

HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

BILL #:	CS/HB 7033	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Education Committee; K-12 Subcommittee; Adkins; and others	70 Y's	44 N's
COMPANION BILLS:	CS/CS/SB 850	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/HB 7033 passed the House on April 30, 2014, as CS/CS/SB 850 as amended. The bill was amended by the Senate on May 2, 2014, and the House concurred in the Senate amendment on May 2, 2014. The bill amends various provisions of law related to education as follows:

Middle Grades Reform: Requires each school that includes any of grades 6, 7, or 8 implement an early warning system to identify students at risk of not graduating from high school and report data on the system and resulting interventions in its school improvement plan; the Department of Education provide web-based professional development to districts to help teachers integrate digital instruction into classrooms including access to web-based materials on middle grades instructional techniques; school districts emphasize middle grades best practices in the districts' professional development systems and describe the training middle grades teachers and administrators receive on these best practices; and extends anti-hazing provisions to include grades 6 through 8 and revises the definition of "hazing."

Juvenile Justice Education: Requires the Department of Education and the Department of Juvenile Justice to collect and report on student performance and cost data; providing oversight and guidance regarding effective educational transition planning and services for juvenile justice programs; expanding educational opportunities to students in a juvenile justice program.

Collegiate High School Program: Requires each Florida College System institution and each district school board within its designated service area to enter into an agreement to offer one or more collegiate high school programs.

Florida Tax Credit Scholarship Program: Revises the student eligibility and program accountability requirements for the Florida Tax Credit Scholarship program; establishes an income-based tiered scholarship for students whose household income is greater than 185 percent but does not exceed 260 percent of the federal poverty level; increases accountability of nonprofit SFOs by revising the approval and renewal process; and requires the Auditor General to conduct operational audits of SFOs.

Personal Learning Scholarship Accounts Program: Creates the Personal Learning Scholarship Accounts Program for students with disabilities to provide parents of eligible students flexibility to select educational and therapy services from a wide range of providers.

Students with Disabilities: Establishes requirements for transition planning for students with disabilities; establishes options for students with disabilities to earn a standard high school diploma; allows a student with a disability to remain in school through 21 years of age; and repeals, effective July 1, 2015, the special high school diploma option requirements for students with disabilities.

Miscellaneous Provisions: Renames the Florida Agricultural and Mechanical University Crestview Education Center; requires the Commissioner of Education to prepare an annual report on student access to and participation in fine arts courses; and requires the Florida Prepaid College Board to conduct a study on the use of funds for other higher education expenses.

The fiscal impact of this bill is indeterminate.

The bill was approved by the Governor on June 20, 2014, ch. 2014-184, L.O.F., and became effective on that date, except as otherwise provided.

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

STORAGE NAME: h7033z1.KTS

DATE: June 26, 2014

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Middle Grades Reform

Legislative History

Middle grades¹ education is a relatively recent construct, originating in the early 1960's, designed to create schools responsive to the needs of young people.² Florida's Legislature first launched a statewide middle grades reform effort in 1984 by establishing the Florida Progress in Middle Childhood Education Program (PRIME). The purpose of PRIME was to establish programs that "recognize the developmental diversity and needs of [grades 4 through 8] students and which result in schools which have the structure, organization, curriculum, services, and personnel appropriate to facilitate" the transition from elementary to high school.³ These programs emphasized instructional practices including interdisciplinary teaming and instruction, middle grades curriculum development, planning and evaluating middle grades programs, in-service training on middle grades best practices, and student progress monitoring.⁴

In 2004, the Legislature enacted the Middle Grades Reform Act,⁵ the purpose of which was to add focus to middle grades courses so students promoted from grade 8 would be ready to succeed in high school by:

- Requiring the Department of Education (DOE) to review reading and language arts programs in the middle grades and assist the Commissioner of Education with recommendations for curricula changes;
- Instituting a rigorous reading requirement in schools where less than 75 percent of grade 6, 7, or 8 students were reading on grade level;
- Requiring the DOE to conduct a study on improving the overall academic performance of middle school students; and
- Establishing a personalized middle school success plan for all students entering grade 6 who scored below Level 3 on their most recent Florida Comprehensive Assessment Test (FCAT) Reading assessment.

After the Middle Grades Reform Act was enacted, a Middle Grades Reform Task Force, convened by the DOE, published recommendations for further reforms,⁶ many of which were included in HB 7087 in 2006.⁷ Among other things, HB 7087 established middle grades course completion requirements for promotion to grade 9. In addition, the legislation required middle grades students to complete both a year-long exploratory wheel course and a career and education planning course which results in an academic and career plan for the student.⁸

In 2013, the Legislature enacted CS/CS/SB 1076, which amended provisions relating to weighted full-time equivalent (FTE) funding for middle grades industry certifications, required that the career and

¹ In Florida, middle grades are comprised of grades 6, 7, and 8. Florida Department of Education, *2013-2014 Course Code Directory and Instructional Personnel Assignments*, available at <http://www.fldoe.org/articulation/CCD/files/CCDNarrative1314.pdf>.

² Peter Meyer, *The Middle School Mess*, EDUC. NEXT, Winter 2011, at 42, available at http://educationnext.org/files/ednext_201111_Meyer.pdf.

³ See s. 83, ch. 83-336, L.O.F.

⁴ See *id.*

⁵ See ch. 2004-255, L.O.F.

⁶ See Florida Department of Education, *Middle Grades Reform Recommendations* (Nov. 16, 2004), available at www.fldoe.org/board/meetings/2004_11_16/MiddleGrades_Pres.pdf.

⁷ Florida Department of Education, Press Release, *Governor Bush Announces Initiative to Increase Rigor and Change Culture of Middle Grades*, http://www.fldoe.org/news/2005/2005_01_10-5.asp (last visited Dec. 16, 2013).

⁸ Section 21, ch. 2006-74, L.O.F.

education planning course be internet-based and emphasize entrepreneurship skills, adjusted end-of-course assessment provisions for the required course in civics, and expanded remediation options for middle grades students who earn a Level 1 on the FCAT Reading assessment.

Research and Data

Recent research has identified practices that have proven instrumental in decreasing achievement gaps and propelling students into high school on track to graduate ready for college and career.⁹ Certain themes pervade the research, such as:

- The need to closely monitor students early in middle school using research-based indicators to identify students in need of additional support or interventions to stay on track to graduate high school college and career ready;
- The importance of small learning communities, interdisciplinary teaching teams, and common planning time so that teachers can better connect with students and understand students' strengths and areas for growth;
- The crucial role effective, relevant, and school-needs focused professional development plays in preparing middle grades teachers to effectively teach middle grades students;
- The connection between high performing schools and the use of data to make decisions about school improvement; and
- The need for high expectations for students and aligning curricula with state standards.¹⁰

Early Warning Systems

Research from Johns Hopkins University has shown that students who are at risk of dropping out or failing to graduate from high school on time can be identified, as early as sixth grade, using certain "early warning indicators".¹¹ These indicators include, for students in the sixth grade, attendance in the range of 80-90 percent or below, receipt of an out-of-school suspension, and course failure in English or mathematics.¹² The research found that students from high-poverty, urban schools in Philadelphia who exhibited any one of these indicators in the sixth grade had less than a 20 percent chance of graduating from high school on time (within one extra year of their expected graduation date).¹³ Furthermore, less than 75 percent of students exhibiting one or more of these indicators graduated from high school on time.¹⁴

Who Didn't Graduate? Predictive Power and Yield of Selected Flags ¹⁵				
Predictive power: % with this flag who...	Flag in Sixth Grade (in 1997)			
	Attended 80% or Less	Failed Math	Failed English	Suspended Out of School

⁹ Robert Balfanz, *Putting Middle Grades Students on the Graduation Path: A Policy and Practice Brief*, National Middle School Association, June 2009, at 3, available at https://www.amle.org/portals/0/pdf/articles/Policy_Brief_Balfanz.pdf.

¹⁰ See Office of Program Policy and Government Accountability, *Middle Grades Best Practices*, Research Memorandum (Sept. 30, 2013).

¹¹ See *id.* See also Robert Balfanz, Lisa Herzog, & Douglas J. Mac Iver, *Preventing Student Disengagement and Keeping Students on the Graduation Path in urban Middle-Grades Schools: Early Identification and Effective Interventions*, 42 EDUCATIONAL PSYCHOLOGIST 223 (2007), available at web.jhu.edu/sebin/q/b/preventingstudentdisengagement.pdf.

¹² *Id.* at 227.

¹³ See *id.* at 226-28, 230.

¹⁴ Robert Balfanz, *Putting Middle Grades Students on the Graduation Path: A Policy and Practice Brief*, National Middle School Association, June 2009, at 4.

¹⁵ Robert Balfanz, Lisa Herzog, & Douglas J. Mac Iver, *Preventing Student Disengagement and Keeping Students on the Graduation Path in urban Middle-Grades Schools: Early Identification and Effective Interventions*, 42 EDUCATIONAL PSYCHOLOGIST 223, at 228 (using data from the School District of Philadelphia).

Graduated on time	13	13	12	16
Graduated 1 year late	4	6	6	4
Did not graduate within 1 year late	83	81	82	80
Yield: % of nongraduates flagged	23	21	17	10

Early warning systems predicated on this research have been implemented at a number of middle schools nationwide.¹⁶ These systems are used to monitor students using the attendance, behavior, and course performance indicators shown by the research to be reliable indicators of students at risk of dropping out.¹⁷ Once a student is identified as being off track, research-based intervention techniques are initiated to help the student get back on track to graduate on time.¹⁸ The systems have been identified as a key tool to promote student achievement and a benchmark against which the nation can chart its progress against problems with student dropouts.¹⁹

In the Miami-Dade County School District, a collaborative program called Diplomas Now, formed for the purpose of implementing the early warning research of Johns Hopkins University, has established early warning systems at six schools to identify at-risk students and provide interventions to help these students get back on track to graduate.²⁰ The program has helped 186 students improve their attendance, with 41 percent of those students improving their attendance significantly enough to no longer be identified as at risk based on the attendance indicator. Likewise, the program has helped 240 students improve their behavior, 64 percent of whom were put back on track for graduation by the end of the year. Finally, the program has helped 198 students improve their English grades and 212 improve their mathematics grades, with 54 percent in English and 46 percent of students in mathematics getting back on track.²¹

Additional research has reaffirmed the importance of utilizing early warning and intervention systems in improving student achievement in the middle grades.²² Benefits of these systems include:

- The ability to pinpoint and address student disengagement on an individual student basis;
- Decreased reliance on broader socioeconomic markers of demographics and economic status to identify at-risk students;
- The ability to target resources to improve student achievement by focusing on academic performance and thereby reduce the interference of unfavorable nonacademic factors on student success; and
- Identification of patterns in early warning indicators at the school and district levels to identify systemic weaknesses in schools that are increasing the likelihood of student dropouts.²³

¹⁶ Diplomas Now, *Where We Work*, <http://diplomasnow.org/about/where-we-work/> (last visited Jan. 22, 2014).

¹⁷ The 2007 report published in the *Educational Psychologist* journal states that the attendance, behavior, and course performance indicators were used to identify 60 percent of the participating students who would not graduate from high school. See Robert Balfanz, Lisa Herzog, & Douglas J. Mac Iver, *Preventing Student Disengagement and Keeping Students on the Graduation Path in urban Middle-Grades Schools: Early Identification and Effective Interventions*, 42 *EDUCATIONAL PSYCHOLOGIST* at 223.

¹⁸ Robert Balfanz, *Putting Middle Grades Students on the Graduation Path: A Policy and Practice Brief*, National Middle School Association, June 2009, at 10-11; Diplomas Now, *Diplomas Now Benefits Students, their Schools, and Communities: hearing before the House Education K-12 Subcommittee* (Nov. 5, 2013).

¹⁹ Everyone Graduates Center, *On Track for Success: The Use of Early Warning Indicator and Intervention Systems to Build a Grad Nation* (November 2011), available at http://new.every1graduates.org/wp-content/uploads/2012/03/on_track_for_success.pdf.

²⁰ Diplomas Now, *Where we Work*, <http://diplomasnow.org/about/where-we-work/> (last visited Jan. 22, 2014).

²¹ Diplomas Now, *Diplomas Now Benefits Students, their Schools, and Communities: hearing before the House Education K-12 Subcommittee* (Nov. 5, 2013).

²² Trish Williams, Matthew Rosin, & Michael W. Kirst, *Gaining Ground in the Middle Grades*, EDUC. OUTLOOK, January 2011, at 1; Southern Regional Education Board, *Improved Middle Grades Schools for Improved High School Readiness: Ten Best Practices in the Middle Grades* (2012), at 17, available at publications.sreb.org/2012/12V05_MiddleGrades_10_Best_Practices.pdf; Southern Regional Education Board, *A New Mission for the Middle Grades: Preparing Students for a Changing World* (2011), at 13, available at publications.sreb.org/2011/11E15_Mid_Grades_Com.pdf; Education Commission of the States, *Middle Grades: 15 Actions Your State Can Take to Maximize Young Adolescents' Readiness for Grade 9—and College and Careers*, THE PROGRESS OF EDUC. REFORM, August 2009, at 2; Alliance for Excellent Education, *Using Early-Warning Data to Improve Graduation Rates: Closing Cracks in the Education System* (2008), available at <http://www.all4ed.org/wp-content/uploads/EWI.pdf>.

Professional Development

Research on middle grades reform emphasizes that professional development is crucial in improving student academic performance. The Southern Regional Education Board reported that the most improved middle schools surveyed as part of its *Making Middle Grades Work* initiative²⁴ provide extensive professional development to staff in a variety of areas, including use of project-based learning, active student participation in the learning process, adapting teaching methods to the learning styles of different students, use of reading and writing for learning in the content area and across curriculum, use of interdisciplinary themes or units, and other research-based areas.²⁵ The most-improved schools also sustained staff development programs over time while providing incentives that encourage teachers to participate, reflect on what they learn, and apply the practices in their classrooms.²⁶ Other research has shown that professional development is critical to integrating digital instruction into the classroom²⁷ and implementing interdisciplinary teaching.²⁸

Interdisciplinary Teaching and Small Learning Communities

Interdisciplinary teaching entails the formation of small teams of teachers who share students and meet regularly to discuss student progression.²⁹ This practice allows the teams to ease the transition between elementary school and middle school, provide a more accelerated curriculum, and create a more personalized learning environment for students.³⁰ Furthermore, interdisciplinary teaching has been proven to increase student achievement as measured on state reading and mathematics assessments, even in high-poverty schools.³¹

Small learning communities are individualized learning units within larger school settings.³² In a small learning community, a team of teachers instruct a smaller group of common students, which allows for greater interdisciplinary teaching, individualized instruction, and relationship building between students, teachers, and parents.³³ This is considered a best practice in middle grades instruction.³⁴

Integration of Digital Instruction

Recent middle grades reform research emphasizes the need for schools to have the technological capacity to prepare students for the information and digital age, handle increasing technological demands on teachers for tools to advance student learning, and sufficiently monitor student

²³ Alliance for Excellent Education, *Using Early-Warning Data to Improve Graduation Rates: Closing Cracks in the Education System* (2008), at 2-3, available at <http://www.all4ed.org/wp-content/uploads/EWI.pdf>.

²⁴ Southern Regional Education Board, *Making Middle Grades Work*, http://www.sreb.org/page/1080/making_middle_grades_work.html (last visited Jan. 2, 2014).

²⁵ Southern Regional Education Board, *Improved Middle Grades Schools for Improved High School Readiness: Ten Best Practices in the Middle Grades*, at 24-25.

²⁶ *Id.* at 26.

²⁷ Advancing Education, Inc., *Commonalities of Georgia's Successful Middle Schools* (2011), available at http://www.gpee.org/fileadmin/files/PDFs/Middle_Sch._Rpt_-_SS.pdf.

²⁸ Christopher M. Cook & Shawn A. Faulkner, *The Use of Common Planning Time: A Case Study of Two Kentucky Schools to Watch*, 34 RESEARCH IN MIDDLE LEVEL EDUC. ONLINE (No. 2) 1 (2010).

²⁹ Office of Program Policy and Government Accountability, *Middle Grades Best Practices*, Research Memorandum, at 2 (Sept. 30, 2013).

³⁰ *Id.* at 2.

³¹ *Id.* at 2.

³² California Department of Education, *Small Learning Communities*, <http://pubs.cde.ca.gov/tcsii/ch5/smlrngcmunities.aspx> (last visited Jan. 23, 2014).

³³ See *id.* See also Paul S. George, *What is a Middle School—Really?; hearing before hearing before the House Education K-12 Subcommittee* (Nov. 5, 2013).

³⁴ California Department of Education, *Small Learning Communities*, <http://pubs.cde.ca.gov/tcsii/ch5/smlrngcmunities.aspx> (last visited Jan. 23, 2014).

progression.³⁵ Furthermore, it is important that schools integrate digital instruction into the classroom and course curricula, offering a broad span of techniques and tools to individualize education and supplement classroom instruction. Blending technology with classroom instruction can improve student performance and motivation beyond classroom or internet-based courses alone.³⁶

Integration of technology into the classroom, also called “blended learning,” allows for greater personalization of instruction to drive student engagement, helps reduce student dropouts, closes achievement gaps, and better prepares students for college and career.³⁷ Further, blended learning can accelerate educational opportunities through a wider variety of subjects, instructional strategies and delivery, and curriculum and content relevant to students.³⁸ A digitally enhanced personalized learning experience can build upon individual learning styles, connect with student interests and abilities, and allow students to work at their own pace.³⁹

Competency-Based Education

As blended learning has become more prevalent across the country, the expanded options for personalized instruction has resulted in a growing demand for student-centered digital learning using competency-based education.⁴⁰

Competency-based education, also known as proficiency-, standards-, mastery-, or performance-based education, is an instructional approach in which students progress to more advanced work upon demonstration of mastery of academic content, as opposed to time spent in a course.⁴¹ Virtual instruction is an example of competency-based instruction in Florida—high school students earn credits toward graduation and middle grades students progress from grade to grade by successfully completing courses, not by time spent in a class.⁴²

Competency-based education has been cited as a method to:

- Help traditionally underserved students learn to achieve high state standards;
- Increase college and career readiness;
- Strengthen the economy through a workforce prepared to succeed in a global, knowledge-based economy; and
- Increase student engagement and provide acceleration mechanisms for students at-risk of not graduating high school because they are significantly behind in credits, coursework, or skills.⁴³

When used in conjunction with integrated digital instruction, competency-based education can empower personalized instruction and allow students to learn at their own place at any time or any place.⁴⁴

³⁵ Southern Regional Education Board, *A New Mission for the Middle Grades: Preparing Students for a Changing World* (2011), at 7.

³⁶ *See id.* at 8.

³⁷ Alliance for Excellent Education, *The Digital Imperative: How Technology and Teaching Meet Today’s Education Challenges* (June 2012), at 12, available at <http://all4ed.org/wp-content/uploads/2012/01/DigitalLearningImperative.pdf>.

³⁸ *Id.*

³⁹ *Id.* at 12.

⁴⁰ International Association for K-12 Online Learning, *Re-Engineering Information Technology: Design Considerations for Competency Education* (2013), available at <http://www.inacol.org/resources/publications/competency-education/>.

⁴¹ Edudemic, *How Competency-Based Learning Actually Works* (2013), <http://www.edudemic.com/how-competency-based-learning-actually-works/> (last visited Jan. 3, 2014).

⁴² Sections 1002.37(a)1.-2. and 1001.42(23), F.S.

⁴³ International Association for K-12 Online Learning, *Necessary for Success, Building Mastery of World-Class Skills: A State Policymakers Guide to Competency Education* (2013), at 11, available at <http://www.inacol.org/resources/publications/competency-education/>.

⁴⁴ International Association for K-12 Online Learning, *Re-Engineering Information Technology: Design Considerations for Competency Education* (2013), at 5.

Representatives of the DOE appeared before the House Education K-12 Subcommittee on November 5, 2013, to present data on the current state of middle grades education. Among other things, the data reflected the performance of Florida's 4th and 8th grade students on the National Assessment of Educational Progress (NAEP), learning gains as measured by state assessments for 4th through 8th grade students, statewide attendance numbers, the percentage of middle grades students reported as dropouts, and instances of student discipline (suspensions and expulsions).⁴⁵

The data presented on NAEP scores showed that, as of 2013, Florida's 8th grade students score lower than the national average in mathematics at both basic and proficient levels while nearly level with the national average in reading at both levels.⁴⁶ Data on student attendance indicated that, statewide, about 6.7 percent of 6th graders, 8.8 percent of 7th graders, and 9.9 percent of 8th graders were absent from school 21 or more days, a number correlated with a significant drop in student performance,⁴⁷ during the 2011-2012 school year. Moreover, in the 2011-2012 school year, 18.1 percent of 6th graders, 21.2 percent of 7th graders, and 21 percent of 8th graders statewide received an in-school suspension or out-of-school suspension or were expelled.⁴⁸ Finally, 0.7 percent of 6th grade students, 0.5 percent of 7th graders, and 0.9 percent of 8th graders were reported by districts as dropouts in the 2011-2012 school year.⁴⁹

Background

General Requirements

In order for a student to be promoted to grade 9,⁵⁰ the student must successfully complete the following academic courses:

- Three middle grades or higher courses in English language arts;
- Three middle grades or higher courses in mathematics;
- Three middle grades or higher courses in social studies, one semester of which must include the study of state and federal government and civics education;
- Three middle grades or higher courses in science; and
- One course in career and education planning to be completed in 6th, 7th, or 8th grade.⁵¹

Beginning in the 2013-14 school year, the required civics course must include an end-of-course (EOC) assessment in civics education which constitutes 30 percent of the student's final course grade.⁵²

Statewide Middle Grades Standards and Assessments

⁴⁵ Florida Department of Education, *Middle Grades Descriptive Data; hearing before the House Education K-12 Subcommittee* (Nov. 5, 2013).

⁴⁶ For reading, 33 percent of Florida 8th graders scored at or above proficient level against a national average of 34 percent. Seventy-seven percent scored at or above basic level, matching the national average of 77 percent. In mathematics, 31 percent of Florida's 8th graders scored at or above proficient level against a national average of 34 percent. Seventy percent scored at or above basic level against a national average of 73 percent.

⁴⁷ Florida Department of Education, *Impact of Absenteeism in Early Grades; hearing before the House Education Committee* (Jan. 7, 2014).

⁴⁸ Florida Department of Education, *Middle Grades Descriptive Data; hearing before the House Education K-12 Subcommittee* (Nov. 5, 2013).

⁴⁹ *Id.*

⁵⁰ Students in grades 6, 7, or 8 who are not enrolled in a school with a middle grades configuration are subject to the same promotion requirements as students enrolled in a school with a middle grades configuration. Section 1003.4156(2), F.S.

⁵¹ Section 1003.4156(1)(a), F.S.

⁵² Section 1003.4156(1)(c), F.S.

Legislation enacted in 2008 provided for the replacement of the Sunshine State Standards (SSS) with more rigorous Next Generation Sunshine State Standards (NGSSS).⁵³ Among other things, the legislation directed the Commissioner of Education to establish an expedited schedule for this transition, to be completed by December 1, 2011. The transition from the SSS to the NGSSS was completed in December 2010. The NGSSS establish the core curricular content for English language arts, Science, Mathematics, Social Studies, Visual and Performing Arts, Physical Education, and Foreign Languages for the public K-12 system, including middle grades.⁵⁴

The statewide assessment program measures student mastery of the NGSSS.⁵⁵ The statewide assessment program for public schools includes the FCAT and statewide, standardized EOC assessments.⁵⁶ FCAT assesses reading (grades 3-10), mathematics (grades 3-8), science (grades 5 and 8), and writing (grades 4, 8, and 10).⁵⁷ Florida transitioned to FCAT 2.0 assessments aligned to the more rigorous NGSSS in reading and mathematics in the 2010-2011 school year and in science in the 2011-2012 school year.⁵⁸ Administration of high school FCAT Mathematics was discontinued for students entering grade 9 in the 2010-2011 school year and thereafter.⁵⁹

Public middle grades students are required to participate in the statewide assessment program. They fulfill this requirement by taking the FCAT 2.0 each year for their respective grade level.⁶⁰ In addition, each middle grades student must successfully complete, prior to promotion to high school, a civics course that is at least one semester long. Beginning in the 2013-2014 school year, each student must take a statewide, standardized civics EOC assessment which constitutes 30 percent of the student's final course grade.⁶¹

Each school that includes middle grades must offer at least one high school level mathematics course for which students may earn high school credit.⁶² Middle grades students who take Algebra I, Geometry, or Biology I must sit for the corresponding statewide standardized assessment.⁶³ Promotion to high school is not contingent upon the student passing the exam.⁶⁴ However, in order to earn high school credit, a middle grades student taking Algebra I must pass the statewide, standardized EOC assessment.⁶⁵ For Geometry and Biology I, a student's performance on the statewide, standardized assessment comprises 30 percent of the student's final course grade, and the student must pass the course in order to earn high school credit.⁶⁶

Remediation Requirements

Prior to the 2013-2014 school year, middle grades students who scored a Level 1 on FCAT Reading were required to receive remediation through an intensive remediation course. Legislation enacted in 2013 allows flexibility for these students to participate in the required remediation either through a

⁵³ Section 8, ch. 2008.235, L.O.F.

⁵⁴ Section 1003.41(1)-(2), F.S.; *see, e.g.*, Florida Department of Education, *Next Generation Sunshine State Standards*, <http://www.fldoe.org/bii/curriculum/sss/> (last visited March 10, 2013).

⁵⁵ Section 1008.22(1)(a), F.S.

⁵⁶ Section 1008.22(3)(c)1. and 2., F.S.

⁵⁷ Section 1008.22(3)(a), F.S.

⁵⁸ Florida Department of Education, *2011 FCAT 2.0 Fact Sheet*, at 1 (Feb. 2011), available at <http://fcats.fldoe.org/fcat2/pdf/ffs2.pdf>; rule 6A-1.09422(3)(b), F.A.C.

⁵⁹ Section 1008.22(3)(c)2.a.

⁶⁰ Section 1008.22(3)(a), F.S.

⁶¹ Section 1003.4156(1)(c), F.S.

⁶² Section 1003.4156(1)(b), F.S.

⁶³ Section 1003.4156(1), F.S.

⁶⁴ *Id.*

⁶⁵ Section 1003.4156(1)(b), F.S.

⁶⁶ Section 1003.4156(1)(b) and (d), F.S.

remedial course or a content area course which incorporates remediation strategies.⁶⁷ In addition, students who score a Level 2 on the FCAT Reading are also subject to the remediation requirements.⁶⁸

Middle grades students who score a Level 1 or Level 2 on FCAT Mathematics or, when implemented, the new statewide, standardized mathematics assessment, must receive remediation the following year.⁶⁹ The remediation may be integrated into the student's required mathematics courses.⁷⁰

Attendance Requirements

In Florida, children 6 to 16 years of age must regularly attend school.^{71,72} Upon attaining 16 years of age, a student is not subject to compulsory school attendance if he or she files with the district school board a formal declaration of intent to terminate school enrollment, which must be signed by the student's parent.⁷³ A student terminating school enrollment must complete an exit interview and survey prescribed by the Department of Education and explain the reasons for terminating enrollment.⁷⁴

In addition to attendance in public school, compulsory school attendance may be achieved through regular attendance in a private school; a parochial, religious, or denominational school; a home education program; or a private tutoring program.⁷⁵

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.⁷⁶ The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.⁷⁷ If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused. In such cases, the physician's excuse justifies absences beyond the maximum number of days permitted under the district school board's attendance policy.⁷⁸

State law and state board rule also authorize a public school to grant permission to students, in accordance with the school district's rules, to be absent from school for religious instruction, religious holidays, or because religious tenets forbid secular activity during the school day.⁷⁹

School districts must implement the following steps to enforce regular attendance:

Contact: Each time a student has an unexcused absence or absence for which the reason is unknown, the school principal or his or her designee must contact the student's parent to determine the reason for the absence. If the reason for the absence is determined to fall within the district's policy for excused

⁶⁷ Section 13, ch. 2013-27, L.O.F.

⁶⁸ Section 1003.4156(2), F.S.

⁶⁹ Section 1003.4156(3), F.S.

⁷⁰ *Id.*

⁷¹ Sections 1002.20(2)(a) and 1003.21(1)(a)1., F.S. (a child who is 6 years of age, or who will be 6 years old by February 1 of the school year, or older is subject to compulsory school attendance).

⁷² Although not required to attend public school, children with disabilities who have attained the age of 3 years are eligible for admission to public special education programs. Similarly, children younger than 3 years of age with disabilities may be eligible for special programs and services. Section 1003.21(1)(e), F.S.

⁷³ Section 1003.21(1)(c), F.S. A student who is 18 years of age is not required to obtain parental consent when terminating school enrollment. *Id.*

⁷⁴ *Id.*

⁷⁵ Sections 1002.20(2)(b) and 1003.01(13), F.S.

⁷⁶ Section 1003.24, F.S. (flush-left provisions at end of section).

⁷⁷ Section 1003.26, F.S.

⁷⁸ Section 1003.24(4), F.S.

⁷⁹ Sections 1002.20(2)(c) and 1003.21(2)(b), F.S.; rule 6A-1.09514(1) and (2), F.A.C.

absences, the school must allow the student to make up assigned work. The student may not be penalized unless such work is not made up within a reasonable time.⁸⁰

Refer: If a student exhibits a "pattern of nonattendance,"⁸¹ his or her teacher must report the behavior to the school principal. Unless there is clear evidence that the absences are not a pattern of nonattendance, the principal must refer the case to the school's child study team⁸² to determine whether early patterns of truancy are developing.⁸³ If a child study team finds a pattern of truancy developing, the principal must notify the district superintendent and the district contact for home education programs.⁸⁴

The child study team must meet with the student's parent to identify potential remedies and, if that meeting does not resolve the problem, the team must implement:

- Frequent attempts at communication between the teacher and the family;
- Evaluation for alternative education programs; and
- Attendance contracts.⁸⁵

The child study team may also implement other interventions, including referral to other agencies for family services or recommendations for filing a truancy petition,⁸⁶ and must report the case to the district superintendent only after all reasonable intervention efforts have been exhausted.⁸⁷

Florida law holds parents responsible for their student's regular school attendance and for participating in the efforts of a child study team.⁸⁸ A parent who knowingly refuses or fails to do either of the aforementioned requirements may be criminally prosecuted for a second degree misdemeanor, which is punishable by imprisonment for up to 60 days.⁸⁹ In addition to imprisonment, the court may require the parent to participate in an approved parent training class, attend school with the student unless this would cause undue hardship, perform community service hours at the school, or participate in counseling or other services.^{90,91}

If a student is found by the court to be a habitual truant,⁹² the court must order him or her to make up all school work missed and may order him or her to pay a civil penalty of up to \$2 for each day of school

⁸⁰ Section 1003.26(1)(a), F.S.

⁸¹ If a student has at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within 90 calendar days, the student's primary teacher must report to the school principal that the student may be exhibiting a "pattern of nonattendance." Section 1003.26(1)(b), F.S.

⁸² A child study team is typically synonymous with other multidisciplinary school teams, such as "problem solving teams," intervention support teams, school based intervention teams, response to intervention teams, and student support teams. Along with its statutory duties concerning student attendance, the child study team meets to collect and review information about students who are referred for learning and/or behavioral concerns. See Florida Department of Education, *Glossary*, <http://www.fldoe.org/military/generaled/glossary.asp> (last visited Aug. 15, 2013).

⁸³ Section 1003.26(1)(b), F.S.

⁸⁴ *Id.*

⁸⁵ Section 1003.26(1)(c), F.S.

⁸⁶ "Truancy petition" means a petition filed by the superintendent of schools alleging that a student subject to compulsory school attendance has had at least five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period, or has more than 15 unexcused absences in a 90-calendar-day period. A truancy petition is filed and processed under s. 984.151, F.S. Section 984.03(55), F.S.

⁸⁷ Section 1003.26(1), F.S.

⁸⁸ Section 1003.24, F.S.

⁸⁹ Sections 1003.24, 1003.26(1)(e) and (f), and 1003.27(2) and (7)(a), F.S.

⁹⁰ Section 1003.27(7)(a)3., F.S.

⁹¹ A parent is not responsible for a child's nonattendance if the absence is: authorized by the head of the school; without the parent's knowledge or consent; due to the parent's financial inability to provide necessary clothing for the child; or due to the child's sickness, injury, or other insurmountable condition. Section 1003.27(7)(d)1., F.S.

⁹² "Habitual truant" is a legal status determined by the court upon the filing of a petition by the school superintendent. In order for the court to declare a student habitually truant, the court must find that the student is subject to compulsory school attendance; the student has had 15 unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent; and a child

missed; perform up to 25 community service hours at the school; or participate in counseling or other services, as appropriate.⁹³ For a second or subsequent finding of habitual truancy, the court must order the student to make up all school work missed and may order the him or her to pay a civil penalty of up to \$5 for each day of school missed; perform up to 50 community service hours at the school; or participate in counseling or other services, as appropriate.⁹⁴

Dropout Prevention and Academic Intervention

Present Situation

Each district school board may establish dropout prevention and academic intervention programs at the elementary, middle, or high school level.⁹⁵ These programs must use instructional teaching methods appropriate to the specific needs of each student participating in the program.⁹⁶ Any school that establishes a dropout prevention and academic intervention program must reflect the program in its school improvement plan.⁹⁷

Dropout prevention and academic intervention programs may differ from traditional programs and schools in scheduling, administrative structure, philosophy, curriculum, or setting and must employ alternative teaching methodologies, curricula, learning activities, and diagnostic and assessment procedures in order to meet the needs, interests, abilities, and talents of eligible students.⁹⁸

Eligibility for participation in a dropout prevention and academic intervention program is limited to students in grades 1 through 12.⁹⁹ Such students are eligible for dropout prevention and academic programs if they are academically unsuccessful, exhibit a pattern of excessive absenteeism or have been identified as a habitual truant, or have a history of disruptive behavior in school or have committed an offense that warrant out-of-school suspension or expulsion from school.¹⁰⁰ Student participation in a dropout prevention and academic intervention program is voluntary.¹⁰¹

School districts must report eligible students in the appropriate basic cost factor in the Florida Education Finance Program (FEFP), and the strategies and supports provided to eligible students are funded through the General Appropriations Act.¹⁰² Such strategies and supports may include, but are not limited to, those services identified on a student's academic intervention plan.¹⁰³ Funding for these programs is paid from the Supplemental Academic Instruction (SAI) Categorical Fund and are in addition to the funds appropriated on the basis of FTE student membership in the FEFP.¹⁰⁴ Each district with one or more of the 100 lowest-performing elementary schools must first use at least \$15 million SAI funds and at least \$15 million from the district research-based reading instruction funds to provide an additional hour of intensive reading instruction each day.¹⁰⁵ After this requirement has been met, the

study team has conducted intervention activities and attempted unsuccessfully to remediate the student's truant behavior. Section 1003.01(8), F.S.

⁹³ Section 1003.27(7)(d)1., F.S.

⁹⁴ Section 1003.27(7)(d)2., F.S.

⁹⁵ Section 1003.53(2)(a), F.S.

⁹⁶ *Id.*

⁹⁷ Section 1003.53(2)(b), F.S.

⁹⁸ Section 1003.53(1)(a), F.S.

⁹⁹ Section 1003.53(1)(b), F.S.

¹⁰⁰ Section 1003.53(1)(c), F.S. Under certain circumstances, school districts may assign students in grades 6 through 10, who are habitually truant or who have been disruptive or violent, to a second chance school. *See s.* 1003.53(1)(d), F.S.

¹⁰¹ Section 1003.53(1)(a), F.S.

¹⁰² Section 1003.53(1)(b), F.S.

¹⁰³ *Id.*

¹⁰⁴ Section 1011.62(1)(f)2., F.S.

¹⁰⁵ *Id.* In the 2013 General Appropriations Act, Specific Appropriations 7 and 87, s. 2, ch. 2013-40, L.O.F., the Legislature allocated a total sum of \$639,296,226 for SAI and \$130,000,000 for Reading Instruction. In each district with one or more of the 100 lowest-performing elementary schools, at least a combined total of \$30,000,000 of the district's allocation from SAI and Reading Instruction

SAI funds may be used for other purposes which may include dropout prevention and academic intervention.¹⁰⁶

District school boards that receive state funding for dropout prevention and academic intervention must submit an annual report to the DOE documenting the extent of the district's success in using dropout prevention and academic intervention programs to improve the district's graduation rate, dropout rate, attendance rate, and retention/promotion rate.¹⁰⁷ In addition, school boards that provide a dropout prevention and academic intervention program must maintain for each participating student records documenting the student's eligibility, the length of the student's participation, the type of program to which the student was assigned or type of academic intervention services provided, and an evaluation of the student's academic and behavioral performance while in the program.¹⁰⁸

Prior to a student's placement in a dropout prevention and academic intervention program, the school principal must provide written notice to the student's parent.¹⁰⁹ The student's parent must return acknowledgement of the written notice within 3 days of receipt. The notice must inform the parent that he or she is entitled to administrative review, under ch. 120, F.S., of any action by school personnel relating to the student's placement.¹¹⁰

District school boards must establish procedures to ensure that teachers assigned to dropout prevention and academic intervention programs possess the affective, pedagogical, and content-related skills necessary to meet the needs of students placed in the program.¹¹¹

Effect of Proposed Changes

The bill requires each school that includes any of grades 6, 7, or 8 to implement an early warning system to identify students who are at risk of not graduating from high school. The bill identifies four early warning indicators that schools must use to monitor students:

- Attendance below 90 percent;
- Course failure in English language arts or mathematics;
- One or more in-school or out-of-school suspensions; and
- Scoring a Level 1 score on the statewide, standardized reading or mathematics assessments.

The bill allows each district to prescribe additional early warning indicators for use in its schools' early warning systems.

When a student exhibits two or more early warning indicators, the school must convene the school's child study team,¹¹² or a similar team established to implement the school's early warning system, to determine appropriate intervention strategies for the student. The team may be the student's individualized education program (IEP) team, if applicable, or any other team the school establishes for the purpose of academic intervention. The school must provide to the student's parent at least 10 days' written notice of the meeting. The notice must indicate the meeting's purpose, time, and location. The school must also provide the parent the opportunity to participate in the meeting.

is required to be first used to provide the additional hour of intensive reading instruction. *See* Specific Appropriation 87, s. 2, ch. 2013-40, L.O.F.

¹⁰⁶ *See id.*

¹⁰⁷ Section 1003.53(3), F.S.

¹⁰⁸ Section 1003.53(5), F.S.

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Section 1003.53(4), F.S.

¹¹² School child study teams are convened by school principals to help enforce school attendance requirements pursuant to s. 1003.26, F.S.

Each school that includes any of grades 6, 7, or 8 must include annually in its school improvement plan the following information and data on the school's early warning system:

- A list of the early warning indicators used in the system;
- The number of students identified by the system as exhibiting two or more early warning indicators;
- The number of students by grade level that exhibit each indicator; and
- A description of all intervention strategies employed by the school to improve the academic performance of students identified by the early warning system.

The bill provides that students identified by a school's early warning system are eligible for dropout prevention and academic intervention programs.

Professional Development

Present Situation

Florida law requires a number of entities, including the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations, to work collaboratively to develop a coordinated system of professional development. The purpose of the system is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.¹¹³

Part of the DOE's responsibility in the professional development system is to disseminate to the school community research-based professional development methods and programs that have demonstrated success in meeting identified student needs.¹¹⁴ At least one method of dissemination must be through a web-based statewide performance support system, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.¹¹⁵ In addition, the DOE must disseminate, using the web-based statewide performance-support system, proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, and meeting identified school needs.¹¹⁶ The DOE must also disseminate, using web-based technology, research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system.¹¹⁷

Each school district is required to develop a professional development system in consultation with teachers, teacher-educators of Florida College System (FCS) institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations.¹¹⁸ The system must:

- Be approved by the DOE, with all substantial revisions thereto also approved by the DOE;
- Be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students;
- Provide inservice activities with followup support appropriate to accomplish district-level and school-level improvement goals and standards;

¹¹³ Section 1012.98(1), F.S.

¹¹⁴ Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

¹¹⁵ *Id.*

¹¹⁶ Section 1012.98(11), F.S.

¹¹⁷ Section 1012.98(7), F.S.

¹¹⁸ Section 1012.98(4)(b), F.S.

- Include a master plan for inservice activities, which must be aligned to and support school-based inservice plans and school improvement plans and be approved annually by the district school board;
- Include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management;
- Provide for systemic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs;
- Provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs; and
- Provide for the continuous evaluation of the quality and effectiveness of professional developmental programs in order to eliminate ineffective programs and strategies and expand effective ones.¹¹⁹

A district school board may contract with independent entities for professional development services and inservice education if the district school board can demonstrate to the Commissioner of Education that, through such a contract, a better product can be acquired or its goals for education improvement can be better met.¹²⁰

Effect of Proposed Changes

The bill requires professional development activities designed to implement the School Community Professional Development Act¹²¹ to provide middle grades instructional personnel and school administrators the knowledge, skills, and best practices necessary to support excellence in classroom instruction and educational leadership.

The bill requires the DOE to include in its web-based statewide performance support system, subject to appropriation, materials related to middle grades classroom instruction, including integrated digital instruction and competency-based instruction, classroom management, student behavior and interaction, extended learning opportunities for students, and instructional leadership.

In addition, the DOE must disseminate, using web-based technology, professional development in the use of integrated digital instruction at schools that include middle grades. The professional development must provide training and materials that districts can use to provide instructional personnel with the necessary knowledge, skills, and strategies to effectively blend digital instruction into subject-matter curricula. The professional development must emphasize online learning and research techniques, reading instruction, the use of digital devices to supplement the delivery of curricular content to students, and digital device management and security. The bill encourages school districts to incorporate the professional development as part of their professional development system.

The bill requires each school district to include in the district's inservice plan a description of the training that middle grades instructional personnel and school administrators receive on:

- The district's code of student conduct;
- Integrated digital instruction and competency-based instruction;
- Classroom management;
- Student behavior and interaction;
- Extended learning opportunities for students; and
- Instructional leadership.

In addition, the district's professional development system must emphasize, for middle grades:

¹¹⁹ *Id.*

¹²⁰ Section 1012.98(9), F.S.

¹²¹ Section 1012.98, F.S.

- Interdisciplinary planning, collaboration, and instruction;
- Alignment of curriculum and instructional materials to the state academic standards;
- Use of small learning communities;
- Problem-solving, inquiry-driven research and analytical approaches for students;
- Strategies and tools based on student needs;
- Integration of digital instruction and competency-based instruction; and
- Project-based instruction.

The bill requires each school that includes middle grades to include in its school improvement plan a description of the specific strategies used by the school to implement the items emphasized by the district inservice plan.

School Improvement Plans

Present Situation

District school boards are required to annually approve and require implementation of a school improvement plan for each school in the district.¹²² School districts must provide funds to schools for developing and implementing school improvement plans.¹²³

Schools that earn a grade of D or F are required to prepare a school improvement plan using a form prescribed by the DOE.¹²⁴ The form outlines specific expected improvements and data reporting, including data related to early warning systems, and guides the school improvement problem-solving and planning process.¹²⁵ The DOE-prescribed school improvement plan also doubles as a Title I Schoolwide Plan, as it is embedded with all required components of a schoolwide and targeted assistance program under the federal No Child Left Behind Act.¹²⁶

Effect of Proposed Changes

The bill requires schools that include any of grades 6, 7, or 8 to report information and data on early warning systems and professional development, which includes the strategies used by the school to implement each item emphasized by the district professional development system.

Middle Grades Courses and Curricular Content

Present Situation

In order for a student's enrollment in a course or program to generate FTE funding through the FEFP, the course or program must, among other requirements, be approved by the state board for inclusion in its Course Code Directory.¹²⁷ In addition, the curricular content for all subjects must integrate:¹²⁸

- Critical-thinking, problem-solving, and workforce-literacy skills;
- Communication, reading, and writing skills;
- Mathematics skills;
- Collaboration skills;

¹²² Section 1001.42(18)(a), F.S.

¹²³ Section 1001.42(18)(c), F.S.

¹²⁴ See Rule 6A-1.09981, F.A.C.; Florida Department of Education, *Form SIP-1 School Improvement Plan* (2013), available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-03056>.

¹²⁵ Rule 6A-1.09981(4) and (5), F.A.C.

¹²⁶ See 20 U.S.C. s. 6314(b)

¹²⁷ See Rule 6A-1.09441, F.A.C. See also s. 1011.62(1)(c), F.S. The Course Code Directory and Instructional Personnel Assignments 2013-2014 can be found at <http://www.flrules.org/gateway/reference.asp?No=Ref-03096>.

¹²⁸ Section 1003.41(1), F.S.

- Contextual and applied-learning skills;
- Technology-literacy skills;
- Information and media-literacy skills; and
- Civic-engagement skills.

Currently, there is no express requirement that any course approved by the state board integrate all appropriate curricular content as prescribed by the state's academic standards.

Effect of Proposed Changes

The bill requires the state board to remove any middle grades course in the Course Code Directory that does not fully integrate all appropriate curricular content required by the state's academic standards. Furthermore, the state board may approve a new course for inclusion in the Course Code Directory only if the course contains the required curricular content.

Hazing¹²⁹

Present Situation

Hazing at a high school with grades 9 through 12 is criminally punishable as either a first degree misdemeanor or third degree felony, depending on the nature of the act of hazing.¹³⁰ Hazing is defined as:

Any action or situation that recklessly or intentionally endangers the mental or physical health or safety of a student at a high school with grades 9 through 12 for purposes including, but not limited to, initiation or admission into or affiliation with any organization operating under the sanction of a high school with grades 9 through 12.¹³¹

Hazing includes, but is not limited to:

- Pressuring or coercing the student into violating state or federal law;
- Any brutality of a physical nature, such as whipping, beating, branding, or exposure to the elements;
- Forced consumption of any food, liquor, drug, or other substance;
- Forced physical activity that could adversely affect the physical health or safety of a student; or
- Any activity that would subject the student to extreme mental stress, such as sleep deprivation, forced exclusion from social contact, forced conduct that could result in extreme embarrassment, or other forced activity that could adversely affect the mental health or dignity of a student.¹³²

The definition of hazing excludes customary athletic events or other similar contests or competitions or any activity or conduct that furthers a legal and legitimate objective.¹³³

¹²⁹ This analysis does not address hazing at postsecondary institutions, which is subject to the provisions of s. 1006.63, F.S.

¹³⁰ Section 1006.135(1), F.S.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.*

Hazing constitutes a first degree misdemeanor if a person intentionally or recklessly commits an act of hazing upon another person who is a member of or applicant to any type of student organization and the hazing creates a substantial risk of physical injury or death to the other person.¹³⁴ If the act of hazing results in serious bodily injury or death of the other person, then the act constitutes a third degree felony.¹³⁵

Attendance and completion of a 4-hour hazing education course is a required condition of any sentence imposed on a person convicted of hazing.¹³⁶ A court may also impose a drug or alcohol probation as a condition of the sentence.¹³⁷

It is not a defense to a charge of hazing that:

- Consent of the victim had been obtained;
- The conduct or activity that resulted in death or injury of the victim was not part of an official organizational event or was not otherwise sanctioned or approved by the organization; or
- The conduct or activity that resulted in death or injury of the victim was not done as a condition of membership to an organization.¹³⁸

Prosecution for hazing does not preclude prosecution for a more general offense resulting from the same criminal transaction or episode (e.g., battery).¹³⁹

Unlike incidents of bullying or harassment of K-12 students¹⁴⁰ or postsecondary hazing,¹⁴¹ incidents of hazing at high schools are not reported by school districts to the DOE.

Effect of Proposed Changes

The bill extends the definition of hazing to include grades 6 through 8 and clarifies what conduct constitutes an act of hazing. The bill also requires each school district to establish a policy that prohibits hazing and sets consequences for violations. The district policy must also include:

- A definition of hazing which must include the definition of hazing provided by statute;
- A procedure for reporting an alleged act of hazing, including provisions that permit a person to anonymously report such an act;¹⁴²
- The requirement that a school with any of grades 9 through 12 report an alleged act of hazing to a local law enforcement agency if the alleged act meets the criteria for criminal hazing;
- A provision for referral of victims and perpetrators of hazing to a certified school counselor; and
- The requirement that each incident of hazing be reported to the DOE as part of the reporting school's safety and discipline report¹⁴³ through the School Environmental Safety Incident Reporting (SESIR) System.¹⁴⁴

¹³⁴ Section 1006.135(3), F.S.

¹³⁵ Section 1006.135, (2), F.S.

¹³⁶ Section 1006.135,(4), F.S.

¹³⁷ *Id.*

¹³⁸ Section 1006.135(5), F.S.

¹³⁹ Section 1006.135(6), F.S.

¹⁴⁰ Bullying and harassment are prohibited under s. 1006.147, F.S.

¹⁴¹ Hazing at postsecondary institutions is subject to the provisions of s. 1006.63, F.S.

¹⁴² The bill specifies that disciplinary action for hazing may not be based solely on an anonymous report.

¹⁴³ Each school principal must report data concerning school safety and discipline to the DOE using forms prescribed by state board rule. Section 1006.09(6), F.S. The principal must develop a plan to verify the accuracy of reported incidents. *Id.*

¹⁴⁴ The SESIR system compiles data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. See Florida Department of Education, *Statewide Report on School Safety and Discipline Data*, <http://www.fldoe.org/safeschools/sesir.asp> (last visited Jan. 16, 2014).

The information provided to the DOE must include the number of hazing incidents reported, the number of incidents that result in disciplinary action taken by the school, and the number of incidents that do not result in either referral to a local law enforcement agency or disciplinary action taken by the school.

The bill modifies criminal hazing provisions by changing the intent standard for misdemeanor and felony hazing from intentional or reckless to “knew or should have known.” The bill maintains applicability of criminal penalties only to students in grades 9 through 12 and changes the level of risk required in misdemeanor hazing from “substantial” to “potential”. The bill allows courts to require a defendant convicted of hazing to make a public apology to the students and victims at the school and/or participate in a school-sponsored anti-hazing campaign to raise awareness of what constitutes hazing and the penalties for hazing.

Early Graduation¹⁴⁵

Present Situation

Florida law requires each school district to adopt an early graduation policy enabling high school students who complete 24 credits in less than eight semesters and meet the grade point average and assessment requirements the option of graduating early. Students must be allowed early graduation upon earning the state-required 24 credits, regardless of any additional district requirements.¹⁴⁶ For purposes of early high school graduation, a credit is equal to 1/6 FTE.¹⁴⁷ Thus, a student may earn up to six high school credits equivalent to 1 FTE per school year in grades 9 through 12 for courses provided by the school district.

High school credits earned in excess of six per school year in courses delivered by the school district are unpaid credits.¹⁴⁸ Each unpaid high school credit delivered by a school district during the student’s prior enrollment may be reported by the district as 1/6 FTE when the student graduates early. In addition, a district may report up to 1/2 FTE for unpaid credits delivered by the district for a student who graduates one semester in advance of the student’s cohort and up to 1 FTE for a student who graduates 1 year or more in advance of the student’s cohort.

Effect of Proposed Changes

The bill removes the 1/6 FTE limitation on high school credits for purposes of early graduation and eliminates the calculation of FTE based on unpaid credit for prior course enrollment. Instead, the bill provides that each school district may earn 0.25 additional FTE for a student who graduates one semester early and 0.5 additional FTE for a student who graduates early by one year or more.

Digital Tools Certificates and Digital Materials¹⁴⁹

Present Situation

¹⁴⁵ Provisions relating to early graduation, digital tool certificates, digital materials, career courses, and industry certifications were not part of the original House bill, CS/HB 7033, as passed by the K-12 Subcommittee and the Education Appropriations Subcommittee. On April 3, 2014, the House Education Committee amended the bill (Amendment 460949) to include these provisions, which were similar to provisions included in the Senate companion bill.

¹⁴⁶ Section 1003.4281, F.S.

¹⁴⁷ Section 1003.4281(5), F.S.

¹⁴⁸ *Id.*

¹⁴⁹ *See supra* n. 145.

School districts are required to make digital materials available to all students in prekindergarten through grade 12 and must make digital and instructional materials, including software applications, available to students with disabilities in prekindergarten through grade 12.¹⁵⁰ Such materials may be integrated into subject area curricula, offered as a separate course, made available through open-access options, or deployed through online or digital computer applications. In addition, current law provides for the establishment of three digital literacy programs:

- The Florida Cyber Security Recognition program to provide instruction to elementary students regarding computer processing operations and cyber-safe practices;
- The Florida Digital Arts Recognition program to provide instruction to elementary students regarding technology and the arts; and
- The Florida Digital Tools Certificate program to provide instruction to middle school students regarding skills necessary for school and work success, such as word processing; spreadsheets; and presentations, including sound, text, and graphic presentations.

In 2013, the Legislature passed CS/CS/SB 1076, which provided for schools to receive bonuses amounting to \$50 for each middle grades student who earns a Florida Digital Tools Certificate, with a minimum of \$1,000 and maximum of \$15,000 per school annually.¹⁵¹ Under the Florida Digital Tools Certificate program, a student who masters certain targeted, digital skills necessary for the student's academic work and which the student may need in future employment is to be awarded a certificate to indicate the students' digital skills.¹⁵² The program was to be created by one or more technology companies with DOE-approved industry certifications.¹⁵³ However, funding for the Florida Digital Tools Certificates program was vetoed from the 2013 General Appropriations Act by the Governor.¹⁵⁴

Effect of Proposed Changes

The bill eliminates provisions relating to the three digital literacy programs. Instead, the bill requires that digital tool certificates and industry certifications be made available through digital materials to students from prekindergarten through grade 12. Digital tool certificates recognize digital competencies such as word processing; spreadsheets; digital arts; cybersecurity; coding; and development of sound, motion, and color presentations.

The bill provides that, beginning with the 2015-2016 school year, digital materials may include digital tool certificates, industry certifications, and "OSHA industry certifications"¹⁵⁵ for students with disabilities. The individual educational plan (IEP) for a student with disabilities must identify the digital tool certificates and industry certifications the student seeks to attain before high school graduation, if any.

The bill encourages third-party assessment providers and career and professional academy curriculum providers to provide annual training to DOE, school district, and public school instructional and administrative staff, but does not specify what topics the training should address. The bill states that public schools may provide students with access to third-party assessment centers and career and professional academy curricula in a digital format to assist public schools and school districts to establish "Florida Digital Classrooms."

The bill expresses the intent that 75 percent of public middle grades students earn at least one digital tool certificate, instead of a Florida Digital Tools Certificate, by July 1, 2018. The bill also provides

¹⁵⁰ Section 1003.4203(1) and (2), F.S.

¹⁵¹ *Id.*

¹⁵² Section 1003.4203(4), F.S.

¹⁵³ *Id.*

¹⁵⁴ See Specific Appropriation 102A, s. 2, ch. 2013-40, L.O.F. See also Veto of Fla. SB 1500, s. 2 (2013) (letter from Governor Scott to Secretary of State Ken Detzner, May 20, 2013) (deleting \$7,777,572 from Specific Appropriation 102A) (on file with Secretary of State, The Capitol, Tallahassee, Fla.).

¹⁵⁵ It is unclear what an "OSHA industry certification" is or whether any currently exist.

additional full-time equivalent (FTE) student membership of 0.025 for each digital tool certificate earned by a student in elementary and middle school grades and limits additional FTE membership to 0.1 for digital certificates earned within the same fiscal year. The bill prohibits middle grades students from using previously earned digital tool certificates to satisfy requirements for earning an industry certification.

Career Courses and Industry Certifications¹⁵⁶

Present Situation

Industry certification refers to certification issued by an occupational or industry group to signal completion of particular training, coursework, apprenticeship, or other preparation for a particular job or job category. Many jobs require some form of industry certification as a prerequisite to hiring, and licensure is often based on industry developed assessments. Florida public middle and high school students may earn industry certifications through a career academy¹⁵⁷ or career themed courses.¹⁵⁸ School boards are required to develop a three-year strategic plan in partnership with regional workforce boards, economic development agencies, and state-approved postsecondary institutions to better align career academy programs with local workforce needs.¹⁵⁹

Secondary career education programs, for grades 9-12, receive funding through the Florida Education Finance Program (FEFP) and school districts receive weighted FTE funding for students attaining the highest level of industry certification through a career academy or career-themed courses. A value of 0.1 or 0.2 FTE is calculated for such students.¹⁶⁰ Districts receive this funding when the student earns a standard high school diploma.¹⁶¹ Funding is capped at \$60 million annually, unless otherwise specified in the General Appropriations Act (GAA).¹⁶²

The law requires the state board, in collaboration with Workforce Florida, Inc., to adopt rules establishing an industry certification process. Industry certifications must be defined by the Department of Economic Opportunity (DEO) based upon the highest available national standards for specific industry certifications to ensure student skill proficiency and address emerging labor market and industry trends. Through this process, industry certifications are identified, compiled, and weighted for funding purposes and the final Industry Certification Funding List is annually adopted by the state board.¹⁶³

¹⁵⁶ See *supra* n. 145.

¹⁵⁷ A career and professional academy is a career and technical education program in a public secondary school that leads to high school credit, a high school diploma, industry certification, and opportunities for students to simultaneously earn postsecondary credit. Each school board is required to operate at least one high school academy and have a plan to implement at least one middle school academy. Sections 1003.493(1) and 1003.4935(1), F.S.

¹⁵⁸ Section 1003.493(1), F.S. Career-themed courses are courses or a course series that leads to an industry certification. These courses may be offered by any school, even if the school is not a career academy. Section 1003.493(1)(b), F.S.

¹⁵⁹ Section 1003.491(3), F.S. The strategic plan must, among other things, include strategies for developing career academies based upon identification of high-skill, high-wage, high-demand careers; and ensure that career academy courses are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and when appropriate, result in postsecondary credit. *Id.*

¹⁶⁰ Section 1011.62(1)(c) and (o)1., F.S.

¹⁶¹ Section 1011.62(1)(o)1., F.S. Rigor is based on the number of instructional hours, including work experience hours, required to earn the certification, with a bonus for industry certifications that have a statewide articulation agreement for college credit approved by the state board. Employment value is based on the entry wage, growth rate in employment for each occupational category, and average annual openings for the primary occupation linked to the industry certification. *Id.*

¹⁶² Section 1011.62(1)(o)3., F.S.

¹⁶³ Section 1003.492(2), F.S.; rule 6A-6.0573(3)-(5), F.A.C. Regional workforce boards and school principals may apply to Workforce Florida, Inc., to request additions to the approved list of industry certifications based on high-skill, high-wage, and high-demand job requirements in the regional economy. *Id.* The preliminary Industry Certification Funding List for the 2014-2015 school year contains industry certifications in numerous areas, including automotive repair, medical lab technician, nursing, welding, pipefitting, and

Each career academy or career themed course must include at least one partnership with postsecondary institutions, business, industry, employers or economic development organizations. Partnerships with postsecondary institutions must delineate in articulation agreements career academy and career-themed courses that articulate to postsecondary credit.¹⁶⁴ Industry certifications that articulate for postsecondary credit are called Gold Standard Career Pathways Industry Certifications. The Gold Standard list is a subset of the Industry Certification Funding List. Each Gold Standard certification is adopted as a statewide articulation agreement, after Florida College System (FCS) administrators, program deans, and faculty agree that the certification articulates for college credit in an Associate of Science or Associate of Applied Science degree program. There are currently 116 Gold Standard certifications on the list.¹⁶⁵

For industry certifications earned in the 2013-2014 school year and thereafter, bonuses are available for teachers of courses in which students earn industry certifications. The bonus amounts are \$25 for students earning 0.1 FTE weighted certifications and \$50 for those earning 0.2 FTE weighted certifications. The maximum bonus such teachers may earn is \$2,000 in any given school year.¹⁶⁶

Effect of Proposed Changes

To expand the opportunities for students to receive career and professional education, including digital skills, the bill authorizes the Commissioner of Education to recommend at any time adding to the Industry Certification Funding List no more than 15 digital tool certificates that do not articulate for college credit. In addition, the commissioner may, at any time, recommend adding to the list career innovation certificates earned through career innovation courses and acceleration industry certifications. The bill states that career innovation courses are up to five courses, annually approved by the commissioner, that combine academic and career content. The courses must incorporate at least two third-party assessments that, if successfully completed, articulate for college credit, and at least one of the assessments must be associated with an industry certification identified on the list. It is unclear whether any such courses currently exist or are being developed.

The bill authorizes Workforce Florida, Inc., to select one industry certification that does not articulate for college credit for inclusion on the list. In addition, the bill clarifies that the list must include subsequent updates for identified certificates and industry certifications.

The bill establishes an additional FTE student membership of 0.3 for student completion of certificates earned through career innovation courses that are identified on the list and approved by the commissioner, an additional FTE student membership of 0.5 for student completion of acceleration industry certifications that articulate for 15 to 29 college credit hours, and an additional 1.0 FTE student membership for acceleration industry certifications that articulate for 30 or more college credit hours. The bill expands the scope of the \$50 teacher bonus for students who attain an industry certification with a weight of 0.2 to include certifications with weights of 0.3, 0.5, and 1.0. The bill eliminates the \$60 million annual cap on additional FTE student membership for industry certifications.

The bill also requires the Articulation Coordinating Committee to review statewide articulation agreement proposals and make recommendations to the state board for approval. Once an industry certification is adopted into the Industry Certification Funding List, the Chancellor of Career and Adult Education must, within 90 days, provide recommendations to the committee for articulation of postsecondary credit for related degrees for the adopted certifications.

various Microsoft, Adobe, and Cisco software applications. See Florida Department of Education, *Florida Career and Professional Education Act*, <http://www.fldoe.org/workforce/fcpea/default.asp> (last visited April 7, 2014).

¹⁶⁴ Section 1003.493(4)(b), F.S.

¹⁶⁵ See ss. 1003.491, 1003.492, 1003.493, and 1007.23, F.S. (statewide articulation agreement); rule 6A-6.0573(5), F.A.C.; see Florida Department of Education, *Statewide Articulation Agreements – Industry Certification*,

http://www.fldoe.org/workforce/dwdframe/artic_indcert2aas.asp (last visited April 7, 2014).

¹⁶⁶ Section 1011.62(1)(o)3., F.S.

Furthermore, the bill requires district school boards to notify parents of students who earn an industry certification, which articulates for college credit, of:

- The estimated cost savings of earning an industry certification prior to high school graduation versus the costs of acquiring such certification after high school graduation;
- The postsecondary credits available and the tuition and fees associated with those postsecondary credits; and
- Any additional industry certifications available to the student.

The bill includes return on investment as a performance factor on which the DOE and Workforce Florida, Inc., must collect data and analyze as part of an ongoing study on the performance of students participating in industry-certified career education programs and career-themed courses.

Collegiate High School Programs¹⁶⁷

Present Situation

Fourteen of Florida's 28 Florida College System (FCS) institutions and two universities partner with 15 school districts to provide collegiate high school programs for the purpose of providing students the opportunity to earn college credits while in high school and completing an associate degree upon graduating from high school.¹⁶⁸ The programs are offered as either charter collegiate high schools or non-collegiate high school programs.¹⁶⁹

Current law permits each FCS institution to work with the school districts in its designated area to develop charter collegiate high schools.¹⁷⁰ The charter programs are operated and funded like traditional charter schools and are located on the campuses of FCS institutions. FCS institutions receive funding for students participating in these programs through the FEFP; however, FCS institutions may not report FTE for any students who receive FTE funding through the FEFP.¹⁷¹

Non-charter collegiate high school programs are funded through dual enrollment mechanisms, in that school districts still receive funding for participating students through the FEFP, but FCS institutions and state universities can include the students in the FTE counts and receive reimbursement from the school districts.¹⁷²

Effect of Proposed Changes

The bill requires each FCS institution and each district school board within its designated service area to enter into an agreement to offer one or more collegiate high school programs, which are funded pursuant to dual enrollment requirements. Each program must include an option for public school students in grade 11 or 12 to earn industry certifications and earn 30 college credit hours through dual enrollment toward an associate or bachelor degree. The bill also permits school districts to enter into an agreement with state universities and eligible independent colleges and universities to offer a collegiate high school program.

¹⁶⁷ Provisions relating to collegiate high school programs were not part of the original House bill, CS/HB 7033, as passed by the K-12 Subcommittee and the Education Appropriations Subcommittee. On April 3, 2014, the House Education Committee amended the bill (Amendment 460949) to include these provisions, which were similar to provisions included in the Senate companion bill.

¹⁶⁸ Office of Program Policy Analysis and Government Accountability, *Overview of Collegiate High Schools in Florida*, on file with House staff.

¹⁶⁹ *Id.*

¹⁷⁰ Section 1002.33(5)(a)5., F.S.

¹⁷¹ *Id.*

¹⁷² Office of Program Policy Analysis and Government Accountability, *Overview of Collegiate High Schools in Florida* (2013), on file with House staff.

The bill establishes required contractual provisions for each collegiate high school program agreement, including:

- Identification of the grade levels to be included in the collegiate high school program which must, at a minimum, include grade 12;¹⁷³
- A description of the collegiate high school program, including a list of courses and industry certifications offered, including online course availability; the high school and college credits earned for each postsecondary course completed and industry certification earned; student eligibility criteria; and the enrollment process and deadlines;
- A description of the methods, medium, and process by which students and parents are informed about the availability of the collegiate high school program; the “return on investment associated with participation in the program;” the grades eligible to participate in the program, and a description of the program;
- Identification of the delivery methods for instruction and the instructors for all courses;
- Identification of student advising services and progress monitoring mechanisms;
- Establishment of a program review and reporting mechanism regarding student performance outcomes; and
- A description of the terms of funding arrangements to implement the program.¹⁷⁴

The bill also requires each student who participates in the Collegiate High School Program, his or her parent, a representative of the school district, and the postsecondary institution to sign a performance contract. The contract must include the schedule of courses, by semester, to be taken by the student; industry certifications to be taken by the student; attendance requirements; and course grade requirements.

The bill requires the state board to enforce compliance with collegiate high school program requirements by withholding the transfer of funds for the school districts and the FCS institutions in accordance with authority granted by state law. The bill does not prohibit school districts and FCS institutions from establishing collegiate high school programs through articulation agreements.

Department of Juvenile Justice¹⁷⁵

Background

The Department of Juvenile Justice’s mission is to increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.¹⁷⁶ DJJ oversees at-risk and adjudicated youth in four service areas: prevention and victim services, probation and community intervention services,

¹⁷³ This contract provision appears to conflict with language in the bill that requires collegiate high school programs, at a minimum, to serve students in grades 11 and 12.

¹⁷⁴ The bill provides that collegiate high school programs must be funded pursuant to dual enrollment requirements.

¹⁷⁵ The provisions relating to the multiagency plan for career education, juvenile justice programs and accountability, transition and reentry plans, teachers in juvenile justice programs, and the juvenile justice common student assessment were included in the bill by Senator Amendment 796932 to House Amendment 937491, which the House concurred with on the last day of session at 8:52 p.m. See Senator Amendment 796932 to House Amendment 937491 to CS/CS/SB 850, 1st Eng. (vote history and amendment text *available at* <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=51941>). These provisions appear disconnected from the provisions of the bill heard and passed by the House Education Committee on April 3, 2014, which addressed middle grades reform, digital materials and industry certifications, and collegiate high school programs, but not the juvenile justice provisions included in the amendment. The juvenile justice provisions were otherwise passed by the House as part of CS/CS/HB 173, which died in the Senate.

¹⁷⁶ Florida Department of Juvenile Justice, *available at* <http://www.djj.state.fl.us/about-us/mission> (last visited Dec. 16, 2013).

residential services, and detention services.¹⁷⁷ During the 2011-12 school year, juvenile justice education programs served more than 32,000 students through:¹⁷⁸

- Prevention and Victim Services - Prevention and Victim Services offers voluntary youth crime prevention programs throughout the state of Florida. The mission is to increase public safety by reducing juvenile delinquency through effective prevention, intervention, and treatment services that strengthen families and turn around the lives of troubled youth.¹⁷⁹
- Probation and Community Intervention Services (Non-residential) - Non-residential services provide intervention and case management services to youth on diversion, probation, and post commitment supervision. These youth remain at home and participate in at least 5 days per week in a day treatment program.¹⁸⁰
- Residential Services - Residential services ensure graduated sanctions for serious, violent and chronic offenders; address special mental health and substance abuse needs of offenders; and enhance their education in residential commitment programs. Juveniles who are adjudicated by the court can be committed to residential programs classified as low, moderate, high or maximum risk.¹⁸¹
- Detention Services - Detention is the custody status for youth who are held pursuant to a court order; or following arrest for a violation of the law. A youth may be detained only when specific statutory criteria, outlined in s. 985.215, F.S. are met. Criteria for detention include current offenses, prior history, legal status, and any aggravating or mitigating factors.¹⁸²

Multiagency Plan for Career Education¹⁸³

Present Situation

Current law requires DJJ and DOE, in consultation with the statewide Workforce Development Youth Council, school districts, providers, and others, to develop a multiagency plan (plan) for vocational education in commitment facilities.¹⁸⁴ The plan must include:

- Provisions for maximizing appropriate state and federal funding sources, responsibilities of both departments and all other appropriate entities and detailed implementation schedules.¹⁸⁵
- A definition of vocational programming that is appropriate based upon the age and assessed educational abilities and goals of the youth to be served and the typical length of stay and custody characteristics at the commitment program to which each youth is assigned.¹⁸⁶
- A definition of vocational programming that includes the classifications of commitment facilities that will offer vocational programming by one of the following types:

¹⁷⁷ Office of Program Policy Analysis and Government Accountability, Government Program Summaries – Department of Juvenile Justice, available at http://www.oppaga.state.fl.us/government/s_agency.asp.

¹⁷⁸ Florida Department of Juvenile Justice, Comprehensive Accountability Report 2011-2012, 2, available at <http://www.djj.state.fl.us/research/reports/car>.

¹⁷⁹ Florida Department of Juvenile Justice, Prevention & Victim Services, available at <http://www.djj.state.fl.us/services/prevention> (last visited Dec. 16, 2013).

¹⁸⁰ Florida Department of Juvenile Justice, <http://www.djj.state.fl.us/Residential/restrictiveness.html> (last visited Dec. 16, 2013).

¹⁸¹ Office of Program Policy Analysis and Government Accountability, Government Program Summaries – Department of Juvenile Justice Residential Services, available at <http://www.oppaga.state.fl.us/profiles/1001>.

¹⁸² Florida Department of Juvenile Justice, available at <http://www.djj.state.fl.us/services/detention> (last visited Dec. 16, 2013).

¹⁸³ See *supra* n. 175.

¹⁸⁴ Section 985.622(1), F.S.

¹⁸⁵ Section 985.622(1)(a)(c), F.S.

¹⁸⁶ Section 985.622(2), F.S.

- Type A - Programs that teach personal accountability skills and behavior that is appropriate for youth in all age groups and ability levels and that lead to work habits that help maintain employment and living standards.
- Type B - Programs that include Type A program content and an orientation to the broad scope of career choices, based upon personal abilities, aptitudes and interest.
- Type C - Programs that include Type A program content and the vocational competencies or the prerequisites needed for entry into a specific occupation.¹⁸⁷

In October 2010, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued a report that identified several shortcomings of the plan. According to OPPAGA, the plan lacked goals and implementation strategies for increasing the percentage of youth receiving occupation-specific job training. Also, the plan did not address the barriers that juvenile justice students face in attaining a general educational development (GED) diploma.¹⁸⁸ OPPAGA found that many juvenile justice programs emphasized academic instruction rather than GED preparation and job training. OPPAGA recommended that the Legislature amend s. 985.622, F.S., to address the shortcomings found in the plan.

Effect of Proposed Changes

The bill expands the requirement of the plan to address all educational programs not just those in commitment facilities. The plan must be reviewed annually and revised as appropriate. The plan must also:

- Include provisions for eliminating barriers to increasing occupation-specific job training and high school equivalency examination preparation opportunities.
- Evaluate the effect that students' mobility between juvenile justice education programs and school districts has on the students' educational outcomes and whether the continuity of the students' education can be better addressed through virtual education.

The bill revises implementation dates for DOE and DJJ to align respective agency reporting documents to the revised plan for career and professional education.

Educational Services in Department of Juvenile Justice Programs¹⁸⁹

Present Situation

Current law sets forth how educational services must be provided in DJJ programs and establishes the educational expectations for youth in such programs.¹⁹⁰ DOE is the lead agency for juvenile justice education programs, curriculum, support services, and resources; however, district school boards are responsible for actually providing educational services to youth in juvenile justice programs.¹⁹¹ Educational services consist of basic academic, career, or exceptional curricula that support treatment goals and reentry, and that may lead to the completion of a high school diploma or its equivalent.¹⁹² These services can be provided by the district school board itself or by a private provider through a contract with the district school board.¹⁹³ However, school districts remain responsible for the quality of

¹⁸⁷ Section 985.622(3), F.S.

¹⁸⁸ Office of Program Policy Analysis and Government Accountability, *Juvenile Justice Students Face Barriers to High School Graduation and Job Training*, Report No. 10-55, at 9, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1055rpt.pdf>

¹⁸⁹ See *supra* n. 175.

¹⁹⁰ Section 1003.52, F.S.

¹⁹¹ Sections 1003.52(1), (3), and (4), F.S.

¹⁹² Section 1003.52(5), F.S.

¹⁹³ Section 1003.52(11), F.S.

education provided in residential and day treatment juvenile justice facilities regardless of whether the school district provides those services directly or through a contractor.¹⁹⁴

Annually, DJJ and DOE must develop a cooperative agreement and plan for juvenile justice education service enhancement, which must be submitted to the Secretary of the Department of Juvenile Justice and the Commissioner of Education.¹⁹⁵

Each district school board must negotiate a cooperative agreement with DJJ regarding the delivery of educational programming to youth in the juvenile justice system. These agreements must include provisions that address certain issues, such as:

- Curriculum and delivery of instruction;
- Classroom management procedures and attendance policies;
- Procedures for provision of qualified instructional personnel;
- Improving skills in teaching and working with juvenile delinquents;
- Transition plans for students moving into and out of juvenile facilities; and
- Strategies for correcting any deficiencies found through the quality assurance process.¹⁹⁶

DOE and DJJ must each designate a coordinator to resolve issues not addressed by the district school boards and to provide each department's participation in:

- Training, collaborating, and coordinating with DJJ, district school boards, educational contract providers, and juvenile justice providers, whether state-operated or contracted;
- Collecting and reporting information on the academic performance of students in juvenile justice programs;
- Developing academic and career protocols that provide guidance to district school boards and providers in educational programming; and
- Prescribing the roles of program personnel and school district or provider collaboration strategies.¹⁹⁷

Effect of Proposed Changes

The bill revises the responsibilities of DOE and DJJ designated coordinators to include:

- Training, collaboration, and coordinating with regional workforce boards and local youth councils;
- Collecting information on the career and professional education and transition performance of students in juvenile justice programs and reporting the results;
- Developing career and professional education protocols that provide guidance to district school boards and providers in educational programming; and
- Implementing a joint accountability, program performance, and program improvement process.

The bill also:

¹⁹⁴ Office of Program Policy Analysis and Government Accountability, *Youth Entering the State's Juvenile Justice Programs Have Substantial Educational Deficits; Available Data Is Insufficient to Assess Learning Gains of Students*, Report No. 10-07 (2010), available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=10-07> (last visited Dec. 16, 2013).

¹⁹⁵ Section 1003.52 (1), F.S.

¹⁹⁶ Section 1003.52(13), F.S.

¹⁹⁷ Section 1003.52(1), F.S.

- Requires prevention and day treatment juvenile justice education programs, at a minimum, to provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services;
- Requires residential juvenile justice education programs with a contracted minimum length of stay of 9 months to provide courses that lead to preapprentice certifications and industry certifications;
- Allows residential programs with contract lengths of stay of less than 9 months to provide career education courses that lead to preapprentice certifications and industry certifications; and
- Requires DOE to consider competency-based virtual education when recommending instructional programs for juvenile justice program.

The bill refines the educational component of programs with a duration of less than 40 days to include:

- Tutorial remediation activities;
- Career employability skills instruction;
- Education counseling; and
- Transition services that prepare students for a return to school, the community, and their home setting based on the students' needs.

The bill requires educational programs to provide instruction based on each student's individualized transition plan, assessed educational needs, and the educational programs available in the school district in which the student will return. Depending on the student's needs, educational programming may consist of remedial courses, academic courses required for grade advancement, career education courses, and high school equivalency examination preparation, or exceptional student education curricula and related services which support the transition goals and reentry and which may lead to completion of the requirements for receipt of a high school diploma or its equivalent.

The bill requires that the DJJ and DOE annual cooperative agreement and plan for juvenile justice education service enhancement include each agency's role regarding educational program accountability, technical assistance, training, and coordination of service.

Accountability and Reporting¹⁹⁸

Present Situation

The Department of Education and the Department of Juvenile Justice, after consulting with the district school boards and local providers, must report annually to the Legislature on the progress toward developing effective educational programs for youth in the juvenile justice system. This report must include the results of the quality assessment reviews, including recommendations for system improvement.¹⁹⁹ In its annual report to the Legislature, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, DOE made several recommendations to address educational accountability and improvement such as:

- Continue to develop a juvenile justice education accountability system for programs and explore a process in which high-performing programs are recognized and low-performing programs receive assistance.
- Develop a customized school improvement plan template for programs.
- Continue to support improvement in transition services for youth in juvenile justice education through the maintenance of an accurate statewide transition contact list.

¹⁹⁸ See *supra* n. 175.

¹⁹⁹ Section 1003.52(19), F.S.

- Provide additional training and support to programs to improve their efforts with the Basic Achievement Skills Inventory administration, data reporting, and data interpretation.
- Continue to identify effective program practices and resources for students in need of academic remediation and credit recovery.
- Continue to identify academic curriculum, resources, and instructional practices related to high academic achievement for all students while incarcerated.
- Continue to collaborate efforts among DOE, DJJ, school districts, and private providers to ensure appropriate and effective education for youth in juvenile justice programs.²⁰⁰

In 2010, OPPAGA issued a report examining educational services provided to youth in DJJ residential and day treatment programs. OPPAGA found that most students entering juvenile justice programs were older, academically behind their peers, and were likely to have had attendance problems at school. OPPAGA found that DOE had not collected sufficient information to assess the learning gains (or lack thereof) of students in juvenile justice programs. Only 48 of the 141 programs (34 percent) reported complete information for at least half of their students. For those programs that did report data, the nature of the assessment instrument made it difficult to determine whether students were making appropriate educational progress. OPPAGA recommended that the Legislature amend s. 1003.52(3)(b), F.S., to require that DOE make annual status reports to the Legislature on the learning gains of students in juvenile justice facilities and the steps it has taken to ensure the completeness and reliability of juvenile justice student performance data.²⁰¹

The Department of Juvenile Justice is required to annually collect and report cost data for every program state-operated or contracted by the department. DJJ is responsible for accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility must be reported and included in the cost of a program. The cost-benefit analysis for each educational program will be developed and implemented in collaboration with the Department of Education, local providers, and local school districts. Cost data for the report must include data collected by DOE for the purpose of preparing the annual report required pursuant to s. 1003.52(19), F.S., relating to developing effective educational progress for juvenile delinquents.²⁰²

DOE in consultation with DJJ, district school boards and providers must establish objective and measurable quality assurance standards for the educational components of residential and nonresidential juvenile justice facilities.²⁰³ The quality assurance standards and indicators are revised annually for juvenile justice education programs, based on new statutory and regulatory requirements, best practices research, and input from school districts and educational providers.²⁰⁴ These standards must rate the district school boards' performance both as a provider and contractor.²⁰⁵

Effect of Proposed Changes

The bill requires DOE to establish and operate, either directly or indirectly through a contract, a mechanism to provide accountability measures that annually assess and evaluate all juvenile justice

²⁰⁰ Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 2009-2010, at 13 (2011), available at http://www.fldoe.org/ese/pdf/jj_annual.pdf.

²⁰¹ Office of Program Policy Analysis and Government Accountability, *Youth Entering the State's Juvenile Justice Program Have Substantial Educational Deficits; Available Data is Insufficient to Assess Learning Gains of Students*, Report No. 10-07, at 8 (Jan. 2010), available at www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1007rpt.pdf.

²⁰² Section 985.632, F.S.

²⁰³ Section 1003.52(15)(a), F.S.

²⁰⁴ Florida Department of Education, *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, Annual Report 2009-2010 (2011), available at www.fldoe.org/ese/pdf/jj_annual.pdf.

²⁰⁵ Section 1003.52(15)(a), F.S.

education program using student performance data and program performance ratings by type of program.

DOE, in partnership with DJJ, must develop a comprehensive accountability and program improvement process. The accountability and program improvement process must be based on student performance measures by type of program and must rate education program performance. The accountability system must identify and recognize high-performing education programs.

DOE, in partnership with DJJ, must identify low-performing programs. Low-performing education programs must receive an onsite program evaluation from DJJ. Identification of education programs needing school improvement, technical assistance, or reassignment of the program must be based, in part on the results of the program evaluation. Through a corrective action process, low-performing programs must demonstrate improvement or the program must be reassigned to the district or another provider.

DOE, in consultation with DJJ, district school boards, and providers must establish by rule:

- Objective and measurable student performance measures to evaluate a student's educational progress while participating in a prevention, day treatment, or residential program. The student performance measures must be based on appropriate outcomes for all students in juvenile justice programs, taking into consideration the student's length of stay in the program. Performance measures must include outcomes that relate to student achievement of career education goals, acquisition of employability skills, receipt of a high school diploma or its equivalent, grade advancement, and the number of industry certifications earned.
- A performance rating system to be used by DOE to evaluate the delivery of educational services within each of the juvenile justice education programs. The performance rating system must be primarily based upon data regarding student performance as described above.
- The timeframes, procedures, and resources to be used to improve a low-rated educational program or to terminate or reassign the program.

The bill requires that education program performance results, including the identification of high and low-performing programs and aggregated student performance results be included in DOE and DJJ annual report on the progress toward developing effective educational programs.

DOE in collaboration with DJJ must collect and report on commitment, day treatment, prevention, and detention programs. The report must be annually submitted to the Legislature and the Governor no later than February 1.

The report must include, at a minimum, the number and percentage of students:

- Returning to an alternative school, middle school, or high school upon release and the attendance rate of such students before and after participation in juvenile justice education programs;
- Receiving a standard high school diploma or high school equivalency diploma;
- Receiving industry certification;
- Enrolling in a postsecondary educational institution;
- Completing a juvenile justice education program without reoffending;
- Reoffending within 1 year after completing a day treatment or residential commitment program; and
- Remaining employed 1 year after completion of a day treatment or residential commitment program.

The report must include the following cost data for each juvenile justice education program:

- The amount of funding provided by district school boards to juvenile justice programs and the amount retained for administration, including documenting the purposes of such expenses;
- The status of the development of cooperative agreements;
- Recommendations for system improvement; and
- Information on the identification of, and services provided to, exceptional students, to determine whether these students are properly reported for funding and are appropriately served.

Transition Plan and Reentry Plan²⁰⁶

Present Situation

Currently an individual transition plan is developed for each student entering a DJJ commitment, day treatment, early delinquency intervention, or detention program.²⁰⁷ The transition plan is based on the student's post-placement goals that are developed cooperatively with the student, his/her parents, school district and or contracted provider personnel, and DJJ program staff. Re-entry counselors, probation officers, and personnel from the student's "home" school district shall be involved in the transition planning to the extent practicable. The transition plan also includes a student's academic record including each course completed by the student according to procedures in the State Course Code Directory, career re-entry goals maintained by the school district, and recommended educational placement. An exit plan is also conducted for each student. A copy of the academic records, student assessment, individual academic plan, work and project samples, and the transition plan is included in the discharge packet when the student exits a DJJ facility.²⁰⁸

Effect of Proposed Changes

The bill requires a transition plan to include, at a minimum:

- Services and interventions that address the student's assessed educational needs and postrelease education plans.
- Services to be provided during the program stay and services to be implemented upon release, including but not limited to, continuing education in secondary, career programs, postsecondary education, or employment, based on the student's needs.
- Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student's success, that must be coordinated by individuals who are responsible for reintegration and coordination of these activities.

DOE and DJJ must provide oversight and guidance to school districts, education providers, and reentry personnel on how to implement effective educational transition planning and services. The bill also requires upon a student's return from a program, school districts to consider the individual needs and circumstances of the student and the transition plan recommendations when reenrolling a student in a public school. A local school district may not maintain a standardized policy for all students returning from a juvenile justice program, but place students based on their needs and their performance in the juvenile justice education program, including any virtual education options.

The bill requires that representatives from the school district and One Stop Center, where the student will return, participate as members of the local Department of Juvenile Justice reentry team.

Teachers in Juvenile Justice Programs²⁰⁹

²⁰⁶ See *supra* n. 175.

²⁰⁷ Section 1003.52(13)(i), F.S.; rule 6A-6.05281, F.A.C.

²⁰⁸ Email, Florida Department of Education, Governmental Relation Office (Dec. 17, 2013).

²⁰⁹ See *supra* n. 175.

Present Situation

District school boards must recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs must be provided a wide range of educational programs and opportunities including textbooks, technology, instructional support, and other resources available to students in public schools. Teachers assigned to educational programs in juvenile justice settings in which the district school board operates the educational program must be selected by the district school board in consultation with the director of the juvenile justice facility. Educational programs in juvenile justice facilities must have access to the substitute teacher pool utilized by the district school board.²¹⁰

Effect of Proposed Changes

State board rules for qualification of instructional staff must include instructors of career and professional education courses, standardized across the state, and be based on state certification, local school district approval, and industry recognized credentials or industry training. The bill also requires the establishment of procedures for the use of noncertified instructional personnel who possess expert knowledge or experience in their fields of instruction.

The bill also allows the Secretary of the Department of Juvenile Justice or the director of a juvenile justice program to request that the performance of a teacher assigned by the district to a juvenile justice education program be reviewed by the district and that the teacher be reassigned based upon an evaluation conducted pursuant to s. 1012.34, F.S., or for inappropriate behavior.

Public Educational Services – District School Boards

The bill clarifies the responsibilities of district school boards to include:

- Notifying students in juvenile justice education program who attain the age of 16 years of the law regarding compulsory school attendance and make available the option of enrolling in a program to attain a high school diploma by taking the high school equivalency exam before release from the program;
- Responding to request for student education records received from another district school board or a juvenile justice education program within 5 working days after receiving the request;
- Providing access to courses offered through Florida Virtual School, virtual instruction programs, and school district virtual courses. School districts and providers may enter into cooperative agreements for the provision of curriculum associated with school district virtual courses to enable providers to offer such courses;
- Completing the assessment process; and
- Monitoring compliance with contracts for education programs for students in juvenile justice prevention, day treatment, residential, and detention programs.

The bill requires DOE in partnership with DJJ, the district school, and providers to:

- Develop and implement requirements for contracts and cooperative agreements regarding the delivery of appropriate education services to students in DJJ programs; and
- Maintain standardized procedures for securing the student's records. The records must include, but not be limited to the student's individualized progress monitoring plan and individualized transition plan.

The bill also requires DOE to assist juvenile justice programs with becoming high school equivalency examination centers.

²¹⁰ Section 1003.52(10), F.S.

Juvenile Justice Common Student Assessment²¹¹

Present Situation

DOE with the assistance of school districts, must select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program.²¹² The test is administered as a pre-test within 10 school days after a student enters a juvenile justice program and again as a post-test when a student who was in the program for at least 45 school days leaves the program.²¹³ In February 2012, DOE awarded WIN Learning a contract to administer the Florida Ready to Work assessment as the common assessment for reading and math in DJJ education programs.²¹⁴ According to DOE, only students in residential and day treatment programs are administered the common assessment.²¹⁵

Effect of Proposed Changes

The bill requires the state board to adopt rules for student assessment that determine the areas of academic need and strategies for appropriate intervention and instruction for students in detention facilities within 5 school days after entry; and administer a research-based assessment that will assist students in determining educational and career options and goals within 22 school days of entry. The bill also requires the state board to adopt rules for assessment procedures for prevention programs.

The bill also requires DOE and DJJ to jointly review the effectiveness of the assessment and implement changes as necessary.

Education of Students with Disabilities²¹⁶

Present Situation

²¹¹ See *supra* n. 175.

²¹² Section 1003.52(3)(b), F.S.

²¹³ Email, Florida Department of Education, Governmental Relations Office (Dec. 17, 2013).

²¹⁴ Email, Florida Department of Education, Bureau of Exceptional Education and Services (Feb. 10, 2012).

²¹⁵ Email, Florida Department of Education, Governmental Relation Office (Dec. 17, 2013).

²¹⁶ The provisions relating to the education of students with disabilities, the Florida Personal Learning Savings Account Program, student promotion, and the Florida Prepaid College Board were included in the bill by Senator Amendment 796932 to House Amendment 937491, which the House concurred with on the last day of session at 8:52 p.m. See Senator Amendment 796932 to House Amendment 937491 to CS/CS/SB 850, 1st Eng. (vote history and amendment text *available at* <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=51941>). These provisions appear disconnected from the provisions of the bill heard and passed by the House Education Committee on April 3, 2014, which addressed middle grades reform, digital materials and industry certifications, and collegiate high school programs, but not the provisions included in the Senate amendment. The provisions in the Senate amendment, excluding provisions relating to standard high school diploma requirements for students with disabilities (*see infra* text accompanying notes 241-247), were otherwise passed by the House as part of HB 7167, which died in the Senate. Provisions relating to standard high school diploma requirements for students with disabilities were not heard in any House committee.

Federal law provides grants to assist states in providing a free appropriate public education (FAPE) to all children with disabilities residing in the state aged three to 21.²¹⁷ A FAPE must include special education services that are provided by the public school system at no cost to the parent, which meet the standards of the state and are in conformity with the student's individual educational plan (IEP).²¹⁸ In Florida, children with disabilities are referred to as exceptional students and special education and related services provided to them are referred to as exceptional student education (ESE).²¹⁹ Student eligibility for ESE services is determined by an initial evaluation and, if a student is found eligible for services, the services are prescribed in an IEP.²²⁰ A FAPE must be provided in the least restrictive environment, i.e., students with disabilities must be educated with their nondisabled peers to the maximum extent appropriate.²²¹

Funding

Services for exceptional students are funded primarily through the Florida Education Finance Program (FEFP) using basic funding, an ESE Guaranteed Allocation, and two weighted cost factors. Generally speaking, funding generated by a particular exceptional student reflects the severity of his or her disability and resulting educational needs.²²² ESE cost factors are determined using a matrix of services to document the services that each exceptional student will receive.²²³ Exceptional students below support levels IV and V are assigned the same cost factor weighting as regular education students and receive a share of the ESE Guaranteed Allocation. Students funded at support levels IV and V have more severe disabilities and, therefore, are assigned a weighted cost factor.²²⁴

The John M. McKay Scholarships for Students with Disabilities Program (McKay Program) provides scholarships for eligible students with disabilities to attend an eligible public or private school of their choice.²²⁵ The maximum scholarship granted for an eligible student is equivalent to the base student allocation in the FEFP multiplied by the appropriate cost factor for the educational program that would have been provided for the student in the district school to which he or she was assigned, multiplied by the district cost differential. In addition, a share of the ESE guaranteed allocation is added to this amount based on the calculation for the ESE guaranteed allocation provided in the 2000 General Appropriations Act.²²⁶

Each student's scholarship is either the calculated amount or the amount of the private school's tuition and fees, whichever is less.²²⁷ Each school district must report scholarship recipients attending a private school to DOE, separately from other students.²²⁸ DOE must transfer, from General Revenue funds only, the applicable scholarship amount from the school district's total FEFP funding entitlement

²¹⁷ 20 U.S.C. s.1400 et. seq., *as amended* by P.L. 108-446; 34 C.F.R. s. 300.17. (Individuals with Disabilities Education Act).

²¹⁸ 34 C.F.R. s. 300.17 and 34 C.F.R. s. 300.34 (a); rules 6A-6.03028(1) and 6A-6.03411(1)(p), F.A.C.

²¹⁹ Sections 1003.01(3)(a)-(b) and 1003.21(1)(e), F.S. The disabilities that qualify a student as exceptional are an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic or other health impairment; a traumatic brain injury; a visual impairment; an emotional or behavioral disability; a specific learning disability, including dyslexia, dyscalculia, or developmental aphasia; deafness, hard of hearing, or dual sensory impairment; or developmental delays from birth through five years old or if the student is hospitalized or homebound. *Id.*

²²⁰ Section 1003.57(1)(c), F.S.; rules 6A-6.0331(3) and 6A-6.03028(3), F.A.C.

²²¹ 34 C.F.R. s. 300.114(a)(2); s. 1003.57(1)(a), F.S.; rule 6A-6.03028(3)(i), F.A.C.

²²² Section 1011.62(1), F.S.; Florida Department of Education, 2013-14 Funding for Florida School Districts, at 1, 13-14, and 19 (2013), available at <http://www.fldoe.org/fefp/pdf/fefpdist.pdf> [hereinafter *2013-14 Funding for Florida School Districts*].

²²³ Section 1011.62(1)(e)a.-b., F.S.

²²⁴ Section 1011.62(1)(c) and (e), F.S.

²²⁵ Section 1002.39(1), F.S.

²²⁶ Section 1002.39(10)(a), F.S. Until the school district completes the matrix of services, the calculation is based on the matrix that assigns the student to support level I of service as it existed prior to the 2000-2001 school year. When the school district completes the matrix, the amount of the payment is adjusted as needed. The scholarship amount for a student eligible under s. 504 of the Rehabilitation Act of 1973 is based upon the student's existing FEFP program cost factor. *Id.*

²²⁷ Section 1002.39(10)(b), F.S. The amount of any assessment fee required by the participating private school may be paid from the total amount of the scholarship. *Id.*

²²⁸ Section 1002.39(10)(c), F.S.

and categorical accounts to a separate account for the scholarship program for quarterly disbursement (on July 1, September 1, December 1, or February 1) to the parents of participating students.²²⁹

Effect of Proposed Changes

Florida Personal Learning Scholarship Accounts Program²³⁰

Student Eligibility

The bill establishes the Florida Personal Learning Scholarship Accounts (PLA) Program for students who:

- Are Florida residents;
- Are eligible to enroll in kindergarten through grade 12 in a public school;
- Have an eligible disability;²³¹ and
- Are the subject of an IEP or have a diagnosis of an eligible disability from a physician or psychologist.

The bill requires a parent to apply for a PLA to an eligible nonprofit scholarship funding organization (SFO) by February 1 before the school year in which the student will participate or an alternative date set by the SFO for any vacant, funded slots. SFOs must begin taking applications in "January, 2015." However, the bill authorizes an SFO to establish a rolling enrollment schedule that is sooner than January 2015, and enroll parents on a first-come, first-served basis. Participation must be renewed annually by the parent. The bill states that "notwithstanding any changes to the student's IEP, a student who was previously eligible for participation in the program shall remain eligible to apply for renewal . . ."²³²

Eligible Services

The bill provides that a parent who applies for a PLA "is exercising his or her parental option to determine the appropriate placement or the services that best meet the needs of his or her child." PLA funds may be used to purchase the following items or services:

- Instructional materials;²³³
- Curriculum;
- Specialized services including, but not limited to, applied behavior analysis services and services provided by speech-language pathologists, occupational therapists, physical therapists, and listening and spoken language specialists;
- Enrollment in, or tuition or fees associated with enrollment in, an eligible private school, an eligible postsecondary educational institution,²³⁴ a private tutoring program, a virtual program

²²⁹ Section 1002.39(10)(d), F.S.

²³⁰ See *supra* n. 216.

²³¹ Eligible disabilities are autism; cerebral palsy; Down syndrome; an intellectual disability; Prader-Willi syndrome; Spina bifida; Williams syndrome; and, for a student in kindergarten, being a high-risk child.

²³² This appears to mean that, if a PLA recipient has an IEP, and the IEP changes, such changes do not affect the student's ability to renew the account.

²³³ The term "instructional materials" includes digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content.

²³⁴ "Eligible postsecondary educational institution" means a Florida College System institution, a state university, a school district technical center, a school district adult general education center, or an accredited nonpublic postsecondary educational institution licensed by the Commission on Independent Education.

- offered by a DOE-approved private online provider, or a DOE-approved online course;
- Fees for standardized assessments;
- Contributions to the Stanley G. Tate Prepaid College Program; and
- Contracted services provided by a public school or school district.²³⁵

Services may be procured from providers approved by the Agency for Persons with Disabilities (APD), health care practitioners defined in s. 456.001(4), F.S.,²³⁶ and DOE-approved providers of specialized instructional services for students with disabilities enrolled in the Voluntary Prekindergarten Education Program. The bill directs the Department of Health, APD, and DOE to collaborate in providing SFOs access to approved provider lists.

Among other things, participating private schools must:

- Comply with the accountability requirements for private schools participating in state school choice scholarship programs;
- If the private school participates in the Florida Tax Credit Scholarship Program (FTC Program) or McKay Program, meet the program's requirements;
- Be academically accountable to the parent and, at a minimum, annually provide to the parent a written explanation of the student's progress; and
- Employ teachers who have regular and direct contact with each participating student at the school's physical location.

Funding

Funding for accounts is calculated in the same manner as a McKay scholarship and the student receives 90 percent of the calculated amount. If a student does not have a matrix of services from the school district, the bill sets a default level of funding for a PLA that is based upon the calculation for a student assigned to matrix level III. If the parent requests that the school district develop an IEP and a matrix of services for the student, funding may be adjusted based upon the service level assigned to the student.²³⁷

Payments to the PLA terminate if:

- The parent forfeits the PLA;
- The PLA is revoked; or
- The student graduates from high school or reaches age 22, whichever occurs first.

The PLA itself terminates and funds in the account revert to the state:

- When the student graduates from an eligible postsecondary institution; or

²³⁵ A student who receives contracted public school services is not considered to be enrolled in a public school for eligibility purposes.

²³⁶ Because the bill defines "approved providers" to include any health care practitioner defined in s. 456.001, F.S., specialized services could include any type of service provided by a practitioner so defined. Section 456.001(4), F.S., defines "health care practitioner" to include acupuncturists; medical doctors; osteopathic physicians; chiropractors; podiatrist; naturopaths; optometrists; nurses; pharmacists; dentists; midwives; speech-language pathologists and audiologists; nursing home administrators; occupational therapists; respiratory therapists; dieticians and nutritionists; athletic trainers; various practitioners in the fields of orthotics, prosthetics, and pedorthics; electrologists; massage therapists; clinical lab personnel; medical physicists; opticians; physical therapy; psychologists; clinical counselors; and psycho-therapists. As long as a service fits within this definition, it appears that a parent may use PLA funds to purchase the service, even if the service is not related to treating the student's disability.

²³⁷ The timeline for completing the matrix of services and providing it to the parent appears to be 40 days. The school district must complete the matrix 30 days after the parent's request and provide it to the parent within 10 days after completion.

- After any 4-year period after high school graduation in which the student is not enrolled in postsecondary education.²³⁸

Program Administration

SFOs must receive applications, determine student eligibility, notify parents of their receipt of a PLA, and report applicants to DOE by March 1 annually. The SFO must establish separate accounts for each student, develop a system for funding PLA's by electronic funds transfer, and verify the eligibility of expenditures. Expenditures on instructional materials and curriculum must be preapproved. The SFO may review the eligibility of all other items and services after purchase. The Auditor General must conduct an annual financial and operational audit of the SFO's accounts and records to verify the number of students served and eligibility of expenditures. SFOs must submit quarterly reports to DOE regarding students served, service providers, and any other information DOE requires.

DOE must maintain a list of approved providers and provide oversight regarding student eligibility, expenditures, and complaints. The bill requires the Commissioner of Education to deny, suspend, or revoke a student's participation in a PLA or use of funds if the student's health or safety is threatened or fraud is suspected. Such authority is optional for other program compliance violations.

A student is ineligible for a PLA if the student is enrolled in a public school or a Department of Juvenile Justice education program or is receiving a FTC, McKay, or other school choice scholarship. Parents must annually submit a notarized, sworn compliance affidavit to the SFO certifying compliance with academic accountability, attendance, expenditure, and other program requirements. Among other things, the parent is responsible for any expenses made in excess of the amount of funds in the PLA and may not take possession of any PLA funds. Schools and service providers may not compensate parents in any way for choosing their services. The PLA is forfeited if the parent violates any of the conditions stated in the affidavit or receives a kickback from a school or provider.

A K-12 student must satisfy regular school attendance requirements by enrolling in a private school, private tutoring program, or home education program. All parents must keep a log of student instruction and work portfolio, which must be made available for review by the district school superintendent, if requested. Academic accountability requirements vary according to the educational program in which the student enrolls. PLA recipients enrolled in home education must register participation in the program with the school district in which they reside and undergo an annual evaluation of educational progress as specified in current law.²³⁹ Students attending a private school must take a nationally norm-referenced assessment selected by the private school; however, this does not apply if it is determined that standardized testing is not appropriate for the student. All participating students have the option to take a statewide, standardized assessment.

Transition Planning for Students with Disabilities

To facilitate the successful transition of a student with a disability to postsecondary education and careers, the bill requires the IEP team, before the student attains the age of 14 years, to:

- Consider the student's need for instruction in the area of self-determination and self-advocacy to assist the student's active and effective participation in an IEP meeting; and
- Prepare the student to graduate with a standard high school diploma and a Scholar designation unless the parent chooses a Merit designation.

²³⁸ Thus, it appears that the account may remain active as long as the student enrolls in one postsecondary course every four years.

²³⁹ Current law authorizes various evaluation methods, e.g., standardized testing, a student work portfolio review by a certified teacher, psychological evaluation. *See s. 1002.41, F.S.*

The parent of a student with a disability, in collaboration with the IEP team, must declare the student's intent to receive a standard high school diploma or certificate of completion. Beginning with the IEP in effect when the student attains the age of 16, the IEP must include a statement of:

- Intent to pursue a standard diploma and a Scholar or Merit designation;²⁴⁰
- Intent to receive a standard diploma before the student attains the age of 22 describing how the student will meet graduation requirements; and
- Measureable long-term postsecondary education and career goals.

Any change in the goals specified in the student's IEP must be approved by the parent and is subject to an independent review.

*Standard High School Diploma Requirements for Students with Disabilities*²⁴¹

The bill authorizes the state board to establish criteria that would enable certain students with a disability to earn a standard high school diploma.

If a student's IEP team decides that the Florida Alternate Assessment (FAA) is the most appropriate measure of the student's skills, the bill provides that the student may receive a standard high school diploma through:

- A combination of course substitutions, assessments, industry certifications, other acceleration options, or occupational completion points "appropriate to the student's unique skills and abilities that meet criteria established by state board rule;" or
- A portfolio of quantifiable evidence that documents the student's mastery of academic standards through rigorous metrics established by state board rule.

It is unclear whether these students are required to take the FAA or whether there can be assessment substitutes or portfolios used in lieu of all testing.

The bill alternatively provides that, if the IEP team decides that mastery of academic and employment competencies is the most appropriate way for a student with a disability to demonstrate skills, the student may receive a standard high school diploma through.²⁴²

- Completion of the minimum high school graduation requirements, including the number of course credits prescribed by rules of the state board;²⁴³

²⁴⁰ The bill requires the transition plan to include a statement of intent to pursue a standard high school diploma *and* a Scholar or Merit designation. However, it would be contradictory for a student with a disability who uses an option created by s. 1003.4282(10), F.S., to receive a standard high school diploma to declare an intent to pursue a Scholar designation due to the sequence of courses and assessments required to earn a Scholar designation.

²⁴¹ These provisions of the bill were not heard in any House committee or subcommittee. The provisions were not heard on the House floor until the bill was received in returning messages from the Senate on May 2, 2014, the last day of the 2014 regular session. The provisions were included in the bill by Senator Amendment 796932 to House Amendment 937491, which the House concurred with on the last day of session at 8:52 p.m. See Senator Amendment 796932 to House Amendment 937491 to CS/CS/SB 850, 1st Eng. (vote history and amendment text, available at <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=51941>).

²⁴² It is unclear whether this provision allows an IEP team to exempt from course and statewide assessment requirements a student with a disability who is otherwise capable of meeting current course credit and standard assessment requirements; e.g., a very bright student who is classified as a student with a disability because of a hearing impairment.

²⁴³ It is unclear whether "minimum high school graduation requirements" refers to a separate set of graduation requirements established by the state board for students with disabilities. Section 1003.4282, F.S., requires that a student earn 24 credits in certain specified subjects in order to graduate with a standard high school diploma. Section 1002.3105, F.S. allows a student to graduate with a standard high school diploma with only 18 credit hours once certain requirements have been met. Both options require a student to pass the 10th grade statewide, standardized assessment in English language arts and the Algebra I statewide, standardized end-of-course assessment. Any state board rule establishing an alternative number of required credits would conflict with requirements

- Achievement of all annual goals and short-term objectives for academic and employment competencies, industry certifications, and occupational completion points specified in the student’s transition plan;
- Employment for the number of hours per week specified in the student’s transition plan, for the equivalent of one semester, and receiving minimum wage; or
- Mastery of the academic and employment competencies, industry certifications, and occupational completion points specified in the student’s transition plan.

However, in order for these options to meet the federal requirements for a “regular high school diploma,” the options must be “fully aligned with the state’s academic content standards.”²⁴⁴ It is unclear how each IEP team would be able to address these requirements.

Prior to the passage of The No Child Left Behind Act (NCLB), students with disabilities were excluded from assessments and accountability systems which resulted in those students not receiving the academic attention and resources they needed. Consequently, NCLB required all students be included in the state accountability system.²⁴⁵ It is unclear from the options created by the bill whether the student’s participation in statewide, standardized assessments will still be required, whether substitute assessments can take the place of statewide, standardized assessments, or whether all of the courses required by law can be substituted out for community service, work experience, or portfolios.²⁴⁶

The bill provides that any change to the goals specified in the student’s IEP be must approved by the parent and is subject to verification by an independent reviewer. The bill also provides that “any waiver of the statewide, standardized assessment requirements by the individual education plan team, pursuant to s. 1008.22(3)(c), F.S., must be approved by the parent” and makes the waiver subject to verification by an independent reviewer.²⁴⁷

A student with a disability who meets the requirements for a standard high school diploma may defer receipt of the diploma if:

- The IEP prescribes special education, transition planning, transition services, or related services through age 21; and
- The student is enrolled in accelerated college credit courses; industry certification courses leading to college credit; a collegiate high school program; courses necessary to earn a Scholar designation; or a structured work-study, internship, or preapprenticeship program.

This deferral may negatively impact a school’s graduation rate, because a student deferring receipt of a standard high school diploma would not be considered as graduating within four years.

The bill states that “[a] student with a disability who does not satisfy the standard high school diploma requirements pursuant to this section shall be awarded a certificate of completion.” A student with a disability who receives a certificate of completion may continue to receive instruction and services if the

expressly provided in statute. In addition, federal law requires that students participate in statewide assessments and earn a “regular high school diploma” that is fully aligned with the state’s academic content standards. *See* 34 C.F.R. s. 200.19(b)(iv).

²⁴⁴ *See* 34 CFR 200.19(b)(1)(iv) (defining the term “regular high school diploma” to mean “the standard high school diploma that is awarded to students in the state and that is fully aligned with the state’s academic content standards or a higher diploma and does not include a GED credential, certificate of attendance, or any alternative award.”); *see also* 20 U.S.C. s. 6311(b)(1)(B) (requiring that the state apply the same academic standards to all schools and children in the state).

²⁴⁵ *See* 20 U.S.C. s. 6311(b)(2). *See also* 20 U.S.C. s. 1412(16)(a); 34 C.F.R. s. 200.6.

²⁴⁶ Federal law requires that all students take, at minimum, statewide, standardized assessments that measure student academic achievement in mathematics and in English language arts at least once in elementary, middle, and high school. *See* 20 U.S.C. s. 6311 (b)(3)(C)(i)-(xv).

²⁴⁷ Section 1008.22(3)(c), F.S., only authorizes waiver of statewide, standardized assessment *results*, not the requirements. Therefore, only a waiver of assessment results would be subject to the approval required by the bill. Any waiver of assessment *requirements* would be governed by ss. 1008.212 and 1008.22(9), F.S.

student's IEP prescribes special education, transition planning, transition services, or related services through 21 years of age.

Special Diploma

Effective July 1, 2015, the bill repeals the authority to award a special diploma. However, the repeal does not apply to a student whose IEP, as of the effective date of the bill (which is effective upon becoming law),

contains a statement of intent to receive a special diploma. Such student shall be awarded a special diploma in a form prescribed by the Commissioner of Education if the student meets the requirements specified in s. 1003.438, Florida Statutes, and in effect as of the effective date of this act. Any such student who meets all special requirements of the district school board in effect as of the effective date of this act, but who is unable to meet the appropriate special state minimum requirements in effect as of the effective date of this act, shall be awarded a special certificate of completion in a form prescribed by the Commissioner of Education.

A student who holds a special diploma will no longer be eligible for participation in the Road to Independence Program,²⁴⁸ unless he or she is actively participating in the program on or before the effective date of the bill.

Students who earn a special diploma on or after July 1, 2015, will no longer be eligible to enroll in a certificate career education program at a Florida College System institution. This does not affect students holding a special diploma before that time.²⁴⁹

While repeal of the special diploma may eliminate confusion about the postsecondary limitations of a special diploma, the options created by s. 1003.4282(10), F.S., may engender the same confusion. For example, a student with a standard high school diploma earned pursuant to one of the options would likely be ineligible for programs that examine the course work of the student.²⁵⁰ Consequently, during the transition planning process established in s. 1003.5716, F.S., the options for earning a standard high school diploma must be considered with the postsecondary and career goals of the student in mind.

Student Promotion²⁵¹

Present Situation

Florida law requires that a student who exhibits a substantial reading deficiency based upon the results of local or statewide assessments in kindergarten through 3rd grade or teacher observations be given intensive reading instruction. At the beginning of the next academic year, the student's reading proficiency must be reassessed. If a student's reading deficiency is not remedied by the end of 3rd grade, as demonstrated by scoring Level 2 or higher on the statewide reading assessment, the student must be retained.²⁵² If a student exhibits a substantial reading

²⁴⁸ The Road-to-Independence Program provides the skills, education, and support necessary to enable youths in foster care to become self-sufficient and leave foster care through postsecondary education services and support or aftercare services. Section 409.1451, F.S.

²⁴⁹ See ss. 11.2421 and 11.2425, F.S. The repeal of any statute by the annual adoption and enactment of Florida Statutes does not affect any right accrued before such repeal or any civil remedy where a suit is pending. Section 11.2425, F.S.

²⁵⁰ See e.g. Florida Board of Governors Regulation 6.002 (establishing minimum admission requirements); National Collegiate Athletic Association, *NCAA Eligibility Center Quick Reference Guide*, available at http://fs.ncaa.org/Docs/eligibility_center/Quick_Reference_Sheet.pdf (establishing course work requirements for NCAA athletics).

²⁵¹ See *supra* n. 216.

²⁵² Retention is optional for students below 3rd grade.

deficiency, the parent must be notified in writing regarding, among other things, the nature of the student's reading deficiency, the interventions and services provided for the student, and that the student must be retained if the deficiency is not remediated by the end of 3rd grade, unless he or she qualifies for a good cause exemption.²⁵³ Among other good cause exemptions, a student may be promoted to 4th grade if the student demonstrates through a work portfolio that he or she is performing at least at Level 2 in reading.²⁵⁴

Effect of Proposed Changes

The bill provides that a student may not be retained more than once in 3rd grade. The bill creates a new good cause exemption for students who have been retained a total of two times in kindergarten through 3rd grade after receiving intensive reading intervention for two or more years. The bill also:

- Requires school districts to notify parents of K-3 students who exhibit a reading deficiency of policies regarding the good cause exemption based upon a work portfolio;
- Authorizes the parent of a 3rd grader with a reading deficiency to request that the school immediately begin assembling a work portfolio; and
- Requires intensive reading instruction for students promoted to 4th grade with a good cause exemption.

Florida Prepaid College Board²⁵⁵

Present Situation

The Stanley G. Tate Florida Prepaid College Program (Prepaid Program) is offered by the State of Florida to assist families in planning and saving for a college education.²⁵⁶ The program is administered by the Florida Prepaid College Board (Board).²⁵⁷

The Prepaid Program is a qualified tuition plan, which is a tax advantaged college plan authorized by s. 529 of the Internal Revenue Code. Contributions to these plans grow tax-deferred, and when the beneficiary (student) is ready for college, withdrawals for qualified higher education expenses are exempt from federal income and State of Florida taxes.²⁵⁸

The Prepaid Program provides for the purchase of advanced payment contracts (Prepaid Contracts) for postsecondary education. These contracts lock in many of the costs associated with attendance at institutions in the Florida College System (FCS) and State University System (SUS) at the time the contract is purchased.

A purchaser may, at any time, receive a refund of the monies paid, convert the Prepaid Contract to another Prepaid Program plan of a lesser value or donate the contract to the Florida Prepaid College Foundation. In the event of the death or total disability of the beneficiary, the purchaser may receive a refund by sending a notarized written request to the Board. The purchaser will receive the redemption value of the contract, meaning the sum of the average amounts at the time of the refund request which are payable to a FCS institution or SUS institution, as applicable, for the fees covered by the contract.²⁵⁹

²⁵³ Section 1008.25(5), F.S.

²⁵⁴ Section 1008.25(6), F.S.

²⁵⁵ See *supra* n. 216.

²⁵⁶ Section 1009.98(1), F.S.; Florida Prepaid College Plans, *Compare Plans*, <http://www.myfloridaprepaid.com/what-we-offer/> (last visited May 15, 2014).

²⁵⁷ Section 1009.971(1), F.S.

²⁵⁸ 26 U.S.C. s. 529(b)(1).

²⁵⁹ Section 1009.98(5)(c), F.S.; rules 19B-10.002 and 19B-11.002(2)(b) and (3), F.A.C.

Effect of Proposed Changes

The bill directs the Florida Prepaid College Board to formulate a report describing:

- The terms and conditions in which payments may be withdrawn from the Florida Prepaid College Trust Fund for the payment of program fees in excess of, or in lieu of, tuition for a student with a disability, up to the limits of an advanced payment contract;
- A policy for accelerated disbursement of funds for payment of other qualified higher education expenses; and
- Instances where a student with a disability can use an advanced payment contract when auditing a class or receiving a tuition waiver.

The report must be submitted to the President of the Senate and the Speaker of the House of Representatives by December 31, 2014.

Florida Tax Credit Scholarship Program²⁶⁰

Present Situation

The FTC Program provides scholarships to eligible low-income students for, among other things, private school tuition and fees.²⁶¹ The FTC Program is funded with contributions to private SFOs from taxpayers who receive a dollar-for-dollar 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.²⁶²

Scholarship Funding Organizations

SFOs are tax-exempt charitable organizations²⁶³ that administer scholarship awards.²⁶⁴ Any non-profit organization may apply to DOE to become a SFO. The law requires owners and operators of SFOs to undergo Level 2 background screening. Once approved, a SFO must annually submit a financial and compliance audit of its accounts and records conducted by an independent certified public accountant to the Auditor General and DOE. SFOs must also submit to DOE quarterly reports regarding the number of students participating and the schools at which they are enrolled. SFOs must expend at least 75 percent of donations remaining after administrative costs as scholarship payments each year. Any amounts carried forward to the next year must be spent in that year.²⁶⁵

²⁶⁰ The provisions relating to the Florida Tax Credit Scholarship Program were included in the bill by Senator Amendment 796932 to House Amendment 937491, which the House concurred with on the last day of session at 8:52 p.m. *See* Senator Amendment 796932 to House Amendment 937491 to CS/CS/SB 850, 1st Eng. (vote history and amendment text *available at* <http://myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=51941>). These provisions appear disconnected from the provisions of the bill heard and passed by the House Education Committee on April 3, 2014, which addressed middle grades reform, digital materials and industry certifications, and collegiate high school programs, but not the provisions included in the Senate amendment. The provisions in the Senate amendment were otherwise passed by the House as part of HB 7167, which died in the Senate.

²⁶¹ Section 1002.395(1), (3), (5), and (6)(d), F.S. Scholarship funds may also be used for transportation expenses to a Florida public school located outside of the student's home school district or a developmental research laboratory school. Section 1002.395(6)(d), F.S.

²⁶² Section 1002.395(1) and (5), F.S.

²⁶³ Section 1002.395(2)(f), F.S.; s. 501(c)(3) of the Internal Revenue Code.

²⁶⁴ Section 1002.395(6), F.S.

²⁶⁵ Section 1002.395(6), F.S.

Scholarships must be provided for eligible students on a first-come, first-serve basis, unless the student qualifies for priority consideration. A SFO may not restrict or reserve scholarships for use at a particular private school or for the child of an operator or owner of a private school or SFO.²⁶⁶ Similarly, a taxpayer may not designate scholarship contributions for a specific child or group of children.²⁶⁷ SFOs operating for three years with no negative financial findings may use up to three percent of scholarship contributions for administrative expenses. A SFO may use up to one-third of administrative funds for recruitment of contributions.²⁶⁸

Student Eligibility

A student is eligible for a FTC Program scholarship if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act²⁶⁹ or is on the direct certification list²⁷⁰ and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- Received a scholarship from a SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten through fifth grade.

Contingent upon available funds, a student does not lose his or her scholarship due to a change in the economic status of the student's parents unless the parents' household income exceeds 230 percent of the federal poverty guidelines.²⁷¹ Eligibility is also provided to students who are placed, or during the previous state fiscal year were placed, in foster care, regardless of household income.²⁷²

Scholarship Amount

The maximum scholarship award to each individual student is set at a percentage of the unweighted FEFP student funding in the General Appropriations Act. The percentage for FY 2013-14 is 72 percent, or \$4,880 per student. Thereafter, the scholarship amount increases by four percentage points each fiscal year the tax credit amounts meet or exceed 90 percent of the tax credit cap. The percentage will stop increasing upon reaching 80 percent, and from that year forward, the scholarship limit will be 80 percent of the unweighted FEFP funding amount.²⁷³

A student's actual scholarship is further dependent upon the student's household income level. For students with household income levels above 215 percent, but equal to or less than 230 percent of the federal poverty level, the scholarship amount is 50 percent of the maximum award. The amount increases to 75 percent of the maximum award for students with household income that is more than 200 percent but less than 215 percent of the federal poverty level. For students with a household income of 200 percent of the federal poverty level or below, the full scholarship award is available.²⁷⁴

²⁶⁶ Section 1002.395(6), F.S.

²⁶⁷ Section 1002.395(2)(e), F.S.

²⁶⁸ Section 1002.395(6), F.S.

²⁶⁹ The National School Lunch Program is a federally funded program administered by the United States Department of Agriculture that assists schools and other agencies in providing nutritious meals to children at reasonable prices. 42 U.S.C. s. 1758(b). In Florida, the Florida Department of Agriculture and Consumer Services, Division of Food, Nutrition, and Wellness administers the program. Chapter 595, F.S.; Florida Department of Agriculture and Consumer Services, *National School Lunch Program*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Nutrition-Programs/National-School-Lunch-Program> (last visited Sept. 5, 2013).

²⁷⁰ "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education (DOE) by the Department of Children and Family Services. Section 1002.395(2)(c), F.S.

²⁷¹ Section 1002.395(3)(b)2., F.S.

²⁷² Section 1002.395(3)(b)1. – 2., F.S.; *see also* s. 39.01(31), F.S.

²⁷³ Section 1002.395(12)(a), F.S.

²⁷⁴ Section 1002.395(12)(a)2., F.S.

Effect of Proposed Changes

Beginning in the 2014-15 school year and thereafter, the bill removes the prior public school attendance requirement for scholarship eligibility. Beginning in the 2016-17 school year and thereafter, eligibility is extended to students with household incomes greater than 185 percent but not exceeding 260 percent of the federal poverty level.

Beginning in the 2014-15 school year and thereafter, eligibility is added for children placed in out-of-home care.²⁷⁵ Students in foster care or another out-of-home care placement will remain eligible for the program until age 21 or graduation, whichever comes first.

The bill requires SFOs to give priority among new applicants to those students with household incomes below 185 percent of the federal poverty level and to students in foster or out-of-home care. Students who received a scholarship in the prior year will continue to receive priority over any new applicants.

Beginning in the 2016-17 fiscal year, the maximum per-student scholarship amount is increased from 80 percent to 82 percent of the FEFP per-student funding amount. In concert with the FY 2016-17 expansion of eligibility to include students with household incomes above 185 percent of the federal poverty level, the bill creates an income-based tiered phasedown of the maximum per-student scholarship amount. For household incomes between 200 percent and 215 percent of the federal poverty line, the maximum is reduced by 12 percent. For household incomes between 215 percent and 230 percent, the maximum is reduced by 26 percent. For household incomes between 230 percent and 245 percent, the maximum is reduced by 40 percent. Finally, for household incomes between 245 percent and the newly increased maximum of 260 percent the amount is reduced by 50 percent.

The bill establishes an approval and renewal application process for nonprofit scholarship-funding organization (SFO) participation in the program that requires, among other things, SFOs to submit a surety bond or letter of credit for a specified amount. Additionally, the bill:

- Prohibits SFOs from using administrative funds for lobbying or political activity;
- Requires that scholarship contributions carried forward to the next fiscal year be specifically identified for particular students, by name and school;
- Requires the Auditor General to annually conduct an operational audit of SFO accounts and records, including contracts for services with related entities. SFO financial audits will continue to be conducted by independent certified accountants; and
- Strengthens the background check requirements for owners and operators of SFOs by adding a number of additional disqualifying offenses.²⁷⁶

The bill authorizes state universities and independent colleges and universities to seek approval to become a SFO. These entities are exempt from the SFO application process, including its surety bond requirements. Instead, they must register with DOE. The bill directs the state board to adopt rules prescribing a registration process and fiscal, programmatic, and performance accountability requirements for such entities, which may not exceed the requirements for charitable organizations serving as SFOs.

The bill authorizes credits against corporate income tax and insurance premium tax, once earned, to be taken against the next estimated payment. Additionally, a tax credit may be conveyed, transferred, or assigned between members of an affiliated group of corporations with Department of Revenue approval.

²⁷⁵ Out-of-home care more generally refers to any case in which a child is removed from the home of the parent, whether it is placement in foster care or with a relative or other care giver. Rule 65C-30.001(91), F.A.C. An out-of-home placement that is not foster care typically refers to a placement with a relative. Ch. 39, F.S.; *see e.g.*, chs. 65C-13, 65C-15, 65C-28, 65C-29, and 65C-30, F.A.C.

²⁷⁶ The new offenses include any felony and numerous misdemeanor-level financial crimes.

Lastly, the bill requires DOE to issue a grant to the Learning Systems Institute at Florida State University to formulate an annual report on participating student performance, including learning gains. Currently, the law requires that an unnamed independent research organization conduct this report.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Student eligibility for funding under the Personal Learning Scholarship Accounts program is determined based on the student having a disability as defined in the bill and meeting the eligibility requirements. The General Appropriations Bill for Fiscal Year 2014-2015, appropriates \$18.4 million for this program. The scholarships are on a first-come, first-served basis based upon the funds provided for this program in the General Appropriations Act.

A. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

B. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

C. FISCAL COMMENTS:

Staff has estimated the total Florida Tax Credit Scholarship Program impacts on current law (Table 1) and the proposed law (Table 2). Table 3 displays the estimated change in total program impacts as a result of the bill. Under the bill, expenditure savings are expected to continue as fewer students will require funding within the FEFP. Table 3 shows the net positive savings to the state are reduced by \$1.3 million, \$4.3 million, \$22.7 million, \$31.6 million, and \$41.5 million in fiscal years ending 2015, 2016, 2017, 2018, and 2019, respectively.

	2014-15	2015-16	2016-17	2017-18	2018-19
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Table 1: Program Impacts Under the Current Law (Baseline)					
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Revenue impact in millions	(\$357.8)	(\$447.3)	(\$559.1)	(\$698.9)	(\$873.6)
FEFP savings based on current revenue cap	\$415.0	\$489.6	\$608.7	\$758.4	\$944.8
Net State Savings in Millions	\$57.2	\$42.3	\$49.6	\$59.5	\$71.3

Table 2: Program Impacts Under the Bill					
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Revenue impact in millions	(\$357.8)	(\$447.3)	(\$559.1)	(\$698.9)	(\$873.6)
FEFP savings based on revised revenue cap	\$413.6	\$485.3	\$585.9	\$726.7	\$903.4
Net State Savings in Millions	\$55.8	\$38.1	\$26.9	\$27.9	\$29.8

Table 3: Program Impacts: Proposed vs. Current					
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Revenue impact in millions	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
FEFP savings based on revised revenue cap	(\$1.3)	(\$4.3)	(\$22.7)	(\$31.6)	(\$41.5)
Net State Savings in Millions	(\$1.3)	(\$4.3)	(\$22.7)	(\$31.6)	(\$41.5)