial reports have consecutive years of material exceptions;
- defining "inactive" to mean that no eligible expenditures have been made from the scholarship account and requiring that payments from the state into the account stop if the account has been inactive for two consecutive fiscal years. When an SFO verifies eligible expenditures have been made from the account, payments may resume based on available funds; and
- providing that a scholarship account be closed and funds revert to the state (becoming available for other eligible students) if the account has been inactive for three consecutive years.

Additionally, the bill clarifies that, beginning with the 2017-2018 fiscal year, for students with a matrix, the GSP scholarship amount must be based on that matrix and revises the date that a private school's agreed upon procedures report is due to the SFO from September 15, to August 15, each year.

### **John M. McKay Scholarship**

#### **Present Situation**

The McKay Scholarship Program provides scholarships for eligible students with disabilities to attend a public or private school of their choice. Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory

impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay or autism spectrum disorder.<sup>17</sup>

The parent of an eligible student with disabilities may choose to:

- Attend another public school within the school district
- Attend an eligible public school in an adjacent school district that has space and provides the services identified in the student's IEP or 504 Accommodation Plan (504 Plan)
- Attend an eligible private school<sup>18</sup>

A student with a disability may receive a McKay Scholarship to attend a public or private school if he or she has an IEP or a 504 plan<sup>19</sup> and:

- received specialized instructional services under VPK<sup>20</sup> during the previous school year; or
- spent the prior school year in attendance at a Florida public school or the Florida School for the Deaf and the Blind.<sup>21</sup>

For purposes of scholarship eligibility, the term "prior school year in attendance" means the student was enrolled and reported by:

- a school district for funding during the preceding October and February FEFP surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice commitment program if funded under the FEFP;
- the Florida School for the Deaf and the Blind during the preceding October and February student membership surveys in kindergarten through grade 12; or
- a school district for funding during the preceding October and February FEFP surveys and the student was at least four years old when enrolled and reported and eligible for services under the school attendance requirements for prekindergarten aged children with disabilities.<sup>22</sup>

The student's parent must file a notice of intent with the DOE by completing an online application using DOE's website. If the parent chooses the private school option, the notice must be filed prior to withdrawing the student from public school. Once a completed notice has been filed, the parent will receive immediate online confirmation, which includes a notice of potential eligibility or ineligibility. If a student is deemed ineligible to participate, the reason for the ineligibility and instructions for contacting the school district to address the ineligibility will be provided.<sup>23</sup>

A private school may offer a transition-to-work program in which a student must receive 15 hours of academic instruction and work skills training. The student must also participate in 10 hours of work at the student's work experience program. Consequently, the student does not need to have regular and direct contact with the teacher at the private school's physical location.<sup>24</sup>

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<sup>17</sup> Section 1002.39(1), F.S.

<sup>18</sup> Section 1002.39(2) and (8), F.S.

<sup>19</sup> A student's 504 plan must be at least six months in duration in order for the student to be eligible for a scholarship. Rule 6A-6.0970(1)(b)3.a., F.S.

<sup>20</sup> A child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK Program and has a current IEP developed by the district school board. Section 1002.66, F.S.; *see also* s. 1002.53, F.S.

<sup>21</sup> Section 1002.39(2)(a), F.S.

<sup>22</sup> Section 1002.39(2)(a)2., F.S. Although not required to attend a public school, children with disabilities who attain the age of three years are eligible for admission to public special education programs and related services. Section 1003.21(1)(e), F.S.

<sup>23</sup> Section 1002.39(1), F.S.; rule 6A-6.0970(1)(a), F.A.C.

<sup>24</sup> Section 1002.39(10)(b), F.S.



## Effect of Proposed Changes

The bill redefines “prior year” to mean that a student must be enrolled and reported for funding in either the October or February FEFP survey immediately preceding the request to participate, in order to be eligible for the program.

The bill also clarifies that the instructional and work experience hours that a student participating in the transition-to-work program student must receive are on a per week basis.

## The Florida Tax Credit Scholarship Program

### Present Situation

The FTC Program<sup>25</sup> was established to encourage taxpayers to make private, voluntary contributions to SFOs, expand educational opportunities for families that have limited financial resources, and enable Florida’s children to achieve a greater level of excellence in their education.<sup>26</sup> The FTC Program is funded with contributions to private nonprofit SFOs from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine and spirits.<sup>27</sup> The tax credit is equal to 100 percent of the eligible contributions made.<sup>28</sup>

SFOs use contributions to award scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides.<sup>29</sup> During the 2016-17 school year, 98,457 students were awarded FTC Program scholarships. Of that number, 50,408 students were female students and 48,049 students were male.<sup>30</sup>

Contingent upon available funds, a student is eligible for a FTC Program scholarship if he or she meets one or more of the following criteria:

- The student is on the direct certification list or the student’s household income level does not exceed 185 percent of the federal poverty level
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care
- The student’s household income level is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level<sup>31</sup>

A student who receives a scholarship based upon placement in foster care or out-of-home care remains eligible until he or she graduates from high school or turns 21, whichever occurs first, regardless of his or her household income level. A sibling of a participating student is eligible for a scholarship if he or she resides in the same household as the sibling.<sup>32</sup>

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<sup>25</sup> Section 1002.395, F.S.

<sup>26</sup> Section 1002.395(1)(b), F.S.

<sup>27</sup> Section 1002.395(1) and (5), F.S.

<sup>28</sup> Sections 220.1875 and 1002.395(5), F.S.

<sup>29</sup> Section 1002.3953 (6)(d), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution. Section 1002.395(2)(e), F.S.

<sup>30</sup> Florida Department of Education, *Florida Tax Credit Scholarship Program: February 2017 Quarterly Report*, at 1-3, available at <http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Feb-2017-Q-Report.pdf>.

<sup>31</sup> Section 1002.395(3)(c)1-3., F.S.

<sup>32</sup> Section 1002.395(3), F.S. (flush left provision at end of subsection).

Priority is given to students who received a scholarship in the previous year, to new applicants whose household income levels do not exceed 185 percent of poverty, and to students who are in foster care or out-of-home care.<sup>33</sup>

The law caps the amount of tax credits that may be made for scholarships and places limits on the per-student scholarship amount.<sup>34</sup>

### Tax Credit Cap

The tax credit cap amount is the amount in the prior state fiscal year unless the actual tax credit amount for the prior state fiscal year is equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, in which case the tax credit cap amount increases by 25 percent.<sup>35</sup> The tax credit cap for 2016-17 is \$559,000,000 and the estimated scholarship amount is \$5,886.<sup>36</sup>

### Scholarship Amount

The amount of a scholarship awarded to a student enrolled in an eligible private school is equal to 82 percent of the unweighted FTE funding amount for that state fiscal year and thereafter.<sup>37</sup> The scholarship amount is adjusted based on family income, unless the student is receiving a scholarship based upon placement in foster care or out-of-home care.<sup>38</sup> Eligible income levels for the 2016-2017 school year are as follows:

FTC Scholarship Income Guidelines <sup>39</sup>					
2016-2017 School Year					
Household size	Monthly Maximum Income for a 100% Scholarship	Monthly Maximum Income for an 88% Scholarship	Monthly Maximum Income for a 74% Scholarship	Monthly Maximum Income for a 60% Scholarship	Monthly Maximum Income for a 50% Scholarship
1	\$1,980	\$2,129	\$2,277	\$2,426	\$2,574
2	\$2,670	\$2,871	\$3,071	\$3,271	\$3,471
3	\$3,360	\$3,612	\$3,864	\$4,116	\$4,368
4	\$4,050	\$4,354	\$4,658	\$4,962	\$5,265
5	\$4,740	\$5,096	\$5,451	\$5,807	\$6,162
6	\$5,430	\$5,838	\$6,245	\$6,652	\$7,059
7	\$6,122	\$6,581	\$7,040	\$7,500	\$7,959
8	\$6,815	\$7,327	\$7,838	\$8,349	\$8,860
9	\$7,509	\$8,072	\$8,635	\$9,198	\$9,761
10	\$8,202	\$8,817	\$9,432	\$10,048	\$10,663
11	\$8,895	\$9,563	\$10,230	\$10,897	\$11,564
12	\$9,589	\$10,308	\$11,027	\$11,746	\$12,465
13	\$10,282	\$11,053	\$11,824	\$12,596	\$13,367
	Each additional member, add +693	Each additional member, add +745	Each additional member, add +797	Each additional member, add +849	Each additional member, add +901

<sup>33</sup> Section 1002.395(6)(e), F.S.

<sup>34</sup> Section 1002.395(5), F.S.

<sup>35</sup> Section 1002.395(5)(a)2., F.S.

<sup>36</sup> Step Up For Students, *2015-16 Fact Sheet*, available at, <https://www.stepupforstudents.org/newsroom/basic-program-facts/> (last visited March 1, 2017), Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program*, available at [http://www.fldoe.org/core/fileparse.php/15230/urlt/FTC\\_Sep\\_2016.pdf](http://www.fldoe.org/core/fileparse.php/15230/urlt/FTC_Sep_2016.pdf), (last visited February 13, 2017).

<sup>37</sup> Section 1002.395(12)(a)1.a., F.S.

<sup>38</sup> Section 1002.395(12)(a)3., F.S.

<sup>39</sup> Step Up For Students, *FTC Scholarship Income Guidelines*, available at, <https://www.stepupforstudents.org/for-parents/income-based/how-the-scholarship-works/>.

For a scholarship awarded to a student for transportation to a Florida public school that is located outside the district in which the student resides, the limit is \$500.<sup>40</sup>

To participate in the FTC Program, a private school must:

- comply with all of the requirements for private schools participating in state school choice scholarship programs;
- provide the SFO, upon request, all documentation required for student participation, including its fee schedule
- annually provide the parent with a written explanation of the student's progress;
- annually administer or make provisions for students in grades three through 10 to participate in one of the nationally norm-referenced tests identified by DOE or the statewide assessments<sup>41</sup> and report the student's scores to the parent and to the Learning System Institute at Florida State University;
- cooperate with a student whose parent chooses to have the student participate in statewide assessments; and
- require each student receiving a scholarship to have regular and direct contact with his or her teachers at the school's physical location.<sup>42</sup>

Participating private schools that receive more than \$250,000 in funds from FTC Program scholarships in any state fiscal year must annually contract with an independent certified public accountant to perform agreed-upon procedures<sup>43</sup> and produce a report of the results. The procedures must determine whether the private school has been verified as eligible by the DOE; has an adequate accounting system, system of financial controls, and process for deposit and classification of scholarship funds and has properly expended scholarship funds for education-related expenses. The private school must submit the report annually on September 15, to the SFO that awarded the majority of the private school's scholarships and the SFO must monitor a private school's compliance. The SFO must notify the commissioner of a private school's failure to submit its annual report or of any material exceptions set forth in the report.<sup>44</sup>

DOE may remove a private school's eligibility to participate in the FTC program if the school fails to meet any of these requirements.<sup>45</sup>

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<sup>40</sup> Section 1002.395(12)(a)1.b., F.S.

<sup>41</sup> The statewide assessment program for public schools includes statewide, standardized comprehensive assessments and end-of-course (EOC) assessments and the Florida Alternate Assessment for students with disabilities. The statewide, standardized comprehensive assessment tests reading (grades 3-10), mathematics (grades 3-8), science (once in elementary and middle school), and writing (once at the elementary, middle and high school level). EOC assessments for high school students include Algebra I, Biology I, Geometry, and U.S. History. Middle school students must take an EOC assessment if they are enrolled in any of the above listed high school courses and in Civics. Section 1008.22(3), F.S.

<sup>42</sup> Section 1002.395(8)(a)-(d), F.S.

<sup>43</sup> An agreed-upon procedure analysis is not a full financial statement audit. Instead, the certified public accountant is engaged by the client to examine specific financial or operational aspects of its company or organization. The client and the practitioner agree upon the procedures to be performed by the practitioner and the subject matter that they will cover. *See American Institute of Certified Public Accountants, Audit and Attest Standards, Statements on Standards for Attestation Agreements, Agreed-Upon Procedures Engagements*, at AT s. 201.02 (June 1, 2009), available at <http://www.aicpa.org/Research/Standards/AuditAttest/DownloadableDocuments/AT-00201.pdf>.

<sup>44</sup> Section 1002.395(6)(o) and (8)(e), F.S.

<sup>45</sup> Section 1002.395(8), F.S. (flush-left provision at end of the subsection).

## Effect of Proposed Changes

The bill removes obsolete language regarding student eligibility and funding and increases the base annual scholarship limits for students enrolled in eligible private schools from 82 percent of the unweighted FTE to:

- eighty-eight percent of unweighted FTE for grades K-5;
- ninety-two percent of unweighted FTE for grades 6-8;
- ninety-six percent of unweighted FTE for grades 9-12.

The amount of a transportation scholarship for a student, who chooses a public school outside his or her district, also increases from \$500 to \$750.

The bill authorizes an SFO to make scholarship payments to eligible private schools by funds transfer (including debit cards, electronic payment cards, or any other means the DOE deems commercially viable). Payments must be approved by the parent before the funds are deposited and a parent may not designate an entity or individual associated with the participating private school as their attorney to approve a fund transfer.

The bill permits a dependent child of a parent who is a member of the U.S. Armed Forces to apply for a scholarship at any time.

The bill revises the date that a private school's agreed upon procedures report is due to the SFO from September 15, to August 15, each year and provides that a private school may be ineligible to participate if it has consecutive years of material exceptions identified in its report.

The bill requires DOR to provide a copy of the denial or approval letter to the SFO within 10 days after approving or denying any of the following transactions:

- An application for a carryforward tax credit
- The conveyance, transfer, or assignment of a tax credit
- The rescindment of a tax credit
- Acknowledgement of tax credits

Finally, the bill authorizes an SFO to develop a professional development system that includes a master plan for in-service activities under the School Community Professional Development Act. The system and in service plan must be submitted to the commissioner of the SBE for approval.

### B. SECTION DIRECTORY:

**Section 1.** Amends s.1002.385, F.S., relating to the Gardiner Scholarship Program.

**Section 2.** Amends s. 1002.39, F.S., relating to the John M. McKay Scholarship for Students with Disabilities.

**Section 3.** Amends s. 1002.395, F.S., relating to the Florida Tax Credit Scholarship Program.

**Section 4.** Amends s. 1012.98, F.S., relating to the School Community Professional Development Act.

**Section 5.** Provides an effective date of July 1, 2017.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appropriates \$200 million dollars in recurring funds from the General Revenue Fund to DOE for scholarship awards under the Gardiner Scholarship Program. In addition, the sum of \$6 million dollars in recurring funds from the General Revenue Fund is appropriated to DOE to each SFO for reasonable and necessary administrative expenses to manage and distribute scholarship awards. The amount paid to each SFO may not exceed three percent of the amount of each scholarship award.

### 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.



26 actions related to a tax credit to a specified entity  
 27 and include that entity on certain letters and  
 28 correspondence; authorizing a child of a parent who is  
 29 a member of the United States Armed Forces to apply  
 30 for a scholarship at any time; requiring a parent to  
 31 approve each payment made by funds transfer;  
 32 prohibiting a parent from designating certain entities  
 33 or individuals to approve a funds transfer; requiring  
 34 certain private schools to submit a report by a  
 35 specified date; providing that consecutive years of  
 36 certain material exceptions constitutes program  
 37 ineligibility for certain private schools; revising  
 38 the annual limits of a scholarship awarded to certain  
 39 students; authorizing payment of the scholarship to be  
 40 made by funds transfer; specifying approved means of  
 41 funds transfer; requiring a parent to approve a funds  
 42 transfer before funds are deposited; amending s.  
 43 1012.98, F.S.; authorizing certain nonprofit  
 44 scholarship-funding organizations to develop a  
 45 specified professional development system; providing  
 46 appropriations; providing an effective date.

47  
 48 Be It Enacted by the Legislature of the State of Florida:

49  
 50 Section 1. Paragraphs (i) and (j) of subsection (2) of



51 section 1002.385, Florida Statutes, are redesignated as  
 52 paragraphs (j) and (k), respectively, paragraphs (d) and (h) of  
 53 subsection (2), paragraph (a) of subsection (3), subsection (5),  
 54 paragraph (b) of subsection (6), subsection (8), paragraphs (e)  
 55 and (f) of subsection (11), paragraph (j) of subsection (12),  
 56 and paragraph (a) of subsection (13) are amended, and a new  
 57 paragraph (i) is added to subsection (2) of that section, to  
 58 read:

59 1002.385 The Gardiner Scholarship.-

60 (2) DEFINITIONS.-As used in this section, the term:

61 (d) "Disability" means, for a 3- or 4-year-old child or  
 62 for a student in kindergarten to grade 12, autism spectrum  
 63 disorder, as defined in the Diagnostic and Statistical Manual of  
 64 Mental Disorders, Fifth Edition, published by the American  
 65 Psychiatric Association; cerebral palsy, as defined in s.  
 66 393.063(6); Down syndrome, as defined in s. 393.063(15); an  
 67 intellectual disability, as defined in s. 393.063(24); Phelan-  
 68 McDermid syndrome, as defined in s. 393.063(28); Prader-Willi  
 69 syndrome, as defined in s. 393.063(29); spina bifida, as defined  
 70 in s. 393.063(40); being a high-risk child, as defined in s.  
 71 393.063(23) (a); muscular dystrophy; rare diseases which affect  
 72 patient populations of fewer than 200,000 individuals in the  
 73 United States; anaphylaxis; and Williams syndrome or  
 74 identification as orthopedically impaired, deaf, visually  
 75 impaired, hospital or homebound, dual sensory impaired,

76 traumatic brain injured, or other health impaired, as defined by  
 77 rules of the State Board of Education and evidenced by reports  
 78 from the local school district.

79 (h) "IEP" means individual education plan, regardless of  
 80 whether the plan has been reviewed or revised within the last 12  
 81 months.

82 (i) "Inactive" means that no eligible expenditures have  
 83 been made from an account funded pursuant to paragraph (13)(d).

84 (3) PROGRAM ELIGIBILITY.—A parent of a student with a  
 85 disability may request and receive from the state a Gardiner  
 86 Scholarship for the purposes specified in subsection (5) if:

87 (a) The student:

88 1. Is a resident of this state;

89 2. Is 3 ~~or 4~~ years of age or older when ~~on or before~~  
 90 ~~September 1 of the year in which~~ the student applies for program  
 91 participation or is eligible to enroll in kindergarten through  
 92 grade 12 in a public school in this state; and

93 3. Meets one or more of the following criteria:

94 a. Has a disability as defined in paragraph (2)(d) which  
 95 is documented by an IEP or by a diagnosis of a disability from a  
 96 physician who is licensed under chapter 458 or chapter 459 or a  
 97 psychologist who is licensed under chapter 490;

98 b. Is currently participating in the program, is 5 years  
 99 of age or older, and has previously been identified as a high-  
 100 risk child, as defined in s. 393.063(23)(a); or and

101 c.4. Is the subject of an IEP written in accordance with  
 102 rules of the State Board of Education or with the applicable  
 103 rules of another state. However, a student with an IEP whose  
 104 sole exceptionality is gifted is not eligible for the Gardiner  
 105 Scholarship ~~has received a diagnosis of a disability from a~~  
 106 ~~physician who is licensed under chapter 458 or chapter 459 or a~~  
 107 ~~psychologist who is licensed under chapter 490.~~

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

111 (a) Instructional materials, including digital devices,  
 112 digital periphery devices, and assistive technology devices that  
 113 allow a student to access instruction or instructional content  
 114 and training on the use of and maintenance agreements for these  
 115 devices.

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

117 (c) Specialized services by approved providers or a  
 118 Florida hospital that are selected by the parent. These  
 119 specialized services may include, but are not limited to:

120 1. Applied behavior analysis services as provided in ss.  
 121 627.6686 and 641.31098.

122 2. Services provided by speech-language pathologists as  
 123 defined in s. 468.1125.

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

125 4. Services provided by physical therapists as defined in

126 s. 486.021.

127 5. Services provided by listening and spoken language  
 128 specialists and an appropriate acoustical environment for a  
 129 child who is deaf or hard of hearing and who has received an  
 130 implant or assistive hearing device.

131 (d) Enrollment in, or tuition or fees associated with  
 132 enrollment in, a home education program, an eligible private  
 133 school, an eligible postsecondary educational institution or a  
 134 program offered by the institution, a private tutoring program  
 135 authorized under s. 1002.43, a virtual program offered by a  
 136 department-approved private online provider that meets the  
 137 provider qualifications specified in s. 1002.45(2)(a), the  
 138 Florida Virtual School as a private paying student, or an  
 139 approved online course offered pursuant to s. 1003.499 or s.  
 140 1004.0961.

141 (e) Fees for nationally standardized, norm-referenced  
 142 achievement tests, Advanced Placement Examinations, industry  
 143 certification examinations, assessments related to postsecondary  
 144 education, or other assessments.

145 (f) Contributions to the Stanley G. Tate Florida Prepaid  
 146 College Program pursuant to s. 1009.98 or the Florida College  
 147 Savings Program pursuant to s. 1009.981, for the benefit of the  
 148 eligible student.

149 (g) Contracted services provided by a public school or  
 150 school district, including classes. A student who receives

151 services under a contract under this paragraph is not considered  
 152 enrolled in a public school for eligibility purposes as  
 153 specified in subsection (4).

154 (h) Tuition and fees for part-time tutoring services  
 155 provided by a person who holds a valid Florida educator's  
 156 certificate pursuant to s. 1012.56; a person who holds an  
 157 adjunct teaching certificate pursuant to s. 1012.57; or a person  
 158 who has demonstrated a mastery of subject area knowledge  
 159 pursuant to s. 1012.56(5). As used in this paragraph, the term  
 160 "part-time tutoring services" does not qualify as regular school  
 161 attendance as defined in s. 1003.01(13)(e).

162 (i) Fees for specialized summer education programs.

163 (j) Fees for specialized after-school education programs.

164 (k) Transition services provided by job coaches.

165 (l) Fees for an annual evaluation of educational progress  
 166 by a state-certified teacher under s. 1002.41(1)(c), if this  
 167 option is chosen for a home education student.

168 (m) Tuition and fees associated with programs offered by  
 169 Voluntary Prekindergarten Education Program providers approved  
 170 pursuant to s. 1002.55 and school readiness providers approved  
 171 pursuant to s. 1002.88.

172 (n) Fees for services provided at a center that is a  
 173 member of the Professional Association of Therapeutic  
 174 Horsemanship International.

175 (o) Fees for services provided by a therapist who is

176 certified by the Certification Board for Music Therapists or  
 177 credentialed by the Art Therapy Credentials Board.

178  
 179 A provider of any services receiving payments pursuant to this  
 180 subsection may not share, refund, or rebate any moneys from the  
 181 Gardiner Scholarship with the parent or participating student in  
 182 any manner. A parent, student, or provider of any services may  
 183 not bill an insurance company, Medicaid, or any other agency for  
 184 the same services that are paid for using Gardiner Scholarship  
 185 funds.

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

188 (b)1. A student's scholarship account must be closed and  
 189 any remaining funds, including, but not limited to,  
 190 contributions made to the Stanley G. Tate Florida Prepaid  
 191 College Program or earnings from or contributions made to the  
 192 Florida College Savings Program using program funds pursuant to  
 193 paragraph (5)(f), shall revert to the state after ~~upon~~:

194 a. Denial or revocation of program eligibility by the  
 195 commissioner for fraud or abuse, including, but not limited to,  
 196 the student or student's parent accepting any payment, refund,  
 197 or rebate, in any manner, from a provider of any services  
 198 received pursuant to subsection (5); ~~or~~

199 b. ~~After~~ Any period of 3 consecutive years after high  
 200 school completion or graduation during which the student has not

201 | been enrolled in an eligible postsecondary educational  
 202 | institution or a program offered by the institution; or  
 203 | c. Three consecutive fiscal years in which an account has  
 204 | been inactive.

205 | 2. The commissioner must notify the parent and the  
 206 | organization when a Gardiner Scholarship account is closed and  
 207 | program funds revert to the state.

208 | (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An  
 209 | eligible private school may be sectarian or nonsectarian and  
 210 | shall:

211 | (a) Comply with all requirements for private schools  
 212 | participating in state school choice scholarship programs  
 213 | pursuant to s. 1002.421.

214 | (b) Provide to the organization, upon request, all  
 215 | documentation required for the student's participation,  
 216 | including the private school's and student's fee schedules.

217 | (c) Be academically accountable to the parent for meeting  
 218 | the educational needs of the student by:

219 | 1. At a minimum, annually providing to the parent a  
 220 | written explanation of the student's progress.

221 | 2. Annually administering or making provision for students  
 222 | participating in the program in grades 3 through 10 to take one  
 223 | of the nationally norm-referenced tests identified by the  
 224 | Department of Education or the statewide assessments pursuant to  
 225 | s. 1008.22. Students with disabilities for whom standardized

226 testing is not appropriate are exempt from this requirement. A  
 227 participating private school shall report a student's scores to  
 228 the parent.

229 3. Cooperating with the scholarship student whose parent  
 230 chooses to have the student participate in the statewide  
 231 assessments pursuant to s. 1008.22 or, if a private school  
 232 chooses to offer the statewide assessments, administering the  
 233 assessments at the school.

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

237 b. A participating private school shall submit a request  
 238 in writing to the Department of Education by March 1 of each  
 239 year in order to administer the statewide assessments in the  
 240 subsequent school year.

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

244 (e) Provide a report from ~~Annually contract with an~~  
 245 independent certified public accountant who performs ~~to perform~~  
 246 the agreed-upon procedures developed under s. 1002.395(6)(o) ~~and~~  
 247 ~~produce a report of the results~~ if the private school receives  
 248 more than \$250,000 in funds from scholarships awarded under this  
 249 section in ~~the 2014-2015 state fiscal year or~~ a state fiscal  
 250 year ~~thereafter~~. A private school subject to this paragraph must



251 submit the report by August 15, 2017 ~~September 15, 2015~~, and  
 252 annually thereafter to the organization that awarded the  
 253 majority of the school's scholarship funds. The agreed-upon  
 254 procedures must be conducted in accordance with attestation  
 255 standards established by the American Institute of Certified  
 256 Public Accountants.

257  
 258 If ~~The inability of~~ a private school is unable to meet the  
 259 requirements of this subsection or has consecutive years of  
 260 material exceptions listed in the report required under  
 261 paragraph (e), the commissioner may determine that ~~constitutes a~~  
 262 ~~basis for the ineligibility of~~ the private school is ineligible  
 263 to participate in the program as determined by the commissioner.

264 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 265 PARTICIPATION.—A parent who applies for program participation  
 266 under this section is exercising his or her parental option to  
 267 determine the appropriate placement or the services that best  
 268 meet the needs of his or her child. The scholarship award for a  
 269 student is based on a matrix that assigns the student to support  
 270 Level III services. If a parent receives an IEP and a matrix of  
 271 services from the school district pursuant to subsection (7),  
 272 the amount of the payment shall be adjusted as needed, when the  
 273 school district completes the matrix.

274 (e) The parent must annually renew participation in the  
 275 program. Notwithstanding any changes to the student's IEP, a

276 student who was previously eligible for participation in the  
 277 program shall remain eligible to apply for renewal. ~~However, for~~  
 278 ~~a high-risk child to continue to participate in the program in~~  
 279 ~~the school year after he or she reaches 6 years of age, the~~  
 280 ~~child's application for renewal of program participation must~~  
 281 ~~contain documentation that the child has a disability defined in~~  
 282 ~~paragraph (2)(d) other than high-risk status.~~

283 (f) The parent is responsible for procuring the services  
 284 necessary to educate the student. If a parent does not procure  
 285 the necessary educational services for the student and the  
 286 student's account has been inactive for 2 consecutive fiscal  
 287 years, the student is ineligible for additional scholarship  
 288 payments until the scholarship funding organization verifies  
 289 that expenditures from the account have occurred. When the  
 290 student receives a Gardiner Scholarship, the district school  
 291 board is not obligated to provide the student with a free  
 292 appropriate public education. For purposes of s. 1003.57 and the  
 293 Individuals with Disabilities in Education Act, a participating  
 294 student has only those rights that apply to all other  
 295 unilaterally parentally placed students, except that, when  
 296 requested by the parent, school district personnel must develop  
 297 an individual education plan or matrix level of services.

298  
 299 A parent who fails to comply with this subsection forfeits the  
 300 Gardiner Scholarship.

301 (12) OBLIGATIONS OF SCHOLARSHIP-FUNDING ORGANIZATIONS.—An  
 302 organization may establish Gardiner Scholarships for eligible  
 303 students by:

304 (j) Documenting each scholarship student's eligibility for  
 305 a fiscal year before granting a scholarship for that fiscal year  
 306 pursuant to paragraph (3)(b). A student is ineligible for a  
 307 scholarship if the student's account has been inactive for 2  
 308 consecutive fiscal years. However, once an eligible expenditure  
 309 is made pursuant to paragraph (11)(f), the student is eligible  
 310 for a scholarship based on available funds.

311 (13) FUNDING AND PAYMENT.—

312 (a)1. The maximum funding amount granted for an eligible  
 313 student with a disability, pursuant to subsection (3), shall be  
 314 equivalent to the base student allocation in the Florida  
 315 Education Finance Program multiplied by the appropriate cost  
 316 factor for the educational program that ~~which~~ would have been  
 317 provided for the student in the district school to which he or  
 318 she would have been assigned, multiplied by the district cost  
 319 differential.

320 2. In addition, an amount equivalent to a share of the  
 321 guaranteed allocation for exceptional students in the Florida  
 322 Education Finance Program shall be determined and added to the  
 323 amount in subparagraph 1. The calculation shall be based on the  
 324 methodology and the data used to calculate the guaranteed  
 325 allocation for exceptional students for each district in chapter

326 2000-166, Laws of Florida. Except as provided in subparagraph  
 327 3., the calculation shall be based on the student's grade, the  
 328 matrix level of services, and the difference between the 2000-  
 329 2001 basic program and the appropriate level of services cost  
 330 factor, multiplied by the 2000-2001 base student allocation and  
 331 the 2000-2001 district cost differential for the sending  
 332 district. The calculated amount must also include an amount  
 333 equivalent to the per-student share of supplemental academic  
 334 instruction funds, instructional materials funds, technology  
 335 funds, and other categorical funds as provided in the General  
 336 Appropriations Act.

337 3. Beginning with the 2017-2018 fiscal year and each  
 338 fiscal year thereafter, the calculation for a new student  
 339 entering the program shall be based on the student's matrix  
 340 level of services. The funding for a student without a matrix of  
 341 services ~~Except as otherwise provided in subsection (7), the~~  
 342 ~~calculation for all students participating in the program shall~~  
 343 be based on the matrix that assigns the student to support Level  
 344 III of services. If a parent chooses to request and receive a  
 345 matrix of services from the school district, when the school  
 346 district completes the matrix, the amount of the payment shall  
 347 be adjusted as needed.

348 Section 2. Section 1002.39, Florida Statutes, is amended  
 349 to read:

350 1002.39 The John M. McKay Scholarships for Students with

351 Disabilities Program.—~~There is established a program that is~~  
 352 ~~separate and distinct from the Opportunity Scholarship Program~~  
 353 ~~and is named the John M. McKay Scholarships for Students with~~  
 354 ~~Disabilities Program.~~

355 (1) THE JOHN M. MCKAY SCHOLARSHIPS FOR STUDENTS WITH  
 356 DISABILITIES PROGRAM.—The John M. McKay Scholarships for  
 357 Students with Disabilities Program is established to provide the  
 358 option to attend a public school other than the one to which  
 359 assigned, or to provide a scholarship to a private school of  
 360 choice, for students with disabilities for whom:

361 (a) An individual educational plan has been written in  
 362 accordance with rules of the State Board of Education; or

363 (b) A 504 accommodation plan has been issued under s. 504  
 364 of the Rehabilitation Act of 1973.

365  
 366 Students with disabilities include K-12 students who are  
 367 documented as having an intellectual disability; a speech  
 368 impairment; a language impairment; a hearing impairment,  
 369 including deafness; a visual impairment, including blindness; a  
 370 dual sensory impairment; an orthopedic impairment; an other  
 371 health impairment; an emotional or behavioral disability; a  
 372 specific learning disability, including, but not limited to,  
 373 dyslexia, dyscalculia, or developmental aphasia; a traumatic  
 374 brain injury; a developmental delay; or autism spectrum  
 375 disorder.

376 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a  
 377 student with a disability may request and receive from the state  
 378 a John M. McKay Scholarship for the child to enroll in and  
 379 attend a private school in accordance with this section if:

380 (a) The student ~~has~~:

381 1. Has received specialized instructional services under  
 382 the Voluntary Prekindergarten Education Program pursuant to s.  
 383 1002.66 during the previous school year and the student has a  
 384 current individual educational plan developed by the local  
 385 school board in accordance with rules of the State Board of  
 386 Education for the John M. McKay Scholarships for Students with  
 387 Disabilities Program or a 504 accommodation plan has been issued  
 388 under s. 504 of the Rehabilitation Act of 1973; or

389 2. ~~Spent the prior school year in attendance at a Florida~~  
 390 ~~public school or the Florida School for the Deaf and the Blind.~~  
 391 ~~For purposes of this subparagraph, prior school year in~~  
 392 ~~attendance means that the student~~ Was enrolled and reported for  
 393 funding in the October or February Florida Education Finance  
 394 Program survey immediately preceding the request to participate  
 395 in the program pursuant to paragraph (b) by:

396 a. A school district, ~~for funding during the preceding~~  
 397 ~~October and February Florida Education Finance Program surveys~~  
 398 in kindergarten through grade 12, which includes time spent in a  
 399 Department of Juvenile Justice commitment program if funded  
 400 under the Florida Education Finance Program;

401           b. The Florida School for the Deaf and the Blind, during  
 402 ~~the preceding October and February student membership surveys~~ in  
 403 kindergarten through grade 12; or

404           c. A school district ~~for funding during the preceding~~  
 405 ~~October and February Florida Education Finance Program surveys,~~  
 406 was at least 4 years of age when so enrolled and reported, and  
 407 was eligible for services under s. 1003.21(1)(e).

408

409 However, a dependent child of a member of the United States  
 410 Armed Forces who transfers to a school in this state from out of  
 411 state or from a foreign country due to a parent's permanent  
 412 change of station orders or a foster child is exempt from this  
 413 paragraph but must meet all other eligibility requirements to  
 414 participate in the program.

415           (b) The parent has obtained acceptance for admission of  
 416 the student to a private school that is eligible for the program  
 417 under subsection (8) and has requested from the department a  
 418 scholarship at least 60 days before the date of the first  
 419 scholarship payment. The request must be communicated directly  
 420 to the department in a manner that creates a written or  
 421 electronic record of the request and the date of receipt of the  
 422 request. The department must notify the district of the parent's  
 423 intent upon receipt of the parent's request.

424           (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is  
 425 not eligible for a John M. McKay Scholarship:

426 (a) While he or she is enrolled in a school operating for  
 427 the purpose of providing educational services to youth in  
 428 Department of Juvenile Justice commitment programs;

429 (b) While he or she is receiving a Florida tax credit  
 430 scholarship under s. 1002.395;

431 (c) While he or she is receiving an educational  
 432 scholarship pursuant to this chapter;

433 (d) While he or she is participating in a home education  
 434 program as defined in s. 1002.01(1);

435 (e) While he or she is participating in a private tutoring  
 436 program pursuant to s. 1002.43;

437 (f) While he or she is participating in a virtual school,  
 438 correspondence school, or distance learning program that  
 439 receives state funding pursuant to the student's participation  
 440 unless the participation is limited to no more than two courses  
 441 per school year;

442 (g) While he or she is enrolled in the Florida School for  
 443 the Deaf and the Blind;

444 (h) While he or she is not having regular and direct  
 445 contact with his or her private school teachers at the school's  
 446 physical location unless he or she is enrolled in the private  
 447 school's transition-to-work program pursuant to subsection (10);  
 448 or

449 (i) If he or she has been issued a temporary 504  
 450 accommodation plan under s. 504 of the Rehabilitation Act of



451 1973 which is valid for 6 months or less.

452 (4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

453 (a) For purposes of continuity of educational choice, a  
 454 John M. McKay Scholarship shall remain in force until the  
 455 student returns to a public school, graduates from high school,  
 456 or reaches the age of 22, whichever occurs first. A scholarship  
 457 student who enrolls in a public school or public school program  
 458 is considered to have returned to a public school for the  
 459 purpose of determining the end of the scholarship's term.  
 460 However, if a student enters a Department of Juvenile Justice  
 461 detention center for a period of no more than 21 days, the  
 462 student is not considered to have returned to a public school  
 463 for that purpose.

464 (b) Upon reasonable notice to the department and the  
 465 school district, the student's parent may remove the student  
 466 from the private school and place the student in a public school  
 467 in accordance with this section.

468 (c) Upon reasonable notice to the department, the  
 469 student's parent may move the student from one participating  
 470 private school to another participating private school.

471 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

472 (a)1. By April 1 of each year and within 10 days after an  
 473 individual education plan meeting or a 504 accommodation plan is  
 474 issued under s. 504 of the Rehabilitation Act of 1973, a school  
 475 district shall notify the parent of the student of all options

476 available pursuant to this section, inform the parent of the  
 477 availability of the department's telephone hotline and Internet  
 478 website for additional information on John M. McKay  
 479 Scholarships, and offer that student's parent an opportunity to  
 480 enroll the student in another public school in the district.

481 2. The parent is not required to accept the offer of  
 482 enrolling in another public school in lieu of requesting a John  
 483 M. McKay Scholarship to a private school. However, if the parent  
 484 chooses the public school option, the student may continue  
 485 attending a public school chosen by the parent until the student  
 486 graduates from high school.

487 3. If the parent chooses a public school consistent with  
 488 the district school board's choice plan under s. 1002.31, the  
 489 school district shall provide transportation to the public  
 490 school selected by the parent. The parent is responsible to  
 491 provide transportation to a public school chosen that is not  
 492 consistent with the district school board's choice plan under s.  
 493 1002.31.

494 (b)1. For a student with disabilities who does not have a  
 495 matrix of services under s. 1011.62(1)(e), the school district  
 496 must complete a matrix that assigns the student to one of the  
 497 levels of service as they existed prior to the 2000-2001 school  
 498 year.

499 2.a. Within 10 school days after it receives notification  
 500 of a parent's request for a John M. McKay Scholarship, a school

501 district must notify the student's parent if the matrix of  
 502 services has not been completed and inform the parent that the  
 503 district is required to complete the matrix within 30 days after  
 504 receiving notice of the parent's request for a John M. McKay  
 505 Scholarship. This notice should include the required completion  
 506 date for the matrix.

507       b. The school district must complete the matrix of  
 508 services for any student who is participating in the John M.  
 509 McKay Scholarships for Students with Disabilities Program and  
 510 must notify the department of the student's matrix level within  
 511 30 days after receiving notification of a request to participate  
 512 in the scholarship program. The school district must provide the  
 513 student's parent with the student's matrix level within 10  
 514 school days after its completion.

515       c. The department shall notify the private school of the  
 516 amount of the scholarship within 10 days after receiving the  
 517 school district's notification of the student's matrix level.

518       d. A school district may change a matrix of services only  
 519 if the change is to correct a technical, typographical, or  
 520 calculation error.

521       (c) A school district shall provide notification to  
 522 parents of the availability of a reevaluation at least every 3  
 523 years of each student who receives a John M. McKay Scholarship.

524       (d) If the parent chooses the private school option and  
 525 the student is accepted by the private school pending the

526 availability of a space for the student, the parent of the  
 527 student must notify the department 60 days prior to the first  
 528 scholarship payment and before entering the private school in  
 529 order to be eligible for the scholarship when a space becomes  
 530 available for the student in the private school.

531 (e) The parent of a student may choose, as an alternative,  
 532 to enroll the student in and transport the student to a public  
 533 school in an adjacent school district which has available space  
 534 and has a program with the services agreed to in the student's  
 535 individual education plan or 504 accommodation plan already in  
 536 place, and that school district shall accept the student and  
 537 report the student for purposes of the district's funding  
 538 pursuant to the Florida Education Finance Program.

539 (f) For a student who participates in the John M. McKay  
 540 Scholarships for Students with Disabilities Program whose parent  
 541 requests that the student take the statewide assessments under  
 542 s. 1008.22, the district in which the student attends private  
 543 school shall provide locations and times to take all statewide  
 544 assessments.

545 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department  
 546 shall:

547 (a) Establish a toll-free hotline that provides parents  
 548 and private schools with information on participation in the  
 549 John M. McKay Scholarships for Students with Disabilities  
 550 Program.

551 (b) Annually verify the eligibility of private schools  
 552 that meet the requirements of subsection (8).

553 (c) Establish a process by which individuals may notify  
 554 the department of any violation by a parent, private school, or  
 555 school district of state laws relating to program participation.  
 556 The department shall conduct an inquiry of any written complaint  
 557 of a violation of this section, or make a referral to the  
 558 appropriate agency for an investigation, if the complaint is  
 559 signed by the complainant and is legally sufficient. A complaint  
 560 is legally sufficient if it contains ultimate facts that show  
 561 that a violation of this section or any rule adopted by the  
 562 State Board of Education has occurred. In order to determine  
 563 legal sufficiency, the department may require supporting  
 564 information or documentation from the complainant. A department  
 565 inquiry is not subject to the requirements of chapter 120.

566 (d) Require an annual, notarized, sworn compliance  
 567 statement by participating private schools certifying compliance  
 568 with state laws and shall retain such records.

569 (e) Cross-check the list of participating scholarship  
 570 students with the public school enrollment lists prior to each  
 571 scholarship payment to avoid duplication.

572 (f)1. Conduct random site visits to private schools  
 573 participating in the John M. McKay Scholarships for Students  
 574 with Disabilities Program. The purpose of the site visits is  
 575 solely to verify the information reported by the schools

576 concerning the enrollment and attendance of students, the  
 577 credentials of teachers, background screening of teachers, and  
 578 teachers' fingerprinting results, which information is required  
 579 by rules of the State Board of Education, subsection (8), and s.  
 580 1002.421. The Department of Education may not make more than  
 581 three random site visits each year and may not make more than  
 582 one random site visit each year to the same private school.

583 2. Annually, by December 15, report to the Governor, the  
 584 President of the Senate, and the Speaker of the House of  
 585 Representatives the Department of Education's actions with  
 586 respect to implementing accountability in the scholarship  
 587 program under this section and s. 1002.421, any substantiated  
 588 allegations or violations of law or rule by an eligible private  
 589 school under this program concerning the enrollment and  
 590 attendance of students, the credentials of teachers, background  
 591 screening of teachers, and teachers' fingerprinting results and  
 592 the corrective action taken by the Department of Education.

593 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

594 (a) The Commissioner of Education:

595 1. Shall deny, suspend, or revoke a private school's  
 596 participation in the scholarship program if it is determined  
 597 that the private school has failed to comply with the provisions  
 598 of this section. However, if the noncompliance is correctable  
 599 within a reasonable amount of time and if the health, safety, or  
 600 welfare of the students is not threatened, the commissioner may

601 | issue a notice of noncompliance which provides the private  
 602 | school with a timeframe within which to provide evidence of  
 603 | compliance before taking action to suspend or revoke the private  
 604 | school's participation in the scholarship program.

605 |         2. May deny, suspend, or revoke a private school's  
 606 | participation in the scholarship program if the commissioner  
 607 | determines that an owner or operator of the private school is  
 608 | operating or has operated an educational institution in this  
 609 | state or in another state or jurisdiction in a manner contrary  
 610 | to the health, safety, or welfare of the public.

611 |             a. In making such a determination, the commissioner may  
 612 | consider factors that include, but are not limited to, acts or  
 613 | omissions by an owner or operator which led to a previous denial  
 614 | or revocation of participation in an education scholarship  
 615 | program; an owner's or operator's failure to reimburse the  
 616 | Department of Education for scholarship funds improperly  
 617 | received or retained by a school; imposition of a prior criminal  
 618 | sanction related to an owner's or operator's management or  
 619 | operation of an educational institution; imposition of a civil  
 620 | fine or administrative fine, license revocation or suspension,  
 621 | or program eligibility suspension, termination, or revocation  
 622 | related to an owner's or operator's management or operation of  
 623 | an educational institution; or other types of criminal  
 624 | proceedings in which an owner or operator was found guilty of,  
 625 | regardless of adjudication, or entered a plea of nolo contendere

626 or guilty to, any offense involving fraud, deceit, dishonesty,  
 627 or moral turpitude.

628 b. For purposes of this subparagraph, the term "owner or  
 629 operator" includes an owner, operator, superintendent, or  
 630 principal of, or a person who has equivalent decisionmaking  
 631 authority over, a private school participating in the  
 632 scholarship program.

633 (b) The commissioner's determination is subject to the  
 634 following:

635 1. If the commissioner intends to deny, suspend, or revoke  
 636 a private school's participation in the scholarship program, the  
 637 department shall notify the private school of such proposed  
 638 action in writing by certified mail and regular mail to the  
 639 private school's address of record with the department. The  
 640 notification shall include the reasons for the proposed action  
 641 and notice of the timelines and procedures set forth in this  
 642 paragraph.

643 2. The private school that is adversely affected by the  
 644 proposed action shall have 15 days from receipt of the notice of  
 645 proposed action to file with the department's agency clerk a  
 646 request for a proceeding pursuant to ss. 120.569 and 120.57. If  
 647 the private school is entitled to a hearing under s. 120.57(1),  
 648 the department shall forward the request to the Division of  
 649 Administrative Hearings.

650 3. Upon receipt of a request referred pursuant to this



651 paragraph, the director of the Division of Administrative  
 652 Hearings shall expedite the hearing and assign an administrative  
 653 law judge who shall commence a hearing within 30 days after the  
 654 receipt of the formal written request by the division and enter  
 655 a recommended order within 30 days after the hearing or within  
 656 30 days after receipt of the hearing transcript, whichever is  
 657 later. Each party shall be allowed 10 days in which to submit  
 658 written exceptions to the recommended order. A final order shall  
 659 be entered by the agency within 30 days after the entry of a  
 660 recommended order. The provisions of this subparagraph may be  
 661 waived upon stipulation by all parties.

662 (c) The commissioner may immediately suspend payment of  
 663 scholarship funds if it is determined that there is probable  
 664 cause to believe that there is:

665 1. An imminent threat to the health, safety, or welfare of  
 666 the students; or

667 2. Fraudulent activity on the part of the private school.  
 668 Notwithstanding s. 1002.22, in incidents of alleged fraudulent  
 669 activity pursuant to this section, the Department of Education's  
 670 Office of Inspector General is authorized to release personally  
 671 identifiable records or reports of students to the following  
 672 persons or organizations:

673 a. A court of competent jurisdiction in compliance with an  
 674 order of that court or the attorney of record in accordance with  
 675 a lawfully issued subpoena, consistent with the Family

676 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

677       b. A person or entity authorized by a court of competent  
 678 jurisdiction in compliance with an order of that court or the  
 679 attorney of record pursuant to a lawfully issued subpoena,  
 680 consistent with the Family Educational Rights and Privacy Act,  
 681 20 U.S.C. s. 1232g.

682       c. Any person, entity, or authority issuing a subpoena for  
 683 law enforcement purposes when the court or other issuing agency  
 684 has ordered that the existence or the contents of the subpoena  
 685 or the information furnished in response to the subpoena not be  
 686 disclosed, consistent with the Family Educational Rights and  
 687 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

688

689 The commissioner's order suspending payment pursuant to this  
 690 paragraph may be appealed pursuant to the same procedures and  
 691 timelines as the notice of proposed action set forth in  
 692 paragraph (b).

693       (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be  
 694 eligible to participate in the John M. McKay Scholarships for  
 695 Students with Disabilities Program, a private school may be  
 696 sectarian or nonsectarian and must:

697       (a) Comply with all requirements for private schools  
 698 participating in state school choice scholarship programs  
 699 pursuant to s. 1002.421.

700       (b) Provide to the department all documentation required

701 | for a student's participation, including the private school's  
 702 | and student's fee schedules, at least 30 days before any  
 703 | quarterly scholarship payment is made for the student pursuant  
 704 | to paragraph (11)(e). A student is not eligible to receive a  
 705 | quarterly scholarship payment if the private school fails to  
 706 | meet this deadline.

707 | (c) Be academically accountable to the parent for meeting  
 708 | the educational needs of the student by:

709 | 1. At a minimum, annually providing to the parent a  
 710 | written explanation of the student's progress.

711 | 2. Cooperating with the scholarship student whose parent  
 712 | chooses to participate in the statewide assessments pursuant to  
 713 | s. 1008.22.

714 | (d) Maintain in this state a physical location where a  
 715 | scholarship student regularly attends classes.

716 |

717 | The inability of a private school to meet the requirements of  
 718 | this subsection shall constitute a basis for the ineligibility  
 719 | of the private school to participate in the scholarship program  
 720 | as determined by the department.

721 | (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 722 | PARTICIPATION.—A parent who applies for a John M. McKay  
 723 | Scholarship is exercising his or her parental option to place  
 724 | his or her child in a private school.

725 | (a) The parent must select the private school and apply

726 | for the admission of his or her child.

727 |       (b) The parent must have requested the scholarship at  
728 | least 60 days prior to the date of the first scholarship  
729 | payment.

730 |       (c) Any student participating in the John M. McKay  
731 | Scholarships for Students with Disabilities Program must remain  
732 | in attendance throughout the school year unless excused by the  
733 | school for illness or other good cause.

734 |       (d) Each parent and each student has an obligation to the  
735 | private school to comply with the private school's published  
736 | policies.

737 |       (e) If the parent requests that the student participating  
738 | in the John M. McKay Scholarships for Students with Disabilities  
739 | Program take all statewide assessments required pursuant to s.  
740 | 1008.22, the parent is responsible for transporting the student  
741 | to the assessment site designated by the school district.

742 |       (f) Upon receipt of a scholarship warrant, the parent to  
743 | whom the warrant is made must restrictively endorse the warrant  
744 | to the private school for deposit into the account of the  
745 | private school. The parent may not designate any entity or  
746 | individual associated with the participating private school as  
747 | the parent's attorney in fact to endorse a scholarship warrant.  
748 | A participant who fails to comply with this paragraph forfeits  
749 | the scholarship.

750 |       (10) TRANSITION-TO-WORK PROGRAM.—A student participating

751 in the John M. McKay Scholarships for Students with Disabilities  
 752 Program who is at least 17 years, but not older than 22 years,  
 753 of age and who has not received a high school diploma or  
 754 certificate of completion is eligible for enrollment in his or  
 755 her private school's transition-to-work program. A transition-  
 756 to-work program shall consist of academic instruction, work  
 757 skills training, and a volunteer or paid work experience.

758 (a) To offer a transition-to-work program, a participating  
 759 private school must:

760 1. Develop a transition-to-work program plan, which must  
 761 include a written description of the academic instruction and  
 762 work skills training students will receive and the goals for  
 763 students in the program.

764 2. Submit the transition-to-work program plan to the  
 765 Office of Independent Education and Parental Choice.

766 3. Develop a personalized transition-to-work program plan  
 767 for each student enrolled in the program. The student's parent,  
 768 the student, and the school principal must sign the personalized  
 769 plan. The personalized plan must be submitted to the Office of  
 770 Independent Education and Parental Choice upon request by the  
 771 office.

772 4. Provide a release of liability form that must be signed  
 773 by the student's parent, the student, and a representative of  
 774 the business offering the volunteer or paid work experience.

775 5. Assign a case manager or job coach to visit the

776 student's job site on a weekly basis to observe the student and,  
 777 if necessary, provide support and guidance to the student.

778 6. Provide to the parent and student a quarterly report  
 779 that documents and explains the student's progress and  
 780 performance in the program.

781 7. Maintain accurate attendance and performance records  
 782 for the student.

783 (b) A student enrolled in a transition-to-work program  
 784 must, at a minimum:

785 1. Receive 15 instructional hours per week at the private  
 786 school's physical facility, which must include academic  
 787 instruction and work skills training.

788 2. Participate in 10 hours of work per week at the  
 789 student's volunteer or paid work experience.

790 (c) To participate in a transition-to-work program, a  
 791 business must:

792 1. Maintain an accurate record of the student's  
 793 performance and hours worked and provide the information to the  
 794 private school.

795 2. Comply with all state and federal child labor laws.

796 (11) JOHN M. MCKAY SCHOLARSHIP FUNDING AND PAYMENT.—

797 (a)1. The maximum scholarship granted for an eligible  
 798 student with disabilities shall be equivalent to the base  
 799 student allocation in the Florida Education Finance Program  
 800 multiplied by the appropriate cost factor for the educational

801 program that would have been provided for the student in the  
 802 district school to which he or she was assigned, multiplied by  
 803 the district cost differential.

804 2. In addition, a share of the guaranteed allocation for  
 805 exceptional students shall be determined and added to the amount  
 806 in subparagraph 1. The calculation shall be based on the  
 807 methodology and the data used to calculate the guaranteed  
 808 allocation for exceptional students for each district in chapter  
 809 2000-166, Laws of Florida. Except as provided in subparagraphs  
 810 3. and 4., the calculation shall be based on the student's  
 811 grade, matrix level of services, and the difference between the  
 812 2000-2001 basic program and the appropriate level of services  
 813 cost factor, multiplied by the 2000-2001 base student allocation  
 814 and the 2000-2001 district cost differential for the sending  
 815 district. The calculated amount shall include the per-student  
 816 share of supplemental academic instruction funds, instructional  
 817 materials funds, technology funds, and other categorical funds  
 818 as provided in the General Appropriations Act.

819 3. The scholarship amount for a student who is eligible  
 820 under sub-subparagraph (2)(a)2.b. shall be calculated as  
 821 provided in subparagraphs 1. and 2. However, the calculation  
 822 shall be based on the school district in which the parent  
 823 resides at the time of the scholarship request.

824 4. Until the school district completes the matrix required  
 825 by paragraph (5)(b), the calculation shall be based on the

826 matrix that assigns the student to support Level I of service as  
 827 it existed prior to the 2000-2001 school year. When the school  
 828 district completes the matrix, the amount of the payment shall  
 829 be adjusted as needed.

830 5. The scholarship amount for a student eligible under s.  
 831 504 of the Rehabilitation Act of 1973 shall be based on the  
 832 program cost factor the student currently generates through the  
 833 Florida Education Finance Program.

834 6. The scholarship amount granted for an eligible student  
 835 with disabilities is not subject to the maximum value for  
 836 funding a student under s. 1011.61(4).

837 (b) The amount of the John M. McKay Scholarship shall be  
 838 the calculated amount or the amount of the private school's  
 839 tuition and fees, whichever is less. The amount of any  
 840 assessment fee required by the participating private school may  
 841 be paid from the total amount of the scholarship.

842 (c)1. The school district shall report all students who  
 843 are attending a private school under this program. The students  
 844 with disabilities attending private schools on John M. McKay  
 845 Scholarships shall be reported separately from other students  
 846 reported for purposes of the Florida Education Finance Program.

847 2. For program participants who are eligible under sub-  
 848 subparagraph (2)(a)2.b., the school district that is used as the  
 849 basis for the calculation of the scholarship amount as provided  
 850 in subparagraph (a)3. shall:



851           a. Report to the department all such students who are  
 852 attending a private school under this program.

853           b. Be held harmless for such students from the weighted  
 854 enrollment ceiling for group 2 programs in s. 1011.62(1)(d)3.b.  
 855 during the first school year in which the students are reported.

856           (d) Following notification on July 1, September 1,  
 857 December 1, or February 1 of the number of program participants,  
 858 the department shall transfer, from General Revenue funds only,  
 859 the amount calculated under paragraph (b) from the school  
 860 district's total funding entitlement under the Florida Education  
 861 Finance Program and from authorized categorical accounts to a  
 862 separate account for the scholarship program for quarterly  
 863 disbursement to the parents of participating students. Funds may  
 864 not be transferred from any funding provided to the Florida  
 865 School for the Deaf and the Blind for program participants who  
 866 are eligible under sub-subparagraph (2)(a)2.b. For a student  
 867 exiting a Department of Juvenile Justice commitment program who  
 868 chooses to participate in the scholarship program, the amount of  
 869 the John M. McKay Scholarship calculated pursuant to paragraph  
 870 (b) shall be transferred from the school district in which the  
 871 student last attended a public school before commitment to the  
 872 Department of Juvenile Justice. When a student enters the  
 873 scholarship program, the department must receive all  
 874 documentation required for the student's participation,  
 875 including the private school's and the student's fee schedules,

876 at least 30 days before the first quarterly scholarship payment  
877 is made for the student.

878 (e) Upon notification by the department that it has  
879 received the documentation required under paragraph (d), the  
880 Chief Financial Officer shall make scholarship payments in four  
881 equal amounts no later than September 1, November 1, February 1,  
882 and April 1 of each academic year in which the scholarship is in  
883 force. The initial payment shall be made after department  
884 verification of admission acceptance, and subsequent payments  
885 shall be made upon verification of continued enrollment and  
886 attendance at the private school. Payment must be by individual  
887 warrant made payable to the student's parent and mailed by the  
888 department to the private school of the parent's choice, and the  
889 parent shall restrictively endorse the warrant to the private  
890 school for deposit into the account of the private school.

891 (f) Subsequent to each scholarship payment, the department  
892 shall request from the Department of Financial Services a sample  
893 of endorsed warrants to review and confirm compliance with  
894 endorsement requirements.

895 (12) LIABILITY.—No liability shall arise on the part of  
896 the state based on the award or use of a John M. McKay  
897 Scholarship.

898 (13) SCOPE OF AUTHORITY.—The inclusion of eligible private  
899 schools within options available to Florida public school  
900 students does not expand the regulatory authority of the state,

901 its officers, or any school district to impose any additional  
 902 regulation of private schools beyond those reasonably necessary  
 903 to enforce requirements expressly set forth in this section.

904 (14) RULES.—The State Board of Education shall adopt rules  
 905 pursuant to ss. 120.536(1) and 120.54 to administer this  
 906 section, including rules that school districts must use to  
 907 expedite the development of a matrix of services based on an  
 908 active individual education plan from another state or a foreign  
 909 country for a transferring student with a disability who is a  
 910 dependent child of a member of the United States Armed Forces.  
 911 The rules must identify the appropriate school district  
 912 personnel who must complete the matrix of services. For purposes  
 913 of these rules, a transferring student with a disability is one  
 914 who was previously enrolled as a student with a disability in an  
 915 out-of-state or an out-of-country public or private school or  
 916 agency program and who is transferring from out of state or from  
 917 a foreign country pursuant to a parent's permanent change of  
 918 station orders.

919 Section 3. Paragraph (f) of subsection (5) of section  
 920 1002.395, Florida Statutes, is redesignated as paragraph (g),  
 921 subsection (3), paragraph (b) of subsection (5), paragraph (h)  
 922 of subsection (6), paragraph (f) of subsection (7), subsection  
 923 (8), and paragraphs (a) and (b) of subsection (12) are amended,  
 924 and a new paragraph (f) is added to subsection (5) of that  
 925 section, to read:

926 1002.395 Florida Tax Credit Scholarship Program.—

927 (3) PROGRAM; SCHOLARSHIP ELIGIBILITY.—

928 (a) The Florida Tax Credit Scholarship Program is  
929 established.

930 ~~(b) For the 2014-2015 and 2015-2016 school years,~~  
931 ~~contingent upon available funds, a student is eligible for a~~  
932 ~~Florida tax credit scholarship under this section if the student~~  
933 ~~meets one or more of the following criteria:~~

934 ~~1. The student qualifies for free or reduced-price school~~  
935 ~~lunches under the National School Lunch Act or is on the direct~~  
936 ~~certification list;~~

937 ~~2. The student is currently placed, or during the previous~~  
938 ~~state fiscal year was placed, in foster care or in out-of-home~~  
939 ~~care as defined in s. 39.01; or~~

940 ~~3. The student continues in the scholarship program as~~  
941 ~~long as the student's household income level does not exceed 230~~  
942 ~~percent of the federal poverty level.~~

943 (b)(c) ~~For the 2016-2017 school year and thereafter,~~  
944 ~~contingent upon available funds,~~ A student is eligible for a  
945 Florida tax credit scholarship under this section if the student  
946 meets one or more of the following criteria:

947 1. The student is on the direct certification list or the  
948 student's household income level does not exceed 185 percent of  
949 the federal poverty level; or

950 2. The student is currently placed, or during the previous

951 state fiscal year was placed, in foster care or in out-of-home  
 952 care as defined in s. 39.01.

953 3. The student's household income level is greater than  
 954 185 percent of the federal poverty level but does not exceed 260  
 955 percent of the federal poverty level.

956  
 957 A student who initially receives a scholarship based on  
 958 eligibility under subparagraph (b)2. ~~or subparagraph (c)2.~~  
 959 remains eligible to participate until the student graduates from  
 960 high school or attains the age of 21 years, whichever occurs  
 961 first, regardless of the student's household income level. A  
 962 sibling of a student who is participating in the scholarship  
 963 program under this subsection is eligible for a scholarship if  
 964 the student resides in the same household as the sibling.

965 (5) SCHOLARSHIP FUNDING TAX CREDITS; LIMITATIONS.-

966 (b) A taxpayer may submit an application to the department  
 967 for a tax credit or credits under one or more of s. 211.0251, s.  
 968 212.1831, s. 220.1875, s. 561.1211, or s. 624.51055.

969 1. The taxpayer shall specify in the application each tax  
 970 for which the taxpayer requests a credit and the applicable  
 971 taxable year for a credit under s. 220.1875 or s. 624.51055 or  
 972 the applicable state fiscal year for a credit under s. 211.0251,  
 973 s. 212.1831, or s. 561.1211. The department shall approve tax  
 974 credits on a first-come, first-served basis and must obtain the  
 975 division's approval before approving a tax credit under s.

976 561.1211.

977 2. Within 10 days after approving or denying an  
 978 application, the department shall provide a copy of its approval  
 979 or denial letter to the eligible nonprofit scholarship-funding  
 980 organization specified by the taxpayer in the application.

981 (f) Within 10 days after approving or denying an  
 982 application for a carryforward tax credit under paragraph (c),  
 983 the conveyance, transfer, or assignment of a tax credit under  
 984 paragraph (d), or the rescindment of a tax credit under  
 985 paragraph (e), the department shall provide a copy of its  
 986 approval or denial letter to the eligible nonprofit scholarship-  
 987 funding organization specified by the taxpayer. The department  
 988 shall also include the eligible nonprofit scholarship-funding  
 989 organization specified by the taxpayer on all letters or  
 990 correspondence of acknowledgment for tax credits under s.  
 991 212.1831.

992 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
 993 ORGANIZATIONS.—An eligible nonprofit scholarship-funding  
 994 organization:

995 (h) Must allow a student in foster care or out-of-home  
 996 care or a dependent child of a parent who is a member of the  
 997 United States Armed Forces to apply for a scholarship at any  
 998 time.

1000 Information and documentation provided to the Department of

1001 Education and the Auditor General relating to the identity of a  
 1002 taxpayer that provides an eligible contribution under this  
 1003 section shall remain confidential at all times in accordance  
 1004 with s. 213.053.

1005 (7) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM  
 1006 PARTICIPATION.—

1007 (f) Upon receipt of a scholarship warrant from the  
 1008 eligible nonprofit scholarship-funding organization, the parent  
 1009 to whom the warrant is made must restrictively endorse the  
 1010 warrant to the private school for deposit into the account of  
 1011 the private school. If payments are made by funds transfer, the  
 1012 parent must approve each payment before the scholarship funds  
 1013 may be deposited. The parent may not designate any entity or  
 1014 individual associated with the participating private school as  
 1015 the parent's attorney in fact to endorse a scholarship warrant  
 1016 or approve a funds transfer. A participant who fails to comply  
 1017 with this paragraph forfeits the scholarship.

1018 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An  
 1019 eligible private school may be sectarian or nonsectarian and  
 1020 must:

1021 (a) Comply with all requirements for private schools  
 1022 participating in state school choice scholarship programs  
 1023 pursuant to s. 1002.421.

1024 (b) Provide to the eligible nonprofit scholarship-funding  
 1025 organization, upon request, all documentation required for the

1026 student's participation, including the private school's and  
 1027 student's fee schedules.

1028 (c) Be academically accountable to the parent for meeting  
 1029 the educational needs of the student by:

1030 1. At a minimum, annually providing to the parent a  
 1031 written explanation of the student's progress.

1032 2. Annually administering or making provision for students  
 1033 participating in the scholarship program in grades 3 through 10  
 1034 to take one of the nationally norm-referenced tests identified  
 1035 by the Department of Education or the statewide assessments  
 1036 pursuant to s. 1008.22. Students with disabilities for whom  
 1037 standardized testing is not appropriate are exempt from this  
 1038 requirement. A participating private school must report a  
 1039 student's scores to the parent. A participating private school  
 1040 must annually report by August 15 the scores of all  
 1041 participating students to the Learning System Institute  
 1042 described in paragraph (9)(j).

1043 3. Cooperating with the scholarship student whose parent  
 1044 chooses to have the student participate in the statewide  
 1045 assessments pursuant to s. 1008.22 or, if a private school  
 1046 chooses to offer the statewide assessments, administering the  
 1047 assessments at the school.

1048 a. A participating private school may choose to offer and  
 1049 administer the statewide assessments to all students who attend  
 1050 the private school in grades 3 through 10.



1051           b. A participating private school must submit a request in  
 1052 writing to the Department of Education by March 1 of each year  
 1053 in order to administer the statewide assessments in the  
 1054 subsequent school year.

1055           (d) Employ or contract with teachers who have regular and  
 1056 direct contact with each student receiving a scholarship under  
 1057 this section at the school's physical location.

1058           (e) Provide a report from ~~Annually contract with an~~  
 1059 independent certified public accountant who performs ~~to perform~~  
 1060 the agreed-upon procedures developed under paragraph (6)(o) ~~and~~  
 1061 ~~produce a report of the results~~ if the private school receives  
 1062 more than \$250,000 in funds from scholarships awarded under this  
 1063 section in ~~the 2010-2011 state fiscal year or~~ a state fiscal  
 1064 year ~~thereafter~~. A private school subject to this paragraph must  
 1065 submit the report by August 15, 2017 ~~September 15, 2011~~, and  
 1066 annually thereafter to the scholarship-funding organization that  
 1067 awarded the majority of the school's scholarship funds. The  
 1068 agreed-upon procedures must be conducted in accordance with  
 1069 attestation standards established by the American Institute of  
 1070 Certified Public Accountants.

1071  
 1072 If ~~The inability of~~ a private school is unable to meet the  
 1073 requirements of this subsection or has consecutive years of  
 1074 material exceptions listed in the report required under  
 1075 paragraph (e), the commissioner may determine that shall

1076 ~~constitute a basis for the ineligibility of the private school~~  
 1077 is ineligible to participate in the scholarship program as  
 1078 determined by the Department of Education.

1079 (12) SCHOLARSHIP AMOUNT AND PAYMENT.-

1080 (a) Except as provided in subparagraph 2., the scholarship  
 1081 amount ~~of a scholarship~~ provided to any student for any single  
 1082 school year by an eligible nonprofit scholarship-funding  
 1083 organization from eligible contributions shall be for total  
 1084 costs authorized under paragraph (6) (d), not to exceed annual  
 1085 limits, which shall be determined as follows:

1086 1.a. The base amount ~~For a scholarship~~ awarded to a  
 1087 student enrolled in an eligible private school, ~~the limit~~ shall  
 1088 be determined as a percentage ~~by multiplying the unweighted FTE~~  
 1089 ~~funding amount in that state fiscal year by the percentage used~~  
 1090 ~~to determine the limit in the prior state fiscal year. However,~~  
 1091 ~~in each state fiscal year that the tax credit cap amount~~  
 1092 ~~increases pursuant to paragraph (5) (a), the prior year~~  
 1093 ~~percentage shall be increased by 4 percentage points and the~~  
 1094 ~~increased percentage shall be used to determine the limit for~~  
 1095 ~~that state fiscal year. If the percentage so calculated reaches~~  
 1096 ~~80 percent in a state fiscal year, no further increase in the~~  
 1097 ~~percentage is allowed and the limit shall be 80 percent of the~~  
 1098 ~~unweighted FTE funding amount for that state fiscal year and~~  
 1099 ~~thereafter. Beginning in the 2016-2017 state fiscal year, the~~  
 1100 ~~amount of a scholarship awarded to a student enrolled in an~~

1101 | ~~eligible private school shall be equal to 82 percent~~ of the  
 1102 | unweighted FTE funding amount for that state fiscal year and  
 1103 | thereafter as follows:-

1104 |       (I) Eighty-eight percent for a student enrolled in  
 1105 | kindergarten through grade 5.

1106 |       (II) Ninety-two percent for a student enrolled in grade 6  
 1107 | through grade 8.

1108 |       (III) Ninety-six percent for a student enrolled in grade 9  
 1109 | through grade 12.

1110 |       b. The ~~For a~~ scholarship amount awarded to a student  
 1111 | enrolled in a Florida public school that is located outside the  
 1112 | district in which the student resides or in a lab school as  
 1113 | defined in s. 1002.32, is limited to \$750 ~~the limit shall be~~  
 1114 | \$500.

1115 |       ~~2. The annual limit for a scholarship under sub-~~  
 1116 | ~~subparagraph 1.a. shall be reduced by:~~

1117 |           ~~a. Twenty-five percent if the student's household income~~  
 1118 | ~~level is equal to or greater than 200 percent, but less than 215~~  
 1119 | ~~percent, of the federal poverty level.~~

1120 |           ~~b. Fifty percent if the student's household income level~~  
 1121 | ~~is equal to or greater than 215 percent, but equal to or less~~  
 1122 | ~~than 230 percent, of the federal poverty level.~~

1123 |       ~~2.3. For the 2016-2017 state fiscal year and thereafter,~~  
 1124 | The annual limit for a scholarship under sub-subparagraph 1.a.  
 1125 | shall be reduced by:

1126 a. Twelve percent if the student's household income level  
 1127 is greater than or equal to 200 percent, but less than 215  
 1128 percent, of the federal poverty level.

1129 b. Twenty-six percent if the student's household income  
 1130 level is greater than or equal to 215 percent, but less than 230  
 1131 percent, of the federal poverty level.

1132 c. Forty percent if the student's household income level  
 1133 is greater than or equal to 230 percent, but less than 245  
 1134 percent, of the federal poverty level.

1135 d. Fifty percent if the student's household income level  
 1136 is greater than or equal to 245 percent, but less than or equal  
 1137 to 260 percent, of the federal poverty level.

1138 (b) Payment of the scholarship by the eligible nonprofit  
 1139 scholarship-funding organization shall be by individual warrant  
 1140 made payable to the student's parent or by funds transfer,  
 1141 including, but not limited to, debit cards, electronic payment  
 1142 cards, or any other means of payment that the department deems  
 1143 to be commercially viable or cost-effective. If the payment is  
 1144 made by warrant ~~parent chooses that his or her child attend an~~  
 1145 ~~eligible private school,~~ the warrant must be delivered by the  
 1146 eligible nonprofit scholarship-funding organization to the  
 1147 private school of the parent's choice, and the parent shall  
 1148 restrictively endorse the warrant to the private school. An  
 1149 eligible nonprofit scholarship-funding organization shall ensure  
 1150 that the parent to whom the warrant is made restrictively

1151 endorsed the warrant to the private school for deposit into the  
 1152 account of the private school or that the parent has approved a  
 1153 funds transfer before any scholarship funds are deposited.

1154 Section 4. Subsection (6) of section 1012.98, Florida  
 1155 Statutes, is amended to read:

1156 1012.98 School Community Professional Development Act.—

1157 (6) An organization of private schools, a ~~or~~ consortium of  
 1158 charter schools which has no fewer than 10 member schools in  
 1159 this state, or an eligible nonprofit scholarship-funding  
 1160 organization as defined in s. 1002.395, which publishes and  
 1161 files with the Department of Education copies of its standards,  
 1162 and the member schools of which comply with the provisions of  
 1163 part II of chapter 1003, relating to compulsory school  
 1164 attendance, may also develop a professional development system  
 1165 that includes a master plan for inservice activities. The system  
 1166 and inservice plan must be submitted to the commissioner for  
 1167 approval pursuant to state board rules.

1168 Section 5. For the 2017-2018 fiscal year, the sum of \$200  
 1169 million in recurring funds from the General Revenue Fund is  
 1170 appropriated to the Department of Education for scholarship  
 1171 awards under the Gardiner Scholarship Program in s. 1002.385,  
 1172 Florida Statutes. In addition to the funds appropriated for the  
 1173 scholarship awards, the sum of \$6 million in recurring funds  
 1174 from the General Revenue Fund is appropriated to the Department  
 1175 of Education for each nonprofit scholarship-funding

1176 organization's reasonable and necessary administrative expenses  
1177 to manage and distribute scholarship awards under the program  
1178 pursuant to s. 1002.385(13)(g).

1179 Section 6. This act shall take effect July 1, 2017.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Innovation  
 2 Subcommittee

3 Representative Sullivan offered the following:

4

5 **Amendment**

6 Remove lines 96-97 and insert:

7 physician who is licensed under chapter 458 or chapter 459, a  
 8 psychologist who is licensed under chapter 490, or a physician  
 9 who holds an active license issued by another state or territory  
 10 of the United States or the District of Columbia;





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 373 Education  
**SPONSOR(S):** Grant  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 856

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer DD	Healy <i>GH</i>
2) Education Committee			

**SUMMARY ANALYSIS**

Currently, school districts may award annual contracts to educational instructional personnel (those that provide direct instructional services or support to K-12 students) who have successfully completed a one year probationary contract and have met other specified criteria.

The bill clarifies that the district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

The bill provides that the provision prohibiting a school board from awarding, or altering its authority to award, an annual contract not expressed in s. 1012.335, F.S., only applies to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

This bill shall take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Instructional personnel provide direct instructional services or direct instructional support to K-12 students. Instructional personnel include classroom teachers;<sup>1</sup> staff who provide student personal services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists and education paraprofessionals under the direct supervision of instructional personnel.<sup>2</sup>

Three types of contracts are used to employ instructional personnel in Florida – continuing contracts, professional service contracts and annual contracts. Holding a continuing contract or professional service contract is often referred to as having tenured status.<sup>3</sup>

An annual contract is an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.<sup>4</sup> As of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may only be employed on an annual contract basis. The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or from which the employee may resign without breach of contract. “Newly hired instructional personnel” include employees new to the profession or employees with experience who are new to the school district.<sup>5</sup>

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee:

- is certified;
- has been recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board; and
- has not received two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a three-year period or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.<sup>6</sup>

##### Effect of Proposed Changes

The bill clarifies that the district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in s. 1012.335, F.S.; or
- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

---

<sup>1</sup> Classroom teachers include substitute teachers. Section 1012.01(2)(a), F.S.

<sup>2</sup> Section 1012.01(2), F.S.

<sup>3</sup> See s. 1012.33(3)(d), F.S. (2010). Tenure is an employment policy which limits a public school district’s ability to terminate the employment of instructional personnel. See 67B Am. Jur. 2d Schools s. 195; see also s. 1012.33(3), F.S. Tenure usually takes the form of a continuous or automatically renewing employment contract. Tenured instructional personnel may only be dismissed for specified reasons after statutorily required hearings. See *Board of Regents v. Roth*, 408 U.S. 564 (1972); 67B Am. Jur. 2d Schools s. 211.

<sup>4</sup> Section 1012.335(1)(a), F.S.

<sup>5</sup> Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term “instructional personnel” does not include substitute teachers. Section 1012.335(1)(b), F.S.

<sup>6</sup> Section 1012.335(2)(c), F.S.

These provisions only apply to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1012.335, F.S., relating to contracts with educational instructional personnel hired on or after July 1, 2011.

**Section 2.** Directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” as it occurs in section 1 with the date this act takes effect.

**Section 3.** Provides that the bill shall take effect upon becoming law.

**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 education; amending s. 1012.335,  
 3           F.S.; prohibiting a district school board from  
 4           awarding an annual contract for instructional  
 5           personnel under certain circumstances; prohibiting a  
 6           district school board from altering or limiting its  
 7           authority to award or not award an annual contract;  
 8           providing applicability; providing a directive to the  
 9           Division of Law Revision and Information; providing an  
 10          effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Paragraph (d) is added to subsection (2) of  
 15          section 1012.335, Florida Statutes, to read:

16           1012.335 Contracts with instructional personnel hired on  
 17          or after July 1, 2011.—

18           (2) EMPLOYMENT.—

19           (d) A district school board may not:

20           1. Award an annual contract on the basis of any  
 21          contingency or condition not expressly authorized in this  
 22          section; or

23           2. Alter or limit its authority to award or not award an  
 24          annual contract as provided in this section.  
 25

26 This paragraph applies only to a collective bargaining agreement  
27 entered into or renewed by a district school board on or after  
28 the effective date of this act.

29       Section 2. The Division of Law Revision and Information is  
30 directed to replace the phrase "the effective date of this act"  
31 as it occurs in section 1 of this act with the date this act  
32 takes effect.

33       Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 833 Student Eligibility for K-12 Virtual Instruction

**SPONSOR(S):** Sullivan and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 692

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee		Dehmer PD	Healy <i>JH</i>
2) PreK-12 Appropriations Subcommittee			
3) Education Committee			

### SUMMARY ANALYSIS

Florida has a variety of virtual instruction options for K-12 students. However, students in 2nd through 5th grades are not eligible for enrollment in part-time virtual instruction unless they were enrolled in public school in the prior year, are dependent children of military personnel or have a sibling currently enrolled in a virtual instruction program and the sibling was enrolled at the end of the prior year. As a result, many 2nd through 5th grade students are not eligible for enrollment in part-time virtual instruction.

The bill removes the prior year in public school requirement and provides that all K-12 students, including home education and private school students, are eligible for both full-time and part-time virtual instruction options.

The bill removes passage of an online content assessment, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes, as an option to fulfill the online course requirement.

See fiscal impact on state government.

The bill takes effect July 1, 2017.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Student Eligibility for Virtual Instruction

###### Present Situation

Florida law establishes a variety of options to make virtual instruction accessible to K-12 students. These options include:

- full-time or part-time enrollment in a school district virtual instruction program (VIP);<sup>1</sup>
- full-time enrollment in a virtual charter school;<sup>2</sup>
- enrollment in individual virtual courses offered by school districts and approved by the DOE;<sup>3</sup> and
- full-time or part-time enrollment in the Florida Virtual School (FLVS) or school district FLVS franchises<sup>4</sup>

Student enrollment in a full-time or part-time school district VIP, a full-time virtual charter school or a school district virtual course offering is open to any student residing in the district who:<sup>5</sup>

- attended a Florida public school during the prior year and was enrolled and reported for funding during the October and February Florida Education Finance Program (FEFP) surveys;
- is the dependent child of a member of the U.S. military who, within 12 months of the parent's permanent change of station order, transferred to Florida from another state or from a foreign country;
- was enrolled in a school district VIP or a full-time FLVS program during the prior school year;
- has a sibling who is currently enrolled in a school district VIP and the sibling was enrolled in such program at the end of the prior school year;
- is eligible to enter kindergarten or first grade; or
- is eligible to enter grades 2 through 5 and is enrolled full-time in a school district VIP, virtual charter school or FLVS.<sup>6</sup>

FLVS or a district FLVS franchise may provide full-time and part-time instruction for K-12 students. However, students in kindergarten through grade 5 must meet at least one of the eligibility criteria listed above to access part-time instruction in such programs.<sup>7</sup>

---

<sup>1</sup> Section 1002.45, F.S.

<sup>2</sup> Sections 1002.33(1) and 1002.45(1)(d), F.S.

<sup>3</sup> Section 1003.498, F.S.

<sup>4</sup> Sections 1002.37 and 1002.45(1)(a)1. and (c)1., F.S.

<sup>5</sup> Sections 1002.45(5) and 1002.455(2), F.S.

<sup>6</sup> Section 1002.455(2), F.S.

<sup>7</sup> Section 1002.37(8)(a), F.S.

Eligibility for Virtual Instruction Students Not Enrolled in Public School During the Previous School Year							
Grade Level	Full-Time			Part-Time			
	FLVS	District VIP	District FLVS Franchise	FLVS	District VIP	District FLVS Franchise	District Virtual Course
K							
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
<b>KEY</b>							
	Student is Eligible						
	Student must meet prior public school requirement						
	No part-time virtual options for students who were not enrolled in public school during the prior year						

Consequently, students in 2nd through 5th grades are not eligible for enrollment in part-time virtual instruction unless they were enrolled in public school in the prior year or are dependent children of military personnel, or have a sibling currently enrolled in a VIP and the sibling was enrolled at the end of the prior year.<sup>8</sup>

### Effect of Proposed Changes

The bill provides that all K-12 students, including home education and private school students, are eligible for all state and district virtual instruction programs including:

- full-time or part-time enrollment in a school district VIP;
- full-time enrollment in a virtual charter school;
- enrollment in individual virtual courses offered by school districts and approved by the DOE; and
- full-time or part-time enrollment in the FLVS or school district FLVS franchises.

This change will open various virtual education options that are not currently available to students who did not attend public school in the prior year, as follows:

- Students in 6th through 12th grades may enroll in full-time school district VIP programs.
- Students in 2nd through 5th grades may enroll in part-time FLVS or district FLVS franchises.
- Students in 2nd through 12th grades may enroll in part-time school district VIP.
- Students in 2nd through 12th grades may enroll in school district virtual course offerings.

Most notably, this change gives students in 2nd through 5th grades who did not attend public school in the prior year the ability to enroll in part-time virtual instruction, whereas under current law, these students have no such options.

The bill also deletes obsolete language regarding a one-time Florida Virtual School operational audit.

## **Requirements for High School Diploma**

### **Present Situation**

Receipt of a standard high school diploma requires successful completion of 24 credits, an International Baccalaureate curriculum or an Advanced International Certificate of Education curriculum.<sup>9</sup> At least one course must be completed through online learning.<sup>10</sup> An online course provided by the FLVS, a virtual education provider approved by the State Board of Education, a high school or an online dual enrollment course taken in 6th, 7th or 8th grade fulfill the online course requirement.<sup>11</sup> A school board or charter school governing board may offer the following option to satisfy the online course requirement:

- Completion of a course where the student earns a nationally recognized industry certification in information technology or passage of the information technology certification exam without enrolling in the corresponding course.
- Passage of an online content assessment, without enrollment in or completion of the corresponding course, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes.

### **Effect of Proposed Changes**

The bill removes passage of an online content assessment, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes, as an option to fulfill the online course requirement.

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

**Section 1.** Amends s. 1002.37, F.S., relating to the Florida Virtual School.

**Section 2.** Amends s. 1002.455, F.S., relating to student eligibility for K12 virtual instruction.

**Section 3.** Amends s. 1003.4282, F.S., relating to requirements for high school diplomas.

**Section 4.** Amends s. 1002.33, F.S., relating to charter schools.

**Section 5.** Amends s. 1002.45, F.S., relating to virtual instruction programs.

**Section 6.** Amends s. 1003.498, F.S., relating to school district virtual course offerings.

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

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

##### **1. Revenues:**

None.

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<sup>9</sup> Section 1003.4282(1)(a), F.S.

<sup>10</sup> Section 1003.4282(4), F.S.

<sup>11</sup> Section 1003.4282(4)(a), F.S.

2. Expenditures:

The bill revises s. 1002.455, F.S., relating to student eligibility for K-12 virtual instruction. These changes will open various virtual education options that are not currently available to students who did not attend public school in the prior year. The estimated fiscal impact on the FEFP to fund the expansion of student eligibility for public virtual education is \$4,400,000.00.

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.



26 (8)(a) The Florida Virtual School may provide full-time  
 27 and part-time instruction for students in kindergarten through  
 28 grade 12. ~~To receive part-time instruction in kindergarten~~  
 29 ~~through grade 5, a student must meet at least one of the~~  
 30 ~~eligibility criteria in s. 1002.455(2).~~

31 ~~(11) The Auditor General shall conduct an operational~~  
 32 ~~audit of the Florida Virtual School, including Florida Virtual~~  
 33 ~~School Global. The scope of the audit shall include, but not be~~  
 34 ~~limited to, the administration of responsibilities relating to~~  
 35 ~~personnel; procurement and contracting; revenue production;~~  
 36 ~~school funds, including internal funds; student enrollment~~  
 37 ~~records; franchise agreements; information technology~~  
 38 ~~utilization, assets, and security; performance measures and~~  
 39 ~~standards; and accountability. The final report on the audit~~  
 40 ~~shall be submitted to the President of the Senate and the~~  
 41 ~~Speaker of the House of Representatives no later than January~~  
 42 ~~31, 2014.~~

43 Section 2. Section 1002.455, Florida Statutes, is amended  
 44 to read:

45 1002.455 Student eligibility for K-12 virtual  
 46 instruction.-

47 (1) All students, including home education and private  
 48 school students, are eligible to participate in any of the  
 49 following ~~A student may participate in virtual instruction in~~  
 50 ~~the school district in which he or she resides if the student~~

51 ~~meets the eligibility criteria in subsection (2).~~

52 ~~(2) A student is eligible to participate in virtual~~  
 53 ~~instruction if:~~

54 ~~(a) The student spent the prior school year in attendance~~  
 55 ~~at a public school in the state and was enrolled and reported by~~  
 56 ~~the school district for funding during October and February for~~  
 57 ~~purposes of the Florida Education Finance Program surveys;~~

58 ~~(b) The student is a dependent child of a member of the~~  
 59 ~~United States Armed Forces who was transferred within the last~~  
 60 ~~12 months to this state from another state or from a foreign~~  
 61 ~~country pursuant to a permanent change of station order;~~

62 ~~(c) The student was enrolled during the prior school year~~  
 63 ~~in a virtual instruction program under s. 1002.45 or a full-time~~  
 64 ~~Florida Virtual School program under s. 1002.37(8)(a);~~

65 ~~(d) The student has a sibling who is currently enrolled in~~  
 66 ~~a virtual instruction program and the sibling was enrolled in~~  
 67 ~~that program at the end of the prior school year;~~

68 ~~(e) The student is eligible to enter kindergarten or first~~  
 69 ~~grade; or~~

70 ~~(f) The student is eligible to enter grades 2 through 5~~  
 71 ~~and is enrolled full-time in a school district virtual~~  
 72 ~~instruction program, virtual charter school, or the Florida~~  
 73 ~~Virtual School.~~

74 ~~(3) The virtual instruction options for which this~~  
 75 ~~eligibility section applies include:~~

76           (1)(a) School district operated part-time or full-time  
 77 kindergarten through grade 12 virtual instruction programs under  
 78 s. 1002.45(1)(b) for students enrolled in the school district.

79           (2)(b) Full-time virtual charter school instruction  
 80 authorized under s. 1002.33.

81           (3)(e) Virtual courses offered in the course code  
 82 directory to students within the school district or to students  
 83 in other school districts throughout the state pursuant to s.  
 84 1003.498.

85           (4) Florida Virtual School instructional services  
 86 authorized under s. 1002.37.

87           Section 3. Paragraph (b) of subsection (4) of section  
 88 1003.4282, Florida Statutes, is amended to read:

89           1003.4282 Requirements for a standard high school  
 90 diploma.—

91           (4) ONLINE COURSE REQUIREMENT.—At least one course within  
 92 the 24 credits required under this section must be completed  
 93 through online learning.

94           (b) A district school board or a charter school governing  
 95 board, as applicable, may allow a student ~~offer students the~~  
 96 ~~following options~~ to satisfy the online course requirements of  
 97 this subsection by completing—

98           ~~1. Completion of a course in which~~ the ~~a~~ student earns a  
 99 nationally recognized industry certification in information  
 100 technology that is identified on the CAPE Industry Certification



101 Funding List pursuant to s. 1008.44 or passing ~~passage~~ of the  
 102 information technology certification examination without  
 103 enrolling ~~enrollment~~ in or completing ~~completion~~ of the  
 104 corresponding course or courses, as applicable.

105 ~~2. Passage of an online content assessment, without~~  
 106 ~~enrollment in or completion of the corresponding course or~~  
 107 ~~courses, as applicable, by which the student demonstrates skills~~  
 108 ~~and competency in locating information and applying technology~~  
 109 ~~for instructional purposes.~~

110

111 For purposes of this subsection, a school district may not  
 112 require a student to take the online course outside the school  
 113 day or in addition to a student's courses for a given semester.  
 114 This subsection does not apply to a student who has an  
 115 individual education plan under s. 1003.57 which indicates that  
 116 an online course would be inappropriate or to an out-of-state  
 117 transfer student who is enrolled in a Florida high school and  
 118 has 1 academic year or less remaining in high school.

119 Section 4. Subsection (1) of section 1002.33, Florida  
 120 Statutes, is amended to read:

121 1002.33 Charter schools.—

122 (1) AUTHORIZATION.—Charter schools shall be part of the  
 123 state's program of public education. All charter schools in  
 124 Florida are public schools. A charter school may be formed by  
 125 creating a new school or converting an existing public school to

126 charter status. A charter school may operate a virtual charter  
 127 school pursuant to s. 1002.45(1)(d) to provide full-time online  
 128 instruction to ~~eligible~~ students, pursuant to s. 1002.455, in  
 129 kindergarten through grade 12. An existing charter school that  
 130 is seeking to become a virtual charter school must amend its  
 131 charter or submit a new application pursuant to subsection (6)  
 132 to become a virtual charter school. A virtual charter school is  
 133 subject to the requirements of this section; however, a virtual  
 134 charter school is exempt from subsections (18) and (19),  
 135 subparagraphs (20)(a)2., 4., 5., and 7., paragraph (20)(c), and  
 136 s. 1003.03. A public school may not use the term charter in its  
 137 name unless it has been approved under this section.

138 Section 5. Subsection (5) of section 1002.45, Florida  
 139 Statutes, is amended to read:

140 1002.45 Virtual instruction programs.—

141 (5) STUDENT ELIGIBILITY.—A student may enroll in a virtual  
 142 instruction program provided by the school district or by a  
 143 virtual charter school operated in the district in which he or  
 144 she resides ~~if the student meets eligibility requirements for~~  
 145 ~~virtual instruction~~ pursuant to s. 1002.455.

146 Section 6. Subsection (2) of section 1003.498, Florida  
 147 Statutes, is amended to read:

148 1003.498 School district virtual course offerings.—

149 (2) School districts may offer virtual courses for  
 150 students enrolled in the school district. These courses must be

151 identified in the course code directory. Students ~~who meet the~~  
 152 ~~eligibility requirements of s. 1002.455~~ may participate in these  
 153 virtual course offerings pursuant to s. 1002.455.

154 (a) Any ~~eligible~~ student who is enrolled in a school  
 155 district may register and enroll in an online course offered by  
 156 his or her school district.

157 (b)1. Any ~~eligible~~ student who is enrolled in a school  
 158 district may register and enroll in an online course offered by  
 159 any other school district in the state. The school district in  
 160 which the student completes the course shall report the  
 161 student's completion of that course for funding pursuant to s.  
 162 1011.61(1)(c)1.b.(VI), and the home school district shall not  
 163 report the student for funding for that course.

164 2. The full-time equivalent student membership calculated  
 165 under this subsection is subject to the requirements in s.  
 166 1011.61(4). The Department of Education shall establish  
 167 procedures to enable interdistrict coordination for the delivery  
 168 and funding of this online option.

169 Section 7. Subsection (11) of section 1011.62, Florida  
 170 Statutes, is amended to read:

171 1011.62 Funds for operation of schools.—If the annual  
 172 allocation from the Florida Education Finance Program to each  
 173 district for operation of schools is not determined in the  
 174 annual appropriations act or the substantive bill implementing  
 175 the annual appropriations act, it shall be determined as

176 follows:

177 (11) VIRTUAL EDUCATION CONTRIBUTION.—The Legislature may  
 178 annually provide in the Florida Education Finance Program a  
 179 virtual education contribution. The amount of the virtual  
 180 education contribution shall be the difference between the  
 181 amount per FTE established in the General Appropriations Act for  
 182 virtual education and the amount per FTE for each district and  
 183 the Florida Virtual School, which may be calculated by taking  
 184 the sum of the base FEFP allocation, the discretionary local  
 185 effort, the state-funded discretionary contribution, the  
 186 discretionary millage compression supplement, the research-based  
 187 reading instruction allocation, and the instructional materials  
 188 allocation, and then dividing by the total unweighted FTE. This  
 189 difference shall be multiplied by the virtual education  
 190 unweighted FTE for programs and options identified in s.  
 191 1002.455 ~~s. 1002.455(3)~~ and the Florida Virtual School and its  
 192 franchises to equal the virtual education contribution and shall  
 193 be included as a separate allocation in the funding formula.

194 Section 8. This act shall take effect July 1, 2017.