

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION PRE-K - 12
Senator Wise, Chair
Senator Bullard, Vice Chair

MEETING DATE: Wednesday, March 30, 2011

TIME: 1:30 —3:30 p.m.

PLACE: 301 Senate Office Building

MEMBERS: Senator Wise, Chair; Senator Bullard, Vice Chair; Senators Alexander, Benacquisto, and Montford

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 700 Siplin (Similar H 309)	Education; Authorizes district school boards to adopt resolutions that allow prayers of invocation or benediction at secondary school events. Provides legislative intent. Provides for severability.	
		ED 03/30/2011 JU RC	
2	SB 1312 Siplin (If Received)	School Nutrition Programs; Transfers and reassigns functions and responsibilities, including records, personnel, property, and unexpended balances of appropriations and other resources for the administration of the school food and nutrition programs from the Department of Education to the Department of Agriculture and Consumer Services. Requires the Department of Agriculture and Consumer Services to conduct, supervise, and administer all school food and nutrition programs, etc.	
		AG 03/28/2011 ED 03/30/2011 If received BC	
3	SB 1176 Ring (Identical H 831, Compare H 763)	High School Athletic Trainers; Encourages school districts to employ at least one full-time certified athletic trainer at each high school in this state. Requires athletic trainers at high schools to be certified by the Board of Certification of the National Athletic Trainers' Association. Provides a rebuttable presumption that a school district did not negligently employ an athletic trainer for purposes of a civil action for negligence by the athletic trainer if the school district made a good faith effort to comply with the certification requirements for athletic trainers, etc.	
		ED 03/30/2011 JU BC	

COMMITTEE MEETING EXPANDED AGENDA

Education Pre-K - 12

Wednesday, March 30, 2011, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1388 Flores (Similar H 965)	Department of Revenue; Authorizes the department to release certain taxpayers' names and addresses to certain scholarship-funding organizations. Deletes a limitation on the amount of tax credit allowable for contributions made to certain scholarship-funding organizations. Extends the carry-forward period for the use of certain tax credits resulting from contributions to the Florida Tax Credit Scholarship Program. Deletes a restriction on a taxpayer's ability to rescind certain tax credits resulting from contributions to the program.	
		ED 03/30/2011 BC	
A proposed committee substitute for the following bill (SB 1546) is expected to be considered:			
5	SB 1546 Thrasher	Charter Schools; Revises provisions relating to the sponsoring entities of charter schools. Authorizes state universities and colleges to approve charter school applications and develop charter schools under certain circumstances. Creates the Charter School Review and Appeals Panel. Provides for the designation of charter schools as high-performing if certain requirements are met. Creates the College-Preparatory Boarding Academy Pilot Program for dependent or at-risk students, etc.	
		ED 03/23/2011 Temporarily Postponed ED 03/30/2011 HE BC	
6	SB 1320 Wise (Identical H 989, Compare H 4169, S 1186, S 1306)	Physical Education Instruction in Public Schools; Requires that physical education instruction for students in kindergarten through grade 5 be delivered by a certified physical education teacher. Requires that each district school board provide 150 minutes of physical education instruction by a certified physical education teacher each week for students in grade 6 who are enrolled in a school that contains one or more elementary grades so that on any day during which physical education instruction is conducted there are at least 30 consecutive minutes per day, etc.	
		ED 03/30/2011 BC	

A proposed committee substitute for the following bill (SB 1696) is expected to be considered:

COMMITTEE MEETING EXPANDED AGENDA

Education Pre-K - 12

Wednesday, March 30, 2011, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1696 Wise (Compare CS/H 1255, H 1341, H 4217, H 5101, CS/H 7087, S 1832, CS/S 1844, S 1950, S 1996, S 2026)	Public School Accountability; Deletes a provision that requires the Florida Virtual School to be administratively housed within the Office of Technology and Information Services within the DOE. Revises the powers and duties of district school boards to require that students be provided with access to Florida Virtual School courses. Revises provisions relating to public school improvement. Revises the general requirements for middle grades promotion. Revises provisions relating to the employment of nondegreed teachers of career education, etc. ED 03/30/2011 BC	

Presentation by the Department of Education on Seclusion/Restraints

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 700

INTRODUCER: Senator Siplin

SUBJECT: Education

DATE: March 24, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.			JU	
3.			RC	
4.				
5.				
6.				

I. Summary:

This bill provides, on a permissive basis, authority for district school boards to adopt resolutions regarding student delivery of inspirational messages, including prayers, at secondary school level gatherings, such as at commencement.

If adopted, language is required to be included in the resolution, such as that the decision to use a prayer is at the option of student government; only students can deliver prayers; prayers are nonsectarian and nonproselytizing; and school personnel is precluded from participating in or influencing students in decisions to use prayers.

This bill creates an undesignated section of law in the Florida Statutes.

II. Present Situation:

On August 27, 2008, the American Civil Liberties Union filed a lawsuit in the United States District Court for the Northern District of Florida against the Santa Rosa County School District, alleging that prayers in school were state-sponsored and violative of the Establishment Clause and the no-aid provision of the state constitution.¹ On May 6, 2009, both parties entered a consent decree and the court issued an order which provided, in part, for permanent injunction against school officials from:

- Promoting, advancing, endorsing, or causing prayers in conjunction with school events;
- Planning, organizing, promoting, or sponsoring religious services;

¹ *Does v. School Board for Santa Rosa County, Florida* (Case Number 3:08-cv-361/MCR/EMT)

- Holding school events at a religious venue when an alternative venue is reasonably suitable that is not a religious venue; and
- Permitting school officials to promote personal religious beliefs.

Subsequent to the issuance of the consent decree, a contempt order was issued by the court against two school officials for violation of the decree, with possible punishment of jail time and fines.² On September 17, 2009, the court found the school officials not guilty.³ The consent decree remains, but has been recently challenged in U.S. District Court by plaintiff teachers and other staff, alleging violations of their First Amendment rights.⁴ On March 21, 2011, the court issued an order which grants, in part, a preliminary injunction enjoining the school board from enforcing school policies restricting employee participation in private religious service, including baccalaureate. The final hearing in the case is expected mid-summer.

The 2010 Legislature passed a bill which prohibits district school boards and administrative and instructional personnel from taking affirmative action, including entering into agreements that infringe First Amendment rights of personnel or students, unless waived in writing.⁵

III. Effect of Proposed Changes:

This bill authorizes, but does not require, district school boards to adopt resolutions regarding the delivery of inspirational messages, including prayers of invocation or benediction, at secondary school commencement exercises or other noncompulsory student assemblies.

If adopted, the resolution must include language that provides:

- The use of a prayer of invocation or benediction is at the discretion of the student government;
- Students will deliver all prayers;
- All prayers will be nonsectarian and nonproselytizing in nature; and
- School personnel may not participate in, or otherwise influence any student in determining whether to use prayers.

This bill identifies as its purpose the provision of the solemnization and memorialization of secondary school events and ceremonies, rather than to advance or endorse any religion or religious belief.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

² *Florida School Officials Get Jail Time*, www.cnn.com/2009/CRIME/09/17/florida.school.prayer (September 17, 2009); Last checked March 23, 2011.

³ *Lay, Freeman Not Guilty in School Prayer Case*; <http://www.northescambia.com/?p=10943>; Last checked March 23, 2011.

⁴ *Mary E. Allen v. School Board for Santa Rosa County, Florida* (N.D. U.S.D.C. 2011) (Case Number 3:10-cv-00142-MCR-CJK).

⁵ ch. 2010-214, L.O.F.; s. 1003.4505, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The First Amendment to the Federal Constitution provides, in part:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof....

This provision is typically referred to as the Establishment Clause.

Section 3, Article I, of the State Constitution provides:

There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof....No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.

In 1962, the U.S. Supreme Court indicated that evidence of direct government compulsion is not required in an Establishment Clause case (as would generally be the case for Free Exercise claims.) In Engel v. Vitale, the court found impermissible daily prayer in schools, regardless of whether students were specifically and individually required to participate, on the basis that prayer in elementary and secondary schools carries particular risk of indirect coercion.⁶

In 1971, the U.S. Supreme Court established the seminal test to apply to these cases, in Lemon v. Kurtzman, which requires that the following be demonstrated for constitutionality:

- The statute must contain a secular purpose;
- The statute's principal or primary effect is one that neither advances nor inhibits religion; and
- The statute must not foster excessive government entanglement with religion.⁷

The last prong remains the critical focus of the test.⁸

⁶ *Engel v. Vitale*, 370 U.S. 421, 441-442 (1962).

⁷ 403 U.S. 602, 612-13 (1971).

⁸ John P. Cronan, *A Political Process Argument for the Constitutionality of Student-led, Student-initiated Prayer*, 18 YLLPR 503, 510 (2000).

In 1992, however, the Supreme Court did not apply the Lemon test to a case involving endorsement of nonsectarian prayer and emphasized, instead, indicia of whether government actions constituted a pervasive degree of involvement, commonly referred to as the Coercion Test.⁹ Here, that school officials decided themselves to have prayer at commencement, selected clergy, and influenced speech content by providing a pamphlet to the clergy with guidelines for nonsectarian prayer, the court determined, rose to the level of impermissible pervasive activity.¹⁰ Although asserted that attendance was voluntary, the very monumental nature of a graduation made student participation mandatory.

In Santa Fe Independent School District v. Doe, the U.S. Supreme Court ruled that school district policy which authorized student-led, student-initiated invocations at football games did not constitute private speech.¹¹ In this case, the policy authorized student elections to determine whether invocations should be provided at games, and if so, who should deliver the invocation.¹² The District Court limited the policy to nonsectarian, nonproselytizing prayer. In finding the lower court's modified policy unconstitutional, the Supreme Court applied a hybrid Lemon/Lee test and determined that a policy that expressly authorizes prayer at all promotes religion, constitutes unlawful coercion, and is therefore facially unconstitutional:

Indeed, the only type of message expressly endorsed in the policy is an "invocation," a term which primarily describes an appeal for divine assistance....Through its election scheme, the District has established a government mechanism that turns the school into a forum for religious debate....It further empowers the student body majority....to subject students of minority views to constitutionally improper messages.¹³

In 2001, in Adler v. State, the Eleventh Circuit Court of Appeals reviewed a Duval County school district policy that permitted a graduating student, elected by her class, to give a message unrestricted by the school,¹⁴ which specifically provided:

1. The use of a brief opening and/or closing message, not to exceed two minutes, at high school graduation exercises shall rest within the discretion of the graduating senior class;
2. The opening and/or closing message shall be given by a student volunteer, in the graduating senior class, chosen by the graduating senior class as a whole;
3. If the graduating senior class chooses to use an opening and/or closing message, the content of that message shall be prepared by the student

⁹ *Lee v. Weisman*, 505 U.S. 577, 578 (1992).

¹⁰ *Id.* at 578, 587.

¹¹ 530 U.S. 290 (2000).

¹² *Id.* at 297.

¹³ *Id.* at 291, 316.

¹⁴ 250 F.3d 1330 (11th Cir. 2001).

volunteer and...not be monitored or...reviewed by Duval County School Board, its officers or employees;
The purpose of these guidelines is to allow students to direct their own graduation message without monitoring or review by school officials.¹⁵

Here, the court held that as this policy was neutral on-its-face and did not involve any degree of state control, it was facially constitutional.¹⁶

Although it is difficult to gauge how this bill would be implemented in practice, it can be said that a Duval County-type policy, which authorizes a student message to be delivered at graduation but does not mention prayer, and prohibits school review of content, presents the strongest case for constitutionality. At the other end of the continuum, a school district policy which allows students to decide if they want a student-led prayer to be delivered at a school event similar to Santa Fe may be constitutionally suspect. Less certain outcomes exist for other factual combinations. That this bill references only the secondary, rather than the K-12 setting, is likely inconsequential.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill authorizes, but does not require school boards to draft policies addressing inspirational messages. Therefore, any fiscal impact related to policy drafting and adoption is expected to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁵ *Id.* at 1332.

¹⁶ *Id.* at 1333.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Committee

BILL: CS/SB 1312

INTRODUCER: Agriculture Committee and Senator Siplin

SUBJECT: School Nutrition Programs

DATE: March 29, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Spalla	AG	Fav/CS
2.	Carrouth	Matthews	ED	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill creates the “Healthy Schools for Healthy Lives Act” and provides for a type two transfer¹ of the administration of school food and nutrition programs from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS). It provides for the administration of the United States Department of Agriculture child food and nutrition programs by DACS. The bill also creates the Healthy Schools for Healthy Lives Council within DACS.

The bill substantially amends s. 1003.453 of the Florida Statutes and creates s. 570.98 of the Florida Statutes. It also creates one undesignated section of law.

The bill amends, transfers and renumbers: s. 1006.06, F.S., to s. 570.981, F.S.; s. 1006.0606, F.S., to s. 570.982, F.S.; and s. 1010.77, F.S., to s. 570.983, F.S.

¹ s. 20.06(2), F.S., defines, in pertinent part, a Type Two Transfer as the merger of an existing agency or department, or program, activity, or function into another agency or department or a merger with certain identifiable units or subunits, programs, activities, or functions removed or abolished.

II. Present Situation:

There is a direct correlation between good nutrition and student development and learning.² Due to this relationship, both the federal and state governments have adopted policies for local school districts to operate school nutrition programs.³ Federal regulations implementing the Richard B. Russell National School Lunch Act (7 C.F.R. § 210.3(b)) provide for the programs to be administered by a state's educational agency. This is the case in all but two of the 50 states.⁴ In Florida, DOE and DACS have roles in administering school food and nutrition programs. As such, Florida's school food and nutrition programs are spread across DOE and DACS, creating challenges, inconsistencies and inefficiencies. For instance, the School Lunch, Breakfast, and Summer Programs are administered by DOE, while the commodity Food Distribution, Disaster Feeding, and the Emergency Food Assistance Program (EFAP) are managed by DACS. The Healthy Schools for Healthy Lives Act would consolidate school food and nutrition programs under one state agency.

The Commissioner of Agriculture states that DACS is the most experienced and best positioned to manage Florida's school food and nutrition programs.⁵ Furthermore, it is the Commissioner's position that the transfer will foster increased coordination between Florida farmers and the school programs that provide food for Florida's children. With its year-round growing season, the state of Florida is uniquely capable of providing produce during the school year. DACS can connect schools with nearby farms, enabling the schools to tap into the abundance of nutritious and wholesome foods that Florida has to offer and serve locally-grown fresh fruits and vegetables at school meals. The Commissioner of Agriculture also states that DACS can apply its expertise to help instill in students a value and appreciation for fresh and nutritious foods, thus leading to a lifetime of healthy eating habits. Through existing programs in DACS' Marketing Division, such as Fresh From Florida Kids and Xtreme Cuisine, DACS currently works to educate families and children about healthy eating. Combining these efforts with the programs currently at DOE will enable schools to more effectively reach Florida's students with the valuable lessons and practices of healthy eating. DACS also has a culinary program administered by a certified executive chef to help develop and offer nutritious recipes with "kid appeal" to be served in cafeterias and classrooms. The culinary staff can also share proven techniques with school foodservice assistants.⁶

Furthermore, the Commissioner of Agriculture believes that transferring the school food and nutrition programs to DACS will allow for increased coordination and create efficiencies. DACS states that it can absorb some of the programs' administrative needs and bring other services in-

² *Early Childhood Nutrition and Academic Achievement: A Longitudinal Analysis*, available at: http://www.sciencedirect.com/science?_ob=ArticleURL&_udi=B6V76-43GH12C-1&_user=10&_coverDate=09%2F30%2F2001&_rdoc=1&_fmt=high&_orig=gateway&_origin=gateway&_sort=d&_docancor=&view=c&_searchStrId=1697920803&_rerunOrigin=scholar.google&_acct=C000050221&_version=1&_urlVersion=0&_userid=10&md5=7709e53ea6bac836aafab9b4169e576c&searchtype=a.

³ The National School Lunch Act, as amended (42 U.S.C. 1751-1769), and the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773) and s. 1006.06, F.S.

⁴ Letter from the United States Department of Agriculture (USDA) to the Commissioner of Education dated March 4, 2011. On file with the committee.

⁵ Meeting between Senate Agriculture Committee staff and representatives of the Florida Department of Agriculture, March 17, 2011.

⁶ *Id.*

house, which should yield approximately \$400,000 in annual savings.⁷ Additional savings can be realized from DACS' relationship with the agriculture industry. For example, with access to Florida's farmers, agribusinesses and agricultural market data, DACS can help the programs save in the areas of food, training and distribution. In addition, DACS' food recovery initiatives identify Florida produce that can be distributed to the needy at a reduced cost. Methods from these initiatives may be applied to provide more nutritious and wholesome foods to schools at a reduced cost.⁸

The following is a description of the state-level organizational placement of school nutrition programs administered by DOE and DACS:⁹

Florida Department of Education:

The DOE is responsible for the administration, review, and evaluation of seven United States Department of Agriculture (USDA) funded child nutrition programs. During the 2009-10 fiscal year, the following programs generated \$745 million in reimbursements to program sponsors, which include all of Florida's 67 public school districts, 78 charter schools, 3 university schools, 49 private schools, and 49 residential facilities.

National School Lunch, School Breakfast, and After School Snack Programs – \$718.6 Million in Reimbursements

The National School Lunch Program (NSLP) and School Breakfast Program (SBP) provide non-profit school lunch programs with reimbursement for nutritious meals served to school children. Participating schools may also receive USDA commodity food through an agreement with DACS. Section 1006.06, F.S., requires Florida public school districts to offer the breakfast program in all elementary public schools. Reimbursement is based on student income eligibility.

The After School Snack Program (ASSP) provides a snack to students who are served in an afterschool educational or enrichment program that is provided at the end of the school day. The school district must operate the NSLP before ASSP can be offered.

Special Milk Program – \$31,295 in Reimbursements

The Special Milk Program (SMP) provides milk to children in schools, child care institutions and eligible camps that do not participate in other federal child nutrition meal service programs. The program reimburses schools and institutions for the milk they serve. Schools in the NSLP or SBP may also participate in the SMP to provide milk to children in half-day pre-kindergarten and kindergarten programs through which children do not have access to the school meal programs.

Summer Food Service Program – \$22.7 Million in Reimbursements

The Summer Food Service Program (SFSP) provides reimbursement for sponsors to serve free meals to low-income children at participating sites during the summer months when schools are normally closed. The reimbursement rates for the SFSP are slightly higher than the National School Lunch Program. Children who are 18 years of age or younger, or over 18 when

⁷ Department of Agriculture Fiscal Note, March 10, 2011, on file with the committee.

⁸ *Id.*

⁹ Department of Education legislative bill analysis, March 1, 2011, on file with the committee.

determined to be mentally or physically handicapped, are eligible for the program. Sponsors of this program include school districts, community-based organizations, and county governments.

Seamless Summer Option – \$1.8 Million in Reimbursements

School districts participating in the NSLP or SBP are eligible to apply for the Seamless Summer Option (SSO) to serve free meals to low-income children, 18 years old and under. This option reduces paperwork and administrative burdens, and reimbursement rates are the same as with NSLP and SBP. Sponsors of this program are school districts.

Fresh Fruit and Vegetable Program – \$2.7 Million in Reimbursements

The Fresh Fruit and Vegetable Program (FFVP) provides all children in participating schools with a variety of free fresh fruits and vegetables outside of the breakfast and lunch service. It is an effective and creative way of introducing fresh fruits and vegetables as healthy snack options. In 2010-11, the FFVP currently operates in 26 districts and 133 schools throughout Florida.¹⁰ The allocation for each school is between \$50 and \$75 per student. National allocations have not yet been released, but Florida anticipates receiving approximately \$6 million for the 2011-2012 FFVP. Unlike the other child nutrition programs which are reimbursed by meals served, FFVP sponsors are reimbursed for operating and administrative costs in addition to the funds received for the purchase of fruits and vegetables.

DOE Administration of Child Nutrition Programs

The DOE employs 45 staff with an administrative budget of \$6,461,745 for the 2010-11 fiscal year to administer the school and child nutrition programs for the following sponsors:

- 248 NSLP sponsors, including 3,578 breakfast sites, 3,651 lunch sites, and 1,655 snack sites;
- 135 SFSP and SSO sponsors;
- 18 SMP sponsors; and
- 133 elementary schools participating in the 2010-2011 Fresh Fruit and Vegetable Program.

Administrative services provided by the DOE include:

- Maintaining a web-based computer application to process \$745 million of claims reimbursements, sponsor applications, administrative program reviews, and federal reports;
- Providing sponsor training and technical assistance in child nutrition, food safety, and administrative services for all sponsors;
- Conducting on-site monitoring and administrative reviews of program administration and meal services for all sponsors;
- Evaluating and providing nutrient analysis of breakfast and lunch menus for all sponsors; and
- Providing outreach in the state to attract potential sponsors for the SFSP and increase participation in the breakfast program.

¹⁰ *Id.*

To provide the services listed above effectively, DOE works with Florida Atlantic University to administer two grants: (1) \$700,000 to deliver on-site training in a variety of areas, including producing and maintaining appropriate food service records, food preparation and safety, preparing and serving fresh fruits and vegetables, and the production of training videos; and (2) \$900,000 to observe and evaluate the scope of difficulties related to compliance, provide technical assistance to individual sponsors, provide technical assistance to companies that contract to deliver food products and services, assist sponsors with completing paperwork and taking the steps necessary to achieve and maintain regulatory compliance related to Provision 2 (program in schools with a high proportion of students who are eligible for free and reduced-price meals that allows all students to receive free meals), and the maintenance and technical support of DOE's "FUNDamental" financial software; which is used to measure critical indicators of the financial effectiveness of a sponsor's child nutrition program.

Alliances and Initiatives

The DOE established the Farm to School (F2S) Alliance to combat childhood obesity and meet the HealthierUS School Challenge criteria, which is a statewide training initiative for school food service professionals on how to prepare and serve meals that comply with the 2005 Dietary Guidelines for Americans. DOE coordinates F2S training, serves as the lead on the National F2S Network Regional Steering Committee, and commits staff time to the HealthierUS School Challenge and First Lady Michelle Obama's Let's Move Campaign. In January of 2011, an F2S Alliance meeting was held to "Build a Framework" for Florida F2S Programs. The Florida-Grown School Lunch Week is being planned for October 2011, to highlight products grown in Florida.

The F2S Alliance meetings have been attended by representatives from the United States Department of Agriculture, Farm Bureau, University of Florida Extension Offices, Florida Agriculture in the Classroom, Florida Fruit and Vegetable Association, Florida School Nutrition Association, R.C. Hatton Farms, U.S. Foodservice Food Distribution, Florida Action for Healthy Kids, Florida Dairy Council, Sustainable Agriculture Research and Education, Whole Foods, and organic growers.

The DOE provides outreach, guidance, and information to approximately 800 small farmers, their families, and the communities they serve about how to become involved and form business relationships with schools. DOE has garnered support from R.C. Hatton Farms, one of Florida's larger farmers, to assist with bringing smaller farmers into the discussion regarding food safety and distribution of their products.

The DOE provides guidance and training to Florida school food service directors, their staff, and parent-teacher organizations about the benefits of using locally grown products, procurement of local produce, and the use of local products in the NSLP to meet the HealthierUS School Challenge menu criteria. For the past three years, FNM has conducted presentations at the Florida School Nutrition Association Conference on procurement, distribution, and applications of food safety principles associated with local farm-grown produce.

The DOE actively supports interagency participation and coordination with the USDA, Florida Department of Health, Florida Department of Children and Families, Florida Coordinated School

Health Partnership, Coordinated School Health Initiatives, the Florida Food and Nutrition Advisory Council, and various other entities.

Integration into the Curriculum and Classroom

Nutrition education is provided through collaboration with the Office of Healthy Schools (OHS) within DOE. DOE's school food and nutrition programs partner with the OHS to assess and respond to the nutrition education and resource needs of school districts across the state. The OHS is partially funded with DOE school food and child nutrition administrative expense funds and employs a program director and nutrition coordinator. Through this partnership, DOE is able to integrate nutrition education into core subject areas like language arts and science. Examples of initiatives from this collaboration include:

- Participation in Celebrate Literacy Week—OHS works in partnership with the Just Read, Florida! Office to promote literacy throughout the state by raising awareness of the nutrition-related programs and projects offered by the DOE, including the importance of school breakfast and school gardens. In January 2011, volunteers across 28 school districts and 1,100 classrooms read “Our Super Garden: Learning the Power of Healthy Eating by Eating What We Grow” by Anne Nagro.
- Seed Folks kits—In February 2011, OHS in partnership with the DOE's Language Arts Coordinator, Just Read, Florida!, and the Florida Department of Health's Comprehensive Cancer Control Program provided Seed Folks kits, containing lesson plans and activities challenging language arts benchmarks, to middle school students.
- Gardening for Grades Regional Trainings—Through a partnership with DOE's Science Coordinator, OHS has collaborated with Florida Agriculture in the Classroom to serve science teachers through nine regional Gardening for Grades training sessions in the spring of 2011. Gardening for Grades is a program funded by specialty crop grants, awarded by DACS.
- Foods of the Month Kits—In March 2011, OHS provided approximately 550 nutrition education resources specifically designed for the school cafeteria through the Foods of the Month (FoM) kits. FoM kits help schools enhance the nutrition education programming and improve dietary offerings in school meals by using the cafeteria as a learning laboratory.
- Healthy School District Trainings—Five regional Healthy School District Trainings will be conducted in March 2011, using the Coordinated School Health approach to provide district teams with the tools necessary to improve the health and wellness of their district's students and staff through Wellness Policy Committees and School Health Advisory Committees (SHACs).

The Florida Department of Agriculture and Consumer Services:

The Department of Agriculture and Consumer Services administers the Commodity Program portion of the National School Lunch Program and the Summer Food Service Program. Section 6(e) of the Richard B. Russell National School Lunch Act (NSLA), requires that no less than 12 percent of the federal support received by schools pursuant to the NSLA each year must be in the form of USDA food (commodities). Every year, DACS receives an allocation from the US Department of Agriculture based on the number of meals served the previous year. As the state agency responsible for ordering the commodities for the schools, DACS provides information to the schools on which foods USDA intends to acquire, determines from the schools how much, if

any, of each of the commodities available they would like to requisition and orders the foods. USDA is responsible for procuring and purchasing these commodities.

During school year 2010-2011, DACS provided over 69 million pounds of USDA food valued at approximately \$55,516,427 to about 193 participating schools (public school districts, private schools, residential child care institutions, etc.) throughout the state. An additional \$4,442,500 in fresh fruits and vegetables was also provided.

In 2011, DACS will provide over 75 million pounds of USDA food, valued at over \$66 million, in addition to another \$3,077,000 in fresh fruits and vegetables to participating Florida schools.

DACS developed and maintains the Florida Farm to School Program website to bring schools and farmers together to determine each other's needs and how to best meet them. As a founding member of the Farm to School Alliance, DACS participates and provides input at Alliance meetings. For the last three years, DACS has participated in various panel presentations and exhibitions promoting the consumption of fresh produce at the Florida Small Farms and Alternative Enterprises Conference.

For years, DACS has been an active participant in the Florida School Nutrition Association annual conference. In addition to conducting workshops on the administration of the USDA foods, DACS, in conjunction with the Department of Defense, is an exhibitor at the conference, promoting the consumption of fresh produce in schools and Florida fresh fruits and vegetables in particular. At the 2011 conference, DACS' chef will be in attendance demonstrating ways to entice students to consume more Florida fruits and vegetables.

In keeping with DACS' mission of providing healthy nutrition from the time children are young, DACS has developed the Fresh From Florida Kids. The program is designated to help parents instill healthy eating habits in their children who are just beginning to eat solid food and beyond. Research suggests that taste preferences and eating habits are fully developed by the time a child is three years old, so starting early is essential.

As children get older, DACS introduces them to good nutrition through Xtreme Cuisine. Xtreme Cuisine Cooking School teaches children about nutrition and introduces children to the variety of fresh, nutritious foods available in Florida. The program can be used by teachers, extension agents, health and family services professionals, and many others who work with Florida youth to teach children the nutritional attributes and other pertinent information about Florida agricultural commodities while providing basic cooking skills.

Office of Program Policy and Government Accountability (OPPAGA), Report No. 09-03¹¹
OPPAGA reviewed Florida's school nutrition programs in January 2009. In the report, *No Changes Are Necessary to the State's Organization of School Nutrition Programs*, OPPAGA found:

- The current structure aligns key program activities with the core missions of state agencies.

¹¹ <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=09-03>

- There is no compelling reason to change the current structure of Florida's school nutrition programs.
- Changing the structure would not produce identifiable cost savings or other substantial benefits.
- Transferring programs and functions from one agency to another would likely result in short-term disruptions in services to school districts.

School Nutrition Program Transfers Experienced in Other States

Federal regulations implementing the Richard B. Russell National School Lunch Act (7 C.F.R. § 210.3(b)) provide for the NSLP to be administered by a state's educational agency. In all but two of the 50 states this is the case. In Texas and New Jersey, it was the desire to seek alternate agencies to administer the program. In 34 states, the commodity food program, which makes agricultural commodities available to sponsors, is administered by the education agency. The administration of the NSLP by an agency other than the state education agency requires a waiver by the Secretary of the USDA. USDA staff has been contacted for information regarding a potential waiver. At this time, it is unknown if a waiver would be approved or if a transfer could be accomplished by the bill's effective date of July 1, 2011.¹²

Officials in Texas and New Jersey indicated that consolidating the federal programs into their agriculture departments had two primary benefits. First, it improved coordination between the various programs. Second, the officials said that consolidating the programs within the agriculture agency had increased program visibility and administrative support by functioning with a smaller agency, rather than as a no-curriculum program within the larger state education agency.¹³

Officials in both Texas and New Jersey indicated that the primary disadvantage of consolidation was that it created transitional issues during the transfer. For example, when consolidation was being discussed, several DOE staff became concerned about the future of their positions. Another challenge to consolidation is that it could create either data sharing or duplicate data reporting issues.¹⁴

DACS has reached out to their counterparts in Texas and New Jersey to learn the progress of the programs since the transition and both states report success. Though they encountered issues during the transition, school food and nutrition programs in the agriculture departments of both Texas and New Jersey are making a positive impact on the health curriculum in the classrooms and the nutrition in the cafeterias. DACS feels it can apply lessons learned by both states to support a smooth transition of the school food and nutrition programs in Florida.¹⁵

¹² Department of Education legislative bill analysis, March 1, 2011, on file with the committee.

¹³ Letter from the United States Department of Agriculture (USDA) to the Commissioner of Education dated March 4, 2011. On file with the committee.

¹⁴ *Id.*

¹⁵ Meeting between Senate Agriculture Committee staff and representatives of the Florida Department of Agriculture, March 17, 2011.

III. Effect of Proposed Changes:

The bill transfers the administration of the National School Lunch Program and related food and nutrition programs from the Department of Education (DOE) to the Department of Agriculture and Consumer Services (DACS). The bill furthers the goal of the DACS to assume control over the program. The DOE has raised concerns with the transfer, namely:¹⁶

- Loss of funding—The loss of funding would affect the integration of nutrition education into the classroom. The initiatives discussed above, including reading child nutrition books in the classroom, Seed Folks kits containing lesson plans, gardening training sessions, and using the cafeteria as a training laboratory would be severely curtailed or eliminated.
- Disruption in services—As with any change, there will be a disruption in services that DOE currently provides. For example, the distribution of monthly Direct Certification information of students who are eligible for free or reduced price meals because of eligibility for the Supplemental Nutrition Assistance Program through the Department of Children and Families will require changes in multiple agencies. All Memorandums of Understanding and grants will need to be revised and updated to reflect the transfer. The Dietetic Internship Program will require a recertification by the Commission on Accreditation for Dietetics Education and amended contracts with the various entities that provide instruction to the interns. The coordination with the Florida School Choice Program to increase the number of charter schools sponsoring NSLP would be affected.
- Fiscal cost—There would be a financial cost to the State Administrative Fund for program operation to physically move the program from DOE to DACS. A physical program move could result in additional facilities renovation expenses to provide needed offices and technical support for the program. A relocation would likely result in short-term disruptions in services to school districts and additional workload relative to the moving process. Millions of dollars of program reimbursements could be delayed, causing fiscal concerns to sponsors. It is possible the program could remain housed in the Turlington Building, which would seem to negate any fiscal or policy benefit to transferring the program.
- Loss of indirect funds to the DOE—Indirect earnings revenue is derived from assessments on federal grants based on the DOE's current approved Indirect Cost Rate Agreement with the United States Department of Education, dated May 5, 2010, for the period July 1, 2010, through June 30, 2013. The assessment is a percentage of total direct expenditures excluding capital expenditures, flow-through appropriations, and unallowable costs. Indirect earnings are used to support management activities that are department-wide in nature and include activities such as purchasing, accounting, human resources, grants management, and legal services. The amount of \$631,410 is attributed to indirect earnings from school and child nutrition programs in the 2009-10 fiscal year.
- Federal government has not approved—Federal regulations implementing the Richard B. Russell National School Lunch Act (7 C.F.R. § 210.3(b)) provide for the NSLP to be administered by the state educational agency. In all but two of the 50 states this is the case. Texas and New Jersey sought and received alternative administration. In 34 states,

¹⁶ Department of Education legislative bill analysis, March 1, 2011, on file with the committee.

the commodity food program, which makes agricultural commodities available to sponsors, is administered by the education agency. The administration of the NSLP by an agency other than the state education agency requires a waiver by the Secretary of the USDA. USDA staff has been contacted for information regarding a potential waiver. At this time, it is unknown if a waiver would be approved or if a transfer could be accomplished by the bill's effective date of July 1, 2011.

- Unforeseen consequences—On October 1, 1997, the Child and Adult Care Food Program (CACFP) was split and transferred from DOE. Chapter 97-260, Laws of Florida, transferred the Child Care Food Program (CCFP) from DOE to the Department of Health (DOH). The Adult Care Food Program (ACFP) was transferred from FDOE to the Department Elder Affairs (DOEA) as a result of a type two transfer under Section 20.06(2) Florida Statutes. As a result of the transfer of ACFP to DOEA, it was realized that ACFP, when separated from the Child Care Food Program, could not earn sufficient State Agency Expenditure funds to administer the program. Therefore, on July 23, 1998, a cooperative agreement was established between DOE and DOEA to transfer funds from DOE to DOEA in the amount determined to be needed by DOEA to operate the State Administrative Expense Plan in excess of the amount determined by formula to operate ACFP. This agreement was established as temporary assistance until ACFP program generated sufficient funding to independently administer the program. The ACFP was not able to generate sufficient USDA funding. Therefore, it has obtained \$200,000 in recurring general revenue to subsidize the administrative cost to operate ACFP. Currently, all states with the exception of Illinois and Florida operate ACFP and CCFP within the same agency, which is predominately the education agency.

This bill makes conforming changes to other sections of law to reflect the administration of these food and nutrition programs by the DACS. In particular, the DACS is required to administer all school food and nutrition programs, to cooperate with the United States Government and its agencies and instrumentalities to receive the benefit of federal financial allotments, and to act as an agent of or contract with, the federal government, another state agency, or any county or municipal government for the administration of the school food and nutrition programs.

The bill also requires the DAC's website to contain a link to nutritional content of foods and beverages.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Since the state has not received a waiver from the U.S. Department of Agriculture, the U.S. Department of Agriculture will not recognize the state law.

There will also be an effect on the Department of Education's budget in terms of the expenditure of indirect costs under these programs. The DACS would assume control over these revenues.

Department of Education:

According to DOE, contracting for the administration of a program adds another layer of management with associated costs and may compromise the direction and effectiveness of the program. Because the program applications, administrative reviews, and reimbursements for all school and child nutrition programs are processed through a central web-based application, it is unknown how a contractor would have sufficient resources to manage this computer application, or how the contractor could be accountable for administering reimbursements. Such a division or splitting off of administrative responsibilities would be confusing at best to program sponsors. In any event, additional program oversight would be required to ensure that all program resources, including reimbursements, are managed according to regulations.¹⁷

*Department of Agriculture and Consumer Services:*¹⁸

As required by federal regulations, DACS will enter into written agreements with program participants. DACS indicates that it has no intention to further contract or add another layer of administration. The DACS estimates additional expenditures in the amount of \$168,400 recurring for office space and data circuit requirements, as well as a non-recurring cost for telephone/network wiring, etc., in the amount of \$64,242.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁷ *Id.*

¹⁸ Department of Agriculture Fiscal Note, March 10, 2011, on file with the committee.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Agriculture Committee on March 28, 2011:

The Committee Substitute adds a section to create the Healthy Schools for Healthy Living Council within the Department of Agriculture and Consumer Services.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1176

INTRODUCER: Senator Ring

SUBJECT: High School Athletic Trainers

DATE: March 25, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill encourages the use and employment of athletic trainers by school districts for schools that participate in sports.

In addition to the current licensing requirement, athletic trainers must be certified by the Board of Certification, of the National Athletic Trainers' Association.

In civil actions against a school district for negligence by an athletic trainer leading to injury or death, a rebuttable presumption is created that a school district is not negligent in wrongful hiring if the school district made a good faith effort to comply with the law on athletic trainers.

This bill encourages the use of an entity who can coordinate placement of licensed, certified athletic trainers to provide a standard of care to prevent and rehabilitate high school sports-related injuries.

This bill substantially amends section 1012.46 of the Florida Statutes.

II. Present Situation:

Statutory Authority on Athletic Trainers

The term "athletic training" is defined as the recognition, prevention and treatment of sports-related injuries.¹

¹ s. 468.701(3), F.S.

Athletic trainers are required to be licensed and are eligible for licensure contingent upon:

- Completion of the application and payment of fees;
- Having reached at least 21 years of age;
- Having passed an exam administered or approved by the Board of Athletic Training, Department of Health;
- Holding a baccalaureate degree from an accredited college or university and current CPR certification; and
- Completion of an approved athletic training curriculum and a continuing education course on HIV/AIDS.²

Practicing athletic training without a license constitutes a first degree misdemeanor, punishable by up to one year in jail and up to a \$1,000 fine.³

State law requires athletic trainers to operate under written protocol developed between the athletic trainer and a supervising physician, including a mandate that athletic trainers timely notify the physician of new patient injuries.⁴

The Board of Athletic Training, Department of Health, is composed of nine members who are Governor appointed and confirmed by the Senate. Five of the members are required to be licensed athletic trainers, one must be a physician, and two are consumer-residents who are not affiliated with the industry or licensed health-care practice.⁵

School districts are authorized to implement an athletic injuries treatment and prevention program, with a focus on employing and providing access to professionals trained in injury prevention and treatment.⁶

National Athletic Trainers' Association

The National Athletic Trainers' Association (NATA) is a professional membership association for certified athletic trainers.⁷ Originating in 1950, today the NATA boasts greater than 30,000 members internationally. The national Board of Certification (Board), established in 1989, provides a certification program for entry-level athletic trainers. The Board began as a committee of NATA, and then separately incorporated in 1989.⁸ Certification includes application, payment of a fee, and a passing grade on the exam. National certification may suffice for state licensing purposes.⁹ This is the case in Florida.¹⁰

² s. 468.707, F.S.

³ s. 468.717, F.S.

⁴ s. 468.713, F.S.

⁵ s. 468.703, F.S.

⁶ s. 1012.46(1), F.S.

⁷ <http://www.nata.org/aboutNATA>

⁸ Available on the Board of Certification website, at:

http://www.bocatc.org/index.php?option=com_content&view=article&id=28&Itemid=30; Last checked March 24, 2011.

⁹ Available on the Board of Certification website, at:

http://www.bocatc.org/index.php?option=com_content&view=article&id=57&Itemid=60; Last checked March 24, 2011.

¹⁰ Available at: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html; Last checked March 24, 2011.

Sports Related Injuries

According to the Centers for Disease Control and Prevention (CDC),¹¹ high school sports participation has increased from about 4 million student-athletes during the 1971-72 school year to approximately 7.2 million in 2005-06. An increased number of injuries has accompanied the growth in participation as follows:

High school athletes account for an estimated 2 million injuries, 500,000 doctor visits, and 30,000 hospitalizations annually....During the 2005-06 school year, researchers at a children's hospital in Ohio used an Internet-based data-collection tool to pilot an injury surveillance system...from a representative national sample of U.S. high schools...which indicated that participation in high school sports resulted in an estimated 1.4 million injuries at a rate of 2.4 injuries per 1,000 athlete exposures (i.e., practices or competitions....¹²

The CDC reports the highest occurrence of injuries by sport, from most to least as football, wrestling, boys soccer, girls soccer and girls basketball.¹³

III. Effect of Proposed Changes:

This bill encourages, but does not require, school districts to employ athletic trainers through the availability of a rebuttable presumption for the school district to use in wrongful hiring cases.

This bill codifies the Department of Health's current practice of satisfying the exam requirement for licensure through national certification from the Board of Certification, National Athletic Trainers' Association.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹¹ Available at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5538a1.htm>; Last checked March 24, 2011.

¹² *Id.* at 1.

¹³ *Id.* at 2.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Encouraging greater availability of athletic trainers may result in a reduction in injuries and faster rehabilitation, therefore bringing down medical costs long-term, and possibly reducing lost wages for parents of injured children.

C. Government Sector Impact:

The availability of the rebuttable presumption may have a deterrent effect on lawsuits against the districts, and may increase judicial findings of non-negligence, thereby having a positive fiscal impact on school districts. It is unknown, however, how many claims are made against districts for negligence related to trainers. School districts who employ athletic trainers would incur costs related to salary, but this is an optional provision.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Between lines 74 and 75
insert:

Section 3. Subsection (1) of section 624.51055, Florida Statutes, is amended to read:

624.51055 Credit for contributions to eligible nonprofit scholarship-funding organizations.—

(1) There is allowed a credit of 100 percent of an eligible contribution made to an eligible nonprofit scholarship-funding organization under s. 1002.395 against any tax due for a taxable year under s. 624.509(1). ~~However, such a credit may not exceed~~



580706

~~75 percent of the tax due under s. 624.509(1)~~ after deducting
from such tax deductions for assessments made pursuant to s.
440.51; credits for taxes paid under ss. 175.101 and 185.08;
credits for income taxes paid under chapter 220; credits for the
emergency excise tax paid under chapter 221; and the credit
allowed under s. 624.509(5), as such credit is limited by s.
624.509(6). An insurer claiming a credit against premium tax
liability under this section shall not be required to pay any
additional retaliatory tax levied pursuant to s. 624.5091 as a
result of claiming such credit. Section 624.5091 does not limit
such credit in any manner.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 5 - 6

and insert:

certain scholarship-funding organizations; amending
ss. 220.1875 and 624.51055, F.S.; deleting a
limitation on the amount of



880276

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Benacquisto) recommended the following:

Senate Amendment (with directory amendment)

Delete lines 26 - 51
and insert:

(dd) Names and addresses of the 100 taxpayers having the greatest tax liabilities after all tax credits are applied during the most recent calendar year for which information is available for each tax identified in subparagraphs 1., 2., and 4., and the names and addresses of the 100 taxpayers having the greatest tax liability after all tax credits are applied for the most recent taxable years for which information is available for the tax identified in subparagraph 3., to an eligible nonprofit



880276

scholarship-funding organization under s. 1002.395 for which the
department approved at least \$10 million of tax credit
allocations in the prior year. An eligible nonprofit
scholarship-funding organization may request the information for
any of the taxes identified in subparagraphs 1.-4., but may not
make more than one such request for each tax in any 12-month
period. The department shall provide such information within 45
days after a request by an eligible nonprofit scholarship-
funding organization. The information may be used by the
eligible nonprofit scholarship-funding organization only for
purposes of notifying the taxpayer of the opportunity to make an
eligible contribution to the Florida Tax Credit Scholarship
Program under s. 1002.395. This paragraph only applies to
information relating to taxes under:

1. Sections 211.02 and 211.025.

2. Chapter 212 from a direct pay permitholder as a result
of the direct-pay permit held pursuant to s. 212.183.

3. Chapter 220, unless disclosure of the names and
addresses would violate the terms of any information-sharing
agreement between the department and an agency of the Federal
Government.

4. Section 624.509(1).

==== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 19 - 22

and insert:

Section 1. Paragraph (dd) is added to subsection (8) of
section 213.053, Florida Statutes, as amended by chapter 2010-



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42 | 280, Laws of Florida, to read:

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1388

INTRODUCER: Senator Flores

SUBJECT: Department of Revenue

DATE: March 28, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

The bill narrows the exemption in s. 213.053, F.S., to allow nonprofit scholarship-funding organizations (SFOs) that provide scholarships to 10,000 or more eligible students with the names and addresses of the 100 taxpayers having the greatest tax liability. This applies to taxpayers making contributions for credit related to taxes for oil and gas production, direct pay permits, insurance premiums, and corporate income tax. An SFO would only be permitted to use the taxpayer information to raise funds for the Florida Tax Credit Scholarship Program.

Under the bill, a corporation may claim the tax credit up to the full amount of its state corporate income tax for donations to an eligible SFO. Taxpayers are permitted to carry forward an unused tax credit for up to five years. Additionally, the bill removes the prohibition against taxpayers rescinding tax credits unless the taxpayer has rescinded credit less than once in the previous three tax years.

This bill substantially amends sections 213.053, 220.1875, and 1002.395 of the Florida Statutes.

II. Present Situation:

Florida Tax Credit Scholarship Program (FTC program)

Under the FTC program, tax credit scholarships were created to encourage private, voluntary contributions from corporate donors to nonprofit scholarship-funding organizations.¹ A corporation can receive a dollar for dollar tax credit against its state corporate income tax,

¹ ss. 1002.395(1) and 1002.421, F.S. In 2010, the program was transferred from s. 220.187, F.S., to s. 1002.395, F.S., by ch. 2010-24, L.O.F.

insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage tax on beer, wine, and spirits for donations to private nonprofit scholarship-funding organizations.

Eligible Private Schools and Students

Private schools participating in the FTC program must provide documentation of financial stability and comply with federal antidiscrimination law and all state laws regulating private schools.² To be eligible for participation in the FTC program, a private school must demonstrate fiscal soundness and accountability.³

Under the program, SFOs provide a scholarship to a student who qualifies for free or reduced-price school lunches under the National School Lunch Act⁴ or who qualifies for the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance to Needy Families Program (TANF), or the Food Distribution Program on Indian Reservations (FDPIR)⁵ and:

- Was counted as a full-time equivalent student during the previous state fiscal year for purposes of state per-student funding;
- Is eligible to enter kindergarten or the first grade;
- Received a scholarship under the FTC program or from the state the previous school year; or
- Is placed, or during the previous state fiscal year was placed, in foster care.

A student does not lose his or her scholarship due to a change in the economic status of the student's parents unless the parent's economic status exceeds 230 percent of the federal poverty guidelines.⁶ A sibling of a scholarship student who continues to participate in the program and resides in the same household as the student is considered to be a first-time FTC scholarship recipient, as long as the student's and the sibling's household income level does not exceed 230 percent of the federal poverty level.⁷

Eligibility is contingent upon available funds.⁸ The amount of the scholarship provided to any child for any single school year by any eligible SFO may not exceed the following limits:⁹

² ss. 1002.395(8) and 1002.421, F.S.

³ s. 1002.421, F.S.

⁴ s. 1002.395(3)(b), F.S. The eligibility guidelines are available at:

<http://www.fns.usda.gov/cnd/governance/notices/iegs/IEGs10-11.htm>.

⁵ Children from households that receive benefits under SNAP (formerly the Food Stamp Program), TANF, or the FDPIR, are deemed "categorically eligible" for free school meals, thereby eliminating the need for households to submit an application for meal benefits. *Direct Certification in the National School Lunch Program: State Progress in Implementation, Report to Congress – Summary*, U.S. Department of Agriculture (USDA), October 2010, available at:

<http://www.fns.usda.gov/ora/menu/published/CNP/FILES/DirectCert2010Summary.pdf>.

⁶ s. 1002.395(3)(b)2., F.S.

⁷ s. 1002.395(3)(b)3., F.S. The student must also meet one or more of the eligibility criteria.

⁸ s. 1002.395(3)(b), F.S.

⁹ s. 1002.395(12)(a), F.S. Beginning in FY 2011-2012, the percentage used to determine the maximum scholarship award increases by four percent in any fiscal year when the tax credit cap also increases, until it reaches a maximum of 80 percent. In that fiscal year and thereafter, the scholarship limit will be equal to 80 percent of the per FTE funding amount.

- For FY 2010-2011, the maximum scholarship amount is 60 percent of the Florida Education Finance Program (FEFP) unweighted full-time equivalent (FTE) amount for the fiscal year, for a scholarship awarded to a student for tuition and fees;¹⁰ or
- \$500 for a scholarship awarded to a student for transportation to a Florida public school that is located outside the district in which the student resides.

Scholarship Funding Organizations

An SFO must be a charitable organization exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code.¹¹ Scholarships must be provided for eligible students on a first-come, first-served basis, unless the student qualifies for priority consideration.¹² An 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. A taxpayer making the contribution may not designate a specific child or group of children as the beneficiaries of the scholarship.¹³ If the SFO has been in operation for three years and does not have any negative financial findings, the SFO may retain up to three percent of the taxpayer's contributions for reasonable and necessary administrative expenses.¹⁴

The Legislature initially capped the scholarship program at \$50 million in tax credits per state fiscal year,¹⁵ but subsequently expanded the cap to \$88 million in 2003.¹⁶ Beginning with FY 2008-2009, the cap was increased by \$30 million to \$118 million.¹⁷ Until 2009, tax credits under the scholarship program were only available against the state's corporate income tax.

In 2009, the Legislature expanded the revenue sources against which tax credits can be claimed for donations to an SFO to include the premium tax under s. 624.509, F.S., which is imposed on insurance premiums written in Florida and paid by insurance companies to the Department of Revenue (DOR).¹⁸

In 2010, the Legislature added three new revenue sources by allowing taxpayers to receive credits for eligible contributions against: severance taxes on oil and gas production;¹⁹ self-accrued sales tax liabilities of direct pay permit holders;²⁰ and alcoholic beverage taxes on beer,

¹⁰ While chapter 2010-24, L.O.F., increased the maximum household income threshold for renewing scholarship recipients and their siblings from 200 percent of the federal poverty level to 230 percent of that level, it reduced the maximum scholarship award available to the newly eligible scholarship recipients.

¹¹ s. 1002.395(2)(f), F.S.

¹² s. 1002.395(6), F.S.

¹³ s. 1002.395(2)(e), F.S.

¹⁴ s. 1002.395(6)(i), F.S.

¹⁵ ch. 2001-225, L.O.F.

¹⁶ s. 9, ch. 2003-391, L.O.F.

¹⁷ ch. 2008-241, L.O.F.

¹⁸ s. 624.51055, F.S., allows insurance companies to receive a credit of 100 percent of an eligible contribution to an eligible SFO against any tax due for a taxable year under the provisions of the insurance premium tax. However, the credit may not exceed 75 percent of the tax due.

¹⁹ s. 211.0251, F.S., authorizes a credit of 100 percent of an eligible contribution to an SFO against any tax due under ss. 211.02 or 211.025, F.S., for oil or gas production. However, the credit may not exceed 50 percent of the tax due on the return the credit is taken.

²⁰ s. 212.1831, F.S., authorizes a credit of 100 percent of an eligible contribution against any state sales tax due from a direct pay permit holder (e.g., dealers who annually make purchases in excess of \$10 million per year in any county and dealers

wine, and spirits.²¹ The 2010-2011 fiscal year cap on tax credits authorized under the FTC program is \$140 million.²² In fiscal year 2011-2012 and thereafter, the cap will increase by 25 percent whenever tax credits approved in the prior fiscal year are equal to or greater than 90 percent of the tax credit cap amount for that year. The tax credit cap amount is \$175 million for the 2011-2012 state fiscal year.

The following summarizes information related to the tax credits approved by the DOR:²³

Tax Year	Number of Approved Tax Credit Allocation Applications	Number of Taxpayers	Total Amount of Tax Credit Allocations Approved for All Taxpayers	Number of Small Businesses Approved for Tax Credit Allocations	Total Amount of Tax Credit Allocations Approved for Small Businesses²⁴
2002-03	77	48	\$47,686,000	4	\$186,000
2003-04	114	56	\$47,579,000	3	\$79,000
2004-05	102	58	\$47,560,000	2	\$60,000
2005-06	126	79	\$80,323,071	2	\$4,000
2006-07	94	65	\$87,123,000	1	\$3,000
2007-08 ²⁵	106	62	\$85,611,140	0	\$0
2008-09	125	75	\$97,415,847	0	\$0
2009-10	121	83	\$111,773,617 ²⁶	0	\$0
2010-11	125	104	\$139,777,856	0	\$0
2011-12	19	19	\$9,545,000	0	\$0

The following reflects the credit allocations per SFO for 2007-2008, 2008-2009, 2009-2010, 2010-2011,²⁷ and 2011-2012:

Credit Allocations per SFO 2007-2008²⁸	
SFO	TOTAL
Academy Prep Foundation, Inc.	\$0
Children First Central Florida ²⁹	\$38,178,882

who purchase promotional materials whose ultimate use is unknown at purchase) as a result of the direct pay permit held. See s. 212.183, F.S., and Rule 12A-1.0911, F.A.C.

²¹ s. 561.1211, F.S., authorizes a credit of 100 percent of an eligible contribution to an SFO against tax due under ss. 563.05, 564.06, or 565.12, F.S., except for taxes imposed on domestic wine production. Further, the credit is limited to 90 percent of the tax due on the return on which the credit is taken.

²² s. 1, ch. 2010-24, L.O.F., codified in s. 1002.395(5), F.S.

²³ E-mail, DOR, March 28, 2011, on file with the committee.

²⁴ Until 2006, s. 220.187(3)(a), F.S., provided that five percent of the tax credit was reserved for small businesses as defined under s. 288.703(1), F.S. Chapter 2006-75, L.O.F., reduced the small business cap to one percent. The cap was subsequently repealed by ch. 2008-241, L.O.F.

²⁵ Effective for tax years beginning January 1, 2006, s. 220.187(5)(d), F.S., (currently s. 1002.395(5)(e), F.S.) permits a taxpayer to rescind all or part of its previously allocated tax credit. When approved, the rescinded allocation can be allocated to another taxpayer.

²⁶ Of the total amount of the allocation of tax credits, \$15,130,000 was allocated to insurance companies based on 18 approved applications.

²⁷ Data for applications for credit allocations current through February, 2010. The 2008-09 and 2009-10 applications are still open as of that date.

²⁸ E-mail, DOR, March 28, 2011, on file with the committee, for tax years beginning in 2007. The allocation began January 1, 2007, for tax years beginning in calendar year 2007. The allocation is closed.

²⁹ Children First Central Florida was subsequently known as Children First Florida.

Credit Allocations per SFO 2007-2008²⁸	
SFO	TOTAL
Florida School Choice Fund ³⁰ (Florida P.R.I.D.E.)	\$41,663,140
The Carrie Meek Foundation, Inc.	\$1,875,000
Credit Carry Forward	\$3,894,118
Total Allocations	\$85,611,140
Credit Allocations per SFO 2008-2009³¹	
SFO	TOTAL
The Children's Cause, Inc. ³²	\$0
Children First Florida (Children First Central Florida)	\$42,317,008
Florida P.R.I.D.E.	\$35,930,000
The Carrie Meek Foundation, Inc.	\$3,010,000
Step Up for Students ³³	\$7,001,750
Credit Carry Forward	\$9,157,089
Total Allocations	\$97,415,847
Credit Allocations per SFO 2009-2010³⁴	
SFO	TOTAL
Children First Florida ³⁵	\$14,406,666
Florida P.R.I.D.E. ³⁶	\$7,431,666
The Carrie Meek Foundation, Inc.	\$2,734,318
Step Up for Students	\$64,909,850
Credit Carry Forward	\$22,291,117
Total Allocations	\$111,773,617
Credit Allocations per SFO 2010-2011³⁷	
SFO	TOTAL
The Carrie Meek Foundation, Inc.	\$3,186,666
Light Bearer's, Inc.	\$0
Step Up for Students	\$136,591,199
Total Allocations	\$139,777,856
Credit Allocations per SFO 2011-2012³⁸	
SFO	TOTAL
Step Up for Students	\$9,545,000
Total Allocations	\$9,545,000

Currently, there are 1,073 participating private schools and 32,320 students receiving scholarships from two SFOs: Step Up for Students and the Carrie Meek Foundation, Inc.³⁹ The

³⁰ Florida School Choice Fund was subsequently known as Florida P.R.I.D.E.

³¹ DOR, March 1, 2010, for tax years beginning in 2008. The allocation began January 1, 2008, for tax years beginning in calendar year 2008. This allocation is closed.

³² The Children's Cause was approved by the DOE for 2008-2009.

³³ The Florida School Choice Fund, Inc., d/b/a Step Up for Students, was approved effective July 1, 2009. The assets of Florida PRIDE and Children First Florida were transferred to Florida School Choice Fund, Inc.

³⁴ E-mail, DOR, March 28, 2011, on file with the committee, for tax years beginning in 2009. The allocation began January 1, 2009, for tax years beginning in calendar year 2009. This allocation is closed.

³⁵ Children First Florida ceased to exist on July 1, 2009. The assets of Children First Florida were transferred to Step Up for Students.

³⁶ Florida PRIDE ceased to exist on July 1, 2009. The assets of Florida Pride have been transferred to Step Up for Students.

³⁷ E-mail, DOR, March 28, 2011, on file with the committee, for tax years beginning in 2010. The allocation began January 1, 2010, for tax years beginning in calendar year 2010. The allocation is open.

³⁸ E-mail, DOR, March 28, 2011, on file with the committee, for tax years beginning in 2011. The allocation began January 1, 2011, for tax years beginning in calendar year 2011. The allocation is open.

³⁹ *Corporate Tax Credit Scholarship Program Quarterly Report*, Florida Department of Education, November 2010. Of the participating private schools, 79.3 percent are religious schools and 20.7 percent are non-religious schools. See https://www.floridaschoolchoice.org/Information/CTC/quarterly_reports/ftc_report_nov2010.pdf.

following data represents the number of students receiving FTC scholarships, by SFO, for the current year: Step Up for Students, 30,923 students (95.7 percent) and the Carrie Meek Foundation, Inc., 1,397 students (4.3 percent.) Five SFOs are eligible to participate in the FTC Scholarship program, Step Up For Students, Educate Today (serving the Tampa Bay area), The Carrie Meek Foundation (serving select areas of Miami-Dade County), and Lightbearers, Inc.(serving Volusia and Flagler counties).⁴⁰ Two SFOs no longer participate in the program: Academy Prep Foundation, Inc., and The Children's Cause, Inc.

Confidentiality of Taxpayer Information

The law provides for the confidentiality of taxpayer information received by the DOR in relation to the taxes on: severance and production of oil and gas under s. 211.0251, F.S; sales, use, and other transactions under s. 212.1831, F.S.; corporate income under s. 220.1875, F.S.; alcoholic beverages under s. 561.1211, F.S.; and insurance premiums under s. 624.51055, F.S.⁴¹ This information may not be shared with third parties unless expressly authorized by statute.

The law also allows the DOR to provide the Department of Education (DOE) and the Division of Alcoholic Beverages and Tobacco (ABT) in the Department of Business and Professional Regulation with confidential and exempt information related to the administration of the tax credit program.⁴² Further, the law requires the ABT, the DOR, and the DOE to develop a cooperative agreement and requires the DOR to obtain prior approval from ABT before approving the tax credits, carryforwards, and rescindments related to alcoholic beverage taxes.⁴³ Additionally, the law directs the DOR, the ABT, and the State Board of Education to adopt rules necessary to administer their responsibilities.⁴⁴

Any information and documentation provided to the DOE and the Auditor General relating to the identity of a taxpayer that provides an eligible contribution remains confidential, in accordance with s. 213.053, F.S.⁴⁵

III. Effect of Proposed Changes:

Contributions

For purposes of ensuring that the tax credit cap is not exceeded, the DOR is currently responsible for approving each tax credit, carryforward tax credit, and rescindment of a tax credit, as well as adopting rules that establish tax credit application forms and procedures governing the approval of tax credits on a first-come, first-served basis.⁴⁶ A taxpayer may apply to the DOR for any of the credits.⁴⁷

⁴⁰ See https://www.floridaschoolchoice.org/Information/CTC/files/ctc_fast_facts.pdf.

⁴¹ s. 213.053(8)(u), F.S.

⁴² *Id.*

⁴³ s. 1002.395(5)(b),(c), and (e) and (13), F.S.

⁴⁴ s. 1002.395(13), F.S.

⁴⁵ s. 1002.395(6), F.S.

⁴⁶ s. 1002.395(5) and (13), F.S.

⁴⁷ s. 1002.395(5)(b), F.S.

A corporation can receive a dollar for dollar tax credit up to 75 percent of its state corporate income tax for donations to an eligible SFO.⁴⁸ Under the bill, a corporation would claim the credit up to the full amount of the tax due under chapter 220, F.S.

Carry Forward

Taxpayers are permitted to carry forward an unused tax credit when the credit cannot be used because of an insufficient tax liability.⁴⁹ The carry forward of unused credit is subject to DOR approval.⁵⁰ A taxpayer may only convey, assign, or transfer an approved tax credit or carry forward to another taxpayer when all the taxpayer's assets are also conveyed, assigned, or transferred. Under the bill, unused tax credit may be carried forward for five years rather than for three years.⁵¹

Rescindment of Approved Tax Credit

Within any state fiscal year, a taxpayer may rescind all or part of an approved tax credit.⁵² The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the DOR, if the taxpayer has not previously rescinded any or all of its approved tax credits more than once in the previous three tax years. The amount rescinded may be reallocated to other taxpayers on a first-come, first-served basis. Under the bill, the ability to rescind tax credit would no longer be contingent upon the taxpayer's rescindment history.

Confidentiality of Taxpayer Information

Unless otherwise specified by law, Florida taxpayers have the right to have tax information kept confidential, unless otherwise specified.⁵³ Current law does not permit the DOR to share any tax information with an SFO. Under s. 213.053, F.S., the DOR may disclose specified taxpayer information to governmental and nongovernmental agencies. However, most of these provisions relate to governmental agencies when performing their official duties.

The bill narrows the exemption in s. 213.053, F.S., to allow SFOs that provide scholarships to 10,000 or more eligible students with the names and addresses of the 100 taxpayers having the greatest tax liability.⁵⁴ This applies to taxpayers making contributions for credit related to taxes for oil and gas production, direct pay permits, insurance premiums, and corporate income tax. However, there is an exception for corporate income tax information that compromises an information-sharing agreement between the DOR and a federal government agency. Each SFO would be limited to one request for each tax year in any 12-month period. Taxpayer information for contributions for credit against taxes on alcoholic beverages is not affected by the bill.

⁴⁸ s. 220.1875, F.S.

⁴⁹ s. 1002.395(5)(c), F.S.

⁵⁰ *Id.*

⁵¹ While some provisions of law limit a taxpayer's ability to carry forward unused tax credit to one year, other provisions permit taxpayers to carry forward unused tax credit for five years. See ss. 220.1896(6)(Jobs for the Unemployed Tax Credit Program), 220.19(1) (child care), and 220.193(3)(d) (Florida renewable energy production), F.S.

⁵² s. 1002.395(5)(e), F.S.

⁵³ s. 213.015(9), F.S.

⁵⁴ It is unclear as to whether the term "greatest tax liability" refers to the liability paid with the tax return or the liability prior to or after credits.

An SFO would only be permitted to use the taxpayer information to raise funds for the FTC program. Currently, only one SFO, Step Up for Students, would be eligible to request the names and addresses of taxpayers.

Pursuant to current law, information would be disclosed under a written agreement between the DOR's executive director and the SFO. An SFO would be bound by the same confidentiality requirements as the DOR. Breach of confidentiality is a first degree misdemeanor.⁵⁵

The bill provides that taxpayer information would be provided for the most recent years it is available. Presumably, an SFO would be able to access only that information which was not confidential prior to the effective date of the bill, when a taxpayer had an expectation that it remain confidential.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The rescindment provisions of the bill may allow other taxpayers to use available tax credits.

C. Government Sector Impact:

According to the official estimate adopted by the Revenue Estimating Conference on March 11, 2011, current projections and credits approved show SFOs are meeting the allotted cap. The estimate also notes that the provisions of the bill for sharing taxpayer information, claiming credit up to the full amount of the tax, and carrying forward unused tax credit are expected to have no fiscal impact.⁵⁶

⁵⁵ s. 213.053(8), F.S.

⁵⁶ See <http://edr.state.fl.us/Content/conferences/revenueimpact/pdf/impact0311.pdf>.

The DOR reports that the bill will have an insignificant impact on the operation of the agency.

VI. Technical Deficiencies:

Lines 29-33 of the bill require the DOR to share confidential tax information with SFOs that provide scholarships to 10,000 or more eligible students. According to the DOR, the agency does not track the number of students who are provided scholarships by each SFO.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Education Pre-
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A bill to be entitled

An act relating to charter schools; amending ss. 163.3180 and 1002.32, F.S.; conforming cross-references; amending s. 1002.33, F.S.; revising provisions relating to the sponsoring entities of charter schools; authorizing state universities and colleges to approve charter school applications and develop charter schools under certain circumstances; requiring that the Department of Education provide or arrange for training and technical assistance for charter schools; providing for the designation of charter schools as high-performing if certain requirements are met; providing definitions relating to the high-performing charter school system; revising provisions to conform to changes made by the act; amending ss. 1002.34, 1011.68, 1012.32, and 1013.62, F.S.; conforming cross-references; creating the College-Preparatory Boarding Academy Pilot Program for dependent or at-risk students; providing a purpose for the program; requiring that the State Board of Education implement the program; providing definitions; requiring that the state board select a private nonprofit corporation to operate the academy if certain qualifications are met; requiring that the state board request proposals from private nonprofit corporations; providing requirements for such proposals; requiring that the state board enter into a



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contract with the operator of the academy; requiring that the contract contain specified requirements; requiring that the operator adopt bylaws, subject to approval by the state board; requiring that the operator adopt an outreach program with the local education agency or school district and community; providing that the academy is a public school and part of the state's education program; providing program funding guidelines; limiting the capacity of eligible students attending the academy; requiring that enrolled students remain under case management services and the supervision of the lead agency; authorizing the operator to appropriately bill Medicaid for services rendered to eligible students or earn federal or local funding for services provided; providing for eligible students to be admitted by lottery if the number of applicants exceeds the allowed capacity; authorizing the operator to board dependent, at-risk students; requiring that the state board issue an annual report and adopt rules; requiring that the Office of Program Policy Analysis and Government Accountability conduct a study comparing the funding of charter schools to the funding of public schools; providing requirements for the study; requiring that the office submit its recommendations and findings to the Governor and Legislature by a specified date; providing for severability; providing an effective date.



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

Section 1. Paragraph (e) of subsection (13) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.—

(13) School concurrency shall be established on a districtwide basis and shall include all public schools in the district and all portions of the district, whether located in a municipality or an unincorporated area unless exempt from the public school facilities element pursuant to s. 163.3177(12). The application of school concurrency to development shall be based upon the adopted comprehensive plan, as amended. All local governments within a county, except as provided in paragraph (f), shall adopt and transmit to the state land planning agency the necessary plan amendments, along with the interlocal agreement, for a compliance review pursuant to s. 163.3184(7) and (8). The minimum requirements for school concurrency are the following:

(e) *Availability standard*.—Consistent with the public welfare, a local government may not deny an application for site plan, final subdivision approval, or the functional equivalent for a development or phase of a development authorizing residential development for failure to achieve and maintain the level-of-service standard for public school capacity in a local school concurrency management system where adequate school facilities will be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval, or the functional equivalent. School concurrency is satisfied if the developer executes a legally binding commitment



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to provide mitigation proportionate to the demand for public school facilities to be created by actual development of the property, including, but not limited to, the options described in subparagraph 1. Options for proportionate-share mitigation of impacts on public school facilities must be established in the public school facilities element and the interlocal agreement pursuant to s. 163.31777.

1. Appropriate mitigation options include the contribution of land; the construction, expansion, or payment for land acquisition or construction of a public school facility; the construction of a charter school that complies with the requirements of s. 1002.33(21) ~~s. 1002.33(18)~~; or the creation of mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits. Such options must include execution by the applicant and the local government of a development agreement that constitutes a legally binding commitment to pay proportionate-share mitigation for the additional residential units approved by the local government in a development order and actually developed on the property, taking into account residential density allowed on the property prior to the plan amendment that increased the overall residential density. The district school board must be a party to such an agreement. As a condition of its entry into such a development agreement, the local government may require the landowner to agree to continuing renewal of the agreement upon its expiration.

2. If the education facilities plan and the public educational facilities element authorize a contribution of land; the construction, expansion, or payment for land acquisition;



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the construction or expansion of a public school facility, or a portion thereof; or the construction of a charter school that complies with the requirements of s. 1002.33(21) ~~s. 1002.33(18)~~, as proportionate-share mitigation, the local government shall credit such a contribution, construction, expansion, or payment toward any other impact fee or exaction imposed by local ordinance for the same need, on a dollar-for-dollar basis at fair market value.

3. Any proportionate-share mitigation must be directed by the school board toward a school capacity improvement identified in a financially feasible 5-year district work plan that satisfies the demands created by the development in accordance with a binding developer's agreement.

4. If a development is precluded from commencing because there is inadequate classroom capacity to mitigate the impacts of the development, the development may nevertheless commence if there are accelerated facilities in an approved capital improvement element scheduled for construction in year four or later of such plan which, when built, will mitigate the proposed development, or if such accelerated facilities will be in the next annual update of the capital facilities element, the developer enters into a binding, financially guaranteed agreement with the school district to construct an accelerated facility within the first 3 years of an approved capital improvement plan, and the cost of the school facility is equal to or greater than the development's proportionate share. When the completed school facility is conveyed to the school district, the developer shall receive impact fee credits usable within the zone where the facility is constructed or any



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attendance zone contiguous with or adjacent to the zone where the facility is constructed.

5. This paragraph does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home rule regulatory powers, except as provided in this part.

Section 2. Paragraph (c) of subsection (9) of section 1002.32, Florida Statutes, is amended to read:

1002.32 Developmental research (laboratory) schools.—

(9) FUNDING.—Funding for a lab school, including a charter lab school, shall be provided as follows:

(c) All operating funds provided under this section shall be deposited in a Lab School Trust Fund and shall be expended for the purposes of this section. The university assigned a lab school shall be the fiscal agent for these funds, and all rules of the university governing the budgeting and expenditure of state funds shall apply to these funds unless otherwise provided by law or rule of the State Board of Education. The university board of trustees shall be the public employer of lab school personnel for collective bargaining purposes for lab schools in operation prior to the 2002-2003 fiscal year. Employees of charter lab schools authorized prior to June 1, 2003, but not in operation prior to the 2002-2003 fiscal year shall be employees of the entity holding the charter and must comply with the provisions of s. 1002.33(14) ~~s. 1002.33(12)~~.

Section 3. Subsections (5) through (26) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(5) SPONSOR; DUTIES.—



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(a) *Sponsoring entities.*—

1. A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.

2. A state university may grant a charter to a lab school created under s. 1002.32 and shall be considered to be the school's sponsor. Such school shall be considered a charter lab school.

3. A state university may approve an application for a charter school located in the state. A charter school that is approved by a state university must enter into a charter contract with the local school district pursuant to subsection (7).

4. A state university may develop one or more of its own charter schools, which must be operated by the state university. These charter schools are exempt from contracting provisions pursuant to subsection (7). State universities may not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

5. A Florida College System institution may approve an application for a charter school located within its designated service area. A charter school that is approved by such an institution must enter into a charter contract with the local school district pursuant to subsection (7).

6. A Florida College System institution may develop a charter school within its designated service area which may serve kindergarten through grade 12 but must include a secondary school that provides an option for students to receive an associate degree upon high school graduation. These charter



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schools must be operated by the institution and are exempt from contracting provisions pursuant to subsection (7). A Florida College System institution may not report FTE for any students who receive FTE funding through the Florida Education Finance Program.

(b) *Sponsor duties.*—

1.a. The sponsor shall monitor and review the charter school in its progress toward the goals established in the charter.

b. The sponsor shall monitor the revenues and expenditures of the charter school and perform the duties provided in s. 1002.345.

c. The sponsor may approve a charter for a charter school before the applicant has identified space, equipment, or personnel, if the applicant indicates approval is necessary for it to raise working funds.

d. The sponsor's policies shall not apply to a charter school unless mutually agreed to by both the sponsor and the charter school.

e. The sponsor shall ensure that the charter is innovative and consistent with the state education goals established by s. 1000.03(5).

f. The sponsor shall ensure that the charter school participates in the state's education accountability system. If a charter school falls short of performance measures included in the approved charter, the sponsor shall report such shortcomings to the Department of Education.

g. The sponsor shall not be liable for civil damages under state law for personal injury, property damage, or death



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231 resulting from an act or omission of an officer, employee,
232 agent, or governing body of the charter school.

233 h. The sponsor shall not be liable for civil damages under
234 state law for any employment actions taken by an officer,
235 employee, agent, or governing body of the charter school.

236 i. The sponsor's duties to monitor the charter school shall
237 not constitute the basis for a private cause of action.

238 j. The sponsor shall not impose additional reporting
239 requirements on a charter school without providing reasonable
240 and specific justification in writing to the charter school.

241 2. Immunity for the sponsor of a charter school under
242 subparagraph 1. applies only with respect to acts or omissions
243 not under the sponsor's direct authority as described in this
244 section.

245 3. This paragraph does not waive a district school board's
246 sovereign immunity.

247 4. A community college may work with the school district or
248 school districts in its designated service area to develop
249 charter schools ~~that offer secondary education~~. These charter
250 schools may serve students in kindergarten through grade 12 but
251 must include a secondary school and provide ~~must include~~ an
252 option for students to receive an associate degree upon high
253 school graduation. District school boards shall cooperate with
254 and assist the community college on the charter application.
255 Community college applications for charter schools are not
256 subject to the time deadlines outlined in subsection (6) and may
257 be approved by the district school board at any time during the
258 year. Community colleges may not report FTE for any students who
259 receive FTE funding through the Florida Education Finance



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Program.

(6) APPLICATION PROCESS AND REVIEW.—Charter school applications are subject to the following requirements:

(a) A person or entity wishing to open a charter school shall prepare and submit an application on a model application form prepared by the Department of Education which:

1. Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.

2. Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.

3. Contains goals and objectives for improving student learning and measuring that improvement. These goals and objectives must indicate how much academic improvement students are expected to show each year, how success will be evaluated, and the specific results to be attained through instruction.

4. Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level. A sponsor shall deny a charter if the school does not propose a reading curriculum that is consistent with effective teaching strategies that are grounded in scientifically based reading research.

5. Contains an annual financial plan for each year requested by the charter for operation of the school for up to 5 years. This plan must contain anticipated fund balances based on revenue projections, a spending plan based on projected revenues and expenses, and a description of controls that will safeguard



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finances and projected enrollment trends.

6. Documents that the applicant has participated in the training required in subparagraph (b)2. ~~(f)2.~~ A sponsor may require an applicant to provide additional information as an addendum to the charter school application described in this paragraph.

(b)1. The Department of Education shall provide or arrange for training and technical assistance to charter schools in developing business plans and estimating costs and income. Training and technical assistance shall address estimating startup costs, projecting enrollment, and identifying the types and amounts of state and federal financial assistance that the charter school may be eligible to receive. The department may provide other technical assistance to an applicant upon written request.

2. A charter school applicant must participate in the training provided by the Department of Education after approval of an application, but at least 30 calendar days before the first day of classes at the charter school. However, a sponsor may require the charter school applicant to attend training provided by the sponsor in lieu of the department's training if the sponsor's training standards meet or exceed the standards developed by the department. A sponsor may not require a charter school applicant to attend its training within 30 calendar days before the first day of classes at the charter school when it requires the charter school to attend its training in lieu of the department's training. The training must include instruction in accurate financial planning and good business practices. If the applicant is a management company or a nonprofit



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organization, the charter school principal and the chief financial officer or his or her equivalent must also participate in the training. However, a sponsor may not require a high-performing charter school or high-performing charter school system applicant to participate in the training described in this subparagraph more than once.

(c)~~(b)~~ A sponsor shall receive and review all applications for a charter school using an evaluation instrument developed by the Department of Education. Beginning with the 2007-2008 school year, a sponsor shall receive and consider charter school applications received on or before August 1 of each calendar year for charter schools to be opened at the beginning of the school district's next school year, or to be opened at a time agreed to by the applicant and the sponsor. A sponsor may receive applications later than this date if it chooses. A sponsor may not charge an applicant for a charter any fee for the processing or consideration of an application, and a sponsor may not base its consideration or approval of an application upon the promise of future payment of any kind.

1. In order to facilitate an accurate budget projection process, a sponsor shall be held harmless for FTE students who are not included in the FTE projection due to approval of charter school applications after the FTE projection deadline. In a further effort to facilitate an accurate budget projection, within 15 calendar days after receipt of a charter school application, a sponsor shall report to the Department of Education the name of the applicant entity, the proposed charter school location, and its projected FTE.

2. In order to ensure fiscal responsibility, an application



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for a charter school shall include a full accounting of expected assets, a projection of expected sources and amounts of income, including income derived from projected student enrollments and from community support, and an expense projection that includes full accounting of the costs of operation, including start-up costs.

3. A sponsor shall by a majority vote approve or deny an application no later than 60 calendar days after the application is received, unless the sponsor and the applicant mutually agree in writing to temporarily postpone the vote to a specific date, at which time the sponsor shall by a majority vote approve or deny the application. If the sponsor fails to act on the application, an applicant may appeal to the State Board of Education as provided in paragraph (d) ~~paragraph (e)~~. If an application is denied, the sponsor shall, within 10 calendar days after such denial, articulate in writing the specific reasons, based upon good cause, supporting its denial of the charter application and shall provide the letter of denial and supporting documentation to the applicant and to the Department of Education supporting those reasons.

4. For budget projection purposes, the sponsor shall report to the Department of Education the approval or denial of a charter application within 10 calendar days after such approval or denial. In the event of approval, the report to the Department of Education shall include the final projected FTE for the approved charter school.

5. Upon approval of a charter application, the initial startup shall commence with the beginning of the public school calendar for the district in which the charter is granted unless



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the sponsor allows a waiver of this subparagraph for good cause.

(d)~~(e)~~ An applicant may appeal any denial of that applicant's application or failure to act on an application to the State Board of Education no later than 30 calendar days after receipt of the sponsor's decision or failure to act and shall notify the sponsor of its appeal. Any response of the sponsor shall be submitted to the State Board of Education within 30 calendar days after notification of the appeal. Upon receipt of notification from the State Board of Education that a charter school applicant is filing an appeal, the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to study and make recommendations to the State Board of Education regarding its pending decision about the appeal. The commission shall forward its recommendation to the state board no later than 7 calendar days prior to the date on which the appeal is to be heard. The State Board of Education shall by majority vote accept or reject the decision of the sponsor no later than 90 calendar days after an appeal is filed in accordance with State Board of Education rule. The Charter School Appeal Commission may reject an appeal submission for failure to comply with procedural rules governing the appeals process. The rejection shall describe the submission errors. The appellant may have up to 15 calendar days from notice of rejection to resubmit an appeal that meets requirements of State Board of Education rule. An application for appeal submitted subsequent to such rejection shall be considered timely if the original appeal was filed within 30 calendar days after receipt of notice of the specific reasons for the sponsor's denial of the charter application. The State Board of Education shall



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remand the application to the sponsor with its written decision that the sponsor approve or deny the application. The sponsor shall implement the decision of the State Board of Education. The decision of the State Board of Education is not subject to the provisions of the Administrative Procedure Act, chapter 120.

(e)~~(d)~~ The sponsor shall act upon the decision of the State Board of Education within 30 calendar days after it is received. The State Board of Education's decision is a final action subject to judicial review in the district court of appeal.

(f)~~(e)~~ 1. A Charter School Appeal Commission is established to assist the commissioner and the State Board of Education with a fair and impartial review of appeals by applicants whose charter applications have been denied, whose charter contracts have not been renewed, or whose charter contracts have been terminated by their sponsors.

2. The Charter School Appeal Commission may receive copies of the appeal documents forwarded to the State Board of Education, review the documents, gather other applicable information regarding the appeal, and make a written recommendation to the commissioner. The recommendation must state whether the appeal should be upheld or denied and include the reasons for the recommendation being offered. The commissioner shall forward the recommendation to the State Board of Education no later than 7 calendar days prior to the date on which the appeal is to be heard. The state board must consider the commission's recommendation in making its decision, but is not bound by the recommendation. The decision of the Charter School Appeal Commission is not subject to the provisions of the Administrative Procedure Act, chapter 120.



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434 3. The commissioner shall appoint the members of the
435 Charter School Appeal Commission. Members shall serve without
436 compensation but may be reimbursed for travel and per diem
437 expenses in conjunction with their service. One-half of the
438 members must represent currently operating charter schools, and
439 one-half of the members must represent sponsors. The
440 commissioner or a named designee shall chair the Charter School
441 Appeal Commission.

442 4. The chair shall convene meetings of the commission and
443 shall ensure that the written recommendations are completed and
444 forwarded in a timely manner. In cases where the commission
445 cannot reach a decision, the chair shall make the written
446 recommendation with justification, noting that the decision was
447 rendered by the chair.

448 5. Commission members shall thoroughly review the materials
449 presented to them from the appellant and the sponsor. The
450 commission may request information to clarify the documentation
451 presented to it. In the course of its review, the commission may
452 facilitate the postponement of an appeal in those cases where
453 additional time and communication may negate the need for a
454 formal appeal and both parties agree, in writing, to postpone
455 the appeal to the State Board of Education. A new date certain
456 for the appeal shall then be set based upon the rules and
457 procedures of the State Board of Education. Commission members
458 shall provide a written recommendation to the state board as to
459 whether the appeal should be upheld or denied. A fact-based
460 justification for the recommendation must be included. The chair
461 must ensure that the written recommendation is submitted to the
462 State Board of Education members no later than 7 calendar days



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463 prior to the date on which the appeal is to be heard. Both
464 parties in the case shall also be provided a copy of the
465 recommendation.

466 ~~(f)1. The Department of Education shall offer or arrange~~
467 ~~for training and technical assistance to charter school~~
468 ~~applicants in developing business plans and estimating costs and~~
469 ~~income. This assistance shall address estimating startup costs,~~
470 ~~projecting enrollment, and identifying the types and amounts of~~
471 ~~state and federal financial assistance the charter school may be~~
472 ~~eligible to receive. The department may provide other technical~~
473 ~~assistance to an applicant upon written request.~~

474 ~~2. A charter school applicant must participate in the~~
475 ~~training provided by the Department of Education before filing~~
476 ~~an application. However, a sponsor may require the charter~~
477 ~~school applicant to attend training provided by the sponsor in~~
478 ~~lieu of the department's training if the sponsor's training~~
479 ~~standards meet or exceed the standards developed by the~~
480 ~~Department of Education. The training shall include instruction~~
481 ~~in accurate financial planning and good business practices. If~~
482 ~~the applicant is a management company or other nonprofit~~
483 ~~organization, the charter school principal and the chief~~
484 ~~financial officer or his or her equivalent must also participate~~
485 ~~in the training.~~

486 (g) In considering charter applications for a lab school, a
487 state university shall consult with the district school board of
488 the county in which the lab school is located. The decision of a
489 state university may be appealed pursuant to the procedure
490 established in this subsection.

491 (h) The terms and conditions for the operation of a charter



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school shall be set forth by the sponsor and the applicant in a written contractual agreement, called a charter. The sponsor shall not impose unreasonable rules or regulations that violate the intent of giving charter schools greater flexibility to meet educational goals. The sponsor shall have 60 days to provide an initial proposed charter contract to the charter school. The applicant and the sponsor shall have 75 days thereafter to negotiate and notice the charter contract for final approval by the sponsor unless both parties agree to an extension. The proposed charter contract shall be provided to the charter school at least 7 calendar days before ~~prior to~~ the date of the meeting at which the charter is scheduled to be voted upon by the sponsor. The Department of Education shall provide mediation services for any dispute regarding this section subsequent to the approval of a charter application and for any dispute relating to the approved charter, except disputes regarding charter school application denials. If the Commissioner of Education determines that the dispute cannot be settled through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings. The administrative law judge may rule on issues of equitable treatment of the charter school as a public school, whether proposed provisions of the charter violate the intended flexibility granted charter schools by statute, or on any other matter regarding this section except a charter school application denial, a charter termination, or a charter nonrenewal and shall award the prevailing party reasonable attorney's fees and costs incurred to be paid by the losing party. The costs of the administrative hearing shall be paid by



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the party whom the administrative law judge rules against.

(7) CHARTER.—The major issues involving the operation of a charter school shall be considered in advance and written into the charter. The charter shall be signed by the governing body of the charter school and the sponsor, following a public hearing to ensure community input.

(a) The charter shall address and criteria for approval of the charter shall be based on:

1. The school's mission, the students to be served, and the ages and grades to be included.

2. The focus of the curriculum, the instructional methods to be used, any distinctive instructional techniques to be employed, and identification and acquisition of appropriate technologies needed to improve educational and administrative performance which include a means for promoting safe, ethical, and appropriate uses of technology which comply with legal and professional standards. The charter shall ensure that reading is a primary focus of the curriculum and that resources are provided to identify and provide specialized instruction for students who are reading below grade level. The curriculum and instructional strategies for reading must be consistent with the Sunshine State Standards and grounded in scientifically based reading research.

3. The current incoming baseline standard of student academic achievement, the outcomes to be achieved, and the method of measurement that will be used. The criteria listed in this subparagraph shall include a detailed description of:

a. How the baseline student academic achievement levels and prior rates of academic progress will be established.



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b. How these baseline rates will be compared to rates of academic progress achieved by these same students while attending the charter school.

c. To the extent possible, how these rates of progress will be evaluated and compared with rates of progress of other closely comparable student populations.

The district school board is required to provide academic student performance data to charter schools for each of their students coming from the district school system, as well as rates of academic progress of comparable student populations in the district school system.

4. The methods used to identify the educational strengths and needs of students and how well educational goals and performance standards are met by students attending the charter school. The methods shall provide a means for the charter school to ensure accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs. Students in charter schools shall, at a minimum, participate in the statewide assessment program created under s. 1008.22.

5. In secondary charter schools, a method for determining that a student has satisfied the requirements for graduation in s. 1003.428, s. 1003.429, or s. 1003.43.

6. A method for resolving conflicts between the governing body of the charter school and the sponsor.

7. The admissions procedures and dismissal procedures, including the school's code of student conduct.

8. The ways by which the school will achieve a



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579 racial/ethnic balance reflective of the community it serves or
580 within the racial/ethnic range of other public schools in the
581 same school district.

582 9. The financial and administrative management of the
583 school, including a ~~reasonable~~ demonstration of the professional
584 experience or competence of those individuals or organizations
585 applying to operate the charter school or those hired or
586 retained to perform such professional services and the
587 description of clearly delineated responsibilities and the
588 policies and practices needed to effectively manage the charter
589 school. A description of internal audit procedures and
590 establishment of controls to ensure that financial resources are
591 properly managed must be included. Both public sector and
592 private sector professional experience shall be equally valid in
593 such a consideration.

594 10. The asset and liability projections required in the
595 application which are incorporated into the charter and shall be
596 compared with information provided in the annual report of the
597 charter school.

598 11. A description of procedures that identify various risks
599 and provide for a comprehensive approach to reduce the impact of
600 losses; plans to ensure the safety and security of students and
601 staff; plans to identify, minimize, and protect others from
602 violent or disruptive student behavior; and the manner in which
603 the school will be insured, including whether or not the school
604 will be required to have liability insurance, and, if so, the
605 terms and conditions thereof and the amounts of coverage.

606 12. The term of the charter which shall provide for
607 cancellation of the charter if insufficient progress has been



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made in attaining the student achievement objectives of the charter and if it is not likely that such objectives can be achieved before expiration of the charter. The initial term of a charter shall be for ~~4 or 5 years,~~ unless the charter meets the requirements of a high-performing charter school system pursuant to subsection (11). ~~In order to facilitate access to long-term financial resources for charter school construction,~~ Charter schools ~~that are operated by a municipality or other public entity as provided by law~~ are eligible for up to a 15-year charter, subject to approval by the district school board. A charter lab school is eligible for a charter for a term of up to 15 years. ~~In addition, to facilitate access to long-term financial resources for charter school construction, charter schools that are operated by a private, not-for-profit, s. 501(c)(3) status corporation are eligible for up to a 15-year charter, subject to approval by the district school board.~~ Such long-term charters remain subject to annual review and may be terminated during the term of the charter, but only according to the provisions set forth in subsection (8).

13. The facilities to be used and their location.

14. The qualifications to be required of the teachers and the potential strategies used to recruit, hire, train, and retain qualified staff to achieve best value.

15. The governance structure of the school, including the status of the charter school as a public or private employer as required in paragraph (14)(i) ~~(12)(i)~~.

16. A timetable for implementing the charter which addresses the implementation of each element thereof and the date by which the charter shall be awarded in order to meet this



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timetable.

17. In the case of an existing public school that is being converted to charter status, alternative arrangements for current students who choose not to attend the charter school and for current teachers who choose not to teach in the charter school after conversion in accordance with the existing collective bargaining agreement or district school board rule in the absence of a collective bargaining agreement. However, alternative arrangements shall not be required for current teachers who choose not to teach in a charter lab school, except as authorized by the employment policies of the state university which grants the charter to the lab school.

18. Full disclosure of the identity of all relatives employed by the charter school who are related to the charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority. For the purpose of this subparagraph, the term "relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b)1. A charter may be renewed provided that a program review demonstrates that the criteria in paragraph (a) have been successfully accomplished and that none of the grounds for nonrenewal established by paragraph (8)(a) has been documented. In order to facilitate long-term financing for charter school



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construction, charter schools operating for a minimum of 3 years and demonstrating exemplary academic programming and fiscal management are eligible for a 15-year charter renewal. Such long-term charter is subject to annual review and may be terminated during the term of the charter.

2. The 15-year charter renewal that may be granted pursuant to subparagraph 1. shall be granted to a charter school that has received a school grade of "A" or "B" pursuant to s. 1008.34 in 3 of the past 4 years and is not in a state of financial emergency or deficit position as defined by this section. Such long-term charter is subject to annual review and may be terminated during the term of the charter pursuant to subsection (8).

(c) A charter may be modified during its initial term or any renewal term upon the recommendation of the sponsor or the charter school governing board and the approval of both parties to the agreement.

(d) The sponsor may not require that board members of the charter school reside in the district in which the charter school is located and shall allow charter school management personnel to represent the charter school board if such representation has been approved by the charter school board.

(8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

(a) The sponsor may choose not to renew or may terminate the charter for any of the following grounds:

1. Failure to participate in the state's education accountability system created in s. 1008.31, as required in this section, or failure to meet the requirements for student performance stated in the charter.



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2. Failure to meet generally accepted standards of fiscal management.

3. Violation of law.

4. Other good cause shown.

(b) ~~Before At least 90 days prior to~~ renewing or terminating a charter, the sponsor shall notify the governing body of the school of the proposed action in writing. The notice shall state in reasonable detail the grounds for the proposed action and stipulate that the school's governing body may, within 14 calendar days after receiving the notice, file a request for a ~~an informal~~ hearing with the sponsor pursuant to chapter 120 ~~before the sponsor~~. The matter shall proceed pursuant to chapter 120. ~~The sponsor shall conduct the informal hearing within 30 calendar days after receiving a written request.~~

(c) The final order issued by the sponsor must include the specific reasons for nonrenewal or termination of the charter and shall be provided to the charter school governing body and the Department of Education within 10 calendar days after the final order is issued. ~~If a charter is not renewed or is terminated pursuant to paragraph (b), the sponsor shall, within 10 calendar days, articulate in writing the specific reasons for its nonrenewal or termination of the charter and must provide the letter of nonrenewal or termination and documentation supporting the reasons to the charter school governing body, the charter school principal, and the Department of Education.~~ The charter school's governing body may, within 30 calendar days after receiving the sponsor's final order ~~written decision to refuse to renew or to terminate the charter~~, appeal the decision



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pursuant to the procedure established in subsection (6).

(d) A charter may be terminated immediately if the sponsor determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. The sponsor's determination is ~~not~~ subject to the same process as set forth in paragraphs an informal hearing under paragraph (b) and (c), with the exception that the sponsor's determination may take effect immediately or at a subsequently identified time or pursuant to chapter 120. The sponsor shall notify in writing the charter school's governing body, the charter school principal, and the department if a charter is immediately terminated as soon as reasonably possible. The sponsor shall clearly identify the specific issues that resulted in the immediate termination and provide evidence of prior notification of issues resulting in the immediate termination when appropriate. The charter school's governing board has 10 days to request a hearing pursuant to s. 120.569. The hearing in such cases shall be expedited, and the final order shall be issued no more than 45 days after the date upon which the hearing is requested. ~~The school district in which the charter school is located shall assume operation of the school under these circumstances.~~ The charter school's governing board may, within 30 days after receiving the sponsor's decision to terminate the charter, appeal the decision pursuant to the procedure established in subsection (6). The sponsor shall assume and continue operation of the school pending appeal to the State Board of Education under subsection (6), unless the continued operation of the school would materially threaten the physical health, safety, or welfare of the students. A sponsor that fails to assume and to continue



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operation of the charter school is liable for attorney's fees and costs to the charter school if the charter school prevails on appeal to the State Board of Education.

(e) When a charter is not renewed or is terminated, the school shall be dissolved under the provisions of law under which the school was organized, and any unencumbered public funds, except for capital outlay funds and federal charter school program grant funds, from the charter school shall revert to the sponsor. Capital outlay funds provided pursuant to s. 1013.62 and federal charter school program grant funds that are unencumbered shall revert to the department to be redistributed among eligible charter schools. In the event a charter school is dissolved or is otherwise terminated, all district school board property and improvements, furnishings, and equipment purchased with public funds shall automatically revert to full ownership by the district school board, subject to complete satisfaction of any lawful liens or encumbrances. Any unencumbered public funds from the charter school, district school board property and improvements, furnishings, and equipment purchased with public funds, or financial or other records pertaining to the charter school, in the possession of any person, entity, or holding company, other than the charter school, shall be held in trust upon the district school board's request, until any appeal status is resolved.

(f) If a charter is not renewed or is terminated, the charter school is responsible for all debts of the charter school. The district may not assume the debt from any contract made between the governing body of the school and a third party, except for a debt that is previously detailed and agreed upon in



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writing by both the district and the governing body of the school and that may not reasonably be assumed to have been satisfied by the district.

(g) If a charter is not renewed or is terminated, a student who attended the school may apply to, and shall be enrolled in, another public school. Normal application deadlines shall be disregarded under such circumstances.

(9) CHARTER SCHOOL REQUIREMENTS.—

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.

(b) A charter school shall admit students as provided in subsection (12) ~~(10)~~.

(c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).

(d) A charter school may ~~shall~~ not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. 1002.32(5).

(e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.

(f) A charter school may ~~shall~~ not violate the antidiscrimination provisions of s. 1000.05.

(g) In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:

1. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools";



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or

2. At the discretion of the charter school governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph. A charter school shall provide a monthly financial statement to the sponsor; however, if the charter school is designated as a high-performing charter school under subsection (10) or is part of a high-performing charter school system under subsection (11), it shall provide a quarterly financial statement. The ~~monthly~~ financial statement required under this paragraph shall be in a form prescribed by the Department of Education.

(h) The governing board of the charter school shall annually adopt and maintain an operating budget.

(i) The governing body of the charter school shall exercise continuing oversight over charter school operations.

(j) The governing body of the charter school shall be responsible for:

1. Ensuring that the charter school has retained the



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services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.

2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.

3.a. Performing the duties in s. 1002.345, including monitoring a corrective action plan.

b. Monitoring a financial recovery plan in order to ensure compliance.

4. Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.

(k) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, online annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that is duplicative and already in the possession of the department. The Department of Education shall include in its compilation a notation if a school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the



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education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.

2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the charter school's ability to meet financial obligations and timely repayment of debt.

3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.

4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

(l) A charter school shall not levy taxes or issue bonds secured by tax revenues.

(m) A charter school shall provide instruction for at least the number of days required by law for other public schools and may provide instruction for additional days.

(n) The director and a representative of the governing body of a charter school that has received a school grade of "D" under s. 1008.34(2) shall appear before the sponsor or the sponsor's staff at least once a year to present information concerning each contract component having noted deficiencies.



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The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

(o) Upon notification that a charter school receives a school grade of "D" for 2 consecutive years or a school grade of "F" under s. 1008.34(2), the charter school sponsor or the sponsor's staff shall require the director and a representative of the governing body to submit to the sponsor for approval a school improvement plan to raise student achievement and to implement the plan. The sponsor has the authority to approve a school improvement plan that the charter school will implement in the following school year. The sponsor may also consider the State Board of Education's recommended action pursuant to s. 1008.33(1) as part of the school improvement plan. The Department of Education shall offer technical assistance and training to the charter school and its governing body and establish guidelines for developing, submitting, and approving such plans.

1. If the charter school fails to improve its student performance from the year immediately prior to the implementation of the school improvement plan, the sponsor shall place the charter school on probation and shall require the charter school governing body to take one of the following corrective actions:

a. Contract for the educational services of the charter school;

b. Reorganize the school at the end of the school year under a new director or principal who is authorized to hire new staff and implement a plan that addresses the causes of



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inadequate progress; or

c. Reconstitute the charter school.

2. A charter school that is placed on probation shall continue the corrective actions required under subparagraph 1. until the charter school improves its student performance from the year prior to the implementation of the school improvement plan.

3. Notwithstanding any provision of this paragraph, the sponsor may terminate the charter at any time pursuant to subsection (8).

(p) The director and a representative of the governing body of a graded charter school that has submitted a school improvement plan or has been placed on probation under paragraph (o) shall appear before the sponsor or the sponsor's staff at least once a year to present information regarding the corrective strategies that are being implemented by the school pursuant to the school improvement plan. The sponsor shall communicate at the meeting, and in writing to the director, the services provided to the school to help the school address its deficiencies.

(10) HIGH-PERFORMING CHARTER SCHOOLS.—

(a) A charter school shall be designated as a high-performing charter school if:

1. During each of the previous 3 years the charter school:

a. Received a school grade of "A" or "B";

b. Received an unqualified opinion on each financial audit required under s. 218.39; and

c. Did not receive a financial audit that revealed one or more of the conditions set forth in s. 218.503(1); however, the



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condition is deemed met for a charter school-in-the-workplace if there is a finding in an audit that the school has the monetary resources available to cover any reported deficiency or that the deficiency does not result in a deteriorating financial condition pursuant to s. 1002.345(1)(a)3.

2. The charter school has been in operation for less than 3 years and is operated by a high-performing charter school system pursuant to subsection (11). These charter schools may receive capital outlay funds in their first year pursuant to s. 1013.62 and are not required to comply with s. 1013.62(1)(a)1.-3.

(b) If the charter school maintains compliance with s. 1002.33(18)(b)3., a high-performing charter school may:

1. Increase the school's student enrollment once per year by up to 25 percent more than the capacity authorized pursuant to paragraph (12)(i).

2. Expand to any grade level within kindergarten through grade 12, if not already serving such grades.

3. Offer voluntary prekindergarten education pursuant to ss. 1002.51-1002.79.

(c) A high-performing charter school shall receive a 15-year charter renewal upon expiration of the current charter.

(d) The high-performing charter school designation shall be removed if the charter school does not continue to meet the requirements in paragraph (a).

(11) HIGH-PERFORMING CHARTER SCHOOL SYSTEM.—

(a)1. For purposes of this subsection, the term:

a. "Entity" means a municipality or other public entity as authorized by law to operate a charter school; a private, not-for-profit, s. 501(c)(3) status corporation; or a private, for-



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profit corporation.

b. "High-performing charter school system" means an entity that:

(I) Operates at least three high-performing charter schools in this state;

(II) Has received a systemwide average grade of "A" or "B" during the previous 3 years for all charter schools created or started by the entity;

(III) Has not received a financial audit for any school created or started by the entity which reveals one or more of the conditions set forth in s. 218.503(1); and

(IV) Has not received a school grade of "F" during any of the previous 2 years for any charter school operated by the entity in the state, except for a charter school taken over or managed by, but not created or started by, the entity, in which case the entity loses its high-performing designation if the charter school receives a school grade of "F" in 3 out of 5 years.

(b) A high-performing charter school system may apply to establish and operate a new charter school in any district in the state which will substantially replicate one or more of the provider's existing high-performing charter schools.

1. A local school district may deny a charter application from an operator of a high-performing charter school system only if good cause is shown that the operator fails to materially meet established charter school requirements pursuant to subsection (9). The charter applicant may appeal, as provided in subsection (6). The district is liable to the charter applicant for attorney's fees and costs if the charter applicant prevails



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on appeal. The State Board of Education may additionally sanction the district with any penalties under s. 1008.32(4) if the state board determines that the district has a pattern of unlawfully denying a high-performing charter system from replicating a high-performing charter school.

2. The new charter school shall receive an initial charter for a term of 15 years, shall be designated as a high-performing charter school for the first 3 years of the charter, and shall receive charter school capital outlay funds under s. 1013.62. The school is not required to comply with s. 1013.62(1)(a)1.-3., but must comply with any other requirements in s. 1013.62 to receive charter school capital outlay funds as provided in this subparagraph.

3. The designation as a high-performing charter school system shall be removed if the system does not continue to meet the requirements in paragraph (a).

This paragraph does not waive a district school board's sovereign immunity.

~~(12)~~ ~~(10)~~ ELIGIBLE STUDENTS.—

(a) A charter school shall be open to any student covered in an interdistrict agreement or residing in the school district in which the charter school is located; however, in the case of a charter lab school, the charter lab school shall be open to any student eligible to attend the lab school as provided in s. 1002.32 or who resides in the school district in which the charter lab school is located. Any eligible student shall be allowed interdistrict transfer to attend a charter school when based on good cause. Good cause shall include, but is not



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limited to, geographic proximity to a charter school in a neighboring school district.

(b) The charter school shall enroll an eligible student who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all applicants shall have an equal chance of being admitted through a random selection process.

(c) When a public school converts to charter status, enrollment preference shall be given to students who would have otherwise attended that public school. The district school board shall consult and negotiate with the conversion charter school every 3 years to determine whether realignment of the conversion charter school's attendance zone is appropriate in order to ensure that students residing closest to the charter school are provided with an enrollment preference.

(d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.

2. Students who are the children of a member of the governing board of the charter school.

3. Students who are the children of an employee of the charter school.

4. Students who are the children of:

a. An employee of a business partner, or a resident of a municipality, who complies with paragraph (17)(b) for a charter school-in-the-workplace; or

b. A resident of a municipality that operates a charter school-in-a-municipality pursuant to paragraph (17)(c).



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1072 5. Students enrolling in a charter school-in-the-workplace
1073 or charter school-in-a-municipality established pursuant to this
1074 section.

1075 (e) A charter school may limit the enrollment process only
1076 to target the following student populations:

1077 1. Students within specific age groups or grade levels.

1078 2. Students considered at risk of dropping out of school or
1079 academic failure. Such students shall include exceptional
1080 education students.

1081 3. Students enrolling in a charter school-in-the-workplace
1082 or charter school-in-a-municipality established pursuant to
1083 subsection (17) ~~(15)~~.

1084 4. Students residing within a reasonable distance of the
1085 charter school, as described in paragraph (23) (c) ~~(20) (e)~~. Such
1086 students are ~~shall be~~ subject to a random lottery and to the
1087 racial/ethnic balance provisions described in subparagraph
1088 (7)(a)8. or any federal provisions that require a school to
1089 achieve a racial/ethnic balance reflective of the community it
1090 serves or within the racial/ethnic range of other public schools
1091 in the same school district.

1092 5. Students who meet reasonable academic, artistic, or
1093 other eligibility standards established by the charter school
1094 and included in the charter school application and charter or,
1095 in the case of existing charter schools, standards that are
1096 consistent with the school's mission and purpose. Such standards
1097 shall be in accordance with current state law and practice in
1098 public schools and may not discriminate against otherwise
1099 qualified individuals.

1100 6. Students articulating from one charter school to another



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pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

(f) Students with disabilities and students served in English for Speakers of Other Languages programs shall have an equal opportunity of being selected for enrollment in a charter school.

(g) A student may withdraw from a charter school at any time and enroll in another public school as determined by district school board rule.

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection unless the charter school is designated as a high-performing charter school under subsection (10). A sponsor may not require a charter school to waive the provisions in paragraph (10)(b) or require a student enrollment cap that prohibits a high-performing charter school from increasing enrollment in accordance with paragraph (10)(b) as a condition of approval or renewal of a charter.

(i) The capacity of a high-performing charter school pursuant to subsection (10) shall be determined annually by the governing board of the charter school. The governing board shall notify the sponsor of any increase in enrollment by March 1 of the school year preceding the increase.

(13) ~~(11)~~ PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.—A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend pursuant to s. 1006.15(3)(d).



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1130 (14)~~(12)~~ EMPLOYEES OF CHARTER SCHOOLS.—

1131 (a) A charter school shall select its own employees. A
1132 charter school may contract with its sponsor for the services of
1133 personnel employed by the sponsor.

1134 (b) Charter school employees shall have the option to
1135 bargain collectively. Employees may collectively bargain as a
1136 separate unit or as part of the existing district collective
1137 bargaining unit as determined by the structure of the charter
1138 school.

1139 (c) The employees of a conversion charter school shall
1140 remain public employees for all purposes, unless such employees
1141 choose not to do so.

1142 (d) The teachers at a charter school may choose to be part
1143 of a professional group that subcontracts with the charter
1144 school to operate the instructional program under the auspices
1145 of a partnership or cooperative that they collectively own.
1146 Under this arrangement, the teachers would not be public
1147 employees.

1148 (e) Employees of a school district may take leave to accept
1149 employment in a charter school upon the approval of the district
1150 school board. While employed by the charter school and on leave
1151 that is approved by the district school board, the employee may
1152 retain seniority accrued in that school district and may
1153 continue to be covered by the benefit programs of that school
1154 district, if the charter school and the district school board
1155 agree to this arrangement and its financing. School districts
1156 may shall not require resignations from instructional personnel,
1157 school administrators, or educational support employees who
1158 desire employment ~~of teachers desiring to teach~~ in a charter



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1159 school. This paragraph does ~~shall~~ not prohibit a district school
1160 board from approving alternative leave arrangements consistent
1161 with chapter 1012.

1162 (f) Teachers employed by or under contract to a charter
1163 school shall be certified as required by chapter 1012. A charter
1164 school governing board may employ or contract with skilled
1165 selected noncertified personnel to provide instructional
1166 services or to assist instructional staff members as education
1167 paraprofessionals in the same manner as defined in chapter 1012,
1168 and as provided by State Board of Education rule for charter
1169 school governing boards. A charter school may not knowingly
1170 employ an individual to provide instructional services or to
1171 serve as an education paraprofessional if the individual's
1172 certification or licensure as an educator is suspended or
1173 revoked by this or any other state. A charter school may not
1174 knowingly employ an individual who has resigned from a school
1175 district in lieu of disciplinary action with respect to child
1176 welfare or safety, or who has been dismissed for just cause by
1177 any school district with respect to child welfare or safety. The
1178 qualifications of teachers shall be disclosed to parents.

1179 (g)1. A charter school shall employ or contract with
1180 employees who have undergone background screening as provided in
1181 s. 1012.32. Members of the governing board of the charter school
1182 shall also undergo background screening in a manner similar to
1183 that provided in s. 1012.32.

1184 2. A charter school shall disqualify instructional
1185 personnel and school administrators, as defined in s. 1012.01,
1186 from employment in any position that requires direct contact
1187 with students if the personnel or administrators are ineligible



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for such employment under s. 1012.315.

3. The governing board of a charter school shall adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. 39.203 and 768.095. A charter school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

4. Before employing instructional personnel or school administrators in any position that requires direct contact with



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students, a charter school shall conduct employment history checks of each of the personnel's or administrators' previous employers, screen the instructional personnel or school administrators through use of the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact a previous employer, the charter school must document efforts to contact the employer.

5. The sponsor of a charter school that knowingly fails to comply with this paragraph shall terminate the charter under subsection (8).

(h) For the purposes of tort liability, the governing body and employees of a charter school shall be governed by s. 768.28.

(i) A charter school shall organize as, or be operated by, a nonprofit organization. A charter school may be operated by a municipality or other public entity as provided for by law. As such, the charter school may be either a private or a public employer. As a public employer, a charter school may participate in the Florida Retirement System upon application and approval as a "covered group" under s. 121.021(34). If a charter school participates in the Florida Retirement System, the charter school employees shall be compulsory members of the Florida Retirement System. As either a private or a public employer, a charter school may contract for services with an individual or group of individuals who are organized as a partnership or a cooperative. Individuals or groups of individuals who contract their services to the charter school are not public employees.

~~(15)-(13)~~ CHARTER SCHOOL COOPERATIVES.—Charter schools may enter into cooperative agreements to form charter school



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cooperative organizations that may provide the following services: charter school planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.

(16)~~(14)~~ CHARTER SCHOOL FINANCIAL ARRANGEMENTS;
INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR TAXING POWER NOT TO BE PLEDGED.—Any arrangement entered into to borrow or otherwise secure funds for a charter school authorized in this section from a source other than the state or a school district shall indemnify the state and the school district from any and all liability, including, but not limited to, financial responsibility for the payment of the principal or interest. Any loans, bonds, or other financial agreements are not obligations of the state or the school district but are obligations of the charter school authority and are payable solely from the sources of funds pledged by such agreement. The credit or taxing power of the state or the school district shall not be pledged and no debts shall be payable out of any moneys except those of the legal entity in possession of a valid charter approved by a district school board pursuant to this section.

(17)~~(15)~~ CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-A-MUNICIPALITY.—

(a) In order to increase business partnerships in education, to reduce school and classroom overcrowding throughout the state, and to offset the high costs for educational facilities construction, the Legislature intends to



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encourage the formation of business partnership schools or
satellite learning centers and municipal-operated schools
through charter school status.

(b) A charter school-in-the-workplace may be established
when a business partner provides the school facility to be used;
enrolls students based upon a random lottery that involves all
of the children of employees of that business or corporation or
residents of that municipality who are seeking enrollment, as
provided for in subsection (12) ~~(10)~~; and enrolls students
according to the racial/ethnic balance provisions described in
subparagraph (7)(a)8. A municipality may be a business partner
notwithstanding paragraph (c). Any portion of a facility used
for a public charter school shall be exempt from ad valorem
taxes, as provided for in s. 1013.54, for the duration of its
use as a public school.

(c) A charter school-in-a-municipality designation may be
granted to a municipality that possesses a charter; enrolls
students based upon a random lottery that involves all of the
children of the residents of that municipality who are seeking
enrollment, as provided for in subsection (12) ~~(10)~~; and enrolls
students according to the racial/ethnic balance provisions
described in subparagraph (7)(a)8. When a municipality has
submitted charter applications for the establishment of a
charter school feeder pattern, consisting of elementary, middle,
and senior high schools, and each individual charter application
is approved by the district school board, such schools shall
then be designated as one charter school for all purposes listed
pursuant to this section. Any portion of the land and facility
used for a public charter school shall be exempt from ad valorem



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taxes, as provided for in s. 1013.54, for the duration of its use as a public school.

(d) As used in this subsection, the terms "business partner" or "municipality" may include more than one business or municipality to form a charter school-in-the-workplace or charter school-in-a-municipality.

(18) ~~(16)~~ EXEMPTION FROM STATUTES.—

(a) A charter school shall operate in accordance with its charter and shall be exempt from all statutes in chapters 1000-1013. However, a charter school shall be in compliance with the following statutes in chapters 1000-1013:

1. Those statutes specifically applying to charter schools, including this section.

2. Those statutes pertaining to the student assessment program and school grading system.

3. Those statutes pertaining to the provision of services to students with disabilities.

4. Those statutes pertaining to civil rights, including s. 1000.05, relating to discrimination.

5. Those statutes pertaining to student health, safety, and welfare.

(b) Additionally, a charter school shall be in compliance with the following statutes:

1. Section 286.011, relating to public meetings and records, public inspection, and criminal and civil penalties.

2. Chapter 119, relating to public records.

3. Section 1003.03, relating to the maximum class size, except that the calculation for compliance pursuant to s. 1003.03 shall be the average at the school level.



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1333 ~~(19)~~~~(17)~~ FUNDING.—Students enrolled in a charter school,
1334 regardless of the sponsorship, shall be funded as if they are in
1335 a basic program or a special program, the same as students
1336 enrolled in other public schools in the school district. Funding
1337 for a charter lab school shall be as provided in s. 1002.32.

1338 (a) Each charter school shall report its student enrollment
1339 to the sponsor as required in s. 1011.62, and in accordance with
1340 the definitions in s. 1011.61. The sponsor shall include each
1341 charter school's enrollment in the district's report of student
1342 enrollment. All charter schools submitting student record
1343 information required by the Department of Education shall comply
1344 with the Department of Education's guidelines for electronic
1345 data formats for such data, and all districts shall accept
1346 electronic data that complies with the Department of Education's
1347 electronic format.

1348 (b) The basis for the agreement for funding students
1349 enrolled in a charter school shall be the sum of the school
1350 district's operating funds from the Florida Education Finance
1351 Program as provided in s. 1011.62 and the General Appropriations
1352 Act, including gross state and local funds, discretionary
1353 lottery funds, and funds from the school district's current
1354 operating discretionary millage levy; divided by total funded
1355 weighted full-time equivalent students in the school district;
1356 multiplied by the weighted full-time equivalent students for the
1357 charter school. Charter schools whose students or programs meet
1358 the eligibility criteria in law shall be entitled to their
1359 proportionate share of categorical program funds included in the
1360 total funds available in the Florida Education Finance Program
1361 by the Legislature, including transportation. Total funding for



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each charter school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the charter school during the full-time equivalent student survey periods designated by the Commissioner of Education.

(c) If the district school board is providing programs or services to students funded by federal funds, any eligible students enrolled in charter schools in the school district shall be provided federal funds for the same level of service provided students in the schools operated by the district school board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all charter schools shall receive all federal funding for which the school is otherwise eligible, including Title I funding, not later than 5 months after the charter school first opens and within 5 months after any subsequent expansion of enrollment.

(d) Charter schools shall be included by the Department of Education and the district school board in requests for federal stimulus funds in the same manner as district school board-operated public schools, including Title I and IDEA funds and shall be entitled to receive such funds. Charter schools are eligible to participate in federal competitive grants that are available as part of the federal stimulus funds.

(e) District school boards shall make timely and efficient payment and reimbursement to charter schools, including processing paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a charter school for up to 3 months based on the projected full-time equivalent student



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membership of the charter school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the charter school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 10 working days after receipt of funding by the district school board, the school district shall pay to the charter school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the expiration of the 10 working days until such time as the warrant is issued.

(20) BLENDED-LEARNING CHARTER SCHOOLS.—

(a) As used in this section, the term "blended-learning charter school" means a school that combines traditional classroom and virtual instruction.

(b) A blended-learning charter school does not have to apply to become an approved provider under s. 1002.45 and may provide online instruction only to students enrolled in the charter school.

(c) Faculty authorized to provide online instruction for blended-learning courses must be employees of the charter school or contracted to provide instruction to the charter school students and must hold a current state or school district adjunct certification to teach in the subject area of a blended-learning course.

(d) For purposes of funding and performance accountability, blended-learning courses are considered the same as traditional



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courses.

(21)~~(18)~~ FACILITIES.—

(a) A startup charter school shall utilize facilities which comply with the Florida Building Code pursuant to chapter 553 except for the State Requirements for Educational Facilities. Conversion charter schools shall utilize facilities that comply with the State Requirements for Educational Facilities provided that the school district and the charter school have entered into a mutual management plan for the reasonable maintenance of such facilities. The mutual management plan shall contain a provision by which the district school board agrees to maintain charter school facilities in the same manner as its other public schools within the district. Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to s. 1013.37. The local governing authority shall not adopt or impose local building requirements or restrictions that are more stringent than those found in the Florida Building Code. The agency having jurisdiction for inspection of a facility and issuance of a certificate of occupancy shall be the local municipality or, if in an unincorporated area, the county governing authority.

(b) A charter school shall utilize facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.025, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

(c) Any facility, or portion thereof, used to house a charter school whose charter has been approved by the sponsor



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and the governing board, pursuant to subsection (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983. Library, community service, museum, performing arts, theatre, cinema, church, community college, college, and university facilities may provide space to charter schools within their facilities under their preexisting zoning and land use designations.

(d) Charter school facilities are exempt from assessments of fees for building permits, except as provided in s. 553.80; fees for building and occupational licenses; impact fees or exactions; service availability fees; and assessments for special benefits.

(e) If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it shall be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district. Similarly, for an existing public school converting to charter status, no rental or leasing fee for the existing facility or for the property normally inventoried to the conversion school may be charged by the district school board to the parents and teachers organizing the charter school. The charter school shall agree to reasonable maintenance provisions in order to maintain the facility in a manner similar to district school board standards. The Public Education Capital Outlay maintenance funds or any other maintenance funds generated by the facility operated as a conversion school shall remain with the conversion school.



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(f) To the extent that charter school facilities are specifically created to mitigate the educational impact created by the development of new residential dwelling units, pursuant to subparagraph (2)(c)4., some of or all of the educational impact fees required to be paid in connection with the new residential dwelling units may be designated instead for the construction of the charter school facilities that will mitigate the student station impact. Such facilities shall be built to the State Requirements for Educational Facilities and shall be owned by a public or nonprofit entity. The local school district retains the right to monitor and inspect such facilities to ensure compliance with the State Requirements for Educational Facilities. If a facility ceases to be used for public educational purposes, either the facility shall revert to the school district subject to any debt owed on the facility, or the owner of the facility shall have the option to refund all educational impact fees utilized for the facility to the school district. The district and the owner of the facility may contractually agree to another arrangement for the facilities if the facilities cease to be used for educational purposes. The owner of property planned or approved for new residential dwelling units and the entity levying educational impact fees shall enter into an agreement that designates the educational impact fees that will be allocated for the charter school student stations and that ensures the timely construction of the charter school student stations concurrent with the expected occupancy of the residential units. The application for use of educational impact fees shall include an approved charter school application. To assist the school district in forecasting



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student station needs, the entity levying the impact fees shall notify the affected district of any agreements it has approved for the purpose of mitigating student station impact from the new residential dwelling units.

(g) Each school district shall annually provide to the Department of Education as part of its 5-year work plan the number of existing vacant classrooms in each school that the district does not intend to use or does not project will be needed for educational purposes for the following school year. The department may recommend that a district make such space available to an appropriate charter school.

(22) ~~(19)~~ CAPITAL OUTLAY FUNDING.—Charter schools are eligible for capital outlay funds pursuant to s. 1013.62. Capital outlay funds authorized in ss. s. 1011.71(2) and 1013.62 which ~~that~~ have been shared with a charter school-in-the-workplace prior to July 1, 2010, are deemed to have met the authorized expenditure requirements for such funds.

(23) ~~(20)~~ SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under



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the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (19) (b) ~~(17) (b)~~ for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2).

3. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:



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a. Includes both conversion charter schools and nonconversion charter schools;

b. Has all schools located in the same county;

c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;

d. Has the same governing board; and

e. Does not contract with a for-profit service provider for management of school operations.

4. The difference between the total administrative fee calculation and the amount of the administrative fee withheld pursuant to subparagraph 3. may be used for instructional and administrative purposes as well as for capital outlay purposes specified in s. 1013.62(2).

5. Each charter school shall receive 100 percent of the funds awarded to that school pursuant to s. 1012.225. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

(b) If goods and services are made available to the charter school through the contract with the school district, they shall be provided to the charter school at a rate no greater than the district's actual cost unless mutually agreed upon by the charter school and the sponsor in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission. To maximize the use of state funds, school districts shall allow



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1594 charter schools to participate in the sponsor's bulk purchasing
1595 program if applicable.

1596 (c) Transportation of charter school students shall be
1597 provided by the charter school consistent with the requirements
1598 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
1599 body of the charter school may provide transportation through an
1600 agreement or contract with the district school board, a private
1601 provider, or parents. The charter school and the sponsor shall
1602 cooperate in making arrangements that ensure that transportation
1603 is not a barrier to equal access for all students residing
1604 within a reasonable distance of the charter school as determined
1605 in its charter.

1606 (24)~~(21)~~ PUBLIC INFORMATION ON CHARTER SCHOOLS.-

1607 (a) The Department of Education shall provide information
1608 to the public, directly and through sponsors, on how to form and
1609 operate a charter school and how to enroll in a charter school
1610 once it is created. This information must ~~shall~~ include a
1611 standard application format, charter format, evaluation
1612 instrument, and charter renewal format, which must ~~shall~~ include
1613 the information specified in subsection (7) and shall be
1614 developed by consulting and negotiating with both school
1615 districts and charter schools before implementation. The charter
1616 and charter renewal formats shall be used by charter school
1617 sponsors.

1618 (b)1. The Department of Education shall report student
1619 assessment data pursuant to s. 1008.34(3)(c) which is reported
1620 to schools that receive a school grade or student assessment
1621 data pursuant to s. 1008.341(3) which is reported to alternative
1622 schools that receive a school improvement rating to each charter



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school that:

a. Does not receive a school grade pursuant to s. 1008.34 or a school improvement rating pursuant to s. 1008.341; and

b. Serves at least 10 students who are tested on the statewide assessment test pursuant to s. 1008.22.

2. The charter school shall report the information in subparagraph 1. to each parent of a student at the charter school, the parent of a child on a waiting list for the charter school, the district in which the charter school is located, and the governing board of the charter school. This paragraph does not abrogate the provisions of s. 1002.22, relating to student records, or the requirements of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act.

3.a. Pursuant to this paragraph, the Department of Education shall compare the charter school student performance data for each charter school in subparagraph 1. with the student performance data in traditional public schools in the district in which the charter school is located and other charter schools in the state. For alternative charter schools, the department shall compare the student performance data described in this paragraph with all alternative schools in the state. The comparative data shall be provided by the following grade groupings:

(I) Grades 3 through 5;

(II) Grades 6 through 8; and

(III) Grades 9 through 11.

b. Each charter school shall provide the information specified in this paragraph on its Internet website and also provide notice to the public at large in a manner provided by



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the rules of the State Board of Education. The State Board of Education shall adopt rules to administer the notice requirements of this subparagraph pursuant to ss. 120.536(1) and 120.54. The website shall include, through links or actual content, other information related to school performance.

~~(22) CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE REVIEW.—~~

~~(a) The Department of Education shall staff and regularly convene a Charter School Review Panel in order to review issues, practices, and policies regarding charter schools. The composition of the review panel shall include individuals with experience in finance, administration, law, education, and school governance, and individuals familiar with charter school construction and operation. The panel shall include two appointees each from the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives. The Governor shall appoint three members of the panel and shall designate the chair. Each member of the panel shall serve a 1-year term, unless renewed by the office making the appointment. The panel shall make recommendations to the Legislature, to the Department of Education, to charter schools, and to school districts for improving charter school operations and oversight and for ensuring best business practices at and fair business relationships with charter schools.~~

~~(b) The Legislature shall review the operation of charter schools during the 2010 Regular Session of the Legislature.~~

~~(25) (23) ANALYSIS OF CHARTER SCHOOL PERFORMANCE.—~~Upon receipt of the annual report required by paragraph (9)(k), the Department of Education shall provide to the State Board of Education, the Commissioner of Education, the Governor, the



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President of the Senate, and the Speaker of the House of Representatives an analysis and comparison of the overall performance of charter school students, to include all students whose scores are counted as part of the statewide assessment program, versus comparable public school students in the district as determined by the statewide assessment program currently administered in the school district, and other assessments administered pursuant to s. 1008.22(3).

(26) ~~(24)~~ RESTRICTION ON EMPLOYMENT OF RELATIVES.—

(a) This subsection applies to charter school personnel in a charter school operated by a private entity. As used in this subsection, the term:

1. "Charter school personnel" means a charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority and in whom is vested the authority, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in a charter school, including the authority as a member of a governing body of a charter school to vote on the appointment, employment, promotion, or advancement of individuals.

2. "Relative" means father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half



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sister.

(b) Charter school personnel may not appoint, employ, promote, or advance, or advocate for appointment, employment, promotion, or advancement, in or to a position in the charter school in which the personnel are serving or over which the personnel exercises jurisdiction or control any individual who is a relative. An individual may not be appointed, employed, promoted, or advanced in or to a position in a charter school if such appointment, employment, promotion, or advancement has been advocated by charter school personnel who serve in or exercise jurisdiction or control over the charter school and who is a relative of the individual or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.

(c) The approval of budgets does not constitute "jurisdiction or control" for the purposes of this subsection.

Charter school personnel in schools operated by a municipality or other public entity are subject to s. 112.3135.

(27)~~(25)~~ STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

(a) A member of a governing board of a charter school, including a charter school operated by a private entity, is subject to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).

(b) A member of a governing board of a charter school operated by a municipality or other public entity is subject to s. 112.3144, which relates to the disclosure of financial interests.

(28)~~(26)~~ RULEMAKING.—~~The Department of Education, after consultation with school districts and charter school directors,~~



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1739 ~~shall recommend that the State Board of Education adopt rules to~~
1740 ~~implement specific subsections of this section. Such rules shall~~
1741 ~~require minimum paperwork and shall not limit charter school~~
1742 ~~flexibility authorized by statute.~~ The State Board of Education
1743 shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to
1744 implement this section, including a charter model application
1745 form, evaluation instrument, and charter and charter renewal
1746 formats ~~in accordance with this section.~~

1747 Section 4. Paragraph (c) of subsection (10) and subsection
1748 (13) of section 1002.34, Florida Statutes, are amended to read:
1749 1002.34 Charter technical career centers.—

1750 (10) EXEMPTION FROM STATUTES.—

1751 (c) A center must comply with the antidiscrimination
1752 provisions in s. 1000.05 and the provisions in s. 1002.33(26) ~~s.~~
1753 ~~1002.33(24)~~ which relate to the employment of relatives.

1754 (13) BOARD OF DIRECTORS AUTHORITY.—The board of directors
1755 of a center may decide matters relating to the operation of the
1756 school, including budgeting, curriculum, and operating
1757 procedures, subject to the center's charter. The board of
1758 directors is responsible for performing the duties provided in
1759 s. 1002.345, including monitoring the corrective action plan.
1760 The board of directors must comply with s. 1002.33(27) ~~s.~~
1761 ~~1002.33(25)~~.

1762 Section 5. Section 1011.68, Florida Statutes, is amended to
1763 read:

1764 1011.68 Funds for student transportation.—The annual
1765 allocation to each district for transportation to public school
1766 programs, including charter schools as provided in s.
1767 1002.33(19)(b) ~~s. 1002.33(17)(b)~~, of students in membership in



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kindergarten through grade 12 and in migrant and exceptional student programs below kindergarten shall be determined as follows:

(1) Subject to the rules of the State Board of Education, each district shall determine the membership of students who are transported:

(a) By reason of living 2 miles or more from school.

(b) By reason of being students with disabilities or enrolled in a teenage parent program, regardless of distance to school.

(c) By reason of being in a state prekindergarten program, regardless of distance from school.

(d) By reason of being career, dual enrollment, or students with disabilities transported from one school center to another to participate in an instructional program or service; or students with disabilities, transported from one designation to another in the state, provided one designation is a school center and provided the student's individual educational plan (IEP) identifies the need for the instructional program or service and transportation to be provided by the school district. A "school center" is defined as a public school center, community college, state university, or other facility rented, leased, or owned and operated by the school district or another public agency. A "dual enrollment student" is defined as a public school student in membership in both a public secondary school program and a community college or a state university program under a written agreement to partially fulfill ss. 1003.435 and 1007.23 and earning full-time equivalent membership under s. 1011.62(1)(i).



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(e) With respect to elementary school students whose grade level does not exceed grade 6, by reason of being subjected to hazardous walking conditions en route to or from school as provided in s. 1006.23. Such rules shall, when appropriate, provide for the determination of membership under this paragraph for less than 1 year to accommodate the needs of students who require transportation only until such hazardous conditions are corrected.

(f) By reason of being a pregnant student or student parent, and the child of a student parent as provided in s. 1003.54, regardless of distance from school.

(2) The allocation for each district shall be calculated annually in accordance with the following formula:

$T = B + EX$. The elements of this formula are defined as follows: T is the total dollar allocation for transportation. B is the base transportation dollar allocation prorated by an adjusted student membership count. The adjusted membership count shall be derived from a multiplicative index function in which the base student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. EX is the base transportation dollar allocation for disabled students prorated by an adjusted disabled student membership count. The base transportation dollar allocation for disabled students is the total state base disabled student membership count weighted for increased costs associated with transporting disabled students and multiplying it by an average per student cost for transportation as



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determined by the Legislature. The adjusted disabled student membership count shall be derived from a multiplicative index function in which the weighted base disabled student membership is adjusted by multiplying it by index numbers that individually account for the impact of the price level index, average bus occupancy, and the extent of rural population in the district. Each adjustment factor shall be designed to affect the base allocation by no more or less than 10 percent.

(3) The total allocation to each district for transportation of students shall be the sum of the amounts determined in subsection (2). If the funds appropriated for the purpose of implementing this section are not sufficient to pay the base transportation allocation and the base transportation allocation for disabled students, the Department of Education shall prorate the available funds on a percentage basis. If the funds appropriated for the purpose of implementing this section exceed the sum of the base transportation allocation and the base transportation allocation for disabled students, the base transportation allocation for disabled students shall be limited to the amount calculated in subsection (2), and the remaining balance shall be added to the base transportation allocation.

(4) No district shall use funds to purchase transportation equipment and supplies at prices which exceed those determined by the department to be the lowest which can be obtained, as prescribed in s. 1006.27(1).

(5) Funds allocated or apportioned for the payment of student transportation services may be used to pay for transportation of students to and from school on local general purpose transportation systems. Student transportation funds may



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also be used to pay for transportation of students to and from school in private passenger cars and boats when the transportation is for isolated students, or students with disabilities as defined by rule. Subject to the rules of the State Board of Education, each school district shall determine and report the number of assigned students using general purpose transportation private passenger cars and boats. The allocation per student must be equal to the allocation per student riding a school bus.

(6) Notwithstanding other provisions of this section, in no case shall any student or students be counted for transportation funding more than once per day. This provision includes counting students for funding pursuant to trips in school buses, passenger cars, or boats or general purpose transportation.

Section 6. Paragraph (b) of subsection (2) of section 1012.32, Florida Statutes, is amended to read:

1012.32 Qualifications of personnel.—

(2)

(b) Instructional and noninstructional personnel who are hired or contracted to fill positions in any charter school and members of the governing board of any charter school, in compliance with s. 1002.33(14)(f) ~~s. 1002.33(12)(g)~~, must, upon employment, engagement of services, or appointment, undergo background screening as required under s. 1012.465 or s. 1012.56, whichever is applicable, by filing with the district school board for the school district in which the charter school is located a complete set of fingerprints taken by an authorized law enforcement agency or an employee of the school or school district who is trained to take fingerprints.



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Fingerprints shall be submitted to the Department of Law Enforcement for statewide criminal and juvenile records checks and to the Federal Bureau of Investigation for federal criminal records checks. A person subject to this subsection who is found ineligible for employment under s. 1012.315, or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. Probationary persons subject to this subsection terminated because of their criminal record have the right to appeal such decisions. The cost of the background screening may be borne by the district school board, the charter school, the employee, the contractor, or a person subject to this subsection.

Section 7. Paragraphs (a) and (e) of subsection (1) and subsection (2) of section 1013.62, Florida Statutes, are amended to read:

1013.62 Charter schools capital outlay funding.—

(1) In each year in which funds are appropriated for charter school capital outlay purposes, the Commissioner of Education shall allocate the funds among eligible charter schools.

(a) To be eligible for a funding allocation, a charter school must:

1.a. Have been in operation for 3 or more years;

b. Be governed by a governing board established in the state for 3 or more years which operates both charter schools



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and conversion charter schools within the state;

c. Be an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds;

d. Have been accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or

e. Serve students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s. 1002.33(17)(b) ~~s. 1002.33(15)(b)~~.

2. Have financial stability for future operation as a charter school.

3. Have satisfactory student achievement based on state accountability standards applicable to the charter school.

4. Have received final approval from its sponsor pursuant to s. 1002.33 for operation during that fiscal year.

5. Serve students in facilities that are not provided by the charter school's sponsor.

(e) Unless otherwise provided in the General Appropriations Act, the funding allocation for each eligible charter school is determined by multiplying the school's projected student enrollment by one-fifteenth of the cost-per-student station specified in s. 1013.64(6)(b) for an elementary, middle, or high school, as appropriate. If the funds appropriated are not sufficient, the commissioner shall prorate the available funds among eligible charter schools. However, a charter school or charter lab school may not receive state charter school capital outlay funds greater than the one-fifteenth cost per student station formula if the charter school's combination of state charter school capital outlay funds, capital outlay funds



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calculated through the reduction in the administrative fee provided in s. 1002.33(23) ~~s. 1002.33(20)~~, and capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds the one-fifteenth cost per student station formula.

(2) A charter school's governing body may use charter school capital outlay funds for the following purposes:

(a) Purchase of real property.

(b) Construction of school facilities.

(c) Purchase, lease-purchase, or lease of permanent or relocatable school facilities.

(d) Purchase of vehicles to transport students to and from the charter school.

(e) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.

(f) Effective July 1, 2008, purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements.

(g) Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.

(h) Purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.



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Conversion charter schools may use capital outlay funds received through the reduction in the administrative fee provided in s. 1002.33(23) ~~s. 1002.33(20)~~ for renovation, repair, and maintenance of school facilities that are owned by the sponsor.

(3) When a charter school is nonrenewed or terminated, any unencumbered funds and all equipment and property purchased with district public funds shall revert to the ownership of the district school board, as provided for in s. 1002.33(8)(e) and (f). In the case of a charter lab school, any unencumbered funds and all equipment and property purchased with university public funds shall revert to the ownership of the state university that issued the charter. The reversion of such equipment, property, and furnishings shall focus on recoverable assets, but not on intangible or irrecoverable costs such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with public funds is subject to the complete satisfaction of all lawful liens or encumbrances. If there are additional local issues such as the shared use of facilities or partial ownership of facilities or property, these issues shall be agreed to in the charter contract prior to the expenditure of funds.

Section 8. College-Preparatory Boarding Academy Pilot Program for at-risk students.—

(1) PROGRAM CREATION.—The College-Preparatory Boarding Academy Pilot Program is created for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound. The State



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Board of Education shall implement this program.

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

(a) "Board" means the board of trustees of a college-preparatory boarding academy for at-risk students.

(b) "Eligible student" means a student who is a resident of the state and entitled to attend school in a participating school district, is at risk of academic failure, is currently enrolled in grade 5 or 6, is from a family whose income is below 200 percent of the federal poverty guidelines, and meets at least two of the following additional risk factors:

1. The student has a record of suspensions, office referrals, or chronic truancy.

2. The student has been referred for academic intervention or has not attained at least a proficient score on the state achievement assessment in English and language arts, reading, or mathematics.

3. The student's parent is a single parent.

4. The student does not live with the student's custodial parent.

5. The student has received a referral from a school, teacher, counselor, dependency circuit court judge, or community-based care organization.

6. The student resides in a household that receives a housing voucher or has been determined as eligible for public housing assistance.

7. A member of the student's immediate family has been incarcerated.

8. The student has been declared an adjudicated dependent by a court of competent jurisdiction.



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9. The student meets any additional criteria prescribed by an agreement between the State Board of Education and the operator of a college-preparatory boarding academy.

(c) "Operator" means a private, nonprofit corporation that is selected by the state under subsection (3) to operate a college-preparatory boarding academy for at-risk students.

(d) "Program" means a college-preparatory boarding academy for at-risk students which includes:

1. A remedial curriculum for middle school grades;
2. The college-preparatory curriculum for high school grades;
3. Extracurricular activities, including athletics and cultural events;
4. College admissions counseling;
5. Health and mental health services;
6. Tutoring;
7. Community service and service learning opportunities;
8. A residential student life program;
9. Extended school days and supplemental programs; and
10. Professional services focused on the language arts and reading standards, mathematics standards, science standards, technology standards, and developmental or life skill standards using innovative and best practices for all students.

(e) "Sponsor" means a public school district that acts as sponsor pursuant to s. 1002.33, Florida Statutes.

(3) PROPOSALS.—

(a) The State Board of Education shall select a private, nonprofit corporation to operate a college-preparatory boarding academy for at-risk students which meets all of the following



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qualifications:

1. The nonprofit corporation has, or will receive as a condition of the contract, a public charter school authorized under s. 1002.33, Florida Statutes, to offer grades 6 through 12, or has a partnership with a sponsor to operate a school.

2. The nonprofit corporation has experience operating a school or program similar to that authorized under this section.

3. The nonprofit corporation has demonstrated success with a school or program similar to that authorized under this section.

4. The nonprofit corporation has the capacity to finance and secure private funds for the development of a campus for the program.

(b) Within 60 days after July 1, 2011, the State Board of Education shall issue a request for proposals from private, nonprofit corporations interested in operating a college-preparatory boarding academy for at-risk students. The state board shall select operators from among the qualified responders within 120 days after the issuance of the requests for proposal.

(c) Each proposal must contain the following information:

1. The proposed location of the college-preparatory boarding academy;

2. A plan for offering grade 6 in the program's initial year of operation and a plan for expanding the grade levels offered by the school in subsequent years; and

3. Any other information about the proposed educational program, facilities, or operations of the school as determined necessary by the state board.

(4) CONTRACT.—The State Board of Education shall contract



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with the operator of a college-preparatory boarding academy. The contract must stipulate that:

(a) The academy may operate only if, and to the extent that, it holds a valid charter authorized under s. 1002.33, Florida Statutes, or is authorized by a local school district defined as a sponsor pursuant to s. 1002.33, Florida Statutes.

(b) The operator shall finance and oversee the acquisition of a facility for the academy.

(c) The operator shall operate the academy in accordance with the terms of the proposal accepted by the state board.

(d) The operator shall comply with this section.

(e) The operator shall comply with any other provisions of law specified in the contract, the charter granted by the local school district or the operating agreement with the sponsor, and the rules adopted by the state board for schools operating in this state.

(f) The operator shall comply with the bylaws that it adopts.

(g) The operator shall comply with standards for admission of students to the academy and standards for dismissal of students from the academy which are included in the contract and may be reevaluated and revised by mutual agreement between the operator and the state board.

(h) The operator shall meet the academic goals and other performance standards established by the contract.

(i) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which must at least require that the party seeking termination give prior written notice of the intent to terminate



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2116 the contract and that the party receiving the termination notice
2117 be granted an opportunity to redress any grievances cited
2118 therein.

2119 (j) If the school closes for any reason, the academy's
2120 board of trustees shall execute the closing in a manner
2121 specified in the contract.

2122 (5) OPERATOR BYLAWS.—The operator of a college-preparatory
2123 boarding academy for at-risk students shall adopt bylaws for the
2124 oversight and operation of the academy which are consistent with
2125 this section, the state law, and the contract between the
2126 operator and the State Board of Education. The bylaws must
2127 include procedures for the appointment of board members to the
2128 academy's board of trustees, which may not exceed 25 members, 5
2129 members of which shall be appointed by the Governor with the
2130 advice and consent of the Senate. The bylaws are subject to
2131 approval of the state board.

2132 (6) OUTREACH.—The operator of a college-preparatory
2133 boarding academy shall adopt an outreach program with the local
2134 education agency or school district and community. The outreach
2135 program shall give special attention to the recruitment of
2136 children in the state's foster care program as a dependent child
2137 or as a child in a program to prevent dependency who are
2138 academic underperformers who, if given the unique educational
2139 opportunity found in the program, have the potential to progress
2140 from at-risk children to college-bound children.

2141 (7) FUNDING.—The college-preparatory boarding academy shall
2142 be a public school and part of the state's program of education.
2143 If the program receives state funding from noneducation sources,
2144 the State Board of Education shall coordinate, streamline, and



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2145 simplify any requirements to eliminate duplicate, redundant, or
2146 conflicting requirements and oversight by various governmental
2147 programs or agencies. The applicable regulating entities shall,
2148 to the maximum extent possible, use independent reports and
2149 financial audits provided by the program and coordinated by the
2150 state board to eliminate or reduce contract and administrative
2151 reviews. Additional items may be suggested, if reasonable, to
2152 the state board to be included in independent reports and
2153 financial audits for the purpose of implementing this section.
2154 Reporting paperwork that is prepared for the state and local
2155 education agency shall also be shared with and accepted by other
2156 state and local regulatory entities, to the maximum extent
2157 possible.

2158 (8) PROGRAM CAPACITY.—Beginning August 2012, a college-
2159 preparatory boarding academy shall admit 80 students. In each
2160 additional fiscal year, the program shall grow by an additional
2161 number of students, as specified in the contract, until the
2162 program reaches a capacity of 400 students.

2163 (9) STUDENT SERVICES.—Students enrolled in the program who
2164 have been adjudicated dependent must remain under the case
2165 management services and supervision of the lead agency and its
2166 respective providers. The operator may contract with its own
2167 licensed providers as necessary to provide services to children
2168 in the program and to ensure continuity of the full range of
2169 services required by children in foster care who attend the
2170 academy.

2171 (10) MEDICAID BILLING.—This section does not prohibit an
2172 operator from appropriately billing Medicaid for services
2173 rendered to eligible students through the program or from



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2174 earning federal or local funding for services provided.

2175 (11) ADMISSION.—Any eligible student may apply for
2176 admission to a college-preparatory boarding academy. If more
2177 eligible students apply for admission than the number of
2178 students permitted by the capacity established by the board of
2179 trustees, admission shall be determined by lottery.

2180 (12) STUDENT HOUSING.—Notwithstanding ss. 409.1677(3)(d)
2181 and 409.176, Florida Statutes, or any other provision of law, an
2182 operator may house and educate dependent, at-risk youth in its
2183 residential school for the purpose of facilitating the mission
2184 of the program and encouraging innovative practices.

2185 (13) ANNUAL REPORT.—

2186 (a) The State Board of Education shall issue an annual
2187 report for each college-preparatory boarding academy which
2188 includes all information applicable to schools.

2189 (b) Each college-preparatory boarding academy shall report
2190 to the Department of Education, in the form and manner
2191 prescribed in the contract, the following information:

2192 1. The total number of students enrolled in the academy;
2193 2. The number of students enrolled in the academy who are
2194 receiving special education services pursuant to an individual
2195 education plan; and

2196 3. Any additional information specified in the contract.

2197 (c) The operator shall comply with s. 1002.33, Florida
2198 Statutes, and shall annually assess reading and mathematics
2199 skills. The operator shall provide the student's legal guardians
2200 with sufficient information on whether the student is reading at
2201 grade level and whether the student gains at least a year's
2202 worth of learning for every year spent in the program.



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2203 (14) RULES.—The State Board of Education shall adopt rules
2204 to administer this section. These rules must identify any
2205 existing rules that are applicable to the program and preempt
2206 any other rules that are not specified for the purpose of
2207 clarifying the rules that may be conflicting, redundant, or that
2208 result in an unnecessary burden on the program or the operator.

2209 Section 9. (1) The Office of Program Policy Analysis and
2210 Government Accountability (OPPAGA) shall conduct a study that
2211 compares the funding of charter schools to the funding of
2212 traditional public schools. In conducting this study, OPPAGA
2213 shall:

2214 (a) Identify the school districts that distribute funds
2215 generated by the capital improvement millage authorized pursuant
2216 to s. 1011.71(2), Florida Statutes, to charter schools and the
2217 use of such funds by the charter schools.

2218 (b) Determine the amount of funds that would be available
2219 to charter schools if school districts equitably distribute to
2220 district schools, including charter schools, the funds generated
2221 by the capital improvement millage authorized pursuant to s.
2222 1011.71(2), Florida Statutes.

2223 (c) Examine the costs associated with supervising charter
2224 schools and determine whether the 5 percent administrative fee
2225 for administrative and educational services for charter schools
2226 covers the costs associated with the provision of the services.

2227 (d) Examine the distribution of IDEA funds.

2228 (2) OPPAGA shall make recommendations, if warranted, for
2229 improving the accountability and equity of the funding system
2230 for charter schools based on the findings of the study. The
2231 results of the study shall be submitted to the Governor, the



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2232 President of the Senate, and the Speaker of the House of
2233 Representatives by January 1, 2012.

2234 Section 10. If any provision of this act or its application
2235 to any person or circumstance is held invalid, the invalidity
2236 does not affect other provisions or applications of the act
2237 which can be given effect without the invalid provision or
2238 application, and to this end the provisions of this act are
2239 severable.

2240 Section 11. This act shall take effect July 1, 2011.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 336
and insert:
upon the promise of future payment of any kind. Before approving or denying any application, the sponsor shall allow the applicant at least 7 calendar days to make technical or nonsubstantive corrections and clarifications, including, but not limited to, grammatical, typographical, and like errors or missing signatures, if such errors are identified by the sponsor as cause to deny the application.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1546

INTRODUCER: Senator Thrasher

SUBJECT: Charter Schools

DATE: March 21, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.			HE	
3.			BEA	
4.				
5.				
6.				

I. Summary:

Authority is expanded for state universities and state colleges to approve charter schools. University- and community college-approved charter schools, other than lab schools, would enter into charter contracts with the local school district. This bill also increases grade levels available to community colleges to develop charter schools with school districts, from secondary schools, to kindergarten through grade 12 programs.

The Charter School Appeal Commission and the Charter School Review Panel are abolished, and a substitute appeal process is provided through the creation of the Charter School Review and Appeals Panel (Panel). As in current law, the State Board of Education (Board) decision to approve or deny an application is not subject to the administrative process and represents final action, with judicial review in the district court of appeal. The process for charter school non-renewals and terminations, however, adds administrative review, at the option of the school, which would then result in a final order issued by the sponsor and subject to judicial review.

This bill establishes the designation of “high performing charter schools”, provides qualifications and outlines benefits. High performing charter school systems are also created.

Greater flexibility for charter schools-in-the-workplace is provided.

The bill removes the requirement of a charter school to provide transportation for its students.

This bill establishes the College Preparatory Boarding Academy Pilot Program to serve at-risk students.

OPPAGA is required to compare charter school with traditional school funding, and recommend improvements to accountability and equity.

This bill substantially amends sections 163.3180, 196.1983, 1002.32, 1002.33, 1002.34, 1002.345, 1011.68, 1012.32, and 1013.62 of the Florida Statutes. The bill creates one undesignated section of law.

II. Present Situation:

Approved Sponsors of Charter Schools

Local school districts may approve and sponsor charter schools and universities may sponsor charter lab schools.¹ However, current law limits the number of charter lab schools eligible for state funding that may be authorized to one per university, except for certain charter lab schools authorized prior to June 1, 2003.² Additionally, community colleges may work with local school districts to develop charter schools but are limited to approval of secondary programs.³

Process for Appeal of Application Denials and Nonrenewal or Termination of a Charter

No later than 30 calendar days after receipt of a denial, the applicant may appeal the decision to the State Board of Education (Board), with notice to the sponsor. Upon receipt of notice of the appeal from the Board, the Commissioner of Education (COE) is required to convene a meeting of the Charter School Appeal Commission to make recommendations to the Board about the appeal. The Board must decide no more than 90 calendar days after the appeal is filed, and the sponsor is bound by the decision. The Board's decision is not subject to the ch. 120, F.S., administrative process, and represents, instead, final action, subject to judicial review in the appropriate district court of appeal.⁴

Besides issuing recommendations in applicant appeal cases, the Charter School Appeal Commission assists the COE and the Board in non-renewal and termination cases.⁵ In addition to other grounds, a sponsor may non-renew, or terminate a charter for failure to meet generally accepted standards of fiscal management.⁶ At least 90 days before renewing or terminating a charter, the sponsor must provide written notification and notice that the school may request an informal hearing, to be held by the sponsor within 30 days of request receipt. The applicant is authorized to then follow the appellate process established for denials of new applicants.

Charter School Training

The Department of Education (DOE) is required to offer or arrange for training and technical assistance to charter school applicants in business development, expenses and income. Charter school applicants are required to participate in training, either at the DOE or through a qualifying sponsor program.⁷

¹ s. 1002.33(5), F.S.

² s. 1002.32(2), F.S. The previously authorized charter schools are Florida State University Charter Lab K-12 School in Broward County, Florida Atlantic University (FAU) Charter Lab 9-12 High School in Palm Beach County, and FAU Charter Lab K-12 School in St. Lucie County.

³ s. 1002.33(5)(b)4., F.S.

⁴ s. 1002.33(6)(c), F.S.

⁵ s. 1002.33(6)(e), F.S.

⁶ s. 1002.33(8)(a)2., F.S.

⁷ s. 1002.33(6)(f)2., F.S.

Term of Operation for Charter Schools

The initial term of a charter is 4 to 5 years. Charter schools operated by a municipality, charter lab schools, and charters operating under a private not-for-profit s. 501(c)(3) corporation are eligible for an initial term of up to 15 years.⁸

Charter School Review Panel

The DOE staffs and convenes a Charter School Review Panel to review charter school issues, practices and policies, for the purpose of making recommendations to the Legislature, the DOE, charter schools and school districts for improving operations and oversight.⁹

III. Effect of Proposed Changes:**Additional Authorizers of Charter Schools**

This bill authorizes state universities and state colleges to approve charter schools that are not lab schools. University- and community college-approved charter schools, other than lab schools, must enter into a charter contract with the local school district. However, the bill does not explicitly repeal the cap in s. 1002.32(2), F.S. Accordingly, it is unclear whether the additional schools authorized by a state university would be eligible for state funding. Additionally, it is unclear who the sponsor of a charter school is in the situation when the university or state college approves the charter school.

The bill limits the authority of community colleges that may authorize additional charter schools to state colleges. It is unclear why community colleges should not also have the same authority to approve new charter schools as a state college.

This bill expands authority granted to community colleges to develop charter schools with school districts from secondary schools to students from kindergarten through grade 12. While the original restriction in law may have been designed to prevent community college mission creep, the bill contemplates that community colleges could run effective K-12 charter schools.

The Charter School Review and Appeals Panel (Panel)

The bill abolishes the Charter School Appeal Commission and the Charter School Review Panel and creates an entity that merges the functions of the two entities. The new Charter School Review and Appeals Panel (Panel) is established to make recommendations on appeals from charter schools applicants. Additionally, the Panel would hear appeals of a sponsor's decision to terminate or non-renew an existing charter. The recommendation of the Panel is not binding on the State Board of Education (Board). The Board's decision is not subject to chapter 120, F.S., and represents final action, with judicial review in the appropriate district court of appeal.

The Panel membership is revised to consist of member-appointments by the Senate President, House Speaker, Governor and the Commissioner of Education (COE) (in contrast to the existing structure of the Appeal Commission, which is appointed by the COE.)

⁸ s. 1002.33(7)(a)12., F.S.

⁹ s. 1002.33(22), F.S.

This bill adds administrative hearings, and ch. 120, F.S., process, to the non-renewals and termination process, at the charter school governing body's request. If requested, an administrative law judge will issue a recommended order, and the sponsor shall issue a final order. The order is then appealable to the appropriate district court of appeal. As in current law, the sponsor must assume operation of the school following an immediate termination of the charter. However, the bill adds that the sponsor is not obligated to assume operation of the school if the continued operation of the school would materially threaten the physical health, safety, or welfare of the students. Conversely, the bill authorizes attorney's fees and costs to the charter school if the sponsor fails to assume operation of the school and the charter school prevails on appeal.

High Performing Charter Schools and High Performing Charter School Systems

This bill establishes the designation of "high performing charter schools" provided that the following minimum standards exist and are maintained:

- For the last three years the school received an "A" or "B" school grade, received an unqualified opinion on each financial audit, and did not receive a financial audit that revealed a condition warranting a determination of financial emergency, except for charter schools-in-the-workplace, if the audit finds that money is available to cover the deficiency or it does not result in a deteriorating financial condition; and
- The school has operated for less than three years as part of a high performing charter school system. These schools are eligible for capital outlay funds in their first year without having to comply with statutory requirements operating and being governed by a board in-state at least three years, holding SACs accreditation, having financial stability, and other factors. Additionally, it appears that these schools would have immediate high-performing status.

Benefits available to high performing charter schools include flexibility to annually increase student enrollment by up to 25 percent above the authorized cap, add grade levels, offer voluntary prekindergarten, and be eligible for 15-year renewals. The initial term of other types of charters is fixed at five years. The bill does not reference the statutory requirement that charter school meet the class size requirements at the school level.¹⁰

Other benefits to high-performing schools are that they have to comply with training once and submit quarterly financial statements rather than the current monthly filing requirements for charter schools.

This bill establishes "high-performing charter school system" with the following attributes:

- Operates at least three high-performing charter schools in the state;
- Has received, among schools, a minimum average "B" grade during the last three years for all schools started by the system;
- Has not had a school with financial emergency status; and

¹⁰ s. 1002.33(16)(b)3., F.S.

- Has not had a school with an “F” grade for the last two years for any school that the system started.

While under the designation of a high-performing charter school system, the system is authorized to create new charter schools in any district in the state which substantially replicates one or more of the provider’s existing high-performing schools. A local school district is limited in its ability to deny these applications only if good cause is shown that the operator failed to meet specific statutory requirements, which are that it be nonsectarian; admit students under general statutory eligibility requirements; be accountable to its sponsor for performance; not charge tuition or fees; and comply with health, safety, civil rights law and antidiscrimination provisions. Financial conditions are not addressed. Initial charters run for a term of 15 years, with the first three years constituting the status of high-performing. This status makes the school immediately eligible for capital outlay funding.

It may be challenging for local school boards, the Department of Education and the Auditor General to keep pace with the changing status of a school or system that becomes high-performing and loses that status, regarding the accompanying change in requirements. For example, it is unclear what would happen to projects partially started with capital outlay funding for a new school that loses high-performing status in its first three years of operation. This is also the case for schools that don’t start as high-performing but accrue that status.

Other Charter Provisions

This bill expands enrollment preference for students associated with certain charter schools. Specifically, employees of a business partner or residents of a municipality for a charter school-in-the-workplace and residents of a municipality that operate a charter school-in-a-municipality

This bill expands the current prohibition on requiring resignations from teachers desiring to teach in charter schools to instructional personnel, school administrators and educational support employees. Sponsors are prohibited from requiring charter school governing board members to reside in the district, and must allow management to represent the charter school on the governing board if approved pursuant to the school’s governing documents.

This bill provides greater flexibility for formation of charter schools-in-the-workplace.

Regarding concurrency, this bill specifies that charter school facilities are exempt from all concurrency and other impact fees. Developers who donate land or other facilities are eligible for impact fee and concurrency credits.

This bill requires sponsors to provide transportation and lunch services to charter schools at-cost. Charter schools may not be required to provide transportation for students who live more than 4 miles away and would no longer be required to provide transportation in some circumstances. This provision may represent an indeterminate fiscal savings to charter schools but may have an effect on charter school enrollment by students with free or reduced price lunch status.

College Preparatory Boarding Academy Program

This bill establishes the College Preparatory Boarding Academy Pilot Program, a private nonprofit, to serve at-risk students through a residential remedial curriculum for middle through

high school students. Eligible students are students in the 5th or 6th grade, with family income at less than 200 percent of federal poverty guidelines, and have two of the following:

- A record of suspensions, office referrals, or chronic truancy;
- Referrals for academic intervention or a failure to achieve a proficient score on state assessments;
- The student's parent is a single parent;
- The student does not live with the custodial parent;
- The student received a referral from a school, teacher, counselor, dependency court circuit judge, or community-based care organization;
- The student's family receives a housing voucher or is public housing assistance-eligible;
- A member of the student's immediate family has been incarcerated;
- The student has been adjudicated dependent; or
- The student meets additional criteria established by the State Board of Education and the program operator.

The State Board of Education selects the private operator in consideration of the following:

- The entity will receive a public charter school for grades 6 through 12 or has a partnership with a sponsor to offer a school;
- The entity has success in operating a similar school; and
- The entity has the ability to finance and secure private funds for campus development.

This bill outlines the process for State Board of Education approval and contract terms and limitations, including an initial approved capacity of 80 students with a final cap of 400 students. Medicaid is authorized.

Office of Program Policy Analysis and Government Accountability (OPPAGA)

OPPAGA is required to conduct a study that compares charter school, with traditional public school, funding, with specific focus on capital improvement millage and the five percent administrative fee, and contains recommendations for improving accountability and equity.

It is unclear how FTEs will be accounted for regarding students who intend to enroll in charter schools out-of-district.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The provisions that authorize high-performing charter systems to replicate charter schools in school districts under a more limited good cause rebuttal, along with the provision that requires the State Board of Education to impose a model contract on a school district and charter school that fail to agree on a contract, may be challenged under Article IX, section 4 of the state constitution, which provides for district school boards to operate, control and supervise all public schools in the district. The 2006 Florida Legislature established the Florida Schools of Excellence Commission (Commission) as a state-level, independent entity with the purpose of authorizing, or denying, charter school applications.¹¹ The First District Court of Appeal struck down the provision which created the Commission as facially unconstitutional.¹² In so doing, the court ruled it violative of the school district's constitutional domain over the operation, control and supervision of all schools within the district.¹³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Charter schools and charter operators designated as high-performing may enjoy a competitive advantage over those that are not due to their performance. Schools that are newly opened under the auspices of a high-performing charter school system will benefit from immediate capital outlay funding, rather than others that are required to wait three years.

The transportation revisions could have an effect on charter school enrollments.

C. Government Sector Impact:

The creation of the College-Preparatory Boarding Academy Pilot Program may have a fiscal effect, as the academy would be part of the state's public funding program. The impact is indeterminate at this time. The academy would admit students beginning in August 2012, with an initial enrollment of 80 students. The academy would grow up to a maximum capacity of 400 students. Proponents of the academy indicate that there would not be a fiscal impact in 2011-2012, an anticipated fiscal of approximately \$2 million, and \$10 million recurring in future years.¹⁴ Academy proponents have identified federal

¹¹ ch. 2006-302, L.O.F.; s. 1002.335, F.S.

¹² *Duval County School Board v State Board of Education*, 998 So.2d 641 (1st DCA 2008).

¹³ *Id.* at 643.

¹⁴ Email correspondence from Don Winstead, on March 21, 2011, on file with the committee.

funds such as Temporary Assistance for Needy Families (TANF), Social Services Block Grant (SSBG), and other social services funds to meet the fiscal needs.

The requirement for sponsors to provide student transportation and lunches at-cost, if requested, may adversely impact district school board sponsors who currently charge a fee for these services.

The transportation revisions could have a positive fiscal impact on charter schools.

VI. Technical Deficiencies:

While merging the Charter School Appeal Commission and Charter School Review Panel functions into the new Charter School Review and Appeals Panel (Panel), the bill inadvertently retains references to the Commissioner's role in convening the Panel, has duplicative efforts in providing notice of the Panel's recommendation to the State Board of Education, and other technical glitches.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: PCS/SB 1546

INTRODUCER: Committee on Education Pre-K - 12 and Senator Thrasher

SUBJECT: Charter Schools

DATE: March 29, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Pre-meeting
2.			HE	
3.			BC	
4.				
5.				
6.				

I. Summary:

In addition to current authority granted to state universities to approve lab schools, this bill authorizes state universities and Florida college system institutions to approve other charter schools. These schools would enter into charter contracts with the local school district.

This bill clarifies that schools developed by state universities and Florida college system institutions are exempt from statutory contract provisions. This bill also increases grade levels available to community colleges to develop charter schools with school districts, from secondary schools, to kindergarten through grade 12 programs.

Clarification is provided that charter school training requirements apply to applicants who are approved, and that training must take place at least 30 days before the first day of school.

This bill adds compliance with the ch. 120, F.S., administrative process, to the appeals process in nonrenewal and termination appeals cases.

Attorney's fees and costs against the district are assessed when an appellant prevails in situations where:

- A sponsor immediately terminates a school and does not assume continuing operation pending appeal; or
- A high-performing applicant, applying under the authority of a high-performing charter school system is denied approval.

This bill establishes the designation of “high performing charter schools”, provides qualifications and outlines benefits. High performing charter school systems are also created.

Sanctions against a district are authorized pursuant to s. 1008.32(4), F.S., where the State Board of Education finds a pattern of unlawfully denying high-performing applications.

Greater flexibility for charter schools-in-the-workplace is provided.

The Charter School Review Panel is abolished.

This bill establishes the College Preparatory Boarding Academy Pilot Program to serve at-risk students.

This bill creates authority for blended-learning charter schools in law.

OPPAGA is required to compare charter school with traditional school funding, specifically regarding capital improvement millage distribution and the administrative fee.

This bill substantially amends sections 163.3180, 1002.32, 1002.33, 1002.34, 1011.68, 1012.32, and 1013.62 of the Florida Statutes. The bill creates one undesignated section of law.

II. Present Situation:

Approved Sponsors of Charter Schools

Local school districts may approve and sponsor charter schools and universities may sponsor charter lab schools.¹ However, current law limits the number of charter lab schools eligible for state funding that may be authorized to one per university, except for certain charter lab schools authorized prior to June 1, 2003.² Additionally, community colleges may work with local school districts to develop charter schools but are limited to approval of secondary programs.³

Process for Appeal of Application Denials and Nonrenewal or Termination of a Charter

No later than 30 calendar days after receipt of a denial, the applicant may appeal the decision to the State Board of Education (Board), with notice to the sponsor. Upon receipt of notice of the appeal from the Board, the Commissioner of Education (COE) is required to convene a meeting of the Charter School Appeal Commission to make recommendations to the Board about the appeal. The Board must decide no more than 90 calendar days after the appeal is filed, and the sponsor is bound by the decision. The Board’s decision is not subject to the ch. 120, F.S., administrative process, and represents, instead, final action, subject to judicial review in the appropriate district court of appeal.⁴

¹ s. 1002.33(5), F.S.

² s. 1002.32(2), F.S. The previously authorized charter schools are Florida State University Charter Lab K-12 School in Broward County, Florida Atlantic University (FAU) Charter Lab 9-12 High School in Palm Beach County, and FAU Charter Lab K-12 School in St. Lucie County.

³ s. 1002.33(5)(b)4., F.S.

⁴ s. 1002.33(6)(c), F.S.

Besides issuing recommendations in applicant appeal cases, the Charter School Appeal Commission assists the COE and the Board in non-renewal and termination cases.⁵ In addition to other grounds, a sponsor may non-renew, or terminate a charter for failure to meet generally accepted standards of fiscal management.⁶ At least 90 days before renewing or terminating a charter, the sponsor must provide written notification and notice that the school may request an informal hearing, to be held by the sponsor within 30 days of request receipt. The applicant is authorized to then follow the appellate process established for denials of new applicants.

Charter School Training

The Department of Education (DOE) is required to offer or arrange for training and technical assistance to charter school applicants in business development, expenses and income. Charter school applicants are required to participate in training, either at the DOE or through a qualifying sponsor program.⁷

Term of Operation for Charter Schools

The initial term of a charter is 4 to 5 years. Charter schools operated by a municipality, charter lab schools, and charters operating under a private not-for-profit s. 501(c)(3) corporation are eligible for an initial term of up to 15 years.⁸

Charter School Review Panel

The DOE staffs and convenes a Charter School Review Panel to review charter school issues, practices and policies, for the purpose of making recommendations to the Legislature, the DOE, charter schools and school districts for improving operations and oversight.⁹

State Board of Education Oversight Authority

The State Board of Education (Board) has specific statutory oversight authority in the area of district school board performance. Upon determining that a district school board has failed to comply with law or rule, the Board has available the following sanctions:

- Report to the Legislature that the school district is unwilling or unable to comply with law or state board rule and recommend that the Legislature take action;
- Reduce the discretionary lottery appropriation until the school district is in compliance;
- Withhold the transfer of state funds, discretionary grant funds, or other funds specified as eligible for this purpose by the Legislature until in compliance;
- Declare the school district ineligible to receive competitive grants; and
- Require monthly or periodic reporting on progress related to noncompliance until corrected.¹⁰

⁵ s. 1002.33(6)(e), F.S.

⁶ s. 1002.33(8)(a)2., F.S.

⁷ s. 1002.33(6)(f)2., F.S.

⁸ s. 1002.33(7)(a)12., F.S.

⁹ s. 1002.33(22), F.S.

¹⁰ s. 1008.32(4), F.S.

III. Effect of Proposed Changes:

Additional Authorizers of Charter Schools

This bill authorizes state universities and Florida college system institutions to approve charter schools. Schools approved in this manner must enter into a charter contract with the local school district. This bill distinguishes these schools from those for which the state universities and Florida college system institutions assume sponsorship, which are exempt from traditional charter school contract requirements, such as inclusion of a mission, students to be served, methods to achieve a representative racial and ethnic balance, incoming student achievement baseline and accountability information, and a financial management plan.

The bill does not explicitly repeal the cap in s. 1002.32(2), F.S., that was included for the purpose of clarifying state funding. Accordingly, a state university may be precluded from sponsoring multiple lab schools. Additionally, it is unclear who the sponsor of a charter school is in the situation when the university or state college approves the charter school, although it appears that it would be the local school district.

This bill expands authority granted to community colleges from current approval for secondary level charter schools to authorization of grades kindergarten through grade 12. While the original restriction in law may have been designed to prevent community college mission creep, the bill contemplates that community colleges and Florida college system schools could run effective K-12 charter schools.

Appeals Process for Non-renewals and Terminations of Charter Schools

The 90-day requirement for written notice of renewal or termination of a charter is deleted and sponsors would just be required to provide written notice at any time before the event. This bill replaces the current informal hearing process before the sponsor with an option by the charter school to select a hearing before an administrative law judge in accordance with chapter 120, F.S., to resolve disputed issues of fact. Appeals follow the same procedure as that for appeals in applicant denial cases, so that the case is appealed to the State Board of Education (Board), which then convenes the Charter School Appeals Commission for a recommendation to be made to the Board. The Board's final decision is not subject to review under ch. 120, F.S.

Regarding appeals of immediate termination cases, this bill creates an option for the charter school to request a hearing through the sponsor, as agency, pursuant to s. 120.569, F.S., at which an administrative law judge would preside in instances where material facts are in dispute. The hearing is expedited and the final order must be issued within 45 days after the date of hearing is requested. The sponsor issues the final order. Appeals of that decision follow current law and the same process as for initial denial of charter school application cases and regular termination cases. This bill requires the sponsor to assume and continue operation of the school pending appeal unless student health, safety, or welfare would be threatened. However, if a sponsor does not continue operation and a charter school prevails on appeal, the sponsor is liable for attorney's fees and costs.

High Performing Charter Schools and High Performing Charter School Systems

This bill establishes the designation of "high performing charter schools" provided that the following minimum standards exist and are maintained:

- For the last three years the school received an “A” or “B” school grade, received an unqualified opinion on each financial audit, and did not receive a financial audit that revealed a condition warranting a determination of financial emergency, except for charter schools-in-the-workplace, if the audit finds that money is available to cover the deficiency or it does not result in a deteriorating financial condition; and
- The school has operated for less than three years as part of a high performing charter school system. These schools are eligible for capital outlay funds in their first year without having to comply with statutory requirements operating and being governed by a board in-state at least three years, holding SACs accreditation, having financial stability, and other factors. Additionally, it appears that these schools would have immediate high-performing status.

Benefits available to high performing charter schools in compliance with class size include flexibility to annually increase student enrollment by up to 25 percent above the authorized cap (as determined by the governing board), add grade levels, and offer voluntary prekindergarten. These schools are also eligible for 15-year renewals. The initial term of other types of charters is fixed at five years.

Other benefits to high-performing schools are that they have to comply with training once and submit quarterly financial statements rather than the current monthly filing requirements for charter schools.

This bill establishes “high-performing charter school system” with the following attributes:

- Operates at least three high-performing charter schools in the state;
- Has received, among schools, a minimum average “B” grade during the last three years for all schools started by the system;
- Has not had a school with financial emergency status; and
- Has not had a school with an “F” grade for the last two years for any school that the system started, and has not had a school grade of “F” for 3 out of 5 years for a school that the system took over.

A system can be organized as a municipality or other public entity authorized to operate charter schools, a private, not-for-profit s. 501(c)(3) corporation, or a private for-profit corporation.

While under the designation of a high-performing charter school system, the system is authorized to create new charter schools in any district in the state which substantially replicates one or more of the provider’s existing high-performing schools. A local school district is limited in its ability to deny these applications only if good cause is shown that the operator failed to meet charter school statutory requirements, which include financial requirements. A sponsor is liable for attorney’s fees and costs if an applicant prevails upon appeal. District school boards may also be subject to s. 1008.32(4), F.S., sanctions to be determined by the State Board of Education if the Board finds that a pattern exists of unlawful denials to a system to replicate schools.

Initial charters run for a term of 15 years, with the first three years constituting the status of high-performing. This status makes the school immediately eligible for capital outlay funding.

It may be challenging for local school boards, the Department of Education and the Auditor General to keep pace with the changing status of a school or system that becomes high-performing and loses that status, regarding the accompanying change in requirements. For example, it is unclear what would happen to projects partially started with capital outlay funding for a new school that loses high-performing status in its first three years of operation. This is also the case for schools that don't start as high-performing but accrue that status.

Blended-learning Charter Schools

This bill introduces the concept of a “blended-learning charter school” as a school that combines traditional classroom instruction with online offerings. The schools bypass the approved provider process in place for the school district virtual instruction program. Classroom courses are funded through the FEFP.

Other Charter Provisions

In requiring training participation at least 30 days before school starts, this bill clarifies that the training provisions only apply to applicants who are approved, and are not, therefore, a condition of approval.

This bill provides greater flexibility for qualifying enrollment for charter-schools-in-a-municipality or for charter schools-in-the-workplace.

This bill expands the current prohibition on requiring resignations from teachers desiring to teach in charter schools, to instructional personnel, school administrators and educational support employees.

Sponsors are prohibited from requiring charter school governing board members to reside in the district, and must allow management to represent the charter school on the governing board if approved pursuant to the school's governing documents.

The Charter School Review Panel is abolished.

College Preparatory Boarding Academy Program

This bill establishes the College Preparatory Boarding Academy Pilot Program, a private nonprofit, to serve at-risk students through a residential remedial curriculum for middle through high school students. Eligible students are students in the 5th or 6th grade, with family income at less than 200 percent of federal poverty guidelines, and who have two of the following:

- A record of suspensions, office referrals, or chronic truancy;
- Referrals for academic intervention or a failure to achieve a proficient score on state assessments;
- The student's parent is a single parent;
- The student does not live with the custodial parent;
- The student received a referral from a school, teacher, counselor, dependency court circuit judge, or community-based care organization;
- The student's family receives a housing voucher or is public housing assistance-eligible;

- A member of the student's immediate family has been incarcerated;
- The student has been adjudicated dependent; or
- The student meets additional criteria established by the State Board of Education and the program operator.

The State Board of Education selects the private operator in consideration of the following:

- The entity will receive a public charter school for grades 6 through 12 or partners with a sponsor who will operate the school;
- The entity has success in operating a similar school; and
- The entity has the ability to finance and secure private funds for campus development.

The process is provided for State Board of Education approval and contract terms and limitations, including an initial approved capacity of 80 students with a final cap of 400 students. This bill clarifies that Medicaid billing is authorized.

This bill clarifies that the academy is a public school that is part of the state's program of education, but is also eligible for private funding. State reporting requirements are provided.

Office of Program Policy Analysis and Government Accountability (OPPAGA)

OPPAGA is required to conduct a study that compares charter school, with traditional public school, funding, with special focus on capital improvement millage and the actual cost of services provided through the five percent administrative fee. This bill requires OPPAGA to assess the amount of funds available to charter schools if districts equitably distribute capital improvement millage to all schools, including charter schools. It is unclear what is meant by equitable distribution.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The provisions that expand authorization to state universities may be challenged under Article IX, section 4 of the state constitution, which provides for district school boards to operate, control and supervise all public schools in the district. The 2006 Florida Legislature established the Florida Schools of Excellence Commission (Commission) as a state-level, independent entity with the purpose of authorizing, or denying, charter school

applications.¹¹ The First District Court of Appeal struck down the provision which created the Commission as facially unconstitutional.¹² In so doing, the court ruled it violative of the school district's constitutional domain over the operation, control and supervision of all schools within the district.¹³

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Charter schools and charter operators designated as high-performing may enjoy a competitive advantage over those that are not due to their performance. Schools that are newly opened under the auspices of a high-performing charter school system will benefit from immediate capital outlay funding, rather than others that are required to wait three years.

C. Government Sector Impact:

The creation of the College-Preparatory Boarding Academy Pilot Program may have a fiscal effect, as the academy would be part of the state's public funding program. The impact is indeterminate at this time. The academy would admit students beginning in August 2012, with an initial enrollment of 80 students. The academy would grow to a maximum capacity of 400 students. Proponents of the academy indicate that there would not be a fiscal impact in 2011-2012, an anticipated fiscal of approximately \$2 million in 2012-2013, and \$10 million recurring in future years.¹⁴ Academy proponents have identified federal funds such as Temporary Assistance for Needy Families (TANF), Social Services Block Grant (SSBG), and other social services funds to meet the fiscal needs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹¹ ch. 2006-302, L.O.F.; s. 1002.335, F.S.

¹² *Duval County School Board v State Board of Education*, 998 So.2d 641 (1st DCA 2008).

¹³ *Id.* at 643.

¹⁴ Email correspondence from Don Winstead, on March 21, 2011, on file with the committee.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



148948

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete lines 52 - 93

and insert:

there are at least 30 consecutive minutes per day.

(4) Each district school board shall provide 150 minutes of physical education instruction each week for students in grade 6 who are enrolled in a school that contains one or more elementary grades so that on any day during which physical education instruction is conducted there are at least 30 consecutive minutes per day.

(5) Beginning with the 2009-2010 school year, the



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equivalent of one class period per day of physical education for one semester of each year is required for students enrolled in grades 6 through 8. Students enrolled in such instruction shall be reported through the periodic student membership surveys, and records of such enrollment shall be audited pursuant to s.

1010.305. Such instruction may be provided by any instructional personnel as defined in s. 1012.01(2), regardless of certification, who are designated by the school principal.

(6) (4) The requirement in subsection (5) (3) shall be waived for a period of one semester each year for a student who meets one of the following criteria:

(a) The student is enrolled or required to enroll in a remedial course.

(b) The student's parent indicates in writing to the school principal, and the principal or the principal's designee verifies, that:

1. The parent requests that the student enroll, and the student subsequently enrolls, in another course offered by the school district that poses a scheduling conflict with the physical education course ~~from among those courses offered as options by the school district;~~ or

2. The student is participating in physical activities outside the school day which are equal to or in excess of the mandated requirement.

(c) The student submits to the school's principal or the principal's designee a note from a physician licensed under chapter 458 or chapter 459 that specifies the health reasons as to why the student should not participate in physical education.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 3 - 15

and insert:

public schools; amending s. 1003.455, F.S.; providing
that a student

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1320

INTRODUCER: Senators Wise, Storms, and Sobel

SUBJECT: Physical Education Instruction in Public Schools

DATE: March 28, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Harkey	Matthews	ED	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill would require all physical education instruction in grades K-8 to be provided by a certified physical education teacher. The requirement would be phased in over a 5-year period beginning with the 2012-2013 school year and concluding with the 2106-2017 school year.

The current authorization for elementary and middle school students to receive a waiver from the required physical education instruction is revised to remove the possibility of a statutory waiver for elementary students. The authorization for a middle school student to opt out of physical education for a period of one semester each year would:

- Require a parent's written statement to say that the student is enrolled in another course provided by the school district and that the student is participating in physical activities outside the school day; and
- Require a certified physical education instructor to review the documentation of the student's physical activities outside the school.

This bill amends s. 1003.455, Florida Statutes.

II. Present Situation:

Childhood Obesity

According to the U.S. Centers for Disease Control (CDC), the prevalence of obesity in children ages 6 to 11 years increased from 6.5 percent in 1980 to 19.6 percent in 2008. For children ages 12 to 19, the prevalence of obesity increased from 5.0 percent to 18.1 percent in the same

period.¹ The factors that can increase an individual's tendency to develop extra body weight include genetics, diet, and lack of physical activity.² According to the U.S. Department of Health, "Being overweight during childhood and adolescence increases the risk of developing high cholesterol, hypertension, respiratory ailments, orthopedic problems, depression and type 2 diabetes as a youth."³ One of the factors in childhood obesity, lack of physical activity, is addressed by Florida's statutory requirements for physical education in elementary and middle school.

Required Physical Education Instruction in Elementary and Middle Schools

Each district school board is required to provide 150 minutes of physical education for students in kindergarten through grade 5 and for students in grade 6 who are enrolled in a school that contains one or more elementary grades, so that on any day during which physical education instructions is conducted, there are at least 30 consecutive minutes per day.⁴ The equivalent of one class period per day of physical education for one semester of each year is required for students enrolled in grades 6 through 8. The instruction in physical education may be delivered by any instructional personnel as defined in s. 1012.01(2), F.S., regardless of certification, who are designated by the school principal.⁵

The requirements for physical education in elementary and middle school must be waived for a student who meets one of the following criteria:

- The student is enrolled or required to enroll in a remedial course;
- The parent requests in writing that the student enrolls in another course from among those courses offered as options by the school district; or
- The student's parent indicates in writing to the school that the student is participating in physical activities outside the school day which are equal to or in excess of the mandated requirement.⁶

According to data from fall 2010 from the Department of Education (DOE), over 99.5 percent of students in grades K-5 are enrolled in physical education. Statewide, the average minutes per week of physical education received by students in grades K-5 exceeds the minimum requirement of 150 minutes, ranging from 174 minutes in kindergarten to 172 minutes in grades 3, 4 and 5.

The fall 2010 DOE survey for grades 6-8 shows that 60 to 64 percent of the students are enrolled in physical education. Statewide, the average minutes per week of physical education received by students enrolled in grades 6-8 ranges from 217 minutes in grade 8 to 227 minutes in grade 6.

¹ U.S. Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, "childhood Obesity." Readable at: <http://www.cdc.gov/healthyyouth/obesity/>

² U.S. Centers for Disease Control and Prevention, "Overweight and Obesity." Readable at: http://aspe.hhs.gov/health/reports/child_obesity/

³ U.S. Department of Health and Human Services Assistant Secretary for Planning and Evaluation, "Childhood Obesity." Readable at: http://aspe.hhs.gov/health/reports/child_obesity/

⁴ s. 1003.455(3), F.S.

⁵ *Id.*

⁶ s. 1003.455(4), F.S.

The total number of teachers teaching physical education in elementary and middle schools is 46,400. Of those, 2,917 are certified in physical education.

III. Effect of Proposed Changes:

This bill would require all physical education instruction in grades K-8 to be provided by a certified physical education teacher. The requirement would be phased in over a 5-year period beginning with the 2012-2013 school year and concluding with the 2106-2017 school year.

The current authorization for elementary and middle school students to receive a waiver from the required physical education instruction is revised to remove the possibility of a statutory waiver for elementary students. The bill revises the authorization for a middle school student to receive a waiver from physical education requirements by:

- Limiting the waiver to a period of one semester each year;
- Requiring a parent's written statement to say that the student is enrolled in another course provided by the school district and that the student is participating in physical activities outside the school day; and
- Requiring a certified physical education instructor to review the documentation of the student's physical activities outside the school.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DOE, 1,573,983 students in grades K-8 receive physical education instruction. An additional 2,330 certified physical education teachers would be needed to meet the bill's requirement for all required physical education instruction to be provided

by certified physical education teachers. Assuming an average salary of \$46,700, the cost for the additional staff required by the bill would be \$108,811,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Education Pre-
K - 12

A bill to be entitled
An act relating to public school accountability;
amending s. 1001.20, F.S.; deleting a provision that
requires the Florida Virtual School to be
administratively housed within the Office of
Technology and Information Services within the
Department of Education; amending s. 1001.42, F.S.;
revising the powers and duties of district school
boards to require that students be provided with
access to Florida Virtual School courses; creating s.
1001.421, F.S.; prohibiting district school board
members from accepting gifts from vendors; amending s.
1002.37, F.S.; conforming provisions to changes made
by the act; amending s. 1002.38, F.S.; revising
provisions relating to the Opportunity Scholarship
Program to require that school grades for all schools
be based on statewide assessments; amending s.
1002.39, F.S.; providing that when a student who is
receiving the John M. McKay Scholarship enrolls in a
public school or public school program, the term of
the student's scholarship ends; providing an exception
for students who enter a Department of Juvenile
Justice detention center for a period of no more than
21 days; amending s. 1002.45, F.S.; revising
qualification requirements for virtual instruction
program providers; providing that an approved provider
retain its approved status for 3 school years after



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approval; amending s. 1002.67, F.S.; requiring that the State Board of Education periodically review and revise the performance standards for the statewide kindergarten screening and align the standards to the performance standards for statewide assessments; requiring that a private prekindergarten provider or public school be placed on probation immediately after failing to meet minimum standards rather than after 2 consecutive years of such failure; amending s. 1002.69, F.S.; authorizing nonpublic schools to administer the statewide kindergarten screening to kindergarten students who were enrolled in the Voluntary Prekindergarten Program; requiring that the Department of Education adopt a statewide voluntary prekindergarten enrollment screening; requiring that each early learning coalition administer the enrollment screening; requiring the Department of Education to include the percentage of students who meet all state readiness measures in its provider rating methodology; requiring that each parent or guardian enrolling his or her child in a voluntary prekindergarten education program submit the child for enrollment screening if required by the provider; removing a limitation on the minimum kindergarten readiness rate for private and public prekindergarten providers; amending s. 1002.71, F.S.; providing that a child may reenroll more than once in a prekindergarten program if granted a good cause exemption; amending s. 1002.73, F.S.; requiring the department to adopt



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procedures for annually reporting the percentage of students who meet all state readiness measures; requiring that the Department of Education adopt procedures for the statewide voluntary prekindergarten enrollment screening, adopting the fee schedule, determining learning gains of students who complete the voluntary prekindergarten and kindergarten screenings, and annually reporting the readiness of kindergarten students; amending s. 1003.4156, F.S.; revising the general requirements for middle grades promotion; providing that a student with a disability may have his or her end-of-course assessment results waived under certain circumstances; providing that a middle grades student is exempt from the reading remediation requirements under certain circumstances; amending s. 1003.428, F.S.; revising provisions relating to the general requirements for high school graduation; providing that a high school student may be exempt from intensive reading under certain circumstances; amending s. 1003.491, F.S.; revising provisions relating to the Florida Career and Professional Education Act; replacing references to local workforce boards with regional workforce boards; requiring that economic development agencies collaborate with each district school board, regional workforce boards, and postsecondary institutions to develop a strategic 5-year plan that addresses local and regional workforce demands; requiring that the strategic plan include access to courses offered



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through virtual education providers and a review of
career and professional academy courses; requiring
that the strategic plan be reviewed, updated, and
jointly approved; amending s. 1003.492, F.S.; revising
provisions relating to industry-certified career
education programs to conform to changes made by the
act; requiring that rules adopted by the State Board
of Education include an approval process for
determining the funding weights of industry
certifications; requiring that the performance factors
for students participating in industry-certified
career education programs include awards of
postsecondary credit and state scholarships; amending
s. 1003.493, F.S.; revising provisions relating to
career and professional academies to conform to
changes made by the act; requiring that career and
professional academies discontinue enrollment of
students for the following year if the passage rate on
the industry certification exam falls below 50
percent; creating s. 1003.4935, F.S.; requiring that
each district school board, in collaboration with
regional workforce boards, economic development
agencies, and state-approved postsecondary
institutions, include a component in the strategic 5-
year plan to implement a career and professional
academy in at least one middle school in each
district; providing requirements for the middle school
career and professional academies; requiring that the
Department of Education collect and report student



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achievement data for middle school career academy students; amending s. 1003.575, F.S.; revising provisions relating to assistive technology devices for young persons with disabilities to require that any school having an individualized education plan team arrange to complete an assistive technology assessment within a specified number of days after receiving a request for such assessment; amending s. 1008.22, F.S.; revising provisions relating to the student assessment program for public schools; requiring that the Commissioner of Education direct school districts to participate in the administration of the National Assessment of Educational Progress or similar national or international assessment program; providing for future expiration of the requirement that school districts participate in international assessment programs; authorizing the school principal to exempt certain students from the end-of-course assessment in civics education; amending s. 1008.33, F.S.; revising provisions relating to public school improvement; requiring that the Department of Education categorize public schools based on the portion of a school's grade that relies on statewide assessments; revising the categorization of the lowest-performing schools; amending s. 1008.331, F.S., relating to supplemental educational services in Title I schools; providing that a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment if the



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Department of Education is notified of such intent before services are provided to the student; amending s. 1008.34, F.S.; revising provisions relating to the designation of school grades to conform to changes made by the act; providing for assigning achievement scores and learning gains for students who are hospital or homebound; requiring that a school that does not meet minimum proficiency standards established by the State Board of Education receive a school grade of "F"; amending ss. 1011.01 and 1011.03, F.S., relating to the annual operating budgets of district school boards and community college boards of trustees; deleting a requirement that the adopted budget be transmitted to the Department of Education for review and approval; creating s. 1011.035, F.S.; requiring each school district to post certain budgetary information on its website; requiring that each district school board's website contain certain specified links; amending s. 1011.61, F.S.; redefining the term "full-time equivalent student" as it relates to students in virtual instruction programs; amending s. 1011.62, F.S.; revising provisions relating to the calculation of additional full-time equivalent membership based on certification of successful completion of industry-certified career and professional academy programs; requiring that the value of full-time equivalent membership be determined by weights adopted by the State Board of Education; conforming provisions; amending s. 1012.39, F.S.;



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requiring that each district school board establish qualifications for nondegreed teachers of career and technical education courses for program clusters recognized in the state; authorizing district school boards to establish alternative qualifications for certain teachers; providing legislative findings relating to management deficiencies by a district school board; requiring that the Commissioner of Education certify to the Governor and the Legislature that a deficiency in management exists if a grand jury determines that significant deficiencies exist; requiring that the Governor and the Legislature establish a school district oversight board after receiving certification of management deficiencies; providing for membership of the board and the reimbursement of travel and per diem expenses; providing duties; requiring a report; providing effective dates.

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

Section 1. Paragraph (a) of subsection (4) of section 1001.20, Florida Statutes, is amended to read:

1001.20 Department under direction of state board.—

(4) The Department of Education shall establish the following offices within the Office of the Commissioner of Education which shall coordinate their activities with all other divisions and offices:

(a) *Office of Technology and Information Services.*—



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Responsible for developing a systemwide technology plan, making budget recommendations to the commissioner, providing data collection and management for the system, assisting school districts in securing Internet access and telecommunications services, including those eligible for funding under the Schools and Libraries Program of the federal Universal Service Fund, and coordinating services with other state, local, and private agencies. The office shall develop a method to address the need for a statewide approach to planning and operations of library and information services to achieve a single K-20 education system library information portal and a unified higher education library management system. ~~The Florida Virtual School shall be administratively housed within the office.~~

Section 2. Subsection (23) of section 1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(23) FLORIDA VIRTUAL SCHOOL.—Provide students with access to ~~enroll in~~ courses available through the Florida Virtual School and award credit for successful completion of such courses. Access shall be available to students during and ~~or~~ after the normal school day and through summer school enrollment.

Section 3. Section 1001.421, Florida Statutes, is created to read:

1001.421 Gifts.—Notwithstanding ss. 112.3148 and 112.3149, or any other provision of law to the contrary, school board members and their relatives as defined in s. 112.312(21), may



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not solicit or accept, directly or indirectly, any gift as defined in s. 112.312(12), from any person, vendor, potential vendor, or other entity doing business with the school district.

Section 4. Paragraph (a) of subsection (1) of section 1002.37, Florida Statutes, is amended to read:

1002.37 The Florida Virtual School.—

(1) (a) The Florida Virtual School is established for the development and delivery of online and distance learning education and shall be administratively housed within the ~~Commissioner of Education's Office of Technology and Information Services~~. The Commissioner of Education shall monitor the school's performance and report its performance to the State Board of Education and the Legislature.

The board of trustees of the Florida Virtual School shall identify appropriate performance measures and standards based on student achievement that reflect the school's statutory mission and priorities, and shall implement an accountability system for the school that includes assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access.

Section 5. Paragraph (f) is added to subsection (3) of section 1002.38, Florida Statutes, to read:

1002.38 Opportunity Scholarship Program.—

(3) SCHOOL DISTRICT OBLIGATIONS.—

(f) For purposes of this subsection, school grades for all schools shall be based upon statewide assessments administered pursuant to s. 1008.22.

Section 6. Paragraph (a) of subsection (4) of section



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1002.39, Florida Statutes, is amended to read:

1002.39 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

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

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

Section 7. Paragraph (b) of subsection (2) of section 1002.45, Florida Statutes, is amended to read:

1002.45 School district virtual instruction programs.—

(2) PROVIDER QUALIFICATIONS.—

(b) An approved provider shall retain its approved status during the 3 school years ~~for a period of 3 years~~ after the date of the department's approval under paragraph (a) as long as the provider continues to comply with all requirements of this section.

Section 8. Subsection (1) and paragraph (c) of subsection (3) of section 1002.67, Florida Statutes, are amended to read:

1002.67 Performance standards; curricula and



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accountability.—

(1)(a) By April 1, 2005, the department shall develop and adopt performance standards for students in the Voluntary Prekindergarten Education Program. The performance standards must address the age-appropriate progress of students in the development of:

1.(a) The capabilities, capacities, and skills required under s. 1(b), Art. IX of the State Constitution; and

2.(b) Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

(b) The State Board of Education shall periodically review and revise the performance standards for the statewide kindergarten screening administered under s. 1002.69 and align the standards to those established by the board for the expectations of student performance on the statewide assessments administered pursuant to s. 1008.22.

(3)

(c)1. If the kindergarten readiness rate of a private prekindergarten provider or public school falls below the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6), the early learning coalition or school district, as applicable, shall require the provider or school to submit an improvement plan for approval by the coalition or school district, as applicable, and to implement the plan.

2. If a private prekindergarten provider or public school fails to meet the minimum rate adopted by the State Board of



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Education as satisfactory under s. 1002.69(6) ~~for 2 consecutive years,~~ the early learning coalition or school district, as applicable, shall place the provider or school on probation and must require the provider or school to take certain corrective actions, including the use of a curriculum approved by the department under paragraph (2)(c) and requiring newly admitted voluntary prekindergarten program students to complete the statewide voluntary prekindergarten enrollment screening for which the provider must pay.

3. A private prekindergarten provider or public school that is placed on probation must continue the corrective actions required under subparagraph 2., including the use of a curriculum approved by the department, until the provider or school meets the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6).

4. If a private prekindergarten provider or public school remains on probation for 2 consecutive years and fails to meet the minimum rate adopted by the State Board of Education as satisfactory under s. 1002.69(6) and is not granted a good cause exemption by the department pursuant to s. 1002.69(7), the Agency for Workforce Innovation shall require the early learning coalition or the Department of Education shall require the school district to remove, as applicable, the provider or school from eligibility to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

Section 9. Section 1002.69, Florida Statutes, is amended to read:

1002.69 Statewide kindergarten screening; kindergarten readiness rates; prekindergarten enrollment screening.—



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(1)(a) The department shall adopt a statewide kindergarten screening that assesses the readiness of each student for kindergarten based upon the performance standards adopted by the department under s. 1002.67(1) for the Voluntary Prekindergarten Education Program. The department shall require that each school district administer the statewide kindergarten screening to each kindergarten student in the school district within the first 30 school days of each school year. Nonpublic schools may administer the statewide kindergarten screening to each kindergarten student in a nonpublic school who was enrolled in the Voluntary Prekindergarten Education Program.

(b) The department shall also adopt a statewide voluntary prekindergarten enrollment screening that assesses the readiness of each student for kindergarten upon entry into a voluntary prekindergarten program, for which the voluntary prekindergarten provider must pay. The department shall require each early learning coalition to administer the statewide voluntary prekindergarten enrollment screening in accordance with this section.

(2) The statewide voluntary prekindergarten enrollment screening and the kindergarten screening shall provide objective data concerning each student's readiness for kindergarten and progress in attaining the performance standards adopted by the department under s. 1002.67(1).

(3) The statewide voluntary prekindergarten enrollment screening and the kindergarten screening shall incorporate mechanisms for recognizing potential variations in kindergarten readiness rates for students with disabilities.

(4) Each parent who enrolls his or her child in the



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Voluntary Prekindergarten Education Program must submit the child for the statewide kindergarten screening, regardless of whether the child is admitted to kindergarten in a public school or nonpublic school. Each parent who enrolls his or her child in a voluntary prekindergarten education program must submit the child for statewide voluntary prekindergarten enrollment screening if required by the provider. Each school district shall designate sites to administer the statewide kindergarten screening for children admitted to kindergarten in a nonpublic school.

(5) The State Board of Education shall adopt procedures for the department to annually calculate each private prekindergarten provider's and public school's kindergarten readiness rate, which must be expressed as the percentage of the provider's or school's students who are assessed as ready for kindergarten. The kindergarten readiness rates must be based exclusively upon the results of the statewide kindergarten screening for students completing the Voluntary Prekindergarten Education Program, beginning with students completing the program during the 2005-2006 school year who are administered the statewide kindergarten screening during the 2006-2007 school year. The methodology for calculating each provider's readiness rate must include the percentage of students who meet all state readiness measures. The rates must not include students who are not administered the statewide kindergarten screening.

(6)~~(a)~~ The State Board of Education shall periodically adopt a minimum kindergarten readiness rate that, if achieved by a private prekindergarten provider or public school, would demonstrate the provider's or school's satisfactory delivery of



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the Voluntary Prekindergarten Education Program.

~~(b) The minimum rate must not exceed the rate at which more than 15 percent of the kindergarten readiness rates of all private prekindergarten providers and public schools delivering the Voluntary Prekindergarten Education Program in the state would fall below the minimum rate.~~

(7) (a) Notwithstanding s. 1002.67(3)(c)4., the State Board of Education, upon the request of a private prekindergarten provider or public school that remains on probation for 2 consecutive years or more and subsequently fails to meet the minimum rate adopted under subsection (6) and for good cause shown, may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program. Such exemption is valid for 1 year and, upon the request of the private prekindergarten provider or public school and for good cause shown, may be renewed.

(b) A private prekindergarten provider's or public school's request for a good cause exemption, or renewal of such an exemption, must be submitted to the state board in the manner and within the timeframes prescribed by the state board and must include the following:

1. Submission of data by the private prekindergarten provider or public school which documents on a standardized assessment the achievement and progress of the children served.

2. Submission and review of data available from the respective early learning coalition or district school board, the Department of Children and Family Services, local licensing authority, or an accrediting association, as applicable,



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relating to the private prekindergarten provider's or public school's compliance with state and local health and safety standards.

3. Submission and review of data available to the department on the performance of the children served and the calculation of the private prekindergarten provider's or public school's kindergarten readiness rate.

(c) The State Board of Education shall adopt criteria for granting good cause exemptions. Such criteria shall include, but are not limited to:

1. Learning gains of children served in the Voluntary Prekindergarten Education Program by the private prekindergarten provider or public school.

~~2. Verification that the private prekindergarten provider or public school serves at least twice the statewide percentage of children with disabilities as defined in s. 1003.01(3)(a) or children identified as limited English proficient as defined in s. 1003.56.~~

~~2.3.~~ Verification that local and state health and safety requirements are met.

(d) A good cause exemption may not be granted to any private prekindergarten provider that has any class I violations or two or more class II violations within the 2 years preceding the provider's or school's request for the exemption. For purposes of this paragraph, class I and class II violations have the same meaning as provided in s. 402.281(3).

(e) A private prekindergarten provider or public school granted a good cause exemption shall continue to implement its improvement plan and continue the corrective actions required



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under s. 1002.67(3)(c)2., including the use of a curriculum approved by the department, until the provider or school meets the minimum rate adopted under subsection (6).

(f) The State Board of Education shall notify the Agency for Workforce Innovation of any good cause exemption granted to a private prekindergarten provider under this subsection. If a good cause exemption is granted to a private prekindergarten provider who remains on probation for 2 consecutive years, the Agency for Workforce Innovation shall notify the early learning coalition of the good cause exemption and direct that the coalition, notwithstanding s. 1002.67(3)(c)4., not remove the provider from eligibility to deliver the Voluntary Prekindergarten Education Program or to receive state funds for the program, if the provider meets all other applicable requirements of this part.

Section 10. Subsection (4) of section 1002.71, Florida Statutes, is amended to read:

1002.71 Funding; financial and attendance reporting.—

(4) Notwithstanding s. 1002.53(3) and subsection (2):

(a) A child who, for any of the prekindergarten programs listed in s. 1002.53(3), has not completed more than 70 percent of the hours authorized to be reported for funding under subsection (2), or has not expended more than 70 percent of the funds authorized for the child under s. 1002.66, may withdraw from the program for good cause and reenroll in one of the programs. The total funding for a child who reenrolls in one of the programs for good cause may not exceed one full-time equivalent student. Funding for a child who withdraws and reenrolls in one of the programs for good cause shall be issued



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in accordance with the agency's uniform attendance policy adopted pursuant to paragraph (6)(d).

(b) A child who has not substantially completed any of the prekindergarten programs listed in s. 1002.53(3) may withdraw from the program due to an extreme hardship that is beyond the child's or parent's control, reenroll in one of the summer programs, and be reported for funding purposes as a full-time equivalent student in the summer program for which the child is reenrolled.

A child may reenroll only once in a prekindergarten program under this section, unless the child is granted a good cause exemption under this subsection. A child who reenrolls in a prekindergarten program under this subsection may not subsequently withdraw from the program and reenroll. The Agency for Workforce Innovation shall establish criteria specifying whether a good cause exists for a child to withdraw from a program under paragraph (a), whether a child has substantially completed a program under paragraph (b), and whether an extreme hardship exists which is beyond the child's or parent's control under paragraph (b).

Section 11. Subsection (2) of section 1002.73, Florida Statutes, is amended to read:

1002.73 Department of Education; powers and duties; accountability requirements.—

(2) The department shall adopt procedures for its:

(a) Approval of prekindergarten director credentials under ss. 1002.55 and 1002.57.

(b) Approval of emergent literacy training courses under



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ss. 1002.55 and 1002.59.

(c) Administration of the statewide kindergarten screening and calculation of kindergarten readiness rates under s. 1002.69.

(d) Adoption of the statewide voluntary prekindergarten enrollment screening, the associated fee schedule, and the process for determining learning gains of students who complete the statewide voluntary prekindergarten enrollment screening and the statewide kindergarten screening.

(e) ~~(d)~~ Approval of specialized instructional services providers under s. 1002.66.

(f) Annual reporting of the percentage of kindergarten students who meet all state readiness measures.

(g) ~~(e)~~ Granting of a private prekindergarten provider's or public school's request for a good cause exemption under s. 1002.69(7).

Section 12. Subsection (1) of section 1003.4156, Florida Statutes, is amended to read:

1003.4156 General requirements for middle grades promotion.—

(1) Beginning with students entering grade 6 in the 2006-2007 school year, promotion from a school composed of middle grades 6, 7, and 8 requires that:

(a) The student must successfully complete academic courses as follows:

1. Three middle school or higher courses in English. These courses shall emphasize literature, composition, and technical text.

2. Three middle school or higher courses in mathematics.



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Each middle school must offer at least one high school level mathematics course for which students may earn high school credit. Successful completion of a high school level Algebra I or geometry course is not contingent upon the student's performance on the end-of-course assessment required under s. 1008.22(3)(c)2.a.(I). However, beginning with the 2011-2012 school year, to earn high school credit for an Algebra I course, a middle school student must pass the Algebra I end-of-course assessment, and beginning with the 2012-2013 school year, to earn high school credit for a geometry course, a middle school student must pass the geometry end-of-course assessment.

3. Three middle school or higher courses in social studies, one semester of which must include the study of state and federal government and civics education. Beginning with students entering grade 6 in the 2012-2013 school year, one of these courses must be at least a one-semester civics education course that a student successfully completes in accordance with s. 1008.22(3)(c) and that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States.

4. Three middle school or higher courses in science. Successful completion of a high school level Biology I course is not contingent upon the student's performance on the end-of-course assessment required under s. 1008.22(3)(c)2.a.(II). However, beginning with the 2012-2013 school year, to earn high



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579 school credit for a Biology I course, a middle school student
580 must pass the Biology I end-of-course assessment.

581 5. One course in career and education planning to be
582 completed in 7th or 8th grade. The course may be taught by any
583 member of the instructional staff; must include career
584 exploration using Florida CHOICES or a comparable cost-effective
585 program; must include educational planning using the online
586 student advising system known as Florida Academic Counseling and
587 Tracking for Students at the Internet website FACTS.org; and
588 shall result in the completion of a personalized academic and
589 career plan. The required personalized academic and career plan
590 must inform students of high school graduation requirements,
591 high school assessment and college entrance test requirements,
592 Florida Bright Futures Scholarship Program requirements, state
593 university and Florida college admission requirements, and
594 programs through which a high school student can earn college
595 credit, including Advanced Placement, International
596 Baccalaureate, Advanced International Certificate of Education,
597 dual enrollment, career academy opportunities, and courses that
598 lead to national industry certification.

599
600 A student with a disability, as defined in s. 1007.02(2), for
601 whom the individual education plan committee determines that the
602 end-of-course assessment cannot accurately measure the student's
603 abilities, taking into consideration all allowable
604 accommodations, shall have the end-of-course assessment results
605 waived for purposes of determining the student's course grade
606 and completing the requirements for middle grades promotion.

607 Each school must hold a parent meeting either in the evening or



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on a weekend to inform parents about the course curriculum and activities. Each student shall complete an electronic personal education plan that must be signed by the student; the student's instructor, guidance counselor, or academic advisor; and the student's parent. The Department of Education shall develop course frameworks and professional development materials for the career exploration and education planning course. The course may be implemented as a stand-alone course or integrated into another course or courses. The Commissioner of Education shall collect longitudinal high school course enrollment data by student ethnicity in order to analyze course-taking patterns.

(b) For each year in which a student scores at Level 1 on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(9). A middle grades student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below Level 3 the year before, may be granted an exemption from the reading remediation requirements. A student may be granted a 1-year exemption from intensive reading; however, the student must have an approved academic improvement plan already in place and signed by the school and a parent or guardian for the year that the exemption is granted.



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(c) For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year, which may be integrated into the student's required mathematics course.

Section 13. Subsection (2) of section 1003.428, Florida Statutes, is amended to read:

1003.428 General requirements for high school graduation; revised.—

(2) The 24 credits may be earned through applied, integrated, and combined courses approved by the Department of Education. The 24 credits shall be distributed as follows:

(a) Sixteen core curriculum credits:

1. Four credits in English, with major concentration in composition, reading for information, and literature.

2. Four credits in mathematics, one of which must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course. Beginning with students entering grade 9 in the 2010-2011 school year, in addition to the Algebra I credit requirement, one of the four credits in mathematics must be geometry or a series of courses equivalent to geometry as approved by the State Board of Education. Beginning with students entering grade 9 in the 2010-2011 school year, the end-of-course assessment requirements under s.

1008.22(3)(c)2.a.(I) must be met in order for a student to earn the required credit in Algebra I. Beginning with students entering grade 9 in the 2011-2012 school year, the end-of-course assessment requirements under s. 1008.22(3)(c)2.a.(I) must be met in order for a student to earn the required credit in geometry. Beginning with students entering grade 9 in the 2012-



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2013 school year, in addition to the Algebra I and geometry credit requirements, one of the four credits in mathematics must be Algebra II or a series of courses equivalent to Algebra II as approved by the State Board of Education.

3. Three credits in science, two of which must have a laboratory component. Beginning with students entering grade 9 in the 2011-2012 school year, one of the three credits in science must be Biology I or a series of courses equivalent to Biology I as approved by the State Board of Education. Beginning with students entering grade 9 in the 2011-2012 school year, the end-of-course assessment requirements under s.

1008.22(3)(c)2.a.(II) must be met in order for a student to earn the required credit in Biology I. Beginning with students entering grade 9 in the 2013-2014 school year, one of the three credits must be Biology I or a series of courses equivalent to Biology I as approved by the State Board of Education, one credit must be chemistry or physics or a series of courses equivalent to chemistry or physics as approved by the State Board of Education, and one credit must be an equally rigorous course, as determined by the State Board of Education.

4. Three credits in social studies as follows: one credit in United States history; one credit in world history; one-half credit in economics; and one-half credit in United States government.

5. One credit in fine or performing arts, speech and debate, or a practical arts course that incorporates artistic content and techniques of creativity, interpretation, and imagination. Eligible practical arts courses shall be identified through the Course Code Directory.



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6. One credit in physical education to include integration of health. Participation in an interscholastic sport at the junior varsity or varsity level for two full seasons shall satisfy the one-credit requirement in physical education if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness must be developed by the Department of Education. A district school board may not require that the one credit in physical education be taken during the 9th grade year. Completion of one semester with a grade of "C" or better in a marching band class, in a physical activity class that requires participation in marching band activities as an extracurricular activity, or in a dance class shall satisfy one-half credit in physical education or one-half credit in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan. Completion of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class, a significant component of which is drills, shall satisfy the one-credit requirement in physical education and the one-credit requirement in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan.

(b) Eight credits in electives.

1. For each year in which a student scores at Level 1 on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content



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area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(9).

2. For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year. These courses may be taught through applied, integrated, or combined courses and are subject to approval by the department for inclusion in the Course Code Directory.

A high school student who scores at Level 1 or Level 2 on FCAT Reading, but who did not score below Level 3 the year before, may be granted an exemption from intensive reading. A student may be granted a 1-year exemption from intensive reading; however, the student must have an approved academic improvement plan already in place and signed by the school and a parent or guardian for the year the exemption is granted.

Section 14. Subsections (2), (3), and (5) of section 1003.491, Florida Statutes, are amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.



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(2) ~~Beginning with the 2007-2008 school year,~~ Each district school board shall develop, in collaboration with regional local workforce boards, economic development agencies, and postsecondary institutions approved to operate in the state, a strategic 5-year plan to address and meet local and regional workforce demands. If involvement of a regional the local workforce board or an economic development agency in the strategic plan development is not feasible, the local school board, with the approval of the Agency for Workforce Innovation, shall collaborate with the most appropriate regional local business leadership board. Two or more school districts may collaborate in the development of the strategic plan and offer a career and professional academy as a joint venture. The strategic plan ~~Such plans~~ must describe in detail provisions for the efficient transportation of students, the maximum use of shared resources, ~~and~~ access to courses aligned to state curriculum standards through virtual education providers, and an objective review of career and professional academy courses to determine if the courses will lead to the attainment of industry certifications included on the Industry Certified Funding List pursuant to rules adopted by the State Board of Education the Florida Virtual School when appropriate. Each strategic plan shall be reviewed, updated, and jointly approved every 5 years by the local school district, regional workforce boards, economic development agencies, and state-approved postsecondary institutions ~~completed no later than June 30, 2008, and shall include provisions to have in place at least one operational career and professional academy, pursuant to s. 1003.492, no later than the beginning of the 2008-2009 school year.~~



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(3) The strategic 5-year plan developed jointly between the local school district, regional ~~local~~ workforce boards, economic development agencies, and state-approved postsecondary institutions shall be constructed and based on:

(a) Research conducted to objectively determine local and regional workforce needs for the ensuing 5 years, using labor projections of the United States Department of Labor and the Agency for Workforce Innovation;

(b) Strategies to develop and implement career academies based on those careers determined to be in high demand;

(c) Maximum use of private sector facilities and personnel;

(d) Strategies that ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Alignment of ~~to~~ requirements for middle school career exploration, middle and high school career and professional academies leading to industry certification, and high school graduation requirements redesign; ~~redesign~~;

(f) Provisions to ensure that courses offered through career and professional academies 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;

(g) Strategies to improve the passage rate for industry certification exams if the rate falls below 50 percent;

(h) ~~(g)~~ Establishment of student eligibility criteria in career and professional academies which include opportunities for students who have been unsuccessful in traditional



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classrooms but who show aptitude to participate in academies.
School boards shall address the analysis of eighth grade student
achievement data to provide opportunities for students who may
be deemed as potential dropouts to participate in career and
professional academies;

(i)~~(h)~~ Strategies to provide sufficient space within
academies to meet workforce needs and to provide access to all
interested and qualified students;

(j)~~(i)~~ Strategies to implement ~~engage Department of~~
~~Juvenile Justice students in~~ career and professional academy
training that leads to industry certification at Department of
Juvenile Justice facilities;

(k)~~(j)~~ Opportunities for high school students to earn
weighted or dual enrollment credit for higher-level career and
technical courses;

(l)~~(k)~~ Promotion of the benefits of the Gold Seal Bright
Futures Scholarship;

(m)~~(l)~~ Strategies to ensure the review of district pupil-
progression plans and to amend such plans to include career and
professional courses and to include courses that may qualify as
substitute courses for core graduation requirements and those
that may be counted as elective courses; and

(n)~~(m)~~ Strategies to provide professional development for
secondary guidance counselors on the benefits of career and
professional academies.

(5) The submission and review of newly proposed core
courses shall be conducted electronically, and each proposed
core course shall be approved or denied within 60 days. All
courses approved as core courses for purposes of middle school



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840 promotion and high school graduation ~~purposes~~ shall be
841 immediately added to the Course Code Directory. Approved core
842 courses shall also be reviewed and considered for approval for
843 dual enrollment credit. The Board of Governors and the
844 Commissioner of Education shall jointly recommend an annual
845 deadline for approval of new core courses to be included for
846 purposes of postsecondary admissions and dual enrollment credit
847 the following academic year. The State Board of Education shall
848 establish an appeals process in the event that a proposed course
849 is denied which shall require a consensus ruling by the Agency
850 for Workforce Innovation and the Commissioner of Education
851 within 15 days. The curriculum review committee must be
852 established and operational no later than September 1, 2007.

853 Section 15. Subsections (2) and (3) of section 1003.492,
854 Florida Statutes, are amended to read:

855 1003.492 Industry-certified career education programs.—

856 (2) The State Board of Education shall use the expertise of
857 Workforce Florida, Inc., and Enterprise Florida, Inc., to
858 develop and adopt rules pursuant to ss. 120.536(1) and 120.54
859 for implementing an industry certification process. These rules
860 shall include an approval process for determining the funding
861 weights of industry certifications based on the rigor of the
862 certification and the value of the certification to Florida
863 businesses and industry. Industry certification shall be defined
864 by the Agency for Workforce Innovation, based upon the highest
865 available national standards for specific industry
866 certification, to ensure student skill proficiency and to
867 address emerging labor market and industry trends. A regional
868 workforce board or a career and professional academy may apply



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to Workforce Florida, Inc., to request additions to the approved list of industry certifications based on high-demand job requirements in the regional economy. The list of industry certifications approved by Workforce Florida, Inc., and the Department of Education shall be published and updated annually by a date certain, to be included in the adopted rule.

(3) The Department of Education shall collect student achievement and performance data in industry-certified career education programs and shall work with Workforce Florida, Inc., and Enterprise Florida, Inc., in the analysis of collected data. The data collection and analyses shall examine the performance of participating students over time. Performance factors shall include, but not be limited to, graduation rates, retention rates, awards of postsecondary credit and state scholarships under chapter 1009 ~~Florida Bright Futures Scholarship awards~~, additional educational attainment, employment records, earnings, industry certification, and employer satisfaction. The performance results and analyses ~~of this study~~ shall be submitted to the President of the Senate and the Speaker of the House of Representatives annually by December 31.

Section 16. Subsections (2), (4), (5), and (6) of section 1003.493, Florida Statutes, are amended to read:

1003.493 Career and professional academies.—

(2) The goals of a career and professional academy are to:

(a) Increase student academic achievement and graduation rates through integrated academic and career curricula.

(b) Prepare graduating high school students to make appropriate choices relative to employment and future educational experiences.



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(c) Focus on career preparation through rigorous academics and industry certification.

(d) Raise student aspiration and commitment to academic achievement and work ethics through relevant coursework.

~~(e) Support graduation requirements pursuant to s. 1003.428 by providing creative, applied major areas of interest.~~

~~(e)~~(f) Promote acceleration mechanisms, such as dual enrollment, articulated credit, or occupational completion points, so that students may earn postsecondary credit while in high school.

~~(f)~~(g) Support the state's economy by meeting industry needs for skilled employees in high-demand occupations.

(4) Each career and professional academy must:

(a) Provide a rigorous standards-based academic curriculum integrated with a career curriculum. The curriculum must take into consideration multiple styles of student learning; promote learning by doing through application and adaptation; maximize relevance of the subject matter; enhance each student's capacity to excel; and include an emphasis on work habits and work ethics.

(b) Include one or more partnerships with postsecondary institutions, businesses, industry, employers, economic development organizations, or other appropriate partners from the local community. Such partnerships shall be delineated in articulation agreements to provide for career-based courses that earn postsecondary credit. Such agreements may include articulation between the academy and public or private 2-year and 4-year postsecondary institutions and technical centers. The Department of Education, in consultation with the Board of



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Governors, shall establish a mechanism to ensure articulation and transfer of credits to postsecondary institutions in this state. Such partnerships must provide opportunities for:

1. Instruction from highly skilled professionals who possess industry-certification credentials for courses they are teaching.

2. Internships, externships, and on-the-job training.

3. A postsecondary degree, diploma, or certificate.

4. The highest available level of industry certification.

5. Maximum articulation of credits pursuant to s. 1007.23 upon program completion.

(c) Provide shared, maximum use of private sector facilities and personnel.

(d) Provide personalized student advisement, including a parent-participation component, and coordination with middle schools to promote and support career exploration and education planning as required under s. 1003.4156. Coordination with middle schools must provide information to middle school students about secondary and postsecondary career education programs and academies.

(e) Promote and provide opportunities for career and professional academy students to attain, at minimum, the Florida Gold Seal Vocational Scholars award pursuant to s. 1009.536.

(f) Provide instruction in careers designated as high growth, high demand, and high pay by the regional local ~~local~~ workforce development board, the chamber of commerce, economic development agencies, or the Agency for Workforce Innovation.

(g) Deliver academic content through instruction relevant to the career, including intensive reading and mathematics



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intervention required by s. 1003.428, with an emphasis on strengthening reading for information skills.

(h) Offer applied courses that combine academic content with technical skills.

(i) Provide instruction resulting in competency, certification, or credentials in workplace skills, including, but not limited to, communication skills, interpersonal skills, decisionmaking skills, the importance of attendance and timeliness in the work environment, and work ethics.

~~(j) Provide opportunities for students to obtain the Florida Ready to Work Certification pursuant to s. 1004.99.~~

~~(k) Include an evaluation plan developed jointly with the Department of Education and the local workforce board. The evaluation plan must include an assessment tool based on national industry standards, such as the Career Academy National Standards of Practice, and outcome measures, including, but not limited to, achievement of national industry certifications identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education, graduation rates, enrollment in postsecondary education, business and industry satisfaction, employment and earnings, awards of postsecondary credit and scholarships, and student achievement levels and learning gains on statewide assessments administered under s. 1008.22(3)(c). The Department of Education shall use Workforce Florida, Inc., and Enterprise Florida, Inc., in identifying industry experts to participate in developing and implementing such assessments.~~

~~(j)(1)~~ Include a plan to sustain career and professional academies.



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985 ~~(k)-(m)~~ Redirect appropriated career funding to career and
986 professional academies.

987 (5) All career courses offered in a career and professional
988 academy must lead to industry certification or college credit
989 linked directly to the career theme of the course. If the
990 passage rate on the industry certification exam that is
991 associated with the career and professional academy falls below
992 50 percent, the academy must discontinue enrollment of students
993 the following school year. At least 50 percent of students
994 enrolled in a career course must achieve industry certifications
995 or college credits during the second year the course is offered
996 in order for the course to be offered a third year. At least 66
997 percent of students enrolled in such a course must achieve
998 industry certifications or college credits during the third year
999 the course is offered in order for it to be offered a fourth
1000 year and thereafter.

1001 (6) Workforce Florida, Inc., through the secondary career
1002 academies initiatives, The Okaloosa County School District
1003 ~~CHOICE Institutes~~ shall serve in an advisory role and shall
1004 offer technical assistance in the development and deployment of
1005 newly established career and professional academies ~~for a 3-year~~
1006 ~~period beginning July 1, 2007.~~

1007 Section 17. Section 1003.4935, Florida Statutes, is created
1008 to read:

1009 1003.4935 Middle school career and professional academy
1010 courses.—

1011 (1) Beginning with the 2011-2012 school year, each district
1012 school board, in collaboration with regional workforce boards,
1013 economic development agencies, and state-approved postsecondary



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institutions, shall include plans to implement a career and professional academy in at least one middle school in the district as part of the strategic 5-year plan pursuant to s. 1003.491(2). The middle school career and professional academy component of the strategic plan must ensure the transition of middle school career and professional academy students to a high school career and professional academy currently operating within the school district. Students who complete a middle school career and professional academy must have the opportunity to earn an industry certificate and high school credit and participate in career planning, job shadowing, and business leadership development activities.

(2) Each middle school career and professional academy must be aligned with at least one high school career and professional academy offered in the district and maintain partnerships with local business and industry and economic development boards. Middle school career and professional academies must:

(a) Provide instruction in courses leading to careers in occupations designated as high growth, high demand, and high pay in the Industry Certification Funding List approved under rules adopted by the State Board of Education;

(b) Offer career and professional academy courses that integrate content from core subject areas;

(c) Offer courses that integrate career and professional academy content with intensive reading and mathematics pursuant to s. 1003.428;

(d) Coordinate with high schools to maximize opportunities for middle school career and professional academy students to earn high school credit;



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(e) Provide access to virtual instruction courses aligned to state curriculum standards for middle school career and professional academy students, with priority given to students who have required course deficits;

(f) Provide instruction from highly skilled professionals who hold industry certificates in the career area in which they teach;

(g) Offer externships; and

(h) Provide personalized student advisement that includes a parent-participation component.

(3) Beginning with the 2012-2013 school year, the Department of Education shall collect and report student achievement data pursuant to performance factors identified under s. 1003.492(3) for middle school career and professional academy students.

Section 18. Section 1003.575, Florida Statutes, is amended to read:

1003.575 Assistive technology devices; findings; interagency agreements.—Accessibility, utilization, and coordination of appropriate assistive technology devices and services are essential as a young person with disabilities moves from early intervention to preschool, from preschool to school, from one school to another, and from school to employment or independent living. Within 60 to 90 days after receiving a request for an assistive technology assessment, any school that has an individualized education plan team shall arrange to complete the assessment. To ensure that an assistive technology device issued to a young person as part of his or her individualized family support plan, individual support plan, or



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an individual education plan remains with the individual through such transitions, the following agencies shall enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices:

(1) The Florida Infants and Toddlers Early Intervention Program in the Division of Children's Medical Services of the Department of Health.

(2) The Division of Blind Services, the Bureau of Exceptional Education and Student Services, and the Division of Vocational Rehabilitation of the Department of Education.

(3) The Voluntary Prekindergarten Education Program administered by the Department of Education and the Agency for Workforce Innovation.

Interagency agreements entered into pursuant to this section shall provide a framework for ensuring that young persons with disabilities and their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services that may assist in meeting transition needs, and shall establish a mechanism by which a young person or his or her parent may request that an assistive technology device remain with the young person as he or she moves through the continuum from home to school to postschool.

Section 19. Effective upon this act becoming a law, subsection (2) and paragraph (c) of subsection (3) of section 1008.22, Florida Statutes, are amended to read:

1008.22 Student assessment program for public schools.—

(2) NATIONAL AND INTERNATIONAL EDUCATION COMPARISONS.—It is Florida's intent to participate in the measurement of national



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educational goals. The Commissioner of Education shall direct Florida school districts to participate in the administration of the National Assessment of Educational Progress, or a similar national or international assessment program, both for the national sample and for any state-by-state comparison programs which may be initiated. The assessments must be conducted using the data collection procedures, the student surveys, the educator surveys, and other instruments included in the National Assessment of Educational Progress or similar national or international program being administered in Florida. The results of these assessments shall be included in the annual report of the Commissioner of Education specified in this section, as applicable. The administration of the National Assessment of Educational Progress or similar national or international program shall be in addition to and separate from the administration of the statewide assessment program. The requirement that school districts participate in international assessment programs shall expire June 30, 2016.

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years.



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The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program as follows:

1. The Florida Comprehensive Assessment Test (FCAT) measures a student's content knowledge and skills in reading, writing, science, and mathematics. The content knowledge and skills assessed by the FCAT must be aligned to the core curricular content established in the Next Generation Sunshine State Standards. Other content areas may be included as directed by the commissioner. Comprehensive assessments of reading and mathematics shall be administered annually in grades 3 through 10 except, beginning with the 2010-2011 school year, the administration of grade 9 FCAT Mathematics shall be discontinued, and beginning with the 2011-2012 school year, the administration of grade 10 FCAT Mathematics shall be discontinued, except as required for students who have not attained minimum performance expectations for graduation as provided in paragraph (9)(c). FCAT Writing and FCAT Science shall be administered at least once at the elementary, middle, and high school levels except, beginning with the 2011-2012 school year, the administration of FCAT Science at the high school level shall be discontinued.

2.a. End-of-course assessments for a subject shall be administered in addition to the comprehensive assessments required under subparagraph 1. End-of-course assessments must be rigorous, statewide, standardized, and developed or approved by



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the department. The content knowledge and skills assessed by end-of-course assessments must be aligned to the core curricular content established in the Next Generation Sunshine State Standards.

(I) Statewide, standardized end-of-course assessments in mathematics shall be administered according to this sub-sub-paragraph. Beginning with the 2010-2011 school year, all students enrolled in Algebra I or an equivalent course must take the Algebra I end-of-course assessment. ~~Students who earned high school credit in Algebra I while in grades 6 through 8 during the 2007-2008 through 2009-2010 school years and who have not taken Grade 10 FCAT Mathematics must take the Algebra I end-of-course assessment during the 2010-2011 school year.~~ For students entering grade 9 during the 2010-2011 school year and who are enrolled in Algebra I or an equivalent, each student's performance on the end-of-course assessment in Algebra I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 in the 2011-2012 school year, a student who is enrolled in Algebra I or an equivalent must earn a passing score on the end-of-course assessment in Algebra I or attain an equivalent score as described in subsection (11) in order to earn course credit. Beginning with the 2011-2012 school year, all students enrolled in geometry or an equivalent course must take the geometry end-of-course assessment. For students entering grade 9 during the 2011-2012 school year, each student's performance on the end-of-course assessment in geometry shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a



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passing score on the end-of-course assessment in geometry or attain an equivalent score as described in subsection (11) in order to earn course credit.

(II) Statewide, standardized end-of-course assessments in science shall be administered according to this sub-sub-paragraph. Beginning with the 2011-2012 school year, all students enrolled in Biology I or an equivalent course must take the Biology I end-of-course assessment. For the 2011-2012 school year, each student's performance on the end-of-course assessment in Biology I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a passing score on the end-of-course assessment in Biology I in order to earn course credit.

b. During the 2012-2013 school year, an end-of-course assessment in civics education shall be administered as a field test at the middle school level. During the 2013-2014 school year, each student's performance on the statewide, standardized end-of-course assessment in civics education shall constitute 30 percent of the student's final course grade. Beginning with the 2014-2015 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and be promoted from the middle grades receive course credit. The school principal of a middle school shall determine, in accordance with State Board of Education rule, whether a student who transfers to the middle school and who has successfully completed a civics education course at the student's previous school must take an end-of-course assessment in civics education.



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c. The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards.

d. Contingent upon funding provided in the General Appropriations Act, including the appropriation of funds received through federal grants, the Commissioner of Education shall establish an implementation schedule for the development and administration of additional statewide, standardized end-of-course assessments in English/Language Arts II, Algebra II, chemistry, physics, earth/space science, United States history, and world history. Priority shall be given to the development of end-of-course assessments in English/Language Arts II. The Commissioner of Education shall evaluate the feasibility and effect of transitioning from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an end-of-course



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assessment in English/Language Arts II. The commissioner shall report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011.

3. The testing program shall measure student content knowledge and skills adopted by the State Board of Education as specified in paragraph (a) and measure and report student performance levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

4. The testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

5. FCAT Reading, Mathematics, and Science and all statewide, standardized end-of-course assessments shall measure the content knowledge and skills a student has attained on the assessment by the use of scaled scores and achievement levels. Achievement levels shall range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment. For purposes of FCAT Writing,



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student achievement shall be scored using a scale of 1 through 6 and the score earned shall be used in calculating school grades. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

6. The State Board of Education shall, by rule, designate a passing score for each part of the grade 10 assessment test and end-of-course assessments. Any rule that has the effect of raising the required passing scores may apply only to students taking the assessment for the first time after the rule is adopted by the State Board of Education. Except as otherwise provided in this subparagraph and as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on grade 10 FCAT Reading and grade 10 FCAT Mathematics or attain concordant scores as described in subsection (10) in order to qualify for a standard high school diploma.

7. In addition to designating a passing score under subparagraph 6., the State Board of Education shall also designate, by rule, a score for each statewide, standardized end-of-course assessment which indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

8. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. A student who has not earned passing scores on the grade 10 FCAT as provided in subparagraph



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6. must participate in each retake of the assessment until the student earns passing scores or achieves scores on a standardized assessment which are concordant with passing scores pursuant to subsection (10). If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT or an end-of-course assessment. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT or an end-of-course assessment may have the FCAT or an end-of-course assessment requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

9. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

10. District school boards must provide instruction to



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prepare students in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected performance levels in reading, writing, mathematics, and science. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

11. District school boards must provide opportunities for students to demonstrate an acceptable performance level on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

12. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Next Generation Sunshine State Standards.

13. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Next Generation Sunshine State Standards for students with disabilities under s. 1003.438.



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14. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student test results. When establishing the schedules for the administration of statewide assessments, the commissioner shall consider the observance of religious and school holidays. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results for the FCAT must be made available no later than the week of June 8. Student results for end-of-course assessments must be provided no later than 1 week after the school district completes testing for each course. The commissioner may extend the reporting schedule as he or she determines necessary.

b. ~~Beginning with the 2010-2011 school year,~~ FCAT Writing may ~~is~~ not be administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject may ~~is~~ not be administered earlier than the week of April 15, unless the commissioner determines otherwise.

c. A statewide, standardized end-of-course assessment is administered ~~during a 3-week period~~ at the end of the course. The commissioner shall select an ~~a 3-week~~ administration period for assessments that meets the intent of end-of-course



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assessments and provides student results prior to the end of the course. School districts shall administer tests in accordance with the schedule determined by the commissioner ~~select 1 testing week within the 3-week administration period for each end-of-course assessment.~~ For an end-of-course assessment administered at the end of the first semester, the commissioner shall determine the most appropriate testing dates based on a school district's academic calendar.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Next Generation Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

Section 20. Paragraph (b) of subsection (3) and subsection (4) of section 1008.33, Florida Statutes, are amended to read:

1008.33 Authority to enforce public school improvement.—

(3)



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(b) For the purpose of determining whether a public school requires action to achieve a sufficient level of school improvement, the Department of Education shall annually categorize a public school in one of six categories based on the following:

1. The portion of a school's grade based on statewide assessments administered pursuant to s. 1008.22; school's grade, pursuant to s. 1008.34, and

2. The level and rate of change in student performance in the areas of reading and mathematics, disaggregated into student subgroups as described in the federal Elementary and Secondary Education Act, 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

(4) The Department of Education shall create a matrix that reflects intervention and support strategies to address the particular needs of schools in each category. For purposes of this subsection, a school's grade shall be calculated in accordance with paragraph (3)(b).

(a) Intervention and support strategies shall be applied to schools based upon the school categorization. The Department of Education shall apply the most intense intervention strategies to the lowest-performing schools. For all but the lowest category and "F" schools in the second lowest category, the intervention and support strategies shall be administered solely by the districts and the schools.

(b) Beginning with the school grades calculated in accordance with paragraph (3)(b) for the 2010-2011 school year, the lowest-performing schools are schools that have received÷

~~1.~~ a grade of "F" in the most recent school year and in 2 ~~4~~ of the last 4 ~~6~~ years; ~~or~~



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~~2. A grade of "D" or "F" in the most recent school year and meet at least three of the following criteria:~~

~~a. The percentage of students who are not proficient in reading has increased when compared to measurements taken 5 years previously;~~

~~b. The percentage of students who are not proficient in mathematics has increased when compared to measurements taken 5 years previously;~~

~~c. At least 65 percent of the school's students are not proficient in reading; or~~

~~d. At least 65 percent of the school's students are not proficient in mathematics.~~

Section 21. Paragraph (h) is added to subsection (2) of section 1008.331, Florida Statutes, to read:

1008.331 Supplemental educational services in Title I schools; school district, provider, and department responsibilities.—

(2) RESPONSIBILITIES OF SCHOOL DISTRICT AND PROVIDER.—

(h) Notwithstanding a provider's submission to the department regarding the premethods and postmethods to be used to determine student learning gains, beginning with the 2011-2012 school year, a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment, if the department is notified of such intent before services are provided to the student.

Section 22. Subsection (3) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—



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(3) DESIGNATION OF SCHOOL GRADES.—

(a) Each school that has students who are tested and included in the school grading system shall receive a school grade, except as follows:

1. A school shall not receive a school grade if the number of its students tested and included in the school grading system is less than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under s. 1002.22 or 20 U.S.C. s. 1232g.

2. An alternative school may choose to receive a school grade under this section or a school improvement rating under s. 1008.341. For charter schools that meet the definition of an alternative school pursuant to State Board of Education rule, the decision to receive a school grade is the decision of the charter school governing board.

3. A school that serves any combination of students in kindergarten through grade 3 which does not receive a school grade because its students are not tested and included in the school grading system shall receive the school grade designation of a K-3 feeder pattern school identified by the Department of Education and verified by the school district. A school feeder pattern exists if at least 60 percent of the students in the school serving a combination of students in kindergarten through grade 3 are scheduled to be assigned to the graded school.

(b)1. A school's grade shall be based on a combination of:

a. Student achievement scores, including achievement on all FCAT assessments administered under s. 1008.22(3)(c)1., end-of-course assessments administered under s. 1008.22(3)(c)2.a., and



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achievement scores for students seeking a special diploma.

b. Student learning gains in reading and mathematics as measured by FCAT and end-of-course assessments, as described in s. 1008.22(3)(c)1. and 2.a. Learning gains for students seeking a special diploma, as measured by an alternate assessment tool, shall be included not later than the 2009-2010 school year.

c. Improvement of the lowest 25th percentile of students in the school in reading and mathematics on the FCAT or end-of-course assessments described in s. 1008.22(3)(c)2.a., unless these students are exhibiting satisfactory performance.

2. Beginning with the 2011-2012 school year, for schools comprised of middle school grades 6 through 8 or grades 7 and 8, the school's grade shall include the performance of its students in high school level courses with end-of-course assessments administered under s. 1008.22(3)(c)2.a., and as valid data becomes available, the students' attainment of national industry certification identified in the Industry Certification Funding List pursuant to rules adopted by the State Board of Education.

~~3.2.~~ Beginning with the 2009-2010 school year for schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, 50 percent of the school grade shall be based on a combination of the factors listed in sub-subparagraphs 1.a.-c. and the remaining 50 percent on the following factors:

a. The high school graduation rate of the school;

b. As valid data becomes available, the performance and participation of the school's students in College Board Advanced Placement courses, International Baccalaureate courses, dual enrollment courses, and Advanced International Certificate of Education courses; and the students' achievement of national



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industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

c. Postsecondary readiness of the school's students as measured by the SAT, ACT, or the common placement test;

d. The high school graduation rate of at-risk students who scored at Level 2 or lower on the grade 8 FCAT Reading and Mathematics examinations;

e. As valid data becomes available, the performance of the school's students on statewide standardized end-of-course assessments administered under s. 1008.22(3)(c)2.b. and c.; and

f. The growth or decline in the components listed in sub-paragraphs a.-e. from year to year.

(c) Student assessment data used in determining school grades shall include:

1. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and statewide, standardized end-of-course assessments in courses required for high school graduation, including, beginning with the 2010-2011 school year, the end-of-course assessment in Algebra I; and beginning with the 2011-2012 school year, the end-of-course assessments in geometry and Biology; and beginning with the 2013-2014 school year, on the statewide, standardized end-of-course assessment in civics education at the middle school level.

2. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and end-of-course assessments as described in s. 1008.22(3)(c)2.a., and who have scored at or in the lowest 25th percentile of students in



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the school in reading and mathematics, unless these students are exhibiting satisfactory performance.

3. The achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53. The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice. The student performance data for eligible students identified in this subparagraph shall be included in the calculation of the home school's grade. As used in this subparagraph ~~section~~ and s. 1008.341, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign the FCAT and end-of-course assessment as described in s. 1008.22(3)(c)2.a. scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for 1 fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual



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discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

4. The achievement scores and learning gains of students designated as hospital or homebound. Student assessment data for students designated as hospital or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital or homebound program.

5.4. For schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the data listed in subparagraphs 1.-3. and the following data as the Department of Education determines such data are valid and available:

a. The high school graduation rate of the school as calculated by the Department of Education;

b. The participation rate of all eligible students enrolled in the school and enrolled in College Board Advanced Placement courses; International Baccalaureate courses; dual enrollment courses; Advanced International Certificate of Education courses; and courses or sequence of courses leading to national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

c. The aggregate scores of all eligible students enrolled in the school in College Board Advanced Placement courses, International Baccalaureate courses, and Advanced International Certificate of Education courses;

d. Earning of college credit by all eligible students



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enrolled in the school in dual enrollment programs under s.
1007.271;

e. Earning of a national industry certification identified
in the Industry Certification Funding List, pursuant to rules
adopted by the State Board of Education;

f. The aggregate scores of all eligible students enrolled
in the school in reading, mathematics, and other subjects as
measured by the SAT, the ACT, and the common placement test for
postsecondary readiness;

g. The high school graduation rate of all eligible at-risk
students enrolled in the school who scored at Level 2 or lower
on the grade 8 FCAT Reading and Mathematics examinations;

h. The performance of the school's students on statewide
standardized end-of-course assessments administered under s.
1008.22(3)(c)2.b. and c.; and

i. The growth or decline in the data components listed in
sub-subparagraphs a.-h. from year to year.

(d) Notwithstanding the requirements in paragraphs (b) and
(c), beginning with the 2011-2012 school year, a school that
does not meet the minimum proficiency standards established by
the State Board of Education shall receive a school grade of
"F." A definition of minimum proficiency must include a minimum
percent of students proficient in reading and may include
significant gains from the prior year as a condition for waiving
this paragraph.

The State Board of Education shall adopt appropriate criteria
for each school grade. The criteria must also give added weight
to student achievement in reading. Schools designated with a



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grade of "C," making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students in the school who are in the lowest 25th percentile in reading and mathematics on the FCAT and end-of-course assessments as described in s. 1008.22(3)(c)2.a., unless these students are exhibiting satisfactory performance. Beginning with the 2009-2010 school year for schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the criteria for school grades must also give added weight to the graduation rate of all eligible at-risk students, as defined in this paragraph. Beginning in the 2009-2010 school year, in order for a high school to be designated as having a grade of "A," making excellent progress, the school must demonstrate that at-risk students, as defined in this paragraph, in the school are making adequate progress.

Section 23. Paragraph (a) of subsection (3) of section 1011.01, Florida Statutes, is amended to read:

1011.01 Budget system established.—

(3)(a) Each district school board and each community college board of trustees shall prepare, adopt, and submit to the Commissioner of Education ~~for review~~ an annual operating budget. Operating budgets shall be prepared and submitted in accordance with the provisions of law, rules of the State Board of Education, the General Appropriations Act, and for district school boards in accordance with the provisions of ss. 200.065 and 1011.64.

Section 24. Subsection (4) of section 1011.03, Florida Statutes, is amended to read:

1011.03 Public hearings; budget to be submitted to



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Department of Education.—

(4) The board shall hold public hearings to adopt tentative and final budgets pursuant to s. 200.065. The hearings shall be primarily for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and proposed or adopted amendments thereto, if any. The district school board shall then require the superintendent to transmit forthwith two copies of the adopted budget to the Department of Education ~~for approval~~ as prescribed by law and rules of the State Board of Education.

Section 25. Section 1011.035, Florida Statutes, is created to read:

1011.035 School district budget transparency.—

(1) The Legislature finds that it is important for school districts to provide budgetary transparency to enable taxpayers, parents, and education advocates to obtain school district budgets and related information in a manner that is simply explained and easily understandable. The Legislature finds that financial transparency leads to more responsible spending, more citizen involvement, and improved accountability. The Legislature further finds that a budget that is not transparent, accessible, and accurate cannot be properly analyzed, its implementation thoroughly monitored, or its outcomes evaluated.

(2) Each district school board shall post on its website its plain language version of each proposed, tentative, and official budget that describes each budget item in terms that are easily understandable to the public. This information must be prominently posted on the school district's website in a manner that is readily accessible to the public.



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(3) Each district school board is encouraged to post the following information on its website:

(a) Timely information as to when a budget hearing will be conducted;

(b) Each approved contract between the district school board and the teachers' union;

(c) Each approved contract between the district school board and noninstructional staff;

(d) Recommendations of the citizens' budget advisory committee; and

(e) Current and archived video recordings of each district school board meeting and workshop.

(4) Each district school board's website must contain links:

(a) Helping explain or providing background information on various budget items that are required by state or federal law;

(b) Allowing users to navigate to related sites to view supporting detail; and

(c) Enabling taxpayers, parents, and education advocates to send e-mails asking questions about the budget and to enable others to see the questions and responses.

Section 26. Subsection (1) of section 1011.61, Florida Statutes, is amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A "full-time equivalent student" in each program of the district is defined in terms of full-time students and part-time students as follows:



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(a) A "full-time student" is one student on the membership roll of one school program or a combination of school programs listed in s. 1011.62(1)(c) for the school year or the equivalent for:

1. Instruction in a standard school, comprising not less than 900 net hours for a student in or at the grade level of 4 through 12, or not less than 720 net hours for a student in or at the grade level of kindergarten through grade 3 or in an authorized prekindergarten exceptional program;

2. Instruction in a double-session school or a school utilizing an experimental school calendar approved by the Department of Education, comprising not less than the equivalent of 810 net hours in grades 4 through 12 or not less than 630 net hours in kindergarten through grade 3; or

3. Instruction comprising the appropriate number of net hours set forth in subparagraph 1. or subparagraph 2. for students who, within the past year, have moved with their parents for the purpose of engaging in the farm labor or fish industries, if a plan furnishing such an extended school day or week, or a combination thereof, has been approved by the commissioner. Such plan may be approved to accommodate the needs of migrant students only or may serve all students in schools having a high percentage of migrant students. The plan described in this subparagraph is optional for any school district and is not mandated by the state.

(b) A "part-time student" is a student on the active membership roll of a school program or combination of school programs listed in s. 1011.62(1)(c) who is less than a full-time student.



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(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student, except a postsecondary or adult student or a senior high school student enrolled in adult education when such courses are required for high school graduation, in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.

(II) A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in kindergarten through grade 5 in a school district virtual instruction program under s. 1002.45 shall consist of a student who has successfully completed a basic program listed in s. 1011.62(1)(c)1.a. or b., and who is promoted to a higher grade level.



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(IV) A full-time equivalent student for students in grades 6 through 8 ~~12~~ in a school district virtual instruction program under s. 1002.45(1)(b)1. ~~and 2.~~ shall consist of six full successful course ~~credit~~ completions in programs listed in s. 1011.62(1)(c)1.b. ~~or c. and 3.~~ A full-time equivalent student for students in grades 9 through 12 in a school district virtual instruction program under s. 1002.45(1)(b)1. and 2. shall consist of six full credit completions in programs listed in s. 1011.62(1)(c)1.c. or 3. Successful course ~~Credit~~ completions for students in grades 6 through 8 can be a combination of either successful semester or full course completions ~~full credits or half credits.~~ Successful credit completions for students in grades 9 through 12 can be a combination of either credits or half credits.

(V) A Florida Virtual School full-time equivalent student shall consist of six full successful course completions for students in grades 4 through 8 ~~credit completions~~ in the programs listed in s. 1011.62(1)(c)1.b. ~~for grades 6 through 8 and the programs listed in s. 1011.62(1)(c)1.c. for grades 9 through 12.~~ A Florida Virtual School full-time equivalent student shall consist of six full credit completions for grades 9 through 12 in the programs listed in s. 1011.62(1)(c)1.c. and 3. Credit or course completions can be a combination of either successful semester or full course completions for grades 6 through 8 and full credits and half-credits for grades 9 through 12 ~~full credits or half credits.~~

(VI) Each successfully completed credit earned under the alternative high school course credit requirements authorized in s. 1002.375, which is not reported as a portion of the 900 net



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hours of instruction pursuant to subparagraph (1)(a)1., shall be calculated as 1/6 FTE.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in juvenile justice education programs and the Florida Virtual School.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

Section 27. Paragraph (p) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:

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

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for



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operation:

(p) *Calculation of additional full-time equivalent membership based on certification of successful completion of industry-certified career and professional academy programs pursuant to ss. 1003.491, 1003.492, ~~and 1003.493~~, and 1003.4935 and identified in the Industry Certified Funding List pursuant to rules adopted by the State Board of Education.*—A maximum value of 0.3 full-time equivalent student membership shall be calculated for each student who completes an industry-certified career and professional academy program under ss. 1003.491, 1003.492, ~~and 1003.493~~, and 1003.4935 and who is issued the highest level of industry certification identified annually in the Industry Certification Funding List approved under rules adopted by the State Board of Education and a high school diploma. The value of full-time equivalent student membership shall be determined by weights adopted by the State Board of Education pursuant to s. 1003.492. Such value shall be added to the total full-time equivalent student membership in secondary career education programs for grades 9 through 12 in the subsequent year for courses that were not funded through dual enrollment. The additional full-time equivalent membership authorized under this paragraph may not exceed 0.3 per student. Allocated funds shall be proportionately prorated and distributed to middle school career and professional academies for those students who earned industry certifications. Each district must allocate at least 80 percent of the funds generated by student attainment of an ~~provided for~~ industry certification, in accordance with this paragraph, to the program in which the student earned the industry certification ~~that~~



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~~generated the funds.~~ Unless a different amount is specified in the General Appropriations Act, the appropriation for this calculation is limited to \$15 million annually. If the appropriation is insufficient to fully fund the total calculation, the appropriation shall be prorated.

Section 28. Subsection (1) of section 1012.39, Florida Statutes, is amended to read:

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

(1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and 1012.57, or any other provision of law or rule to the contrary, each district school board shall establish the minimal qualifications for:

(a) Substitute teachers to be employed pursuant to s. 1012.35. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 1012.32; documentation of a minimum education level of a high school diploma or equivalent; and completion of an initial orientation and training program in district policies and procedures addressing school safety and security procedures, educational liability laws, professional responsibilities, and ethics.

(b) Part-time and full-time teachers in adult education programs. The qualifications shall require the filing of a complete set of fingerprints in the same manner as required by s. 1012.32. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.



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(c) Part-time and full-time nondegreed teachers of career programs. Qualifications shall be established for nondegreed teachers of career and technical education courses for program clusters that are recognized in this state ~~agriculture, business, health occupations, family and consumer sciences, industrial, marketing, career specialist, and public service education teachers~~, based primarily on successful occupational experience rather than academic training. The qualifications for such teachers shall require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 1012.32. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of 6 years of full-time successful occupational experience or the equivalent of part-time experience in the teaching specialization area. The district school board may establish alternative qualifications for teachers who hold industry certificates in the career areas in which they teach. ~~Alternate means of determining successful occupational experience may be established by the district school board.~~

c. Industry certification if state or national industry certifications are available and applicable.

~~d.e.~~ Completion of career education training conducted through the local school district inservice master plan.

~~e.d.~~ For full-time teachers, completion of professional



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education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program.

~~f.e.~~ Demonstration of successful teaching performance.

Section 29. School district oversight board.—

(1) FINDINGS.—

(a) The Legislature finds that when a grand jury determines there are significant management deficiencies by a district school board leading to waste, fraud, or financial mismanagement, the school district's mismanagement harms students and taxpayers.

(b) The Legislature finds that the acts committed by the Broward County School Board, as detailed in the grand jury report dated January 21, 2011, (Case No. SC09-1910), are particularly egregious, harmful to children, and necessitate additional state oversight through the creation of a school district oversight board.

(2) DETERMINATION OF A DEFICIENCY IN MANAGEMENT.—If a grand jury of the state determines that significant deficiencies exist in a school district's management, including, but not limited to, mismanagement of funds, illegal or unethical dealings in the awarding of contracts, or other acts that threaten the health, safety, or welfare of students, the Commissioner of Education shall certify to the Governor, the President of the Senate, and the Speaker of the House of Representatives that a deficiency exists.

(3) SCHOOL DISTRICT OVERSIGHT BOARD.—



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1971 (a) After receipt of the certification, as provided in
1972 subsection (2), the Governor, the President of the Senate, and
1973 the Speaker of the House of Representatives shall name a school
1974 district oversight board to provide expert advice and assist the
1975 school district in correcting its management deficiencies. Each
1976 school district oversight board shall consist of seven members
1977 who possess specific expertise needed to assist the school
1978 district in correcting the management deficiencies. The Governor
1979 shall appoint three members to the board and the President of
1980 the Senate and the Speaker of the House of Representatives shall
1981 each appoint two members. Members shall serve without
1982 compensation, but are entitled to reimbursement by the district
1983 for travel and per diem expenses in accordance with s. 112.061,
1984 Florida Statutes. The district school board shall pay all
1985 expenditures of the board incurred in relation to this section.

1986 (b) Within 30 days after its formation, the school district
1987 oversight board shall convene in the school district and make
1988 all reasonable efforts to help the school district correct
1989 deficiencies noted in the grand jury report, subsequently
1990 discovered, or otherwise known to exist. The school district
1991 must cooperate with the oversight board and provide information
1992 as requested.

1993 (c) Within 60 days after convening, the oversight board
1994 shall assess the school district's progress and corrective
1995 actions and report to the Commissioner of Education. The
1996 oversight board's report must include a finding regarding
1997 whether policies established, procedures followed, and
1998 expenditures made are consistent with the recommendations of the
1999 oversight board or the grand jury and accomplish corrective



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action or whether deficiencies continue. If the oversight board finds complete compliance, the oversight board shall be disbanded. If the report of the oversight board contains findings of continued deficiencies or failure by the district to cooperate with the oversight board, the State Board of Education shall determine the appropriate sanctions pursuant to s. 1008.32(4), Florida Statutes, and the oversight board shall continue to operate until such time as deficiencies are corrected.

Section 30. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2011.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 361
and insert:
prekindergarten program placed on probation under s.
1002.67(3)(c)2., for which the voluntary prekindergarten

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 1696

INTRODUCER: Senator Wise

SUBJECT: Public School Accountability

DATE: March 23, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	Matthews	ED	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill is a comprehensive public school accountability package which would implement reforms in the following areas:

- Virtual Education—The bill provides that funding for students in grades 6-12 in district virtual programs and the Florida Virtual School (FLVS) is based on successful course completions rather than on credit completions and allows for academically advanced fourth and fifth grade students to take middle school courses from FLVS, and for FLVS to receive funding for the instruction.
- Charter Schools—The bill removes a restriction that prohibits Florida College System (FCS) institutions from operating charter schools that offer elementary education.
- Voluntary Prekindergarten Program (VPK) and Kindergarten Screening—The bill requires a VPK provider that is on probation to administer the statewide VPK enrollment screening to newly admitted VPK students. The provider must pay for the screening. The bill also repeals a numeric limitation on providers who fail to meet the kindergarten readiness rate.
- Career and Professional Academies—The bill specifies criteria for middle school career and professional academies relating to alignment to high school career and professional academies, an opportunity to earn an industry certification and partnerships with the business community. The bill allows the State Board of Education rules to establish program weights for industry certification based on rigor and demand.
- Student Assessment and School Accountability—The bill:
 - Repeals the requirement for certain middle school students to take the Algebra I end-of-course assessment (EOC) in 2010-2011;

- Revises the middle school grading formula to add the performance and participation of students in high school courses with statewide standardized assessments;
- Requires passage of civics for middle school promotion;
- Provides that a school shall receive a school grade of “F” if it does not meet specified minimum proficiency standards in reading;
- Provides that a determination of school grades for the Opportunity Scholarship Program (OSP) will be based on statewide assessments alone;
- Provides that for purposes of calculating the performance category under differentiated accountability, the statewide assessments’ portion of a school grade would be used in determining the appropriate performance category and revises category criteria;
- Provides for the assignment of scores from hospital/homebound students to be assigned to their home school; and
- Authorizes the Commissioner of Education to revise statewide testing dates.
- Instructional Materials—The bill:
 - Revises the review of instructional materials for state adoption by eliminating the 10-member state instructional materials committee;
 - Requires all adopted instructional materials for grades 5-12 to be in electronic format by 2013-14 and all K-12 adopted instructional materials to be in electronic format by 2014-15;
 - Requires school districts to use at least 50 percent of their annual allocation for the purchase of electronic, digital, or online content by 2012-13;
 - Replaces the current 6-year adoption cycle with a 5-year adoption cycle;
 - Removes the requirement for school districts to purchase materials within the first two years of an adoption cycle and to use at least 50 percent of their annual allocation on state-adopted materials; and
 - Allows for the purchase of technology hardware with categorical funds under certain conditions.
- Students with Disabilities—The bill authorizes the waiver of certain EOC assessment requirements for students with disabilities.
- Required Digital Curriculum—The bill requires school districts to implement a digital curriculum for students in grades 5-12.
- Class Size—The bill shifts the burden to school districts to demonstrate that, despite appropriate efforts, it was unable to meet class size for purposes of calculating an alternative reduction in the district’s class size categorical allocation.

The bill substantially amends sections 1001.20, 1001.42, 1002.33, 1002.37, 1002.38, 1002.45, 1002.67, 1002.69, 1002.73, 1003.03, 1003.4156, 1003.428, 1003.492, 1003.493, 1003.575, 1003.621, 1006.28, 1006.29, 1006.30, 1006.31, 1006.32, 1006.33, 1006.34, 1006.35, 1006.36, 1006.38, 1006.39, 1006.40, 1006.43, 1008.22, 1008.33, 1008.34, 1011.01, 1011.03, 1011.61, 1011.62, and 1012.39 of the Florida Statutes.

This bill creates section 1003.4203 of the Florida Statutes and repeals section 1006.37 of the Florida Statutes.

II. Present Situation:

Virtual Education

The Florida Virtual School (FLVS) offers individual course enrollments to all Florida students in grades 6 through 12, including public school, private school, and home education students.¹ School districts are required to provide students with access to enroll in courses available through the FLVS during or after the normal school day and through summer school enrollment.

Virtual education is also provided through school district virtual instruction programs.² Each school district is required to provide a full-time virtual instruction program for students in kindergarten through grade 12 and a full-time or part-time virtual instruction program for students in grades 9 through 12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.³

According to the DOE, “anytime access” has been inconsistently implemented by school districts. Thus, students in some schools have not been allowed to take courses from FLVS, especially as part of their regular school-day curriculum. In these cases, student choice is limited.

Charter Schools

Current law provides authority for the Florida College System (FCS) institutions to operate secondary charter schools.⁴ However, these institutions are prohibited from offering elementary education in the charter schools.⁵ Additionally, charter schools within the FCS are required to include an option for students to receive an associate degree upon high school graduation.⁶

Voluntary Prekindergarten (VPK)

The 2004 Legislature established the Voluntary Prekindergarten Education (VPK) Program, a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.

Within the first 30 days of an academic year, school districts must screen each kindergarten student to determine his or her readiness for kindergarten. From the results of this screening, the kindergarten readiness rate is calculated for each VPK provider.⁷ If a provider falls below the minimum readiness rate for two consecutive years, the provider is placed on probation and is required to take certain corrective actions, including the use of a curriculum approved by the

¹ See s. 1002.37, F.S.; see also Florida Department of Education, Florida Public Virtual Schools, FLVS FAQ, available at: <http://www.fldoe.org/Schools/virtual-schools/faqs.asp>; last checked March 17, 2011. The FLVS is required to be administratively housed within the DOE.

² s. 1002.45(1)(a), F.S.

³ s. 1002.45(1)(b)2., F.S.

⁴ s. 1002.33(5), F.S. According to the DOE, seven FCS institutions currently operate charter schools: Edison State College; Florida State College at Jacksonville; Indian River State College; Northwest Florida State College; Polk State College; St. Petersburg College; and State College of Florida, Manatee-Sarasota.

⁵ s. 1002.33(5)(b)4., F.S.

⁶ *Id.*

⁷ The kindergarten readiness rate is the percentage of students that participated in the provider’s VPK program that are deemed ready for kindergarten. Currently, the readiness rate may not be set higher than a rate below which 15 percent of the VPK providers would fall. See s. 1002.69(6)(b), F.S.

DOE.⁸ If a provider remains on probation for two consecutive years without receiving a good cause exemption, the provider loses eligibility to deliver VPK.⁹ A good cause exemption may be granted for a provider that meets certain criteria established by the State Board of Education (SBE).¹⁰

Career and Professional Academies

The Career and Professional Education (CAPE) Act was enacted by the Florida Legislature to attract and retain targeted, high-value industries and to develop a knowledge-based workforce.¹¹ Each district school board must develop, in collaboration with the local workforce board and the area postsecondary institutions, a 5-year strategic plan to meet local and regional workforce demands through career academies.¹²

For each student enrolled in a career and professional academy who graduates with a standard high school diploma and who earns a certification included on the “Industry Certification Funding List,” the district of instruction may earn 0.3 full-time equivalent (FTE) student membership for the following year’s funding calculation in the Florida Education Finance Program (FEFP).¹³ In 2009-10, 1,237 students generated 371.1 additional FTE in the K-12 funding formula.¹⁴

CAPE academy students perform better than other high school students and have higher grade point averages, lower absentee rates, fewer disciplinary actions, lower dropout rates, higher rates of standard diplomas awarded, higher rates of enrollment in advanced courses, and higher eligibility rates for Bright Futures Scholarships.¹⁵ While high school students have the option to earn industry certifications, there is little opportunity for students to earn rigorous industry certifications in the middle grades. Furthermore, middle school grades are determined solely on the results of statewide assessments without additional incentives to encourage more rigorous and engaging coursework, such as courses offered through a career and professional academy.

School Accountability

The school grades for public schools in Florida are determined each year based upon a point system of student achievement and annual learning gains.¹⁶ Middle school grades are currently based upon student scores on the FCAT.

⁸ s. 1002.67(3)(c), F.S.

⁹ s. 1002.69(7), F.S.

¹⁰ A provider may receive an exemption if it can show learning gains of children served in the VPK program, if the provider has served at least twice the statewide percentage of children with disabilities or children identified as limited English proficient, and if the provider shows that local and state health and safety requirements are met. A provider must still take corrective actions after receiving a good cause exemption. See s. 1002.69(7)(b), F.S.

¹¹ ss. 1003.491 - 1003.494, F.S.

¹² ss. 1003.491(2), F.S.

¹³ s. 1011.62(1)(p), F.S. Certifications earned through dual enrollment are not eligible for additional FTE. The additional FTE may not exceed 0.3 per student (i.e., no repeat allocations for additional certifications).

¹⁴ Because the funding is awarded retroactively, the data reported for 2008-09 is used for the 2009-10 FEFP calculation.

¹⁵ *The Ninth Grade--A Precarious Time for the Potential Dropout*. ERIC Digest No. 34, available at: <http://www.ericdigests.org/pre-926/ninth.htm>. See also <http://www.edweek.org/rc/articles/2007/10/03/sow1003.h27.html>.

¹⁶ s. 1008.34(3), F.S.

Beginning with the 2009-10 school year, the calculation for high school grades incorporated other factors in addition to student achievement and annual learning gains on statewide standardized assessments. These factors include a high school's graduation rate, a high school's graduation rate of certain at-risk students, postsecondary readiness, and student performance and participation in Advanced Placement, International Baccalaureate, dual enrollment, industry certification, and Advanced International Certificate of Education courses.¹⁷

The school grade is used to determine categories of differentiated accountability and eligibility for the Opportunity Scholarship Program (OSP). Differentiated accountability is a system of categorizing schools based upon student achievement and determining appropriate interventions. Each category is based upon the school's grade, progress towards adequate yearly progress under the federal No Child Left Behind requirements, and changes in student performance. School grades are also used to determine if a child is eligible for an Opportunity Scholarship. The OSP provides parents whose children are assigned to a school that has received an "F" twice in a 4-year period the opportunity to send their children to a higher performing public school.

Student Assessment

The Commissioner of Education is required to design and implement a statewide program of educational assessment and to establish schedules for the administration of the assessments and reporting of student test results. The schedule for reporting student test results on the FCAT is no later than the week of June 8 and for end-of-course assessment results no later than a week after the school district completes testing for each course.¹⁸

Beginning in the 2011-12 school year, entering ninth grade students must take and pass the statewide end-course-assessment (EOC) for Algebra I, to earn course credit.¹⁹ Although students have been required to take and pass Algebra I to earn high school credit, students were not previously required to take and pass an EOC associated with the course.²⁰

Beginning in the 2010-11 school year, there will no longer be a ninth grade Mathematics FCAT and beginning in the 2011-12 school year, there will no longer be a tenth grade Mathematics FCAT.²¹ Because federal law requires that all public school students be tested in reading and mathematics at least once at the elementary, middle, and high school level,²² students who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years would be required to take the Algebra I EOC, as the tenth grade Mathematics FCAT would no longer be administered.²³ Although students who take high school level courses in the middle grades will, most likely, enroll in sequentially more rigorous courses, some school districts raised concerns that the lapse in time between taking the course in middle school and sitting for the EOC assessment in high school would be unfair. In addition, these students will

¹⁷ s. 1008.34(3)(b)2., F.S.

¹⁸ The Commissioner is also required to direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program. See s. 1008.22(2), F.S.

¹⁹ s. 1008.22(3)(c) 2.a.(I), F.S.

²⁰ s. 1008.22(3)(c)2.a.(I), F.S.

²¹ s. 1008.22(3)(c)1., F.S.

²² See s. 1111(b)(3)(C)(v)(I)(cc) of the Elementary and Secondary Education Act (ESEA), available at:

<http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html>.

²³ s. 1008.22(3)(c)2.a.(I), F.S.

have already earned their course credit in Algebra I and do not need to pass the EOC assessment to earn course credit or graduate from high school. Accordingly, there were concerns that these students had no reason to perform well, yet their test results would be included in the school's grade. As a result, the Department of Education submitted a request to the U.S. Department of Education for a waiver from the federal law for the specific cohort of students who are affected. The waiver was granted on January 19, 2011.²⁴

Students in grades 6 through 12 who score a Level 1 on FCAT Reading must be enrolled in and complete an intensive reading course the following year. The reading needs of a student that scores a Level II on FCAT Reading must be assessed to determine whether the student needs to be placed in an intensive reading course or a content area course in which reading strategies are delivered.

In order for students to be promoted to high school, the student must successfully complete three middle school or higher courses in English, mathematics, science, and social studies, including one semester of civics education, and one course in career and education planning to be completed in grades 7 or 8.²⁵ Beginning in the 2012-13 school year, the required civics course must include an end-of-course assessment. By the 2014-15 school year, all students must pass the civics EOC assessment to pass the course and receive course credit.²⁶

Instructional Materials

Current law requires the Commissioner to prescribe the procedures and specifications for the evaluation and adoption of instructional materials and to appoint state instructional materials committees (SIMC) composed of 10 or more members.²⁷

Contracts with publishers must be executed by the Governor and Secretary of State and publishers and manufactures must maintain a contract with a depository in the state.²⁸

Florida currently operates under a 6-year adoption cycle, with subject areas rotated during the 6-year cycle and school districts required to requisition adopted instructional materials from the depository within the first two years of the adoption cycle. School districts must use at least 50 percent of their annual allocation on instructional materials on the state-adopted list. School districts are prohibited from using the remaining categorical funds for the purchase of technology hardware.²⁹ Instructional materials adopted after 2012-13 for students in grades 9 through 12 must also be provided in an electronic format.³⁰

²⁴ Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the committee (Jan. 19, 2011). The DOE estimates that approximately 39,600 students completed Algebra I in the middle grades and will not take the 10th grade Mathematics FCAT.

²⁵ s. 1003.4156, F.S.

²⁶ s. 1008.22(3)(c), F.S.

²⁷ The state adoption committee consists of at least 50 percent certified classroom teachers, two laypersons, one district school board member, and two supervisors of teachers.

²⁸ s. 1006.38(11), F.S.

²⁹ s. 1006.40(4), F.S.

³⁰ s. 1006.29(4), F.S.

Digital Curriculum

School boards are not currently required to provide digital curriculum. Many schools, however, currently offer courses in computer programming, web design, and in other information technology areas.³¹

Students with Disabilities

Current law does not provide for an exemption for middle school students with disabilities from end-of-course assessments, however, the law does include a provision to waive end-of-course assessments for high school students with disabilities when the IEP committee determines that an end-of-course assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations.

*Assistive Technology Devices*³²

Presently, certain agencies are required to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or an IEP.³³ The interagency agreements help the agencies to coordinate services for students with disabilities, including a determination of the need for assistive technology, the content of the transition plan, and the post-school support required to meet the student's transition goals.³⁴

III. Effect of Proposed Changes:*Virtual Education*

The bill requires school districts to provide students access to FLVS courses during and after the normal school day. This change provides uniformity among school districts and increases a student's access to the FLVS.

The bill amends the length of time a virtual instruction provider maintains its approved provider status. The bill changes the date of approval for virtual instruction providers to three school years after the date of approval. Because providers are currently approved in February, changing the length of approved provider status to correlate with the school year will prevent the loss of approved status in the middle of a school year.

The bill also eliminates the requirement that the FLVS be administratively housed within the DOE, as FLVS has never been administratively housed within the DOE.

³¹ Computer and other digital curriculum are included under the Fine Arts subject area of the Sunshine State Standards and the Next Generation Sunshine State Standards. These standards establish the core content of the curricula to be taught and specify the core content knowledge and skills that K-12 public school students are expected to acquire. See Florida Department of Education, *Sunshine State Standards*, <http://www.fldoe.org/bii/curriculum/sss>; last visited March 20, 2011.

³² Assistive technology devices are defined as manual and motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, Braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to, in effect, speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability. See s. 427.802, F.S.

³³ The required agencies include the Department of Health, the Department of Education, and the Agency for Workforce Innovation. See s. 1003.575, F.S.

³⁴ Florida Department of Education, Technical Assistance Paper, The Transfer of Assistive Technology to Home, Other Districts, Other Schools, and Other Agencies (Dec. 2005), available at: <http://www.fldoe.org/esd/pdf/y2006-6.pdf>.

Charter Schools

Under the bill, FCS institutions may operate charter schools that offer elementary education. According to the DOE, a number of colleges within the FCS believe that offering elementary education would help the state explore new models for student success, alleviate the class size burden, and improve teacher quality.³⁵ The bill would also amend the requirement for FCS charter schools to include an option for students to receive an associate degree upon high school graduation. Providing this option to students will now become permissive for FCS charter schools.

Voluntary Prekindergarten (VPK)

The bill requires the SBE to periodically review and revise the performance standards for statewide kindergarten screening and to align these standards to the standards for student performance on statewide assessments.

The bill requires a VPK provider to be placed on probation if it fails to meet the minimum kindergarten readiness rate established by the State Board of Education. Previously, a provider had to fail to meet the standards for two consecutive years. This change will require providers to begin corrective actions sooner and will thus improve the quality of VPK providers.

The bill eliminates the restrictions placed on increasing the kindergarten readiness rates and the requirement that no more than 15 percent of the VPK providers can fall below the minimum readiness rate. The readiness rates would no longer be tied to the number of VPK providers that fail to meet them; rather, the SBE can set the rate based on its determination of readiness.

The bill amends the criteria the SBE may use to grant good cause exemptions for public and private VPK providers by eliminating the exemption for providers serving at least twice the statewide percentage of children with disabilities or those identified as limited English proficient. Instead, good cause will be determined by learning gains through a standardized pre- and post-assessment approved by the DOE. The assessment has already been approved by the DOE. The pre-assessment must be administered by the Early Learning Coalition or a second party approved by the DOE and administered within the first 30 days of each school year for which a good cause exemption is sought. The provider must also administer a post-assessment to measure learning gains for the year or the summer and must submit this data to the DOE within 30 days of the assessment administration. This change shifts the emphasis for a good cause exemption from simply the type of students a provider serves (inputs) to the extent of student learning gains (outputs).

Digital Curriculum

The bill authorizes district school boards to develop and implement a digital curriculum for students in grades 6 through 12. The curriculum would use web-based core technologies to design creative, informational, and content standards for web-based digital products that demonstrate proficiency in creating, publishing, testing, monitoring, and maintaining a website. The digital curriculum may be integrated into another subject area or may be offered as a

³⁵ Department of Education legislative bill analysis, on file with the committee.

separate course. The DOE would be required to develop a model digital curriculum and to provide school boards a guide in the development of a digital curriculum.

Career and Professional Academies

In an effort to engage students at an earlier age, prepare them for increasingly demanding coursework, and attain higher level industry certifications, the bill would expand CAPE opportunities to students in middle grades and establish funding for middle school students who earn industry certifications. The strategic 5-year plan developed and approved by school districts, workforce boards and agencies, and postsecondary institutions must include plans to implement career and professional academies at the middle grades.

Middle school students who earn industry certifications would generate the additional funding following graduation from high school with a standard diploma. Although there would be a considerable lapse in time before these students would generate bonus funding, these students will most likely be enrolled in higher level courses and be academically engaged, thus less likely to drop out. High school students who begin their career academy exposure in the middle grades would be prepared to earn additional and more demanding certifications at the high school level.³⁶

The bill also establishes weights for industry certifications based on the level of rigor for the certification, entry-level earnings, and workforce demand in the industry. The formula used to determine these weights would be established through rulemaking.³⁷

Student Assessment

The bill authorizes the commissioner to direct school districts to participate in the administration of an international assessment, in addition to the administration of the National Assessment of Educational Progress (NAEP). This will authorize the commissioner to direct school district participation in assessments like the Program for International Student Assessment (PISA) and the Trends in International Mathematics and Science Study (TIMSS) assessment. The bill also provides the commissioner flexibility to adjust the administration of statewide assessments under exigent circumstances.

The bill eliminates the requirement that all students who took Algebra I in middle school during the 2007-08 through 2009-10 school years take the EOC assessment in the 2010-11 school year. These students are no longer required to take the EOC assessment because the DOE obtained a waiver from the U.S. Department of Education. Without removing this requirement, approximately 39,600 students will unnecessarily be required to take the Algebra I EOC

³⁶ School districts that offer industry-certified career and professional academies in the middle grades would receive a prorated portion of the additional bonus weight in the FEFP for students who receive industry certification in middle school and who subsequently earn a standard high school diploma. Funds would be provided in the General Appropriations Act in the year following the student's graduation from high school and attainment of the industry certification. If the middle school student were to earn additional industry certifications at the high school level, the bonus weight associated with the highest industry certification would be prorated and shared with the appropriate middle school.

³⁷ The DOE and AWI are currently collaborating in establishing the weighting process for inclusion in rule. Factors would include the number of instructional hours, including work experience hours, required to earn the certification, award of college credit for academy courses based on statewide articulation agreements with postsecondary institutions, entry-level wages, growth rate in employment for each occupational category, and average annual openings for the primary occupation linked to the industry certification.

assessment in May. The bill also authorizes middle school principals to determine whether a student that transfers to the middle school and has already completed a civics education course prior to transfer must take the civics education EOC assessment. The middle school principal must make this determination in accordance with SBE rules.

School Accountability

The bill requires the school grade for schools comprised of middle school grades 6 through 8 or grades 7 and 8, to include the performance and participation of its students enrolled in Algebra I, geometry, and biology.

The bill also requires the achievement score and learning gains of a student designated as hospital or homebound to be assigned to that student's home school. A home school is defined as the school the student would be assigned if the student were not assigned to a hospital or homebound program. This provision would ensure that a school district retains its focus on helping these students succeed.

The bill requires a school to receive a school grade of "F", unless it meets a minimum percentage of students proficient in reading, irrespective of its performance on other indicators in the school grading formula. In addition, the bill allows the DOE to grant an exception if the school made significant gains in reading proficiency from the prior year. The SBE must establish the minimum percentage required to receive an exception.

The bill changes how school grades are determined for purposes of differentiated accountability. The bill requires high school grades to be based solely upon the portion of school's grade derived from statewide assessments, including the FCAT and end-of-course assessments, and the level and rate of change in student performance in the areas of reading and mathematics. The formula for calculating high school grades changed in the 2009-10 school year to incorporate other factors, including high school graduation rates and student participation and performance in industry certifications and in certain accelerated courses. Because of the additional factors included in the high school grading formula, the DOE will not be able to determine the appropriate intervention based on the school's performance until after the following school year begins. Accordingly, by changing the law to focus on statewide assessment results, which are provided before the end of the school year, a school may be more quickly categorized. This allows the DOE, school districts, and schools to more timely provide the necessary type and intensity of intervention for schools in need of improvement.

The bill changes how school grades are determined for purposes of Opportunity Scholarship Program eligibility by solely using statewide assessments. Because incorporating the additional factors into the high school grading formula takes more time, a parent must wait until as late as November to determine if their child is eligible to participate in the OSP. Changing how the school grades are calculated for the OSP will allow parents to decide if they want their child to participate in the OSP before the school year begins.³⁸

³⁸ According to the DOE, prior to 2010, these grades have been available mid-summer, allowing time for parent notification and student transfers prior to the beginning of the following school year. Opportunity Scholarship Program eligibility for high schools was unclear as of the opening of the 2010-11 school year, since high school grades were not yet available due to changes in s. 1008.34, F.S. Attempts to identify eligible high schools based on statewide assessments led to some confusion among parents and district personnel, since some identified schools anticipated a performance grade category of "D" or

Instructional Materials

The bill would replace references to textbooks with references to instructional materials and student or site licenses and requires the review of instructional materials for state adoption by at least two expert reviewers instead of a 10-member state instructional materials committee. A secondary review of materials recommended by the expert reviewers would be conducted by one classroom teacher or content supervisor from each district. The bill also establishes that all adopted instructional materials for grades 5-12 must be in electronic format by 2013-14 and for all K-12 adopted instructional materials to be in electronic format by 2014-15. Publishers would be required to provide electronic samples of instructional materials to the DOE and to provide evidence that the publishers' materials are conducive to an electronic search and organization by specific performance standards. In addition, publishers would be encouraged to offer components of state adopted content in digital and electronic formats at reduced rates.

Under the bill, school districts would be required to use at least 50 percent of their annual allocation for the purchase of electronic, digital, or online content by 2012-13 and would be allowed to use these funds for the purchase of technology hardware with categorical funds under certain conditions. The bill removes the requirement for school districts to spend 50 percent of their categorical allocation on state adopted materials and to requisition materials from the depository within the first two years of an adoption cycle. The bill also designates the Commissioner as the contract authority for state-adopted instructional materials rather than the Department of Legal Affairs, the Governor, and the Secretary of State.³⁹ Finally, the current 6-year adoption cycle would be replaced with a 5-year adoption cycle. Instructional Materials are currently amortized over six years.⁴⁰ In reducing the adoption cycle to five years, this may generate a requirement for additional funds in a more abbreviated recurrence schedule. This may, however, be offset by the trend to purchase digital content which may reduce cost.

Students with Disabilities

The bill authorizes the individual education plan (IEP) committee to waive the EOC assessment results for students with disabilities, if the IEP committee determines that the EOC assessment cannot accurately measure the student's abilities even after considering all allowable accommodations.⁴¹ This exemption will allow middle grade students with disabilities the opportunity to pass a course and receive course credit without passing the EOC assessment;

above. Additionally, appropriate transfer schools (ones performing higher than the eligible school, but not less than performance grade category "C" could not be confidently identified. By specifying that high school grades will be based on statewide assessments, this language could allow identification of Opportunity Scholarship-eligible high schools to be made early enough to allow districts sufficient time for parent notification and student transfer. Department of Education legislative bill analysis, on file with the committee.

³⁹ According to the Department of Education legislative bill analysis, the contract execution requirements in current law require modification. The current process is outdated as it has been in place since the Commissioner of Education was a cabinet level officer. It provides for the contract to be prepared by the Attorney General's Office and signed and countersigned by the Governor and Secretary of State. The proposed process is more efficient and properly assigns authority to the Commissioner for execution of the instructional materials contracts.

⁴⁰ See the *Instructional Materials Cost Analysis For Fiscal Year 2011-2012*, available at: <http://www.fadima.net/>.

⁴¹ To be eligible for this waiver, a student must be documented as having an intellectual disability, a hearing impairment, including deafness, a speech or language impairment, a visual impairment, including blindness, an emotional or behavioral disability, an orthopedic or other health impairment, an autism spectrum disorder, a traumatic brain injury, or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

however, the student is still required to take the assessment. The bill also requires any school with an IEP team to complete an assistive technology assessment within 60 days of receiving a request to determine the most appropriate assistive technology needed to maintain or improve the functional capabilities of the student.

Budget Approval

The bill removes the requirement that the commissioner review the annual operating budgets for district school boards and the FCS institutions. Some school districts have attempted to hold the commissioner and the DOE accountable when problems existed with their budgets because the budgets had, in theory, been reviewed and approved. By removing the requirement to review and approve, the school districts will be fully accountable for their budgets.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the DOE, publishers would be allowed to offer instructional materials at reduced rates through the Florida Virtual Curriculum Marketplace.⁴²

The cost of the VPK pre-enrollment screening will be incurred by private providers and schools on probation based upon the minimum kindergarten readiness rate established. Costs of the VPK pre-enrollment screening are indeterminate at this time.⁴³

The cost for the electronic format of instructional materials is indeterminate. Publisher expenses will be reduced as samples of instructional materials will be submitted electronically to the department.⁴⁴

⁴² Department of Education legislative bill analysis, on file with the committee.

⁴³ *Id.*

⁴⁴ *Id.*

C. Government Sector Impact:

According to the DOE, changes to school improvement categories under the bill may affect the number of schools that qualify for School Recognition Awards. In 2010-11 each qualifying school was awarded \$75 per student for School Recognition, with total program funding at \$119,824,250.⁴⁵

Based on the DOE analysis, the travel costs for the SIMC meetings have ranged from \$30,000 to \$70,000, with an average cost of \$51,000 over the last five completed adoption cycles (2005-06 to 2009-10).⁴⁶ Although this expense would no longer be necessary, the bill provides for compensation of expert reviewers in an indeterminate amount.

VI. Technical Deficiencies:

Lines 642 to 645 allow capital improvement funds to be used to purchase equipment or software. However, the bill does not amend s. 1011.71(2), F.S., to comply with this provision, creating a statutory conflict.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁴⁵ *Id.*

⁴⁶ *Id.*

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: PCS/SB 1696

INTRODUCER: Education Pre-K – 12 Committee and Senator Wise

SUBJECT: Public School Accountability

DATE: March 26, 2011

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carrouth	Matthews	ED	Pre-meeting
2. _____	_____	BC	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

This bill is a comprehensive public school accountability package which would implement reforms in the following areas:

- Virtual Education—The bill provides that funding for students in grades 6-12 in district virtual programs and the Florida Virtual School (FLVS) is based on successful course completions rather than on credit completions and allows for academically advanced fourth and fifth grade students to take middle school courses from FLVS, and for FLVS to receive funding for the instruction.
- Gift Ban—The bill prohibits school board members and their relatives from soliciting or accepting any gift from any person, vendor, potential vendor, or other entity doing business with the school district.
- Voluntary Prekindergarten Program (VPK) and kindergarten screening—The bill requires a VPK provider that is on probation to administer the statewide VPK enrollment screening, which the Department of Education (DOE) must adopt, to newly admitted VPK students. The provider must pay for the screening. The bill also repeals a numeric limitation on providers who fail to meet the kindergarten readiness rate.
- Career and Professional Academies—The bill specifies criteria for middle school career and professional academies relating to alignment to high school career and professional academies, an opportunity to earn an industry certification and partnerships with the business community. The State Board of Education must adopt rules to establish program weights for industry certification based on rigor and demand.
- Student Assessment and School Accountability—The bill:

- Repeals the requirement for certain middle school students to take the Algebra I end-of-course assessment (EOC) in 2010-2011;
- Revises the middle school grading formula to add the performance and participation of students in high school courses with statewide standardized assessments;
- Requires passage of civics for middle school promotion;
- Provides that a school shall receive a school grade of “F” if it does not meet specified minimum proficiency standards in reading;
- Provides that a determination of school grades for the Opportunity Scholarship Program (OSP) will be based on statewide assessments alone;
- Provides that for purposes of calculating the performance category under differentiated accountability, the statewide assessments’ portion of a school grade would be used in determining the appropriate performance category, and revises category criteria;
- Provides for the assignment of scores from hospital/homebound students to be assigned to their home school; and
- Authorizes the Commissioner of Education to revise statewide testing dates.
- Supplemental Education Services (SES)—The bill provides that a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment if the Department of Education is notified of its intent before services are provided to the student.
- Students with Disabilities—The bill:
 - Authorizes the waiver of certain EOC assessment requirements for students with disabilities; and
 - Codifies existing rule that a McKay scholarship student who enters a Department of Juvenile Justice detention center for less than 21 days would not lose the scholarship.
- Budget Transparency—The bill requires school districts to post each proposed, tentative, and official budget on their websites and encourages school districts to provide additional information on their websites.
- School District Oversight Board—The bill establishes an oversight board to recommend corrective action to a school district when a grand jury finds financial mismanagement by a school district board.

The bill substantially amends sections 1001.20, 1001.42, 1002.37, 1002.38, 1002.39, 1002.45, 1002.67, 1002.69, 1002.71, 1002.73, 1003.4156, 1003.428, 1003.491, 1003.492, 1003.493, 1003.575, 1008.22, 1008.33, 1008.331, 1008.34, 1011.01, 1011.03, 1011.61, 1011.62, and 1012.39 of the Florida Statutes.

This bill creates sections 1001.421, 1003.4935, and 1011.035 of the Florida Statutes, and one undesignated section of the Florida Statutes.

II. Present Situation:

Virtual Education

The Florida Virtual School (FLVS) offers individual course enrollments to all Florida students in grades 6 through 12, including public school, private school, and home education students.¹ School districts are required to provide students with access to enroll in courses available through the FLVS during or after the normal school day and through summer school enrollment.

Virtual education is also provided through school district virtual instruction programs.² Each school district is required to provide a full-time virtual instruction program for students in kindergarten through grade 12 and a full-time or part-time virtual instruction program for students in grades 9 through 12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.³

According to the DOE, “anytime access” has been inconsistently implemented by school districts. Thus, students in some schools have not been allowed to take courses from FLVS, especially as part of their regular school-day curriculum. In these cases, student choice is limited.

Gift Ban

Public officers, employees of agencies, local government attorneys, and candidates for nomination or election are not allowed to accept anything of value, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney or candidate would be influenced by the gift.⁴ School board members, as elected officials, are included in the definition of public officers.⁵ In addition, school board members, school superintendents, and any business organization in which a school board member or school superintendent has any financial interest are prohibited from contracting with a school district for materials, supplies, and services needed.⁶ School board members⁷ must also report any gifts that exceed \$100 in value, for which compensation was not “provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less.”⁸

Voluntary Prekindergarten (VPK)

The 2004 Legislature established the Voluntary Prekindergarten Education (VPK) Program, a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.

¹ See s. 1002.37, F.S.; see also Florida Department of Education, Florida Public Virtual Schools, *FLVS FAQ*, <http://www.fldoe.org/Schools/virtual-schools/faqs.asp>; last checked March 17, 2011. The FLVS is required to be administratively housed within the Office of Technology and Information Services (OTIS) in the DOE.

² s. 1002.45(1)(a), F.S.

³ s. 1002.45(1)(b)2., F.S.

⁴ s. 112.313, F.S.

⁵ s. 112.313(1), F.S.

⁶ s. 1001.42(12)(i), F.S.

⁷ School board members are considered “reporting individuals” for purposes of filing full or limited public disclosure of their financial interests, s. 112.3148(2)(e), F.S.

⁸ s. 112.3148(8)(a), F.S.

Within the first 30 days of an academic year, school districts must screen each kindergarten student to determine his or her readiness for kindergarten. From the results of this screening, the kindergarten readiness rate is calculated for each VPK provider.⁹ If a provider falls below the minimum readiness rate for two consecutive years, the provider is placed on probation and is required to take certain corrective actions, including the use of a curriculum approved by the DOE.¹⁰ If a provider remains on probation for two consecutive years without receiving a good cause exemption, the provider loses eligibility to deliver the VPK.¹¹ A good cause exemption may be granted for a provider that meets certain criteria established by the State Board of Education (SBE).¹²

Career and Professional Academies

The Career and Professional Education (CAPE) Act was enacted by the Florida Legislature to attract and retain targeted, high-value industries and to develop a knowledge-based workforce.¹³ Each district school board must develop, in collaboration with the local workforce board and the area postsecondary institutions, a 5-year strategic plan to meet local and regional workforce demands through career academies.¹⁴

For each student enrolled in a career and professional academy who graduates with a standard high school diploma and who earns a certification included on the “Industry Certification Funding List,” the district of instruction may earn 0.3 full-time equivalent (FTE) student membership for the following year’s funding calculation in the Florida Education Finance Program (FEFP).¹⁵ In 2009-10, 1,237 students generated 371.1 additional FTE in the K-12 funding formula.¹⁶

CAPE academy students perform better than other high school students and have higher grade point averages, lower absentee rates, fewer disciplinary actions, lower dropout rates, higher rates of standard diplomas awarded, higher rates of enrollment in advanced courses, and higher eligibility rates for Bright Futures Scholarships.¹⁷ While high school students have the option to earn industry certifications, there is little opportunity for students to earn rigorous industry certifications in the middle grades. Furthermore, middle school grades are determined solely on

⁹ The kindergarten readiness rate is the percentage of students that participated in the provider’s VPK program that are deemed ready for kindergarten. Currently, the readiness rate may not be set higher than a rate below which 15 percent of the VPK providers would fall. See s. 1002.69(6)(b), F.S.

¹⁰ s. 1002.67(3)(c), F.S.

¹¹ s. 1002.69(7), F.S.

¹² A provider may receive an exemption if it can show learning gains of children served in the VPK program, if the provider has served at least twice the statewide percentage of children with disabilities or children identified as limited English proficient, and if the provider shows that local and state health and safety requirements are met. A provider must still take corrective actions after receiving a good cause exemption. See s. 1002.69(7)(b), F.S.

¹³ ss. 1003.491-1003.494, F.S.

¹⁴ ss. 1003.491(2), F.S.

¹⁵ s. 1011.62(1)(p), F.S. Certifications earned through dual enrollment are not eligible for additional FTE. The additional FTE may not exceed 0.3 per student (i.e., no repeat allocations for additional certifications).

¹⁶ Because the funding is awarded retroactively, the data reported for 2008-09 is used for the 2009-10 FEFP calculation.

¹⁷ *The Ninth Grade--A Precarious Time for the Potential Dropout*. ERIC Digest No. 34, available at <http://www.ericdigests.org/pre-926/ninth.htm>. See also <http://www.edweek.org/rc/articles/2007/10/03/sow1003.h27.html>.

the results of statewide assessments without additional incentives to encourage more rigorous and engaging coursework, such as courses offered through a career and professional academy.

School Accountability

The school grades for public schools in Florida are determined each year based upon a point system of student achievement and annual learning gains.¹⁸ Middle school grades are currently based upon student scores on the FCAT.

Beginning with the 2009-10 school year, the calculation for high school grades incorporated other factors in addition to student achievement and annual learning gains on statewide standardized assessments. These factors include a high school's graduation rate, a high school's graduation rate of certain at-risk students, postsecondary readiness, and student performance and participation in Advanced Placement, International Baccalaureate, dual enrollment, industry certification, and Advanced International Certificate of Education courses.¹⁹

The school grade is used to determine categories of differentiated accountability and eligibility for the Opportunity Scholarship Program (OSP). Differentiated accountability is a system of categorizing schools based upon student achievement and determining appropriate interventions. Each category is based upon the school's grade, progress towards adequate yearly progress under the federal No Child Left Behind requirements, and changes in student performance. School grades are also used to determine if a child is eligible for an Opportunity Scholarship. The OSP provides parents whose children are assigned to a school that has received an "F" twice in a 4-year period the opportunity to send their children to a higher performing public school.

*Supplemental Education Services (SES)*²⁰

The No Child Left Behind Act (NCLB) in federal law prescribes that any public school that fails to make Adequate Yearly Progress (AYP) for two consecutive years must provide to students the following year both school choice with transportation and supplemental educational services from state-approved providers.²¹ As part of the application process, current law requires SES providers to identify the specific assessment to be administered and to describe the procedures and timelines to be used to evaluate, monitor, and report each student's progress toward meeting the goals as stated on the student learning plan.²² Providers must describe how diagnostic assessment data will be used to identify the student's knowledge and skills gaps and set measurable goals for the student learning plan. Concerns have been raised that there is not sufficient accountability in the SES provider program because the providers select and score the pre- and post-assessment tool to measure student progress towards the student learning plan.

Student Assessment

The Commissioner of Education is required to design and implement a statewide program of educational assessment and to establish schedules for the administration of the assessments and

¹⁸ s. 1008.34(3), F.S.

¹⁹ s. 1008.34(3)(b)2., F.S.

²⁰ See s. 1008.331(2), F.S.

²¹ <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=307&ID=831>, Florida Department of Education, Bureau of Student Assistance.

²² SES provider application, available at:

http://www.fldoe.org/board/meetings/2008_02_19/Item%202%20Form%20SES%20100.pdf

reporting of student test results. The schedule for reporting student test results on the FCAT is no later than the week of June 8 and for end-of-course assessment results no later than a week after the school district completes testing for each course.²³

Beginning in the 2011-12 school year, entering ninth grade students must take and pass the statewide end-course-assessment (EOC) for Algebra I, to earn course credit.²⁴ Although students have been required to take and pass Algebra I to earn high school credit, students were not previously required to take and pass an EOC associated with the course.²⁵

Beginning in the 2010-11 school year, there will no longer be a ninth grade Mathematics FCAT and beginning in the 2011-12 school year, there will no longer be a tenth grade Mathematics FCAT.²⁶ Because federal law requires that all public school students be tested in reading and mathematics at least once at the elementary, middle, and high school level,²⁷ students who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years would be required to take the Algebra I EOC, as the tenth grade Mathematics FCAT would no longer be administered.²⁸ Although students who take high school level courses in the middle grades will, most likely, enroll in sequentially more rigorous courses, some school districts raised concerns that the lapse in time between taking the course in middle school and sitting for the EOC assessment in high school would be unfair. In addition, these students will have already earned their course credit in Algebra I and do not need to pass the EOC assessment to earn course credit or graduate from high school. Accordingly, there were concerns that these students had no reason to perform well, yet their test results would be included in the school's grade. As a result, the Department of Education submitted a request to the U.S. Department of Education for a waiver from the federal law for the specific cohort of students who are affected. The waiver was granted on January 19, 2011.²⁹

Students in grades 6 through 12 who score a Level 1 on FCAT Reading must be enrolled in and complete an intensive reading course the following year. The reading needs of a student that scores a Level II on FCAT Reading must be assessed to determine whether the student needs to be placed in an intensive reading course or a content area course in which reading strategies are delivered.

In order for students to be promoted to high school, the student must successfully complete three middle school or higher courses in English, mathematics, science, and social studies, including one semester of civics education, and one course in career and education planning to be completed in grades 7 or 8.³⁰ Beginning in the 2012-13 school year, the required civics course

²³ The Commissioner is also required to direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program. See s. 1008.22(2), F.S.

²⁴ s. 1008.22(3)(c) 2.a.(I), F.S.

²⁵ s. 1008.22(3)(c)2.a.(I), F.S.

²⁶ s. 1008.22(3)(c)1., F.S.

²⁷ See s. 1111(b)(3)(C)(v)(I)(cc) of the Elementary and Secondary Education Act (ESEA), available at: <http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html>.

²⁸ s. 1008.22(3)(c)2.a.(I), F.S.

²⁹ Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the committee (Jan. 19, 2011). The DOE estimates that approximately 39,600 students completed Algebra I in the middle grades and will not take the 10th grade Mathematics FCAT.

³⁰ s. 1003.4156, F.S.

must include an end-of-course assessment. By the 2014-15 school year, all students must pass the civics EOC assessment to pass the course and receive course credit.³¹

Students with Disabilities

Current law does not provide for an exemption for middle school students with disabilities from end-of-course assessments, however, the law does include a provision to waive end-of-course assessments for high school students with disabilities when the IEP committee determines that an end-of-course assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations.

McKay Scholarship Program

Current law sets forth the requirements for parental placement of a student with disabilities in an eligible private school or another public school.³² To be eligible for a McKay scholarship to attend a private school, a K-12 student with a disability³³ must have an individual education plan (IEP) and have spent the prior school year in attendance at a Florida public school.³⁴ Prior school year in attendance means that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice (DJJ) commitment program, if funded in the FEFP.³⁵

For purposes of continuity of educational choice, the scholarship remains in force until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first.³⁶ Under current administrative rule, a student who enters a DJJ detention center for less than 15 days is not considered to be returning to public school.³⁷

*Assistive Technology Devices*³⁸

Presently, certain agencies are required to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or an IEP.³⁹ The interagency agreements help the agencies to coordinate services for students with disabilities, including a determination of the need for assistive technology, the content of the transition plan, and the post-school support required to meet the student's transition goals.⁴⁰

³¹ s. 1008.22(3)(c), F.S.

³² s. 1002.39, F.S.

³³ s. 1002.39(1), F.S.

³⁴ s. 1002.39(2), F.S. There are two exceptions to the requirement for prior year in attendance.

³⁵ *Id.*

³⁶ s. 1002.39(4), F.S.

³⁷ Rule 6A-6.0970(3), F.A.C.

³⁸ Assistive technology devices are defined as manual and motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, Braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to, in effect, speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability. See s. 427.802, F.S.

³⁹ The required agencies include the Department of Health, the Department of Education, and the Agency for Workforce Innovation. See s. 1003.575, F.S.

⁴⁰ Florida Department of Education, Technical Assistance Paper, The Transfer of Assistive Technology to Home, Other Districts, Other Schools, and Other Agencies (Dec. 2005), available at: <http://www.fldoe.org/ese/pdf/y2006-6.pdf>.

Budget Transparency

District school boards are currently required to post a summary of their tentative budget online and advertise it in a newspaper of general circulation in the district.⁴¹

Grand Jury Report on the Functioning of the Broward County School District

A grand jury was convened to examine the functioning of the Broward County School Board and of the Broward County School District. As a result, the grand jury made certain findings and recommendations. The grand jury report of January 21, 2011 indicated a variety of deficiencies in the management of schools by Broward County school district members.⁴² Included in the report were findings of gross mismanagement of funds, illegal dealings in the awarding of contracts, and evidence that members routinely authorized unfinished schools to be opened under potentially hazardous conditions. Cited in the report was an earlier grand jury report which found a significant pattern of faulty construction in new school construction, primarily in the area of water intrusion, resulting mold and mildew, and the ensuing health impact on children, teachers and other school personnel.⁴³ The 2011 grand jury made a number of recommendations, many of which related to the various phases of the construction process, from advertising for bids to architectural plans to final construction and retainage. The grand jury also recommended the creation of an entity to monitor the district school board.

III. Effect of Proposed Changes:

Virtual Education

The bill requires school districts to provide students access to FLVS courses during and after the normal school day. This change provides uniformity among school districts and increases a student's access to the FLVS.

The bill amends the length of time a virtual instruction provider maintains its approved provider status. The bill changes the date of approval for virtual instruction providers to three school years after the date of approval. Because providers are currently approved in February, changing the length of approved provider status to correlate with the school year will prevent the loss of approved status in the middle of a school year.

The bill also eliminates the requirement that the FLVS be administratively housed within the DOE. FLVS was never housed in the DOE.

Gift Ban

The bill expands the current prohibition to include any gift to a school board member, regardless of whether the gift was accepted to influence a school board member's vote. The bill also expands the gift ban to apply to the relatives of school board members.⁴⁴ A gift is defined to

⁴¹ s. 1011.03, F.S.

⁴² *Final Report of the Nineteenth Statewide Grand Jury In the Supreme Court of the State of Florida*, Case. No. SC09-1910.

⁴³ *Interim Report of the 2002 Fall Term Grand Jury on School Board Construction*, Broward County Grand Jury (April 23, 2003).

⁴⁴ Section 112.312(12), F.S., defines "relative" to mean: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is

include real property, personal property, preferential rate or terms on debt, forgiveness of indebtedness, transportation, food or beverage, membership dues, entrance fees, plants, flowers, or floral arrangements.

The bill prohibits school board members and their relatives from soliciting or accepting, directly or indirectly, any gift from any person, vendor, potential vendor, or other entity doing business with the school district. This change imposes stricter ethics requirements on school board members and their relatives.

Voluntary Prekindergarten (VPK)

The bill requires the SBE to periodically review and revise the performance standards for statewide kindergarten screening and to align these standards to the standards for student performance on statewide assessments. The bill authorizes nonpublic schools to administer the kindergarten readiness screening to each kindergarten student in nonpublic school who was enrolled in VPK.

The bill requires a VPK provider to be placed on probation if it fails to meet the minimum kindergarten readiness rate established by the State Board of Education. Previously, a provider had to fail to meet the standards for two consecutive years. This change will require providers to begin corrective actions sooner and will thus improve the quality of VPK providers.

The methodology for calculating each VPK provider's readiness rate must include the percentage of students who meet all state readiness measures, and the DOE must adopt procedures for annually reporting the percentage of students who meet all kindergarten readiness measures. The bill eliminates a restriction placed on increasing the kindergarten readiness rate by removing the requirement that no more than 15 percent of the VPK providers can fall below the minimum readiness rate. Thus, readiness rates would no longer be tied to the number of VPK providers that fail to meet them, and the SBE can set the rate based on its determination of readiness.

The bill requires the DOE to adopt a statewide VPK enrollment screening to assess the readiness of each student for kindergarten upon the student's entry into a VPK program. A VPK provider that is on probation must require newly-enrolled VPK students to complete the enrollment screening, and the provider must pay for the screening. Each parent enrolling a child in a VPK program must submit the child for the enrollment screening if required to do so by the provider. The department must adopt the fee schedule associated with the VPK enrollment screening and the process for determining learning gains of students who take the VPK enrollment screening and the kindergarten readiness screening.

The bill amends the criteria the SBE may use to grant good cause exemptions for public and private VPK providers by eliminating the exemption for providers serving at least twice the statewide percentage of children with disabilities or those identified as limited English proficient. Instead, good cause will be determined by learning gains through a VPK enrollment screening and the statewide kindergarten screening. This change shifts the emphasis for a good

cause exemption from simply the type of students a provider serves (inputs) to the extent of student learning gains (outputs).

Students with Disabilities

The bill authorizes the individual education plan (IEP) committee to waive the EOC assessment results for students with disabilities, if the IEP committee determines that the EOC assessment cannot accurately measure the student's abilities even after considering all allowable accommodations.⁴⁵ This exemption will allow middle grade students with disabilities the opportunity to pass a course and receive course credit without passing the EOC assessment; however, the student is still required to take the assessment. The bill also requires any school with an IEP team to complete an assistive technology assessment within 60 days of receiving a request to determine the most appropriate assistive technology needed to maintain or improve the functional capabilities of the student.

McKay Scholarship Program

The bill provides that a McKay scholarship student who enters a Department of Juvenile Justice detention center for less than 21 days would not lose the scholarship. This provision will prevent a student from losing their McKay scholarship for a temporary stay at a DJJ facility.

Career and Professional Academies

In an effort to engage students at an earlier age, prepare them for increasingly demanding coursework, and attain higher level industry certifications, the bill would expand CAPE opportunities to students in middle grades and establish funding for middle school students who earn industry certifications. The strategic 5-year plan developed and approved by school districts, workforce boards and agencies, and postsecondary institutions must include plans to implement career and professional academies at the middle grades.

Middle school students who earn industry certifications would generate the additional funding following graduation from high school with a standard diploma. Although there would be a considerable lapse in time before these students would generate bonus funding, these students will most likely be enrolled in higher level courses and be academically engaged, thus less likely to drop out. High school students who begin their career academy exposure in the middle grades would be prepared to earn additional and more demanding certifications at the high school level.⁴⁶

The bill also establishes weights for industry certifications based on the level of rigor for the certification, entry-level earnings, and workforce demand in the industry. The formula used to

⁴⁵ To be eligible for this waiver, a student must be documented as having an intellectual disability, a hearing impairment, including deafness, a speech or language impairment, a visual impairment, including blindness, an emotional or behavioral disability, an orthopedic or other health impairment, an autism spectrum disorder, a traumatic brain injury, or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

⁴⁶ School districts that offer industry-certified career and professional academies in the middle grades would receive a prorated portion of the additional bonus weight in the FEFP for students who receive industry certification in middle school and who subsequently earn a standard high school diploma. Funds would be provided in the General Appropriations Act in the year following the student's graduation from high school and attainment of the industry certification. If the middle school student were to earn additional industry certifications at the high school level, the bonus weight associated with the highest industry certification would be prorated and shared with the appropriate middle school.

determine these weights would be established through rulemaking.⁴⁷ The bill also specifies that a secondary school must discontinue enrollment for the CAPE academy the following year if the passage rate falls below 50 percent on the academy-related industry certification

Student Assessment

The bill authorizes the commissioner to direct school districts to participate in the administration of an international assessment, in addition to the administration of the National Assessment of Educational Progress (NAEP). This will authorize the commissioner to direct school district participation in assessments like the Program for International Student Assessment (PISA) and the Trends in International Mathematics and Science Study (TIMSS) assessment. The bill also provides the commissioner flexibility to adjust the administration of statewide assessments under exigent circumstances.

The bill eliminates the requirement that all students who took Algebra I in middle school during the 2007-08 through 2009-10 school years take the EOC assessment in the 2010-11 school year. These students are no longer required to take the EOC assessment because the DOE obtained a waiver from the U.S. Department of Education. Without removing this requirement, approximately 39,600 students will unnecessarily be required to take the Algebra I EOC assessment in May. The bill also authorizes middle school principals to determine whether a student that transfers to the middle school and has already completed a civics education course prior to transfer must take the civics education EOC assessment. The middle school principal must make this determination in accordance with SBE rules.

School Accountability

The bill requires the school grade for schools comprised of middle school grades 6 through 8 or grades 7 and 8, to include the performance and participation of its students enrolled in Algebra I, geometry, and biology. The determination of middle school grades would also include middle school students' attainment of specific industry certifications, as data becomes available. This provision would encourage middle students to enroll in more challenging content and school districts to provide such offerings.

The bill also requires the achievement score and learning gains of a student designated as hospital or homebound to be assigned to that student's home school. A home school is defined as the school the student would be assigned if the student were not assigned to a hospital or homebound program. This provision would ensure that a school district retains its focus on helping these students succeed.

The bill requires a school to receive a school grade of "F," unless it meets a minimum percentage of students proficient in reading, irrespective of its performance on other indicators in the school grading formula. In addition, the bill allows the DOE to grant an exception if the school made significant gains in reading proficiency from the prior year. The SBE must establish the minimum percentage required to receive an exception.

⁴⁷ The DOE and AWI are currently collaborating in establishing the weighting process for inclusion in rule. Factors would include the number of instructional hours, including work experience hours, required to earn the certification, award of college credit for academy courses based on statewide articulation agreements with postsecondary institutions, entry-level wages, growth rate in employment for each occupational category, and average annual openings for the primary occupation linked to the industry certification.

The bill changes how school grades are determined for purposes of differentiated accountability. The bill requires high school grades to be based solely upon the portion of school's grade derived from statewide assessments, including the FCAT and end-of-course assessments. The formula for calculating high school grades changed in the 2009-10 school year to incorporate other factors, including high school graduation rates and student participation and performance in industry certifications and in certain accelerated courses. Because of the additional factors included in the high school grading formula, the DOE will not be able to appropriately identify intervention options based on the school's performance levels until after the following school year begins. By changing the law to focus on statewide assessment results, which are provided before the end of the school year, a school may be more quickly and appropriately identified. This allows the school districts to more timely provide the necessary type and intensity of intervention for schools in need of improvement.

The bill changes how school grades are determined for purposes of Opportunity Scholarship Program eligibility by solely using statewide assessments. Because incorporating the additional factors into the high school grading formula takes more time, a parent must wait until as late as November to determine if their child is eligible to participate in the OSP. Changing how the school grades are calculated for the OSP will allow parents to decide if they want their child to participate in the OSP before the school year begins.⁴⁸

Supplemental Education Services (SES)

The bill provides that a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment if the Department of Education is notified of such intent before services are provided to the student. This may promote consistency in establishing baseline student achievement information and subsequent learning gains achieved by students being served by SES providers.

Budget Approval

The bill removes the requirement that the commissioner review the annual operating budgets for district school boards and the FCS institutions. Some school districts have attempted to hold the commissioner and the DOE accountable when problems existed with their budgets because the budgets had, in theory, been reviewed and approved. By removing the requirement to review and approve, the school districts will be fully accountable for their budgets.

⁴⁸ According to the DOE, prior to 2010, these grades have been available mid-summer, allowing time for parent notification and student transfers prior to the beginning of the following school year. Opportunity Scholarship Program eligibility for high schools was unclear as of the opening of the 2010-11 school year, since high school grades were not yet available due to changes in s. 1008.34, F.S. Attempts to identify eligible high schools based on statewide assessments led to some confusion among parents and district personnel, since some identified schools anticipated a performance grade category of "D" or above. Additionally, appropriate transfer schools (ones performing higher than the eligible school, but not less than performance grade category "C") could not be confidently identified. By specifying that high school grades will be based on statewide assessments, this language could allow identification of Opportunity Scholarship-eligible high schools to be made early enough to allow districts sufficient time for parent notification and student transfer. See Department of Education legislative bill analysis, on file with the committee.

Budget Transparency

The bill requires district school boards to post on their websites each proposed, tentative, and official budget in terms that are easily understandable and in a manner that is easily accessible to the public.⁴⁹

School boards are also encouraged to post timely information as to when a budget hearing will be conducted; each contract between the district school board and the teacher's union; contracts between the district school board and noninstructional staff; each contract exceeding \$35,000 between the school board and a vendor of service, supplies, or programs, or a contract for the purchase or lease of lands, facilities, or properties; each contract over \$35,000 that was an emergency procurement or a contract with a single source; recommendations of the citizens' budget advisory committee; and current and archived video recordings of each district school board meeting and workshop.⁵⁰

School District Oversight Board

The bill requires the Commissioner of Education to certify to the Governor and the Legislature that a deficiency in management exists if such findings are established by a grand jury and requires the Governor and the Legislature to establish a school district oversight board to assist the school district in correcting the management deficiencies. A school district that fails to correct the deficiencies or fails to cooperate may be sanctioned under s. 1008.32(4), F.S. Additionally, the school district is responsible for the oversight board's expenditures.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

⁴⁹ District school boards are currently required to post a summary of their tentative budget online and advertise it in a newspaper of general circulation in the district.

⁵⁰ These items are included to address some of the issues raised by the grand jury regarding the wasteful utilization of resources and contracts made by the Broward County School Board. *Final Report of the 19th Statewide Grand Jury in the Supreme Court of the State of Florida*, Case No: SC09-1910, at 3 and 24.

B. Private Sector Impact:

The cost of the VPK pre-enrollment screening will be incurred by private providers. The cost is indeterminate at this time.

C. Government Sector Impact:

According to the DOE, changes to school improvement categories under the bill may affect the number of schools that qualify for School Recognition Awards. In 2010-11 each qualifying school was awarded \$75 per student for School Recognition, with total program funding at \$119,824,250.⁵¹

School districts subject to the oversight board will incur the costs of compliance and the cost of operating the board. Compensation for board members is not authorized.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁵¹ *Id.*

A background image showing the backs of several children in a classroom, with their hands raised in the air. They are positioned in front of a chalkboard that has some faint, illegible writing on it. The children are wearing colorful clothing, including a red shirt and an orange shirt. The overall scene suggests an active learning environment.

***USE OF SECLUSION AND RESTRAINT ON
STUDENTS WITH DISABILITIES***
SECTION 1003.573, FLORIDA STATUTES

Bambi J. Lockman, Chief
Bureau of Exceptional Education and Student Services

Federal and State

- Office of Civil Rights (OCR)
 - Applies to all students
- Section 1003.573, F.S., *Use of Seclusion and Restraint on Students with Disabilities*
 - Applies to students with:
 - Individual Educational Plan (IEP)
 - 504 plan
 - Student in a private school with a service plan

Restraint

- ***Restraint** immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely*
- Critical Reminders
 - The use of restraint that restricts a student's breathing is expressly prohibited
 - Restraint should only be used in emergency situations when an imminent risk or serious injury or death to the student or other exists

Seclusion

- ***Seclusion*** is the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving
- Critical Reminders
 - Seclusion rooms must meet the requirements identified in Rule 69A-58.0084, F.A.C., *Seclusion Time-out Rooms*
 - An electro-magnetic locking device is the only approved device to secure a seclusion room – requires constant human contact
 - A view panel is required – to allow continuous observation
 - Covering a view panel is expressly prohibited
 - Seclusion should only be used in emergency situations when an imminent risk or serious injury or death to the student or other exists.

Requirements of Florida Law

- School districts must:
 - Develop policies and procedures for Restraint and Seclusion and include them in their special policies and procedures (SP&P) document
 - All districts submitted by January 1, 2011 and included a description of their monitoring plan

Requirements of Florida Law

- Schools must:
 - Report all incidents of seclusion and restraint
 - Notify parents on the day the incident occurs
 - Prepare a report within 24 hours of the incident
 - Mail incident report to parents within 3 days after the incident
 - Attempt to get parent acknowledgement of both notice and incident report

Report Submission

- Submitted via web by all schools
 - Center schools
 - Residential schools
 - Charter schools
 - DJJ schools
- Only school level staff can submit reports
- Web report includes all elements and can be printed for parent to sign
- For monitoring purposes, district staff have view access to reports

Incident reports include:

- Student's name
- Date, time, duration, and location
- Type of restraint
- Name of person using or assisting
- Context in which the incident occurred
- Student's behavior leading up to incident
- Description of imminent risk of serious injury or death
- Positive behavioral strategies used
- What occurred after the incident
- Injuries, marks, medical emergencies
- Steps taken to notify parent

Due to the confidential nature of the incident reports, FDOE has acquired redacting software to assist with removing any personally identifiable information

Data

Restraint

- 7,218 incidents involving 2,400 students

PK-3: 41%

4-8: 41%

9-12: 18%

Seclusion

- 2,905 incidents involving 835 students

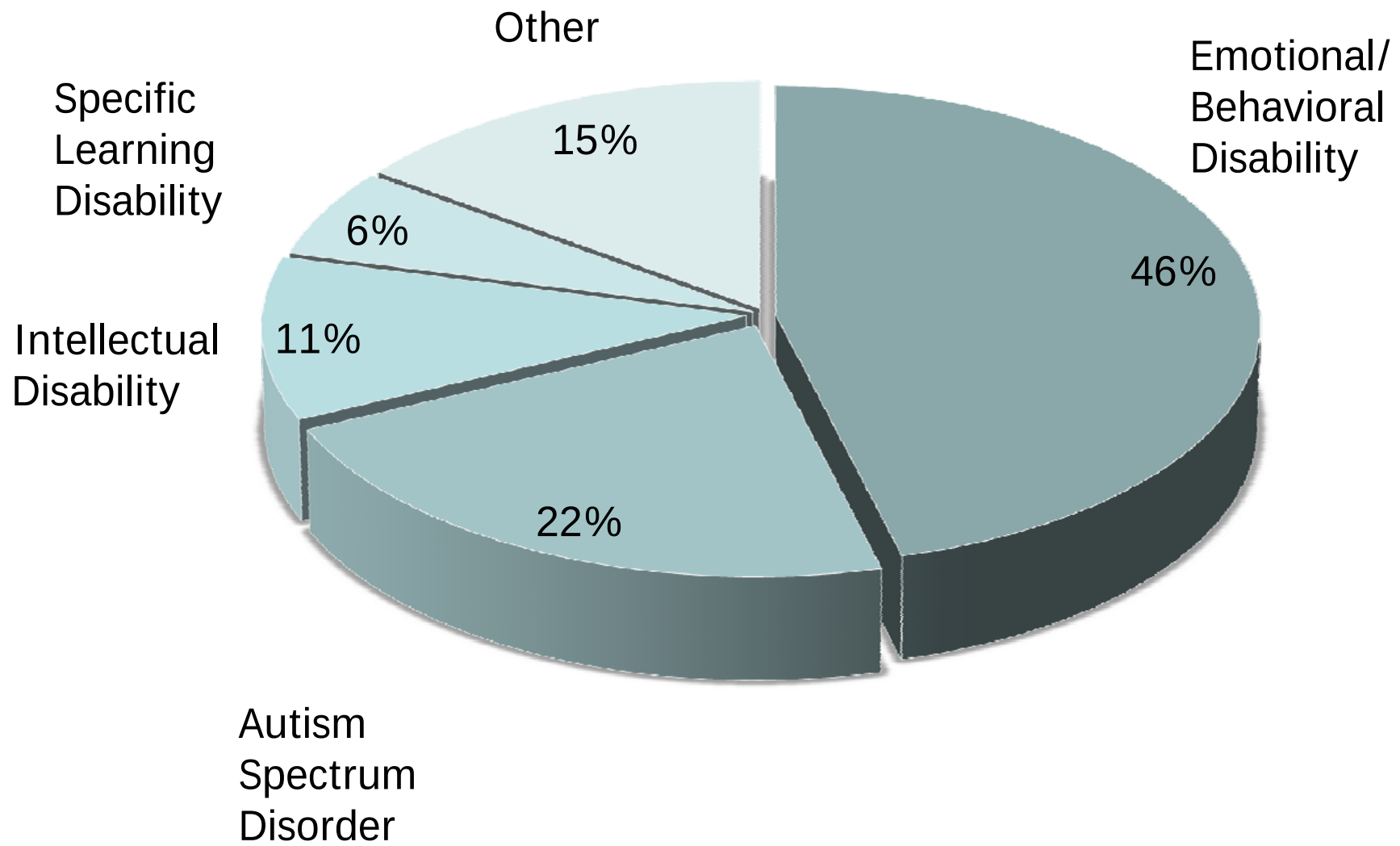
PK-3: 34%

4-8: 47%

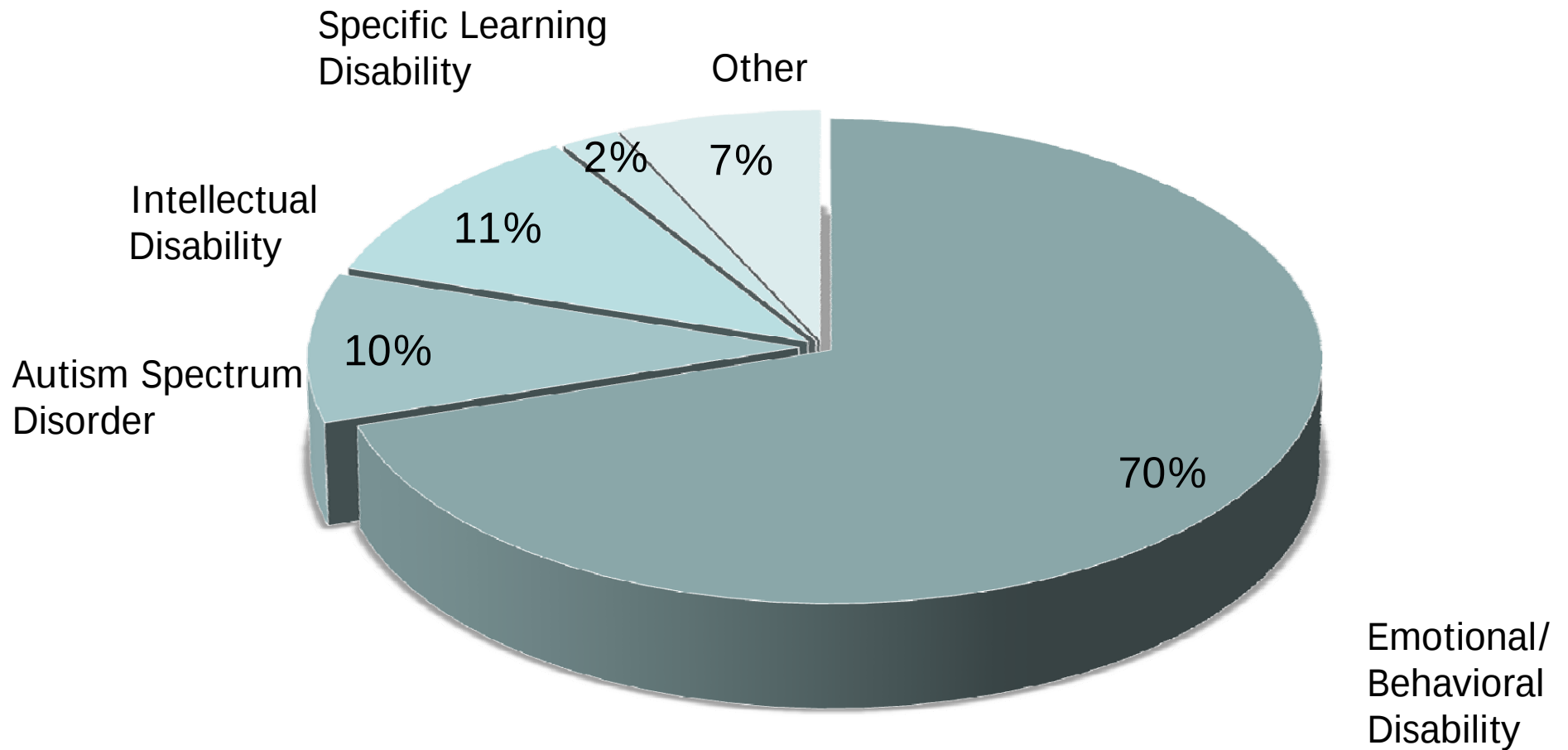
9-12: 19%

*School Year 2010-11 as of 2/28/11

Restraint



Seclusion



Monitoring – *Classroom level*

- Use data to
 - analyze circumstances around the use of restraint/seclusion to avoid future need for restraint/seclusion
- Recurrent use may indicate need for
 - functional behavioral assessment (FBA)
 - revision to individual educational plan (IEP) or behavioral intervention plan (BIP)
 - adjustments to instructional, behavioral, or other aspect of a student's program

Monitoring – *School level*

- Principal maintains copies of all incident reports
- Review
 - Frequency, duration, and location of seclusion and restraint procedures
 - Staff involved in the use of seclusion and restraint procedures
 - Appropriate use of seclusion and restraint procedures
 - Proper documentation and timely parental notification
- Follow-up
 - Review IEPs and/or BIPs
 - Identify and provide additional training, support, or technical assistance

Monitoring – *District level*

- Review data to identify schools with inappropriate use of seclusion and/or restraint
- Examine
 - Positive behavioral supports utilized
 - Instructional programs for students with behavioral problems
 - Implications for professional development

Monitoring – *State level*

- Maintain aggregate data of incidents of seclusion and restraint
- Disaggregate data for analysis by county, exceptionality, and other variables
- Analyze data for patterns of overuse, e.g.,
 - Percent of students restrained/secluded
 - Occurrences of multiple restraints, seclusions for individual students
 - District-wide use or in a proportion of schools
- District contact as warranted

Monitoring – *State level (con't)*

- Protocol being developed for onsite monitoring at class, school, and district level
 - Bureau staff will be piloting and validating a protocol and monitoring process in two districts April-May 2011
 - Bureau/District Partners will be reviewing protocol prior to validation and also assisting in identifying district training needs
- Currently conducting review of other states' monitoring systems for restraint and seclusion

Resources

- Technical Assistance Paper: *Guidelines for the Use, Documentation, Reporting, and Monitoring of Seclusion and Restraint with Students with Disabilities*
- *District and School Level User's Guides for submitting reports*
- Session at Administrator's Management Meeting-September 2010
- Monthly conference calls with exceptional education administrators
- Parent Brochure

A photograph of a classroom scene with several students raising their hands. In the foreground, a girl with dark hair in pigtails, wearing a red shirt, has her right arm raised. To her left, another student in a light blue shirt also has their arm raised. In the background, a boy in a dark blue shirt and another student in an orange shirt are also raising their hands. The background is a chalkboard with faint, illegible writing. The word "QUESTIONS?" is overlaid in the center in a bold, dark blue font.

QUESTIONS?