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## COMMITTEE MEETING EXPANDED AGENDA

### APPROPRIATIONS SUBCOMMITTEE ON EDUCATION

**Senator Gaetz, Chair**  
**Senator Montford, Vice Chair**

#### MEETING DATE:  
Monday, January 25, 2016

#### TIME:  
4:00—6:00 p.m.

#### PLACE:  
Pat Thomas Committee Room, 412 Knott Building

#### MEMBERS:  
Senator Gaetz, Chair; Senator Montford, Vice Chair; Senators Bullard, Galvano, Legg, Ring, Simmons, and Stargel

### TAB BILL NO. and INTRODUCER

<table>
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<td>Choice in Sports; Revising public school choice options available to students to include CAPE digital tools, CAPE industry certifications, and collegiate high school programs; requiring each district school board and charter school governing board to authorize a parent to have his or her child participate in controlled open enrollment; requiring the Florida High School Athletic Association to allow a private school to maintain full membership in the association or to join by sport, etc.</td>
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### Other Related Meeting Documents
I. **Summary:**

PCS/Cs/SB 684 revises student eligibility requirements for participation in interscholastic and intrascholastic extracurricular activities, expands Florida High School Athletic Association (FHSAA) membership options for private schools, establishes escalating penalties for recruiting violations, and increases educational choice and controlled open enrollment options.

Specifically, the bill:
- Allows students to be immediately eligible to join an existing team if the activity roster has not reached maximum size and the student has the requisite skills and abilities to participate;
- Prohibits a school district from delaying or preventing student participation in interscholastic and intrascholastic extracurricular activities;
- Allows a private school the option of joining the FHSAA on a per-sport basis;
- Prohibits the FHSAA from discouraging private schools from simultaneously maintaining membership in another athletic association;
- Authorizes the FHSAA to allow a public school to apply for consideration to join another athletic association;
- Establishes escalating penalties for recruiting violations;
- Requires an educator certificate to be revoked for a third recruiting offense in violation of FHSAA bylaws; and
- Expands the scope of controlled open enrollment options available to parents beyond school district boundaries, subject to capacity and maximum class size limits.
The bill is expected to have an insignificant impact on state funds. Individual school districts may experience an increase or decrease in Florida Education Finance Program (FEFP) funding based on shifts in student enrollment.

The bill takes effect on July 1, 2016.

II. Present Situation:

Florida High School Athletics

The Florida High School Athletic Association (FHSAA) is statutorily designated as the governing nonprofit organization of athletics in Florida public schools in grades 6 through 12. The FHSAA is not a state agency, but is assigned quasi-governmental functions.

Student Eligibility

To be eligible for participation in interscholastic extracurricular activities, a student must meet certain academic and conduct requirements. Each student must meet the other requirements for participation established by the district school board. The FHSAA is required to adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools.

The FHSAA bylaws governing residence allow students to be eligible to participate in high school athletic competitions in the schools in which he or she:

- First enrolls each school year; or
- Makes himself or herself a candidate for an athletic team by engaging in practice before enrolling.

The FHSAA bylaws governing student transfers:

- Allow a student to be eligible in the school to which the student transferred during the school year if the transfer was made by a deadline established by the FHSAA, which may not be prior to the date authorized for the beginning of practice for the sport.
- Require transfers to be allowed pursuant to the district school board policies in the case of transfer to a public school, or pursuant to the private school policies in the case of transfer to

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1 Section 1006.20, F.S.
2 Id.
3 The FHSAA defines an “interscholastic contest” as any competition between organized teams or individuals of different schools in a sport recognized or sanctioned by the FHSAA, and is subject to all regulations pertaining to such contests. Bylaw 8.1.1, FHSAA.
4 “Extracurricular” means any school-authorized or education-related activity occurring during or outside the regular instructional school day. Section 1006.15(2), F.S.
5 Section 1006.15(3)(a), F.S.
6 Section 1006.15(4), F.S.
7 Section 1006.20(2)(a), F.S.
8 Section 1006.20(2)(a), F.S.
9 Section 1002.20(17), F.S.
10 Section 1006.20(2), F.S.
11 Section 1006.20(2)(a), F.S.
a private school. The student shall remain eligible in that school so long as he or she is enrolled in that school.\textsuperscript{12}

- Allow a student who transfers from a home education program, charter school, or from the Florida Virtual School full-time program to a public school before or during the first grading period of the school year to be academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student had a successful evaluation from the previous year.\textsuperscript{13}

- Provide that requirements governing eligibility and transfer between member schools be applied similarly to public school students and private school students.\textsuperscript{14}

The FHSAA, in cooperation with each district school board, facilitates a program for middle or high school students who attend a private school to be eligible to participate in an interscholastic or intrascholastic sport at a public high school, for which the student is zoned, if the private school is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.\textsuperscript{15}

**Membership in the FHSAA**

Any high school in the state, including charter schools, virtual schools, and home education cooperatives,\textsuperscript{16} may become a member of the FHSAA and participate in FHSAA activities.\textsuperscript{17} A private school that wishes to engage in high school athletic competition with a public high school may become a member of the FHSAA.\textsuperscript{18} Membership in the FHSAA is not mandatory for any school.\textsuperscript{19}

The FHSAA may not deny or discourage interscholastic competition between its member schools and non-FHSAA member Florida schools, including members of another athletic governing organization.\textsuperscript{20} The FHSAA is prohibited from taking retributory or discriminatory actions against member schools who participate in interscholastic competition with non-FHSAA member schools.\textsuperscript{21} The bylaws of the FHSAA are the rules by which high school athletic programs in its member schools, and the students who participate in them are governed, unless otherwise specified in statute.\textsuperscript{22} The FHSAA member schools may only engage in interscholastic contests with schools which are members of the FHSAA or with non-member schools that meet specific requirements designated in the FHSAA bylaws.\textsuperscript{23}

\textsuperscript{12} Id.
\textsuperscript{13} Section 1006.15(3)(c)- (d)6 and (f), F.S.
\textsuperscript{14} Section 1006.20(2), F.S.
\textsuperscript{15} Section 1006.15(8), F.S.
\textsuperscript{16} A home education cooperative is defined by the FHSAA as a parent-directed group of individual home education students that provides opportunities for interscholastic athletic competition to those students and may include students in grades 6-12. Bylaw 3.2.2.4, FHSAA. Florida High School Athletic Association, 2015-16 FHSAA Bylaws (2015-16), available at http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/1516_handbook_bylaws.pdf.
\textsuperscript{17} Section 1006.20, F.S.
\textsuperscript{18} Id.
\textsuperscript{19} Id.
\textsuperscript{20} Id.
\textsuperscript{21} Id. at (1)
\textsuperscript{22} Id.
Recruitment of Student Athletes

Florida law requires the FHSAA to adopt bylaws prohibiting the recruitment of student athletes.24 Currently, the bylaws prohibit member schools from recruiting student athletes for athletic purposes.25 “Athletic recruiting” is defined by the FHSAA as any effort by a school employee, athletic department staff member or representative of a school’s athletic interests to pressure, urge, or entice a student to attend that school for the purpose of participating in interscholastic athletics.26 The FHSAA sets forth specific behaviors that constitute recruiting, as well as identifying persons who are considered to represent a school’s athletic interests.27

If it is determined that a school has recruited a student in violation of FHSAA bylaws, the FHSAA may require the school to participate in a higher classification for the sport in which the recruited student competes for a minimum of one classification cycle.28

In addition to any other appropriate fine and sanction imposed on the school, its coaches, or adult representatives, the following penalties may be imposed against a school for recruiting violations:29

- Public reprimand;
- Financial penalty of a minimum of $2,500;
- Probation for one or more years;
- Prohibition against participating in certain interscholastic competitions;
- Prohibition against participating in any interscholastic competition for one or more years in the sport(s) in which the violation(s) occurred;
- Restricted membership for one or more years during which time some or all of the school’s membership privileges may be restricted or denied; and
- Expulsion from membership in the FHSAA for one or more years.

The FHSAA must adopt bylaws that establish sanctions for coaches who have committed major violations of the FHSAA’s bylaws and policies.30 The bylaws prescribe penalties and an appeals process for athletic recruiting violations.31

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24 Section 1006.20(2)(b), F.S.
25 The FHSAA defines recruiting as the use of undue influence or special inducement by anyone associated with the school in an attempt to encourage a prospective student to attend or remain at that school for the purpose of participating in interscholastic athletics. Bylaw 6.3, FHSAA.
27 Policy 36, FHSAA.
28 Section 1006.20(2)(b), F.S.
29 Policy 36.5, FHSAA; Bylaw 10.1.2, FHSAA.
30 Section 1006.20(2)(f), F.S. Major violations include, but are not limited to: knowingly allowing an ineligible student to participate in a contest representing a member school in an interscholastic contest; or committing a violation of the FHSAA’s recruiting or sportsmanship policies.
31 Id.
The FHSAA must adopt bylaws for the process and standards for FHSAA student eligibility determinations. The bylaws must provide that student ineligibility must be established by clear and convincing evidence.

Controlled Open Enrollment

Controlled open enrollment is a public education delivery system that allows school districts to make student school assignments using parents’ indicated preferential school choice as a significant factor. School districts have the option to offer controlled open enrollment within the public schools in addition to existing choice programs such as virtual instruction programs, magnet schools, alternative schools, special programs, advanced placement, and dual enrollment. The district school board must adopt by rule and post on the district website a controlled open enrollment plan. The controlled open enrollment plan must:

- Adhere to federal desegregation requirements;
- Require an application process to participate in the controlled open enrollment program that allows parents to declare school preferences and includes placements of siblings within the same school;
- Use a lottery procedure to determine student assignment and establish an appeal process for hardship cases;
- Afford students in multiple session schools preferred access;
- Maintain socioeconomic, demographic, and racial balance; and
- Address the availability of transportation.

District school boards must annually report the number of students attending the various types of public schools of choice in the district.

III. Effect of Proposed Changes:

PCS/CS/SB 684 revises student eligibility requirements for participation in interscholastic and intrascholastic extracurricular activities, expands Florida High School Athletic Association (FHSAA) membership options for private schools, establishes escalating penalties for recruiting violations, and increases educational choice and controlled open enrollment options.

Specifically, the bill:

- Allows students to be immediately eligible to join an existing team if the activity roster has not reached maximum size and the student has the requisite skills and abilities to participate;
- Prohibits a school district from delaying or preventing student participation in interscholastic and intrascholastic extracurricular activities;

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32 Section 1006(2)(g), F.S.
33 Section 1006.20(2)(g), F.S. Bylaw 4.6.2.3, FHSAA. The FHSAA defines clear and convincing evidence as the evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief or conviction, without hesitation, about the matter in issue. Bylaw 1.4.33, FHSAA.
34 Section 1002.31, F.S.
35 Id.
36 Id.
37 Section 1002.31(3), F.S
38 Section 1002.31(4), F.S.
• Allows a private school the option of joining the FHSAA on a per-sport basis;
• Prohibits the FHSAA from discouraging private schools from simultaneously maintaining membership in another athletic association;
• Authorizes the FHSAA to allow a public school to apply for consideration to join another athletic association;
• Establishes escalating penalties for recruiting violations;
• Requires an educator certificate to be revoked for a third recruiting offense in violation of FHSAA bylaws; and
• Expands the scope of controlled open enrollment options available to parents beyond school district boundaries, subject to capacity and maximum class size limits.

Florida High School Athletics

Student Eligibility

The bill revises student eligibility requirements by:
• Prohibiting a school district from delaying eligibility or otherwise preventing a student participating in controlled open enrollment or a school choice program from being immediately eligible to participate in interscholastic and intrascholastic extracurricular activities;
• Defining “eligible to participate” to include, but not be limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests, and does not require a student to be placed on any specific team for interscholastic or intrascholastic extracurricular activities; and
• Allowing a student who transfers during the school year to join an existing team if the activity roster has not reached maximum size and if the coach determines the student has the required skill and ability to participate.

Additionally, the bill increases student eligibility options by:
• Prohibiting the FHSAA and school district from declaring a transfer student ineligible due to the student’s inopportunity to comply with qualifying requirements;
• Enabling a private school student the option to participate at the public school zoned for the physical address, regardless of whether or not the school offers an interscholastic or intrascholastic athletic program; and
• Changing level of proof in an eligibility determination from “clear and convincing evidence” to “a preponderance of evidence.”

Membership in the FHSAA

The bill requires the FHSAA to allow a private school to join the FHSAA on a full-time or a per sport basis. This offers a private school the option of joining other athletic associations by individual sport while maintaining membership in FHSAA for other sports. In addition, the bill

39 Preponderance of evidence is defined to mean the evidence which is at the greater weight or more convincing than the evidence which is offered in opposition to it. Black, Henry Campbell. A Dictionary of Law: Containing Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern ... New York, NY: Lawbook Exchange, 1991.
prohibits the FHSAA from discouraging private schools from simultaneously maintaining membership in another athletic association.

The bill authorizes the FHSAA to allow a public school to apply for consideration to join another athletic association.

Recruitment of Student Athletes

The bill establishes escalating penalties for the recruitment of student athletes. Specifically, the bill enhances current recruitment penalties found in the FHSAA bylaws by adding stringent penalties for the recruitment of a student athlete by a school district employee or contractor. The bill requires the following penalties:

- First offense is a $5,000 forfeiture of pay.
- Second offense includes suspension without pay for 12 months from coaching, directing, or advertising an extracurricular activity and a $5,000 forfeiture of pay.
- Third offense includes:
  - $5,000 forfeiture of pay for the employee or contractor who committed the violation; and
  - For an individual who holds an educator certificate:
    - The FHSAA will refer the violation for review to determine if probable cause exists;
    - The Commissioner of Education will file a formal complaint against the individual if there is a finding of probable cause; and
    - If the complaint is upheld, the individual’s educator certificate will be revoked by the Education Practices Commission for 3 years, in addition to FHSAA penalties. The Department of Education will also revoke any adjunct teaching certificates issued under s. 1012.57, F.S. and all permissions under s. 1012.39, F.S. and 1012.43, F.S. The educator will be ineligible for such certificates or permissions for a period of time equal to the period of revocation of his or her state-issued certificate.

The bill also specifies that, in instances in which a student is recruited by an adult who is not a school district employee or contractor, a school will forfeit every competition in which the recruited student participates.

Controlled Open Enrollment

The bill expands the scope of a school district’s controlled open enrollment options by:

- Allowing a parent from any district in the state, whose child is not subject to a current expulsion order or suspension order, to enroll and transport the child to any public school that has not reached capacity in the district, subject to maximum class size limits, including charter schools;
- Requiring the receiving school district to accept the student and report the student for funding;
- Allowing a student who transfers to remain at the school chosen by the parent until the student completes the highest grade level at the school; and
- Permitting a school district to provide transportation for students participating in a controlled open enrollment program.
The bill elevates the transparency of the district school board controlled open enrollment plans by requiring the district to adopt by rule and visibly post on its website the process required to participate in controlled open enrollment. Additionally, the bill requires that the controlled open enrollment process must:

- Provide preferential treatment to:
  - Dependent children of active duty military personnel whose move resulted from military orders;
  - Children who have been relocated due to a foster care placement in a different school zone;
  - Children who move due to a change in custody due to separation, divorce, the serious illness of a custodial parent, the death of a parent, or a court order; or
  - Students residing in the school district;

- Maintain existing academic eligibility criteria for public school choice programs; and

- Identify schools that have not reached capacity.  

The bill takes effect on July 1, 2016.

### 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:

   School district employees or contractors in violation of FHSAA recruiting bylaws will experience forfeiture of pay in the amount of $5,000 for each offense; potential suspension without pay for 12 months for a second offense; and revocation of the individual’s educator certificate for a third offense.

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In determining the capacity of each school, the district school board shall incorporate the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs required under s. 1013.35. The bill.
C. Government Sector Impact:

PCS/CS/SB 684 is expected to have an insignificant impact on state funds. Individual school districts may experience an increase or decrease in Florida Education Finance Program (FEFP) funding based on shifts in student enrollment.

The Education Practices Commission (EPC) may experience an increase in workload as a result of educator discipline cases associated with the recruiting penalties specified in the bill. Since the number of additional cases which may occur as a result of this bill is not known, the impact on the EPC is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1002.31, 1006.15, 1006.20, 1012.795, and 1012.796.

IX. Additional Information:

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

   **Recommended CS by Appropriations Subcommittee on Education on January 25, 2016:**
   The committee substitute specifies that, in addition to an expulsion order, a student must not be subject to a suspension order to be guaranteed enrollment under the controlled open enrollment options.

   **CS by Education Pre-K – 12 on January 14, 2016:**
   The committee substitute modifies the bill as follows:
   - Omits the authority for public schools to join the FHSAA on a per sport basis; and
   - Authorizes the FHSAA to allow a public school the option to apply for consideration to join another athletic association.

B. Amendments:

None.
Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment**

Delete lines 134 - 146

and insert:

whose child is not subject to a current expulsion or suspension order to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the district, subject to the maximum class size pursuant to s. 1003.03 and s. 1, Art. IX of the State Constitution. The school district shall accept the student, pursuant to that school
district’s controlled open enrollment participation process, and report the student for purposes of the school district’s funding pursuant to the Florida Education Finance Program. A school district may provide transportation to students described under this subsection at the district school board’s discretion.

(b) Each charter school governing board shall allow a parent whose child is not subject to a current expulsion or suspension order
By the Committee on Education Pre-K - 12; and Senators Gaetz and Stargel

581-02157-16

A bill to be entitled
An act relating to choice in sports; amending s. 1002.20, F.S.; revising public school choice options available to students to include CAPE digital tools, CAPE industry certifications, and collegiate high school programs; authorizing parents of public school students to seek private educational choice options through the Florida Personal Learning Scholarship Accounts Program under certain circumstances; revising student eligibility requirements for participating in high school athletic competitions; authorizing public schools to provide transportation to students participating in open enrollment; amending s. 1002.31, F.S.; requiring each district school board and charter school governing board to authorize a parent to have his or her child participate in controlled open enrollment; requiring the school district to report the student for purposes of the school district’s funding; authorizing a school district to provide transportation to such students; requiring that each district school board adopt and publish on its website a controlled open enrollment process; specifying criteria for the process; prohibiting a school district from delaying or preventing a student who participates in controlled open enrollment from being immediately eligible to participate in certain activities; amending s. 1006.15, F.S.; defining the term “eligible to participate”; conforming provisions to changes made by the act; prohibiting a school district from delaying or preventing a student who participates in open controlled enrollment from being immediately eligible to participate in certain activities; declaring a transfer student ineligible under certain circumstances; amending ss. 1012.795 and 1012.796, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (6), paragraph (a) of subsection (17), and paragraph (a) of...
subsections (21) and (22) of section 1002.20, Florida Statutes, are amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child’s academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(6) EDUCATIONAL CHOICE.—

(a) Public school choices.—Parents of public school students may seek any educational public school choice options that are applicable and available to students in their school districts. These options may include controlled open enrollment, single-gender programs, lab schools, virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, auditory-oral education programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education (pre-AICE), CAPE digital tools, CAPE industry certifications, collegiate high school programs, Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, and the Florida Virtual School. These options may also include the public educational school choice options of the Opportunity Scholarship Program and the McKay Scholarships for Students with Disabilities Program.

(b) Private educational school choices.—Parents of public school students may seek private educational school choice options under certain programs.

1. Under the McKay Scholarships for Students with Disabilities Program, the parent of a public school student with a disability may request and receive a McKay Scholarship for the student to attend a private school in accordance with s. 1002.39.

2. Under the Florida Tax Credit Scholarship Program, the parent of a student who qualifies for free or reduced-price school lunch or who is currently placed, or during the previous state fiscal year was placed, in foster care as defined in s. 39.01 may seek a scholarship from an eligible nonprofit scholarship-funding organization in accordance with s. 1002.395.

3. Under the Florida Personal Learning Scholarship Accounts Program, the parent of a student with a qualifying disability may apply for a personal learning scholarship to be used for individual educational needs in accordance with s. 1002.385.

(17) ATHLETICS; PUBLIC HIGH SCHOOL.—

(a) Eligibility.—Eligibility requirements for all students participating in high school athletic competition must allow a student to be immediately eligible in the school in which he or she first enrolls each school year, the school in which the student makes himself or herself a candidate for an athletic team by engaging in practice before enrolling, or the school to which the student has transferred with approval of the district school board, in accordance with the provisions of s. 1006.20(2)(a).

(b) Transportation.—

(a) Transportation to school.—Public school students shall be provided transportation to school, in accordance with
The Florida Senate - 2016 CS for SB 684

Section 2. Section 1002.31, Florida Statutes, is amended to read:

1002.31 Controlled open enrollment; public school parental choice.—

(1) As used in this section, “controlled open enrollment” means a public education delivery system that allows school districts to make student school assignments using parents’ indicated preferential school choice as a significant factor.

(2)(a) As part of a school district’s controlled open enrollment, and in addition to the existing public school choice programs provided in s. 1002.20(6)(a), each district school board shall allow a parent from any school district in the state whose child is not subject to a current expulsion order to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the district, subject to the maximum class size pursuant to s. 1003.03 and s. 1, Art. IX of the State Constitution. The school district shall accept the student, pursuant to that school district’s controlled open enrollment participation process, and report the student for purposes of the school district’s funding pursuant to the Florida Education Finance Program. A school district may provide transportation to students described under this subsection at the discretion of the charter school’s governing board.

(b) Each charter school governing board shall allow a parent whose child is not subject to a current expulsion order to enroll his or her child in and transport his or her child to the charter school if the school has not reached capacity, subject to the maximum class size pursuant to s. 1003.03 and s. 1, Art. IX of the State Constitution, and the enrollment limitations pursuant to s. 1002.33(10)(e)1., 2., 5., 6., and 7.

A charter school may provide transportation to students described under this subsection at the discretion of the charter school’s governing board.

(c) For purposes of continuity of educational choice, a student who transfers pursuant to paragraph (a) or paragraph (b) may remain at the school chosen by the parent until the student completes the highest grade level at the school or until the school may offer controlled open enrollment within the public schools which is in addition to the existing choice programs such as virtual instruction programs, magnet schools, alternative schools, special programs, advanced placement, and dual enrollment.

(3) Each district school board offering controlled open enrollment shall adopt by rule and post on its website the process required to participate in controlled open enrollment. The process of controlled open enrollment plan which must:

(a) Adhere to federal desegregation requirements.

(b) Allow include an application process required to participate in controlled open enrollment that allows parents to declare school preferences, including placement of siblings within the same school.

(c) Provide a lottery procedure to determine student assignment and establish an appeals process for hardship cases.

(d) Afford parents of students in multiple session schools preferred access to controlled open enrollment.

(e) Maintain socioeconomic, demographic, and racial
(5) For a school or program that is a public school of Florida, maintain existing academic eligibility criteria for public school choice programs pursuant to s. 1002.20(6)(a).

(f) Address the availability of transportation.

(g) Maintain student participation in interscholastic and intrascholastic extracurricular activities and programs.

(h) Maintain existing academic eligibility criteria for public school choice programs pursuant to s. 1002.20(6)(a).

(i) Identify schools that have not reached capacity, as determined by the school district. In determining the capacity of each school, the district school board shall incorporate the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs required under s. 1013.35.

(j) Ensure that each district school board adopts a policy to provide preferential treatment to all of the following:

1. Dependent children of active duty military personnel whose move resulted from military orders.
2. Children who have been relocated due to a foster care placement in a different school zone.
3. Children who move due to a change in custody due to separation, divorce, the serious illness of a custodial parent, the death of a parent, or a court order.
4. Students residing in the school district.

(4) In accordance with the reporting requirements of s. 1011.62, each district school board shall annually report the number of students exercising public school choice, by type attending the various types of public schools of choice in the district, in accordance with including schools such as virtual instruction programs, magnet schools, and public charter schools, according to rules adopted by the State Board of Education.

(5) For a school or program that is a public school of Florida, maintain existing academic eligibility criteria for public school choice programs pursuant to s. 1002.20(6)(a).
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performance contract between the student, the district school board, the appropriate governing association, and the student’s parents, if the student’s cumulative grade point average falls below 2.0, or its equivalent, on a 4.0 scale in the courses required by s. 1002.3105(5) or s. 1003.4282. At a minimum, the contract must require that the student attend summer school, or its graded equivalent, between grades 9 and 10 or grades 10 and 11, as necessary.

3. Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required by s. 1002.3105(5) or s. 1003.4282 during his or her junior or senior year.

4. Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies described in s. 1006.07(2). If a student is convicted of, or is found to have committed, a felony or a delinquent act that would have been a felony if committed by an adult, regardless of whether adjudication is withheld, the student’s participation in interscholastic extracurricular activities is contingent upon established and published district school board policy.

(b) Any student who is exempt from attending a full school day based on rules adopted by the district school board for double session schools or programs, experimental schools, or schools operating under emergency conditions must maintain the grade point average required by this section and pass each class for which he or she is enrolled.

(c) An individual home education student is eligible to participate at the public school to which the student would be assigned according to district school board attendance area.
6. A student who transfers from a home education program to a public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period provided the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a home education student until the student has successfully completed one grading period in home education pursuant to subparagraph 2. to become eligible to participate as a home education student.

(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend, pursuant to district or interdistrict controlled open-enrollment provisions, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student’s charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school before the beginning date of the season for the activity in which he or she wishes to participate. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

(e) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend.
The Florida High School Athletic Association (FHSAA), in cooperation with each district school board, shall facilitate a program in which a middle school or high school student who attends a private school shall be eligible to participate in an interscholastic or intrascholastic sport at a public high school, a public middle school, or a 6-12 public school that is zoned for the physical address at which the student resides if:

1. The private school in which the student is enrolled is not a member of the FHSAA and does not offer an interscholastic or intrascholastic athletic program.

2. The private school student meets the guidelines for the conduct of the program established by the FHSAA’s board of directors and the district school board. At a minimum, such guidelines shall provide:

   a. A deadline for each sport by which the private school student's parents must register with the public school in writing their intent for their child to participate at that school in the sport.

   b. Requirements for a private school student to
Any high school in the state, including public school or FHSAA member private school.

(9) A student who transfers to a school during the school year may seek to immediately join an existing team if the roster for the specific interscholastic or intrascholastic extracurricular activity has not reached the activity’s identified maximum size and if the coach for the activity determines that the student has the requisite skill and ability to participate. The FHSAA and school district may not declare such a student ineligible because the student did not have the opportunity to comply with qualifying requirements.

Section 4. Subsection (1) and paragraphs (a), (b), (c), and (g) of subsection (2) of section 1006.20, Florida Statutes, are amended to read:

1006.20 Athletics in public K-12 schools.—
(1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. If the FHSAA fails to meet the provisions of this section, the commissioner shall designate a nonprofit organization to govern athletics with the approval of the State Board of Education. The FHSAA is not a state agency as defined in s. 120.52. The FHSAA shall be subject to the provisions of s. 1006.19. A private school that wishes to engage in high school athletic competition with a public high school may become a member of the FHSAA. Any high school in the state, including charter schools, virtual schools, and home education cooperatives, may become a member of the FHSAA and participate in the activities of the FHSAA. However, membership in the FHSAA is not mandatory for any school. The FHSAA must allow a private school the option of maintaining full membership in the association or joining by sport and may not discourage a private school from simultaneously maintaining membership in another athletic association. The FHSAA may allow a public school the option to apply for consideration to join another athletic association. The FHSAA may not deny or discourage interscholastic competition between its member schools and non-FHSAA member Florida schools, including members of another athletic governing organization, and may not take any retributory or discriminatory action against any of its member schools that participate in interscholastic competition with non-FHSAA member Florida schools. The FHSAA may not unreasonably withhold its approval of an application to become an affiliate member of the National Federation of State High School Associations submitted by any other organization that governs interscholastic athletic competition in this state. The bylaws of the FHSAA are the rules by which high school athletic programs in its member schools, and the students who participate in them, are governed, unless otherwise specifically provided by statute. For the purposes of this section, “high school” includes grades 6 through 12.

(2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—
(a) The FHSAA shall adopt bylaws that, unless specifically provided by statute, establish eligibility requirements for all students who participate in high school athletic competition in Page 16 of 25

CODING: Words stricken are deletions; words underlined are additions.
its member schools. The bylaws governing residence and transfer
shall allow the student to be **immediately** eligible in the school
in which he or she first enrolls each school year or the school
in which the student makes himself or herself a candidate for an
athletic team by engaging in a practice prior to enrolling in
the school. The bylaws shall also allow the student to be
immediately eligible in the school to which the student has
transferred during the school year if the transfer is made by a
deadline established by the FHSAA, which may not be prior to the
data authorized for the beginning of practice for the sport.
These transfers shall be allowed pursuant to the district school
board policies in the case of transfer to a public school or
pursuant to the private school policies in the case of transfers
to a private school. The student shall be eligible in that
school so long as he or she remains enrolled in that school.
Subsequent eligibility shall be determined and enforced through
the FHSAA's bylaws. Requirements governing eligibility and
transfer between member schools shall be applied similarly to
public school students and private school students.

(b) The FHSAA shall adopt bylaws that specifically prohibit
the recruiting of students for athletic purposes. The bylaws
shall prescribe penalties and an appeals process for athletic
recruiting violations.

1. If it is determined that a school has recruited a
student in violation of FHSAA bylaws, the FHSAA may require the
school to participate in a higher classification for the sport
in which the recruited student competes for a minimum of one
classification cycle, in addition to the penalties in
subparagraphs 2. and 3., and any other appropriate fine or and
3. Notwithstanding any other provision of law, a school shall forfeit every competition in which a student participated who was recruited by an adult who is not a school district employee or contractor in violation of FHSAA bylaws.

4. A student may not be declared ineligible based on violation of recruiting rules unless the student or parent has falsified any enrollment or eligibility document or accepted any benefit or any promise of benefit if such benefit is not generally available to the school's students or family members or is based in any way on athletic interest, potential, or performance.

(c) The FHSAA shall adopt bylaws that require all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team to satisfactorily pass a medical evaluation each year prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team. Such medical evaluation may be administered only by a practitioner licensed under chapter 458, chapter 459, chapter 460, or s. 464.012, and in good standing with the practitioner's regulatory board. The bylaws shall establish requirements for eliciting a student's medical history and performing the medical evaluation required under this paragraph, which shall include a physical assessment of the student's physical capabilities to participate in interscholastic athletic competition as contained in a uniform preparticipation physical evaluation and history form. The preparticipation physical evaluation form shall incorporate the recommendations of the American Heart Association for participation cardiovascular screening and shall provide a place for the signature of the practitioner performing the evaluation with an attestation that each examination procedure listed on the form was performed by the practitioner or by someone under the direct supervision of the practitioner. The form shall also contain a place for the practitioner to indicate if a referral to another practitioner was made in lieu of completion of a certain examination procedure. The form shall provide a place for the practitioner to whom the student was referred to complete the remaining sections and attest to that portion of the examination. The preparticipation physical evaluation form shall advise students to complete a cardiovascular assessment and shall include information concerning alternative cardiovascular evaluation and diagnostic tests. Results of such medical evaluation must be provided to the school. A student is not to be declared ineligible as provided in s. 1006.15(3), in any interscholastic athletic competition or engage in any practice, tryout, workout, or other physical activity associated with the student's candidacy for an interscholastic athletic team until the results of the medical evaluation have been received and approved by the school.

(g) The FHSAA shall adopt bylaws establishing the process and standards by which FHSAA determinations of eligibility are made. Such bylaws shall provide that:

1. Ineligibility must be established by a preponderance of the clear and convincing evidence;

2. Student athletes, parents, and schools must have notice of the initiation of any investigation or other inquiry into
eligibility and may present, to the investigator and to the
individual making the eligibility determination, any information
or evidence that is credible, persuasive, and of a kind
reasonably prudent persons rely upon in the conduct of serious
affairs;

3. An investigator may not determine matters of eligibility
but must submit information and evidence to the executive
director or a person designated by the executive director or by
the board of directors for an unbiased and objective
determination of eligibility; and

4. A determination of ineligibility must be made in
writing, setting forth the findings of fact and specific
violation upon which the decision is based.

Section 5. Paragraph (o) is added to subsection (1) of
section 1012.795, Florida Statutes, and subsection (5) of that
section is amended, to read:

1012.795 Education Practices Commission; authority to
discipline.—
(1) The Education Practices Commission may suspend the
educator certificate of any person as defined in s. 1012.01(2)
or (3) for up to 5 years, thereby denying that person the right
to teach or otherwise be employed by a district school board or
public school in any capacity requiring direct contact with
students for that period of time, after which the holder may
return to teaching as provided in subsection (4); may revoke the
educator certificate of any person, thereby denying that person
the right to teach or otherwise be employed by a district school
board or public school in any capacity requiring direct contact
with students for up to 10 years, with reinstatement subject to
the provisions of subsection (4); may revoke permanently the
educator certificate of any person thereby denying that person
the right to teach or otherwise be employed by a district school
board or public school in any capacity requiring direct contact
with students; may suspend the educator certificate, upon an
order of the court or notice by the Department of Revenue
relating to the payment of child support; or may impose any
other penalty provided by law, if the person:

(o) Has committed a third recruiting offense as determined
by the Florida High School Athletic Association (FHSAA) pursuant
to s. 1006.20(2)(b).

(5) Each district school superintendent and the governing
authority of each university lab school, state-supported school,
private school, and the FHSAA shall report to the department
the name of any person certified pursuant to this chapter or
employed and qualified pursuant to s. 1012.39:
(a) Who has been dismissed or fired; or who has pled nolo
contendere to, a misdemeanor, felony, or any other criminal
charge, other than a minor traffic infraction;
(b) Who that official has reason to believe has committed
or is found to have committed any act which would be a ground
for revocation or suspension under subsection (1); or
(c) Who has been dismissed or severed from employment
because of conduct involving any immoral, unnatural, or
lascivious act.

Section 6. Subsections (3) and (7) of section 1012.796,
Florida Statutes, are amended to read:

1012.796 Complaints against teachers and administrators;
procedure; penalties.—
(3) The department staff shall advise the commissioner concerning the findings of the investigation and of all referrals by the Florida High School Athletic Association (FHSAA) pursuant to ss. 1006.20(2)(b) and 1012.795. The department general counsel or members of that staff shall review the investigation or the referral and advise the commissioner concerning probable cause or lack thereof. The determination of probable cause shall be made by the commissioner. The commissioner shall provide an opportunity for a conference, if requested, prior to determining probable cause. The commissioner may enter into deferred prosecution agreements in lieu of finding probable cause if, in his or her judgment, such agreements are in the best interests of the department, the certificateholder, and the public. Such deferred prosecution agreements shall become effective when filed with the clerk of the Education Practices Commission. However, a deferred prosecution agreement shall not be entered into if there is probable cause to believe that a felony or an act of moral turpitude, as defined by rule of the State Board of Education, has occurred, or for referrals by the FHSAA. Upon finding no probable cause, the commissioner shall dismiss the complaint.

(7) A panel of the commission shall enter a final order either dismissing the complaint or imposing one or more of the following penalties:

(a) Denial of an application for a teaching certificate or for an administrative or supervisory endorsement on a teaching certificate. The denial may provide that the applicant may not reapply for certification, and that the department may refuse to consider that applicant’s application, for a specified period of time or permanently.

(b) Revocation or suspension of a certificate.

(c) Imposition of an administrative fine not to exceed $2,000 for each count or separate offense.

(d) Placement of the teacher, administrator, or supervisor on probation for a period of time and subject to such conditions as the commission may specify, including requiring the certified teacher, administrator, or supervisor to complete additional appropriate college courses or work with another certified educator, with the administrative costs of monitoring the probation assessed to the educator placed on probation. An educator who has been placed on probation shall, at a minimum:

1. Immediately notify the investigative office in the Department of Education upon employment or termination of employment in the state in any public or private position requiring a Florida educator’s certificate.

2. Have his or her immediate supervisor submit annual performance reports to the investigative office in the Department of Education.

3. Pay to the commission within the first 6 months of each probation year the administrative costs of monitoring probation assessed to the educator.

4. Violate no law and shall fully comply with all district school board policies, school rules, and State Board of Education rules.

5. Satisfactorily perform his or her assigned duties in a competent, professional manner.

6. Bear all costs of complying with the terms of a final order entered by the commission.
(e) Restriction of the authorized scope of practice of the teacher, administrator, or supervisor.

(f) Reprimand of the teacher, administrator, or supervisor in writing, with a copy to be placed in the certification file of such person.

(g) Imposition of an administrative sanction, upon a person whose teaching certificate has expired, for an act or acts committed while that person possessed a teaching certificate or an expired certificate subject to late renewal, which sanction bars that person from applying for a new certificate for a period of 10 years or less, or permanently.

(h) Refer the teacher, administrator, or supervisor to the recovery network program provided in s. 1012.798 under such terms and conditions as the commission may specify.

The penalties imposed under this subsection are in addition to, and not in lieu of, the penalties required for a third recruiting offense pursuant to s. 1006.20(2)(b).

Section 7. This act shall take effect July 1, 2016.
Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment**

Delete lines 134 - 146

and insert:

whose child is not subject to a current expulsion or suspension order to enroll his or her child in and transport his or her child to any public school that has not reached capacity in the district, subject to the maximum class size pursuant to s. 1003.03 and s. 1, Art. IX of the State Constitution. The school district shall accept the student, pursuant to that school
district’s controlled open enrollment participation process, and report the student for purposes of the school district’s funding pursuant to the Florida Education Finance Program. A school district may provide transportation to students described under this subsection at the district school board’s discretion.

(b) Each charter school governing board shall allow a parent whose child is not subject to a current expulsion or suspension order
January 15, 2016

The Honorable Don Gaetz
Senate Appropriations Subcommittee on Education, Chair
420 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Gaetz:

I respectfully request that SB 684, related to Choice in Sports, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

[Kelli Stargel]
Kelli Stargel
State Senator, District 15

Cc: Tim Elwell/ Staff Director
    JoAnne Bennett/ AA
THE FLORIDA SENATE

APPEAREANCE RECORD

Meeting Date 1-25-16

Bill Number (if applicable) 684

Topic Choice in Sports

Name Natalie King

Job Title VP

Address 235 W S Branden Blvd, 4th Floor

Phone 813 996-8312

Email Natalie.1@sunshinetstate.edu

City Brandon

State FL

Zip 33511

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Sunshine State Athletes Conference

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)
THE FLORIDA SENATE
APPEARANCE RECORD
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1.25.16
Meeting Date

684
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic School Choice

Debbie Mortham
Name

Legislative Director
Job Title

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Representing Foundation for Florida's Future

Speaking: □ For □ Against □ Information
Waive Speaking: □ In Support □ Against
(The Chair will read this information into the record.)

Appearing at request of Chair: □ Yes □ No
Lobbyist registered with Legislature: □ Yes □ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.
I. **Summary:**

SB 1166 authorizes the Florida Department of Education to recalculate the Exceptional Student Education (ESE) Guaranteed Allocation for each school district based on the district’s actual student full-time equivalent (FTE) as determined by the October FTE survey.

The bill has no impact on state funds. However, individual school districts may experience an increase or decrease in their ESE Guaranteed Allocation based on the results of the October FTE survey.

The bill provides an effective date of July 1, 2016.

II. **Present Situation:**

In order to provide exceptional education and related services, an Exceptional Student Education (ESE) Guaranteed Allocation was established by the Legislature to provide funding through the Florida Education Finance Program (FEFP) in addition to the basic program funding. This allocation is a lump sum that is derived from the number of full-time equivalent (FTE) students and the cost factors associated with the matrix of services (matrix) to document the services that each student with an exceptionality will receive.

The Florida Department of Education (DOE) developed the Matrix of Services Handbook to provide districts, schools and teachers with information about the matrix required for selected

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2 Section 1011.62 (1)(e)1.a., F.S.
students with exceptionalities. The matrix is designed with five levels in each of the following five domain areas:

- Curriculum and Learning Environment: This domain addresses services provided to the student in the areas of curriculum, instructional strategies and learning environment.
- Social or Emotional Behavior: This domain includes services provided to meet identified social and emotional needs of students with exceptionalities, such as positive behavioral supports, behavioral interventions, social skills development, socialization and counseling as a related service.
- Independent Functioning: This domain includes services that are necessary for the independent functioning of students with exceptionalities, such as instruction in organizational strategies, assistance for activities of daily living and self-care, physical therapy, occupational therapy, orientation and mobility training and supervision of students to ensure physical safety.
- Health Care: This domain addresses services provided to students with exceptionalities who have health care needs. Included in this domain are services related to monitoring and assessment of health conditions, provision of related health care services and interagency collaboration.
- Communication: This domain includes services provided to support the communication needs of students with exceptionalities. Services included in this domain are personal assistance, instructional interventions, speech or language therapy and the use of alternative and augmentative communication systems.

A student is evaluated within each of these five domains to determine the appropriate level of service the student requires. Level 1 represents the lowest level of service and Level 5 represents the highest level of service. The frequency and intensity of the service and the qualifications of personnel required to provide the service are critical factors that impact the determination of the appropriate level of service for the student.

The ESE Guaranteed Allocation was established in 2000 in conjunction with the elimination of the mandatory requirement for the determination of a matrix of services for Levels 1 through 3 ESE students. ESE services for students whose level of service is Levels 1 through 3 are funded through the ESE Guaranteed Allocation. These students generate student full-time equivalent (FTE) funding using the appropriate basic program cost factor for their grade level. The ESE Guaranteed Allocation provides for the additional services needed for these exceptional students. For the 2015-2016 fiscal year, the average ESE Guaranteed Allocation funding per FTE is

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4 *Id.*
5 *Id.*
6 *Id.*
8 The basic program cost factors are as follows:
   - For grades K-3, the cost factor is 1.115
   - For grades 4-8, the cost factor is 1.000
   - For grades 9-12, the cost factor is 1.005
Students whose level of service is Level 4 or 5 do not receive funds from the ESE Guaranteed Allocation, but instead generate weighted funding using a higher program cost factor which provides for both their education program and their exceptional services.\(^\text{11}\)

For the 2015-2016 fiscal year, $959,182,058 was appropriated within the FEFP for the ESE Guaranteed Allocation.\(^\text{12}\) The allocation for each district is calculated once based on projected ESE and total FTE enrollment and is not recalculated during the school year.\(^\text{13}\) Since the allocation is not recalculated, a school district that overestimates its ESE FTE keeps the additional funds. A school district that underestimates their ESE FTE does not receive additional funds to support its ESE student population.

### III. Effect of Proposed Changes:

SB 1166 authorizes the Florida Department of Education (DOE) to recalculate the Exceptional Student Education (ESE) Guaranteed Allocation for each school district. The ESE Guaranteed Allocation will be calculated initially in the General Appropriations Act, and recalculated based on each school district’s actual ESE and total full-time equivalent (FTE) enrollment as determined by the October FTE survey. This recalculation will ensure school districts receive their appropriate share of the ESE Guaranteed Allocation based on actual enrollment rather than projected enrollment.

### 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.


\(^\text{11}\) The 2015-2016 Level 4 cost factor is 3.613 and the Level 5 cost factor is 5.258.


\(^\text{13}\) Section 1011.62 (1)(e)2, F.S.
B. **Private Sector Impact:**

C. **Government Sector Impact:**

The bill has no impact on state funds. However, individual school districts may experience an increase or decrease in their ESE Guaranteed Allocation based on the results of the October FTE survey.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1011.62 of the Florida Statutes.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

   None.

B. **Amendments:**

   None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
Appropriations Subcommittee on Education (Gaetz) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 1001.67, Florida Statutes, is created to read:

1001.67 Distinguished Florida College System Program.—A collaborative partnership is established between the State Board of Education and the Legislature to recognize the excellence of Florida’s highest-performing Florida College system
institutions.

(1) EXCELLENCE STANDARDS.—The following excellence standards are established for the program:

(a) A 150 percent-of-normal-time completion rate of 50 percent or higher, as calculated by the Division of Florida Colleges.
(b) A 150 percent-of-normal-time completion rate for Pell Grant recipients of 40 percent or higher, as calculated by the Division of Florida Colleges.
(c) A retention rate of 70 percent or higher, as calculated by the Division of Florida Colleges.
(d) A continuing education, or transfer, rate of 72 percent or higher for students graduating with an associate of arts degree, as reported by the Florida Education and Training Placement Information Program (FETPIP).
(e) A licensure passage rate on the National Council Licensure Examination for Registered Nurses (NCLEX-RN) of 90 percent or higher for first-time exam takers, as reported by the Board of Nursing.
(f) A job placement or continuing education rate of 88 percent or higher for workforce programs, as reported by FETPIP.
(g) A time-to-degree for students graduating with an associate of arts degree of 2.25 years or less for first-time-in-college students with accelerated college credits, as reported by the Southern Regional Education Board.

(2) DISTINGUISHED COLLEGE DESIGNATION.—The State Board of Education shall designate each Florida College System institution that meets five of the seven standards identified in subsection (1) as a distinguished college.
(3) DISTINGUISHED COLLEGE SUPPORT.—A Florida College System institution designated as a distinguished college by the State Board of Education is eligible for funding as specified in the General Appropriations Act.

Section 2. Effective June 29, 2016, section 1004.935, Florida Statutes, is amended to read:

1004.935 Adults with Disabilities Workforce Education Pilot Program.—

(1) The Adults with Disabilities Workforce Education Pilot Program is established in the Department of Education through June 30, 2016, in Hardee, DeSoto, Manatee, and Sarasota Counties to provide the option of receiving a scholarship for instruction at private schools for up to 30 students who:

(a) Have a disability;
(b) Are 22 years of age;
(c) Are receiving instruction from an instructor in a private school to meet the high school graduation requirements in s. 1002.3105(5) or s. 1003.4282;
(d) Do not have a standard high school diploma or a special high school diploma; and
(e) Receive “supported employment services,” which means employment that is located or provided in an integrated work setting with earnings paid on a commensurate wage basis and for which continued support is needed for job maintenance.

As used in this section, the term “student with a disability” includes a student who is documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment,
including blindness; a dual sensory impairment; an orthopedic
impairment; another health impairment; an emotional or
behavioral disability; a specific learning disability,
including, but not limited to, dyslexia, dyscalculia, or
developmental aphasia; a traumatic brain injury; a developmental
delay; or autism spectrum disorder.

(2) A student participating in the pilot program may
continue to participate in the program until the student
graduates from high school or reaches the age of 40 years,
 whichever occurs first.

(3) Supported employment services may be provided at more
than one site.

(4) The provider of supported employment services must be a
nonprofit corporation under s. 501(c)(3) of the Internal Revenue
Code which serves Hardee County, DeSoto County, Manatee County,
or Sarasota County and must contract with a private school in
this state which meets the requirements in subsection (5).

(5) A private school that participates in the pilot program
may be sectarian or nonsectarian and must:

(a) Be academically accountable for meeting the educational
needs of the student by annually providing to the provider of
supported employment services a written explanation of the
student’s progress.

(b) Comply with the antidiscrimination provisions of 42

(c) Meet state and local health and safety laws and codes.

(d) Provide to the provider of supported employment
services all documentation required for a student’s
participation, including the private school’s and student’s fee
schedules, at least 30 days before any quarterly scholarship payment is made for the student. A student is not eligible to receive a quarterly scholarship payment if the private school fails to meet this deadline.

The inability of a private school to meet the requirements of this subsection constitutes a basis for the ineligibility of the private school to participate in the pilot program.

(6)(a) If the student chooses to participate in the pilot program and is accepted by the provider of supported employment services, the student must notify the Department of Education of his or her acceptance into the program 60 days before the first scholarship payment and before participating in the pilot program in order to be eligible for the scholarship.

(b) Upon receipt of a scholarship warrant, the student or parent to whom the warrant is made must restrictively endorse the warrant to the provider of supported employment services for deposit into the account of the provider. The student or parent may not designate any entity or individual associated with the participating provider of supported employment services as the student’s or parent’s attorney in fact to endorse a scholarship warrant. A participant who fails to comply with this paragraph forfeits the scholarship.

(7) Funds for the scholarship shall be provided from the appropriation from the school district’s Workforce Development Fund in the General Appropriations Act for students who reside in the Hardee County School District, the DeSoto County School District, the Manatee County School District, or the Sarasota County School District.
The scholarship amount granted for an eligible student with a disability shall be equal to the cost per unit of a full-time equivalent adult general education student, multiplied by the adult general education funding factor, and multiplied by the district cost differential pursuant to the formula required by s. 1011.80(6)(a) for the district in which the student resides.

(8) Upon notification by the Department of Education that it has received the required documentation, the Chief Financial Officer shall make scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the scholarship is in force. The initial payment shall be made after the Department of Education verifies that the student was accepted into the pilot program, and subsequent payments shall be made upon verification of continued participation in the pilot program. Payment must be by individual warrant made payable to the student or parent and mailed by the Department of Education to the provider of supported employment services, and the student or parent shall restrictively endorse the warrant to the provider of supported employment services for deposit into the account of that provider.

(9) Subsequent to each scholarship payment, the Department of Education shall request from the Department of Financial Services a sample of endorsed warrants to review and confirm compliance with endorsement requirements.

Section 3. Effective July 1, 2016, and upon the expiration of the amendment to section 1011.62, Florida Statutes, made by chapter 2015-222, Laws of Florida, paragraphs (e) and (o) of subsection (1), paragraph (a) of subsection (4), and present
subsection (13) of that section are amended, present subsections (13), (14), and (15) of that section are redesignated as subsections (14), (15), and (16), respectively, and a new subsection (13) is added to that section, 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 operation:

(e) Funding model for exceptional student education programs.—

1.a. The funding model uses basic, at-risk, support levels IV and V for exceptional students and career Florida Education Finance Program cost factors, and a guaranteed allocation for exceptional student education programs. Exceptional education cost factors are determined by using a matrix of services to document the services that each exceptional student will receive. The nature and intensity of the services indicated on the matrix shall be consistent with the services described in each exceptional student’s individual educational plan. The Department of Education shall review and revise the descriptions of the services and supports included in the matrix of services for exceptional students and shall implement those revisions before the beginning of the 2012-2013 school year.
b. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student’s initial placement into an exceptional student education program and at least once every 3 years by personnel who have received approved training. Nothing listed in the matrix shall be construed as limiting the services a school district must provide in order to ensure that exceptional students are provided a free, appropriate public education.

c. Students identified as exceptional, in accordance with chapter 6A-6, Florida Administrative Code, who do not have a matrix of services as specified in sub-subparagraph b. shall generate funds on the basis of full-time-equivalent student membership in the Florida Education Finance Program at the same funding level per student as provided for basic students. Additional funds for these exceptional students will be provided through the guaranteed allocation designated in subparagraph 2.

2. For students identified as exceptional who do not have a matrix of services and students who are gifted in grades K through 8, there is created a guaranteed allocation to provide these students with a free appropriate public education, in accordance with s. 1001.42(4)(l) and rules of the State Board of Education, which shall be allocated initially annually to each school district in the amount provided in the General Appropriations Act. These funds shall be supplemental in addition to the funds appropriated for the basic funding level on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district shall not be recalculated once during the year, based on actual student membership from the October FTE survey. Upon
recalculation, if the generated allocation is greater than the
amount provided in the General Appropriations Act, the total
shall be prorated to the level of the appropriation based on
each district’s share of the total recalculated amount. These
funds shall be used to provide special education and related
services for exceptional students and students who are gifted in
grades K through 8. Beginning with the 2007-2008 fiscal year, a
district’s expenditure of funds from the guaranteed allocation
for students in grades 9 through 12 who are gifted may not be
greater than the amount expended during the 2006-2007 fiscal
year for gifted students in grades 9 through 12.

(o) Calculation of additional full-time equivalent
membership based on successful completion of a career-themed
course pursuant to ss. 1003.491, 1003.492, and 1003.493, or
courses with embedded CAPE industry certifications or CAPE
Digital Tool certificates, and issuance of industry
certification identified on the CAPE Industry Certification
Funding List pursuant to rules adopted by the State Board of
Education or CAPE Digital Tool certificates pursuant to s.
1003.4203.—

1.a. A value of 0.025 full-time equivalent student
membership shall be calculated for CAPE Digital Tool
certificates earned by students in elementary and middle school
grades.

b. A value of 0.1 or 0.2 full-time equivalent student
membership shall be calculated for each student who completes a
course as defined in s. 1003.493(1)(b) or courses with embedded
CAPE industry certifications and who is issued an industry
certification identified annually on the CAPE Industry
Certification Funding List approved under rules adopted by the State Board of Education. A value of 0.2 full-time equivalent membership shall be calculated for each student who is issued a CAPE industry certification that has a statewide articulation agreement for college credit approved by the State Board of Education. For CAPE industry certifications that do not articulate for college credit, the Department of Education shall assign a full-time equivalent value of 0.1 for each certification. Middle grades students who earn additional FTE membership for a CAPE Digital Tool certificate pursuant to sub-subparagraph a. may not use the previously funded examination to satisfy the requirements for earning an industry certification under this sub-subparagraph. Additional FTE membership for an elementary or middle grades student may not exceed 0.1 for certificates or certifications earned within the same fiscal year. The State Board of Education shall include the assigned values on the CAPE Industry Certification Funding List under rules adopted by the state board. Such value shall be added to the total full-time equivalent student membership for grades 6 through 12 in the subsequent year for courses that were not provided through dual enrollment. CAPE industry certifications earned through dual enrollment must be reported and funded pursuant to s. 1011.80. However, if a student earns a certification through a dual enrollment course and the certification is not a fundable certification on the postsecondary certification funding list, or the dual enrollment certification is earned as a result of an agreement between a school district and a nonpublic postsecondary institution, the bonus value shall be funded in the same manner as other nondual
enrollment course industry certifications. In such cases, the school district may provide for an agreement between the high school and the technical center, or the school district and the postsecondary institution may enter into an agreement for equitable distribution of the bonus funds.

   c. A value of 0.3 full-time equivalent student membership shall be calculated for student completion of the courses and the embedded certifications identified on the CAPE Industry Certification Funding List and approved by the commissioner pursuant to ss. 1003.4203(5)(a) and 1008.44.

   d. A value of 0.5 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 15 to 29 college credit hours, and 1.0 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 30 or more college credit hours pursuant to CAPE Acceleration Industry Certifications approved by the commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.

2. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification, in accordance with this paragraph, to the program that generated the funds. This allocation may not be used to supplant funds provided for basic operation of the program.

3. For CAPE industry certifications earned in the 2013-2014 school year and in subsequent years, the school district shall distribute to each classroom teacher who provided direct instruction toward the attainment of a CAPE industry certification that qualified for additional full-time equivalent membership under subparagraph 1.:
a. A bonus in the amount of $25 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.

b. A bonus in the amount of $50 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2, 0.3, 0.5, and 1.0.

c. A bonus of $75 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.3.

d. A bonus of $100 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.5 or 1.0.

Bonuses awarded pursuant to this paragraph shall be provided to teachers who are employed by the district in the year in which the additional FTE membership calculation is included in the calculation. Bonuses shall be calculated based upon the associated weight of a CAPE industry certification on the CAPE Industry Certification Funding List for the year in which the certification is earned by the student. Any bonus awarded to a teacher under this paragraph may not exceed $2,000 in any given school year and is in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The
Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(a) Estimated taxable value calculations.—

1.a. Not later than 2 working days before or prior to July 19, the Department of Revenue shall certify to the Commissioner of Education its most recent estimate of the taxable value for school purposes in each school district and the total for all school districts in the state for the current calendar year based on the latest available data obtained from the local property appraisers. The value certified shall be the taxable value for school purposes for that year, and no further adjustments shall be made, except those made pursuant to paragraphs (c) and (d), or an assessment roll change required by final judicial decisions as specified in paragraph (15)(b).

b. The General Appropriations Act shall direct the...
computation of the statewide adjusted aggregate amount for required local effort for all school districts collectively from ad valorem taxes to ensure that no school district’s revenue from required local effort millage will produce more than 90 percent of the district’s total Florida Education Finance Program calculation as calculated and adopted by the Legislature, and the adjustment of the required local effort millage rate of each district that produces more than 90 percent of its total Florida Education Finance Program entitlement to a level that will produce only 90 percent of its total Florida Education Finance Program entitlement in the July calculation.

2. On the same date as the certification in sub-subparagraph 1.a., the Department of Revenue shall certify to the Commissioner of Education for each district:

   a. Each year for which the property appraiser has certified the taxable value pursuant to s. 193.122(2) or (3), if applicable, since the prior certification under sub-subparagraph 1.a.

   b. For each year identified in sub-subparagraph a., the taxable value certified by the appraiser pursuant to s. 193.122(2) or (3), if applicable, since the prior certification under sub-subparagraph 1.a. This is the certification that reflects all final administrative actions of the value adjustment board.

(13) FEDERALLY CONNECTED STUDENT SUPPLEMENT.—The federally connected student supplement is created to provide supplemental funding for school districts to support the education of students connected with federally owned military installations, National Aeronautics and Space Administration (NASA) real
property, and Indian lands. To be eligible for this supplement, the district must be eligible for federal Impact Aid Program funds under s. 8003 of Title VIII of the Elementary and Secondary Education Act of 1965. The supplement shall be allocated annually to each eligible school district in the amount provided in the General Appropriations Act. The supplement shall be the sum of the student allocation and an exempt property allocation.

(a) The student allocation shall be calculated based on the number of students reported for federal Impact Aid Program funds, including students with disabilities, who meet one of the following criteria:

1. The student has a parent who is on active duty in the uniformed services or is an accredited foreign government official and military officer. Students with disabilities shall also be reported separately for this category.

2. The student resides on eligible federally owned Indian land. Students with disabilities shall also be reported separately for this category.

3. The student resides with a civilian parent who lives or works on eligible federal property connected with a military installation or NASA. The number of these students shall be multiplied by a factor of 0.5.

(b) The total number of federally connected students calculated under paragraph (a) shall be multiplied by a percentage of the base student allocation as provided in the General Appropriations Act. The total of the number of students with disabilities as reported separately under subparagraphs (a)1. and (a)2. shall be multiplied by an additional percentage.
of the base student allocation as provided in the General Appropriations Act. The base amount and the amount for students with disabilities shall be summed to provide the student allocation.

(c) The exempt property allocation shall be equal to the tax-exempt value of federal impact aid lands reserved as military installations, real property owned by NASA, or eligible federally owned Indian lands located in the district, as of January 1 of the previous year, multiplied by the millage authorized and levied under s. 1011.71(2).

(14) QUALITY ASSURANCE GUARANTEE.—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per K-12 unweighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per unweighted FTE student which shall include the adjusted FTE dollars as provided in subsection (15), quality guarantee funds, and actual nonvoted discretionary local effort from taxes. From the base funding per unweighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection (15) and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per unweighted FTE to prior year funds per unweighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per unweighted FTE student. Should appropriated funds be less than the sum of this calculated
amount for all districts, the commissioner shall prorate each
district’s allocation. This provision shall be implemented to
the extent specifically funded.

Section 4. Effective July 1, 2016, and upon the expiration
of the amendment to section 1011.71, Florida Statutes, made by
chapter 2015-222, Laws of Florida, subsection (1) of that
section is amended to read:

1011.71 District school tax.—

(1) If the district school tax is not provided in the
General Appropriations Act or the substantive bill implementing
the General Appropriations Act, each district school board
desiring to participate in the state allocation of funds for
current operation as prescribed by s. 1011.62(15) s. 1011.62(14)
shall levy on the taxable value for school purposes of the
district, exclusive of millage voted under the provisions of s.
9(b) or s. 12, Art. VII of the State Constitution, a millage
rate not to exceed the amount certified by the commissioner as
the minimum millage rate necessary to provide the district
required local effort for the current year, pursuant to s.
1011.62(4)(a)1. In addition to the required local effort millage
levy, each district school board may levy a nonvoted current
operating discretionary millage. The Legislature shall prescribe
annually in the appropriations act the maximum amount of millage
a district may levy.

Section 5. Except as otherwise expressly provided in this
act, this act shall take effect July 1, 2016.

------------------ T I T L E A M E N D M E N T ------------------
And the title is amended as follows:
Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to education; creating s. 1001.67,
F.S.; establishing a collaboration between the state
board and the Legislature to designate certain Florida
College System institutions as distinguished colleges;
specifying standards for the designation; requiring
the state board to award the designation to certain
Florida College System institutions; providing that
the designated institutions are eligible for funding
as specified in the General Appropriations Act;
amending s. 1004.935, F.S.; deleting the scheduled
termination of the Adults with Disabilities Workforce
Education Pilot Program; changing the name of the
program to the “Adults with Disabilities Workforce
Education Program”; amending s. 1011.62, F.S.;
revising the calculation for certain supplemental
funds for exceptional student education programs;
requiring the funds to be prorated under certain
circumstances; revising the funding of full-time
equivalent values for students who earn CAPE industry
certifications through dual enrollment; deleting a
 provision prohibiting a teacher’s bonus from exceeding
a specified amount; creating a federally connected
student supplement for school districts; specifying
eligibility requirements and calculations for
allocations of the supplement; amending s. 1011.71,
F.S.; conforming a cross-reference; providing
504 effective dates.
By Senator Gaetz

1-01356A-16  20161166__

Florida Senate - 2016 SB 1166

A bill to be entitled

An act relating to education funding; amending s. 1011.62, F.S.; revising the calculation for certain
supplemental funds for exceptional student education
programs; requiring the funds to be prorated under
certain circumstances; providing an effective date.

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

Section 1. Paragraph (e) 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
operation:

(e) Funding model for exceptional student education
programs.—

1.a. The funding model uses basic, at-risk, support levels
IV and V for exceptional students and career Florida Education
Finance Program cost factors, and a guaranteed allocation for
exceptional student education programs. Exceptional education
cost factors are determined by using a matrix of services to
document the services that each exceptional student will
receive. The nature and intensity of the services indicated on
the matrix shall be consistent with the services described in
each exceptional student’s individual educational plan. The

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CODING: Words strikethrough are deletions; words underlined are additions.
on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district shall **not** be recalculated once during the year, based on actual student membership from the October FTE survey. Upon recalculation, if the generated allocation is greater than the amount provided in the General Appropriations Act, the total shall be prorated to the level of the appropriation based on each district’s share of the total recalculated amount. These funds shall be used to provide special education and related services for exceptional students and students who are gifted in grades K through 8. Beginning with the 2007-2008 fiscal year, A district’s expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-2007 fiscal year for gifted students in grades 9 through 12.

Section 2. This act shall take effect July 1, 2016.
4:01:48 PM  Call to order and roll call
4:02:41 PM  Chair Gaetz Comments
4:02:49 PM  SB 1166 Temporarily Postponed
4:03:02 PM  Chair Gaetz pass chair to V. Chair Montford
4:03:08 PM  Senator Gaetz - SB 684
4:04:57 PM  Am. #513366 - Adopted
4:05:47 PM  Back on the bill
4:06:06 PM  Senator Ring Question
4:07:03 PM  Senator Stargel Question
4:07:33 PM  Senator Montford Question
4:07:54 PM  Public testimony
4:08:02 PM  Debbie Mortham, Legislative Director - Foundation for Florida's Future (waives in support)
4:08:08 PM  Natalie King, VP - Sunshine State Athletics Conference (waives in support)
4:08:38 PM  Favorable - CS/SB 684
4:09:33 PM  Senator Montford passes chair back to Chair Gaetz
4:09:39 PM  Senator Gaetz Closing Comments
4:10:49 PM  Senator Bullard Comments
4:11:33 PM  Senator Stargel comments
4:12:36 PM  Meeting Adjourned