

<b>Tab 1</b>	<b>SB 98 by Albritton;</b> (Compare to CS/H 01507) Workforce Related Programs and Services				
<b>Tab 2</b>	<b>SB 1672 by Diaz;</b> (Compare to CS/H 00845) State University Free Seat Program				
440644	D	S	ED, Diaz	Delete everything after	03/19 12:05 PM
<b>Tab 3</b>	<b>SB 1728 by Baxley;</b> (Similar to CS/H 01273) Out-of-state Fee Waiver for Nonresident Students				
640458	A	S	ED, Gruters	Delete everything after	03/22 12:19 PM
<b>Tab 4</b>	<b>SB 2010 by Diaz;</b> (Similar to H 07017) Foreign Influence				
<b>Tab 5</b>	<b>SB 2012 by Stargel;</b> (Compare to CS/H 01475) Promoting Equality of Athletic Opportunity				
<b>Tab 6</b>	<b>SB 1094 by Bean;</b> (Similar to CS/H 00519) Required Health Education Instruction				
363262	A	S	ED, Bean	Delete L.24 - 47:	03/22 08:45 AM
<b>Tab 7</b>	<b>SB 192 by Book (CO-INTRODUCERS) Rodrigues;</b> (Similar to CS/H 00149) Students With Disabilities in Public Schools				
799354	A	S	ED, Book	Delete L.102 - 307:	03/22 12:29 PM
<b>Tab 8</b>	<b>CS/SB 582 by JU, Rodrigues (CO-INTRODUCERS) Baxley;</b> (Similar to H 00241) Parental Rights				
530544	A	S	ED, Rodrigues	btw L.284 - 285:	03/22 10:48 AM
<b>Tab 9</b>	<b>SB 880 by Rodriguez (CO-INTRODUCERS) Baxley;</b> (Similar to CS/H 01027) Florida High School Athletic Association				
<b>Tab 10</b>	<b>SB 1028 by Hutson;</b> (Compare to CS/H 00051) Charter Schools				
543250	D	S	ED, Hutson	Delete everything after	03/22 12:28 PM
<b>Tab 11</b>	<b>SB 1656 by Gruters;</b> (Identical to H 00765) Lawton Chiles Endowment Fund				
<b>Tab 12</b>	<b>SB 1282 by Harrell;</b> (Similar to H 00419) Early Learning and Early Grade Success				

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**EDUCATION**  
**Senator Gruters, Chair**  
**Senator Jones, Vice Chair**

**MEETING DATE:** Tuesday, March 23, 2021  
**TIME:** 12:30—3:00 p.m.  
**PLACE:** *Pat Thomas Committee Room, 412 Knott Building*

**MEMBERS:** Senator Gruters, Chair; Senator Jones, Vice Chair; Senators Berman, Bradley, Broxson, Diaz, Hutson, Passidomo, Polsky, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALAHASSEE, FL 32301

1	<b>SB 98</b> Albritton (Compare CS/H 1507, CS/S 366, S 1042)	Workforce Related Programs and Services; Renaming the Workforce Estimating Conference as the Labor Market Estimating Conference; removing authority for a local board to review a decision by the department to deny a contract; requiring certain standards and policies established by the Department of Education to include a specified requirement for training providers; requiring that middle grades career and professional academies and career-themed courses lead to careers in occupations aligned with the CAPE Industry Certification Funding List, etc.	CM    03/09/2021 Favorable ED    03/23/2021 AP
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2	<b>SB 1672</b> Diaz (Compare CS/H 845)	State University Free Seat Program; Creating the State University Free Seat Program; providing an exemption from tuition and fees, including lab fees, for one online course at a state university for certain resident students; prohibiting a state university from charging such students more than a specified percentage of the tuition rate and the tuition differential under certain circumstances; providing a limitation on the application of such tuition discount, etc.	ED    03/23/2021 AED AP
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**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, March 23, 2021, 12:30—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>SB 1728</b> Baxley (Similar CS/H 1273)	Out-of-state Fee Waiver for Nonresident Students; Requiring a state university to waive the out-of-state fee for a nonresident student who meets certain requirements; requiring each state university to report specified information regarding such out-of-state fee waivers to the Board of Governors annually; requiring that a student who is granted such out-of-state fee waiver be excluded from the limitation on the systemwide total enrollment of nonresident students; requiring the Board of Governors to adopt regulations, etc.  ED 03/23/2021 AED AP	
4	<b>SB 2010</b> Diaz (Similar H 7017)	Foreign Influence; Requiring any state agency or political subdivision to disclose certain gifts or grants received from any foreign source to the Department of Financial Services within a specified timeframe; requiring any entity that applies for a certain grant or proposes a certain contract to disclose to a state agency or political subdivision any current or prior interest of, contract with, or grant or gift received from a foreign country of concern under certain circumstances; requiring the Department of Management Services to screen certain vendors periodically; requiring the Department of Financial Services to establish and maintain an Internet website to publish the disclosures, etc.  ED 03/23/2021 AED AP	
5	<b>SB 2012</b> Stargel (Compare H 1475)	Promoting Equality of Athletic Opportunity; Creating the "Promoting Equality of Athletic Opportunity Act"; requiring that certain athletic teams or sports sponsored by certain educational institutions be designated on the basis of students' biological sex; prohibiting athletic teams or sports designated for female students from being open to male students; specifying conditions under which persons who transition from male to female are eligible to compete in the female category; requiring a student that fails to comply with certain conditions to be suspended from female competition for 12 months; requiring the Board of Governors of the State University System to adopt regulations and the State Board of Education to adopt rules regarding the resolution of disputes, etc.  ED 03/23/2021 HP RC	

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**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, March 23, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	<b>SB 1094</b> Bean (Similar CS/H 519, Compare H 1303, S 554)	Required Health Education Instruction; Providing additional requirements for health education; revising the grade levels when students receive certain health education instruction; requiring health education instruction to include prevention of specified harms, etc.  ED 03/23/2021 AED AP	
7	<b>SB 192</b> Book (Similar CS/H 149)	Students With Disabilities in Public Schools; Requiring school districts to prohibit the use of seclusion on students with disabilities in public schools; requiring school districts to adopt positive behavior interventions and supports and certain policies and procedures; creating the Video Cameras in Public School Classrooms Pilot Program; requiring continuing education and inservice training for instructional personnel teaching students with emotional or behavioral disabilities, etc.  ED 03/23/2021 AED AP	
8	<b>CS/SB 582</b> Judiciary / Rodrigues (Similar H 241)	Parental Rights; Creating the "Parents' Bill of Rights"; prohibiting the state, its political subdivisions, other governmental entities, or other institutions from infringing on parental rights unless specified conditions are met; requiring each district school board to develop and adopt a policy to promote parental involvement in the public school system; prohibiting health care practitioners and their employees from providing health care services or prescribing medicinal drugs to a minor child without a parent's written consent, etc.  JU 03/02/2021 Fav/CS ED 03/23/2021 RC	
9	<b>SB 880</b> Rodriguez (Similar CS/H 1027)	Florida High School Athletic Association; Requiring the Florida High School Athletic Association to adopt specified bylaws or policies, etc.  ED 03/23/2021 GO RC	

**COMMITTEE MEETING EXPANDED AGENDA**

Education

Tuesday, March 23, 2021, 12:30—3:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>SB 1028</b> Hutson (Identical H 51, Compare H 1031, S 1468)	Charter Schools; Authorizing state universities and Florida College System institutions to solicit applications and sponsor charter schools under certain circumstances; requiring the board of trustees of a state university or Florida College System institution that is sponsoring a charter school to serve as the local educational agency for such school; prohibiting certain charter school students from being included in specified school district grade calculations; authorizing a career and professional academy to be offered by a charter school, etc.	
		ED 03/23/2021 AED AP	
11	<b>SB 1656</b> Gruters (Identical H 765)	Lawton Chiles Endowment Fund; Requiring the Chief Financial Officer to annually certify the amount of unencumbered and undispersed endowment funds which reverts to the endowment's principal by a specified date; allocating a portion of the reverted funds to the board of trustees of the University of South Florida; requiring that such funds be used to support the university's Health Heart Institute, etc.	
		ED 03/23/2021 AED AP	
12	<b>SB 1282</b> Harrell (Similar H 419, Compare H 575, H 7011, S 1336, S 1898)	Early Learning and Early Grade Success; Deleting the Office of Early Learning from within the Office of Independent Education and Parental Choice of the Department of Education; establishing the Division of Early Learning within the department; revising approved child care or early education settings for the placement of certain children; requiring each parent who enrolls his or her child in the Voluntary Prekindergarten Education Program to allow his or her child to participate in a specified screening and progress monitoring program; revising the performance standards for the Voluntary Prekindergarten Education Program; authorizing certain students who enrolled in the Voluntary Prekindergarten Education Program to receive intensive reading interventions using specified funds, etc.	
		ED 03/23/2021 AED AP	

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 98

INTRODUCER: Senator Albritton

SUBJECT: Workforce Related Programs and Services

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 98 modifies provisions related to Florida workforce development and education including:

- Reestablishing the Office of Economic and Demographic Research’s Workforce Estimating Conference as the Labor Market Estimating Conference, tasked with determining real-time supply and demand in Florida’s labor market;
- Adding “gross mismanagement” to the types of behavior for which the Governor may remove a member of the state workforce board or a local workforce development board;
- Requiring the state board to provide detailed information on the effectiveness of its activities, and requiring the state board to assign a letter grade to each local workforce development board;
- Requiring contracts for training services provided through Individual Training Accounts to condition final payment to a training provider, of at least 10 percent, upon a participant’s successful job placement;
- Requiring local workforce development boards to post information about the board’s finances and their board members’ financial and ethics disclosures;
- Imposing 6-year term limits on board members, and increasing oversight of contracts;
- Modifying the duties of the Department of Education to strengthen the accountability of apprenticeship and preapprenticeship programs, and target grants under the Florida Pathways to Career Opportunities Grant Program to programs that satisfy a regional or state demand and have successful completion and employment rates;
- Aligning educational offerings under the Career and Professional Education Act with the CAPE Industry Certification Funding List, and aligning the list with skills needed for future employment and projections from a new Labor Market Estimating Conference; and
- Requiring the Commissioner of Education to review the funding weights assigned to career courses and certifications included in the CAPE Industry Certification Funding List.

The bill takes effect July 1, 2021.

## II. Present Situation:

### **The Workforce Estimating Conference**

Current law directs the Workforce Estimating Conference to develop forecasts of employment demand for jobs by occupation and industry.<sup>1</sup> The Conference must also review local and regional occupational data generated through the Internet-based job-matching and labor-market information system and consider such data in developing its forecasts for statewide employment demand.<sup>2</sup> Additionally, the data is used to make recommendations to CareerSource on any changes to local target occupation lists.<sup>3</sup> The Workforce Estimating Conference is expected to meet at least twice a year;<sup>4</sup> however, the conference has not met since September 6, 2013.<sup>5</sup>

### **Florida's Workforce Development System**

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation's workforce through implementation of a comprehensive workforce investment system.<sup>6</sup> The WIA required each state to establish an investment board at the state level and to also establish workforce investment boards to represent local service areas.<sup>7</sup> The WIA also called for the delivery of workforce development services through a system of "one-stop" centers in local communities.<sup>8</sup> Some key principles of the WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.<sup>9</sup>

In response to the WIA, Florida established a workforce development system under the Workforce Investment Act of 2000.<sup>10</sup> The act aimed to better connect the state's economic development strategies with its workforce development system and to implement the principles of the federal WIA.<sup>11</sup>

### ***Federal Workforce Innovation and Opportunity Act of 2014***

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.<sup>12</sup> The WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.<sup>13</sup> In general, the WIOA maintains the one-stop framework of the WIA,

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<sup>1</sup> See s. 216.136(7), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Office of Economic & Demographic Research, Workforce Estimating Conference, <http://edr.state.fl.us/content/conferences/workforce/index.cfm> (last visited March 8, 2021).

<sup>6</sup> Workforce Investment Act of 1998, 29 U.S.C. § 2801 (1998), *repealed by* Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, H.R. 803, 113th Cong. (July 22, 2014)(codified at 29 U.S.C. § 3101, et seq.).

<sup>7</sup> See 29 U.S.C. § 2821 and 29 U.S.C. § 2832 (1998).

<sup>8</sup> See 29 U.S.C. § 2841 (1998).

<sup>9</sup> See 29 U.S.C. § 2811 (1998).

<sup>10</sup> Chapter 2000-165, Laws of Fla.

<sup>11</sup> See s. 445.003, F.S.

<sup>12</sup> Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 et seq. (2014).

<sup>13</sup> See 29 U.S.C. § 3112(a).

and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.<sup>14</sup> The WIOA officially became effective on July 1, 2015, the first full program year after enactment.

### ***Core Programs***

The WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.<sup>15</sup> The core programs are:

- Adult, Dislocated Worker, and Youth Programs;
- Employment Services under the Wagner-Peyser Employment Act;
- Vocational Rehabilitation Services; and
- Adult Education and Literacy Activities.

### ***Performance Measures***

In an effort to promote transparency and accountability, the WIOA created a single set of common measures for the evaluation of core programs.<sup>16</sup> The WIOA requires performance reports to be provided at the state, local, and trainer provider levels. The performance measures that now apply across all core programs are:

- The percentage of participants in unsubsidized employment during second quarter after exit;
- The percentage of participants in unsubsidized employment during fourth quarter after exit;
- The median earnings of participants during second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.<sup>17</sup>

### ***State Workforce Development Plan***

Using the common performance measures for core programs, the WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development.<sup>18</sup> The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers.<sup>19</sup> The WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.<sup>20</sup>

The WIOA requires the Governor to establish a State Workforce Development Board<sup>21</sup> to assist the Governor in carrying out the duties and responsibilities required by the WIOA.<sup>22</sup> The membership of the state board must represent diverse geographic regions of the state, and the

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<sup>14</sup> See 29 U.S.C. § 3111.

<sup>15</sup> See 29 U.S.C. § 3102(13).

<sup>16</sup> See 29 U.S.C. § 3141.

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

<sup>18</sup> See 29 U.S.C. § 3112(a).

<sup>19</sup> See 29 U.S.C. § 3112(b).

<sup>20</sup> See 29 U.S.C. § 3113.

<sup>21</sup> See 20 C.F.R. s. 679.110.

<sup>22</sup> See 20 C.F.R. s. 679.130.



membership must include the Governor, members of the state legislature, representatives of business, representatives of workforce within the state, and membership from state officials with primary responsibility for the core programs.<sup>23</sup> Among other duties, the state board is required to assist in the development, implementation and modification of a 4-year state plan, review statewide policies, programs, and recommendations on actions to align workforce development programs, and identification and dissemination on best practices.<sup>24</sup>

### ***Regional Planning and Local Workforce Development Boards***

The WIOA requires states to identify regional planning areas for workforce development strategies.<sup>25</sup> Within each area, a local workforce development board must be established.<sup>26</sup> Each local workforce development board is required to coordinate planning and service delivery strategies within their area.<sup>27</sup> Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.<sup>28</sup>

The WIOA requires each Governor to designate local workforce development areas in consultation with the state workforce development board, chief elected officials<sup>29</sup> and local workforce development boards, and after consideration of public comment.<sup>30</sup> In making such designations, the WIOA requires each Governor to consider, with limited exception,<sup>31</sup> the extent to which the areas: (1) are consistent with the labor market areas in the state; (2) are consistent with regional economic development areas in the state; and (3) have the federal and non-federal resources necessary to effectively administer workforce investment activities, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education (CTE) schools.<sup>32</sup>

### ***The Governor's Authority***

The WIOA grants the Governor broad oversight authority of both the state and local level workforce development programs. The Governor is responsible for designating the local

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<sup>23</sup> See 20 C.F.R. s. 679.110. See also U.S. Department of Labor, Employment and Training Administration Advisory System, Training and Employment Guidance Letter WIOA No. 27-14 (April 15, 2015), available at [https://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_27-14.pdf](https://wdr.doleta.gov/directives/attach/TEGL/TEGL_27-14.pdf) (last visited March 8, 2021).

<sup>24</sup> See 20 C.F.R. s. 679.130.

<sup>25</sup> See 29 U.S.C. § 3121.

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

<sup>27</sup> See 29 U.S.C. § 3122.

<sup>28</sup> See 29 U.S.C. § 3123.

<sup>29</sup> See Pub. L. 113-128, §. 3(9) (codified at 29 USC § 3102). The term, ‘chief elected official’ means “(a) the chief elected executive officer of a unit of general local government in a local area; and (b) in a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units.”

<sup>30</sup> See Pub. L. 113-128, §. 106(a), (b) (codified at 29 U.S.C. § 3121).

<sup>31</sup> *Id.* WIOA lists two exceptions: (1) during the first two years after WIOA’s enactment, the Governor of each state was required to approve a request to designate a local workforce development area from any areas designated as such under the Workforce Innovation Act of 1998 for the two-year period immediately preceding WIOA’s enactment that performed successfully and sustained fiscal integrity; and (2) after the initial designation of such areas, the Governor of each state was further required to approve a subsequent request to designate such areas if, over the two most recent program years, they performed successfully, sustained fiscal integrity, and in the case of a local area planning region met additional requirements, including, but not limited to, the preparation of a regional plan.

<sup>32</sup> *Id.*

workforce areas,<sup>33</sup> certifying the local workforce development boards,<sup>34</sup> and negotiating the performance measures required by the WIOA.<sup>35</sup> The Governor also has the authority to decertify a local workforce development board, and require its reorganization, for fraud, abuse, or failure to carry out its statutory duties.<sup>36</sup> If a local workforce development board fails to meet its agreed upon performance measures in two consecutive program years, the Governor must decertify it and implement a reorganization plan.<sup>37</sup>

### ***One-Stop Delivery System***

The WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop delivery provider.<sup>38</sup> A comprehensive one-stop delivery provider supplies physical access to services provided by core partners, as well as other mandatory partners.<sup>39</sup> The WIOA mandates that each partner shares in the funding of services and infrastructure costs of the one-stop delivery system.<sup>40</sup>

### ***Florida's Implementation of The WIOA***

In 2016, Florida made changes to the workforce development system to conform to the new federal guidelines established by the WIOA.<sup>41</sup> Under the current workforce development system, the DEO, CareerSource, the state board, and 24 local workforce development boards act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs. Florida submitted its first Unified State Plan in 2016, a Two-Year Modification in 2018, and most recently a plan for the period July 1, 2020-June 30, 2024.<sup>42</sup> Florida's plan includes the following required programs:

- Adult Program;
- Dislocated Worker Program;
- Youth Program;
- Adult Education and Family Literacy Act;
- Wagner-Peyser Act; and
- Vocational Rehabilitation Program, including Blind Services Program.<sup>43</sup>

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<sup>33</sup> See 29 U.S.C. s. 3121(b).

<sup>34</sup> See 29 U.S.C. s. 3122(a).

<sup>35</sup> See 29 U.S.C. s. 3121(c).

<sup>36</sup> See 29 U.S.C. s. 3122(c).

<sup>37</sup> See 29 U.S.C. s. 3141(g).

<sup>38</sup> See 29 U.S.C. § 3151.

<sup>39</sup> Other mandatory partners may include programs under the Older Americans Act, Adult Education and Literacy, Department of Housing and Urban Development, Social Security Act, Perkins Career and Technical Education Act, and the Community Service Block Grant Act. 29 U.S.C. § 3151(b).

<sup>40</sup> See 29 U.S.C. § 3151(2).

<sup>41</sup> Chapter 2016-216, Laws of Fla.

<sup>42</sup> Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 1, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021).

<sup>43</sup> *Id.* at 2.

The Unified Plan includes the required core partners of: CareerSource, the DEO, and the Department of Education's (DOE) Divisions of Career and Adult Education, Vocational Rehabilitation and Blind Services.<sup>44</sup>

### ***The Department of Economic Opportunity***

The DEO serves as Florida's lead workforce agency.<sup>45</sup> The DEO is responsible for the fiscal and administrative affairs of the workforce development system.<sup>46</sup> The DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.<sup>47</sup> Additionally, the DEO must annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal law.<sup>48</sup>

### ***CareerSource Florida, Inc. and the State Board***

CareerSource Florida, Inc., a not-for-profit corporation, provides administrative support to Florida's *state-level* workforce development board.<sup>49</sup> CareerSource collaborates with the DEO, the local workforce development boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.<sup>50</sup> CareerSource also implements policy directives of the state board.<sup>51</sup>

The state board is the board of directors of CareerSource.<sup>52</sup> The board of directors includes the Governor, 16 business representatives, six workforce representatives, and eight government officials.<sup>53</sup> The state board conducts its work through its board of directors, two councils, and an Executive Committee.<sup>54</sup>

Additionally, the state board is responsible for the design and implementation of Florida's workforce development system and provides policy direction to ensure that the DEO is properly administering workforce development activities and programs.<sup>55</sup> The state board is also responsible for developing a 4-year plan that is consistent with the requirements of the WIOA.<sup>56</sup> In partnership with state and local workforce partners, the state board develops strategic planning elements for the state plan to address strategies to fulfill workforce system goals; aggregate, integrate, and leverage resources; coordinate the activities of federal, state, and local workforce

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<sup>44</sup> Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 1, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021).

<sup>45</sup> Primarily through the Division of Workforce Services. See s. 20.60, F.S.

<sup>46</sup> Section 445.009(3)(c), F.S.

<sup>47</sup> See s. 445.003, F.S.

<sup>48</sup> See s. 445.007(3), F.S.

<sup>49</sup> Section 445.004(2), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.

<sup>50</sup> See s. 445.004, F.S.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> See s. 445.004(3)(a)-(d), F.S. See also Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 89, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021). The membership roster is as of July 1, 2020.

<sup>54</sup> *Id.* at 59

<sup>55</sup> See s. 445.004, F.S.

<sup>56</sup> Section 445.003(2), F.S.

system partners; address the needs of small businesses; and foster the participation of rural and distressed communities.<sup>57</sup> The state board submits an annual report by December 1 of each year to the Governor and the Legislature on the operations and accomplishments of the board, as well as, all audits.<sup>58</sup>

### ***Local Workforce Development Boards***

Twenty-four local workforce development boards (local boards) deliver Florida's workforce development services through over 100 one-stop service providers.<sup>59</sup> The one-stop service providers give Floridians access to available workforce services; including job placement, career counseling, and skills training.<sup>60</sup> Each local board formulates a local budget and oversees the one-stop delivery system within its local area.<sup>61</sup>

Collectively, the local boards operate under a charter approved by CareerSource.<sup>62</sup> The local boards must submit a request for continued designation every two years, beginning July 1, 2017, to CareerSource and the DEO.<sup>63</sup> Continued designation is granted if the local board performed successfully and sustained fiscal integrity.<sup>64</sup> Each local board must develop their own local plans which are aligned with the vision and goals of the state plan.<sup>65</sup>

### ***Accountability***

For the period February 10, 2020 through August 7, 2020, the United States Department of Labor (USDOL) Employment Training Administration (ETA) conducted a compliance review of the DEO to determine their level of compliance with the programmatic, fiscal, and administrative requirements.<sup>66</sup> The review identified 50 compliance findings which must be addressed, with several findings having regulatory, statutory, and policy violations.<sup>67</sup>

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<sup>57</sup> See s. 445.006(2)(a), F.S.

<sup>58</sup> Section 445.004(7)(a)-(b), F.S.

<sup>59</sup> Florida Department of Economic Opportunity, *CareerSource Florida Network Directory*, <http://lcd.floridajobs.org/> (last visited March 8, 2021).

<sup>60</sup> See s. 445.009, F.S.

<sup>61</sup> Section 445.007(12), F.S.

<sup>62</sup> CareerSource Florida, Strategic Policy 2000.08.15.8D, *Chartering of Local Workforce Development Boards* (Aug. 15, 2020), available at <https://careersourceflorida.com/wp-content/uploads/2017/05/2000.08.15.I.8D-Chartering-of-LWDB.pdf> (last visited March 8, 2021).

<sup>63</sup> CareerSource Florida, Administrative Policy Number 94, *Local Workforce Development Area Designation* (March 20, 2017), at 3, available at [https://floridajobs.org/docs/default-source/lwdb-resources/policy-and-guidance/guidance-papers/2017-guidance-papers/localareadesignatn-ap94.pdf?sfvrsn=2e3770b0\\_4](https://floridajobs.org/docs/default-source/lwdb-resources/policy-and-guidance/guidance-papers/2017-guidance-papers/localareadesignatn-ap94.pdf?sfvrsn=2e3770b0_4) (last visited March 8, 2021).

<sup>64</sup> *Id.*

<sup>65</sup> Workforce Innovation and Opportunity Act, *State of Florida Unified Plan July 1, 2020-June 30, 2024* (2020), at 111, available at <https://careersourceflorida.com/wp-content/uploads/2020/09/2020-2024-WIOA-Unified-Plan.pdf> (last visited March 8, 2021); See also Florida Department of Economic Opportunity, *Local Workforce Development Area WIOA Plans*, <https://floridajobs.org/local-workforce-development-board-resources/programs-and-resources/local-workforce-development-area-wioa-plans> (last visited March 8, 2021).

<sup>66</sup> United States Department of Labor, Employment and Training Administration, *Compliance Review Florida Department of Economic Opportunity* (2020), available at <http://www.floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2020-usdol-eta-compliance-review.pdf> (last visited March 8, 2021).

<sup>67</sup> *Id.* at 1-2 (last visited March 8, 2021).

The DEO has since provided corrective action responses to 46 of the 50 findings.<sup>68</sup> The DEO's response concluded that the state board has not delegated its policy making authority and provided the agreement<sup>69</sup> between the DEO and CareerSource.<sup>70</sup> Additionally, the DEO will incorporate an annual review of local board websites to ensure local plans and modifications are made publicly available. To address conducting business in an open manner, the DEO has updated the grantee-sub grantee agreement as well as a policy for local area governance and transparency.<sup>71</sup>

### **Apprenticeships and Preapprenticeships**

The Florida Legislature has established educational opportunities for young people in the state to be trained for trades, occupations, and professions suited to their abilities.<sup>72</sup>

The federal government works in cooperation with states to oversee the nation's apprenticeship programs. States have the authority to register apprenticeship programs through federally-recognized State Apprenticeship Agencies.<sup>73</sup> In Florida, the Department of Education (DOE) serves as the registering entity to ensure compliance with federal and state apprenticeship standards, provide technical assistance, and conduct quality assurance assessments.

An apprenticeable occupation is a skilled trade which possesses all of the following characteristics:<sup>74</sup>

- It is customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training;
- It is commonly recognized throughout the industry;
- It involves manual, mechanical, or technical skills and knowledge requiring a minimum of 2,000 hours of work and training, which hours are excluded from the time spent at related instruction; and
- It requires related instruction to supplement on-the-job training. Such instruction may be given in a classroom or through correspondence courses.

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<sup>68</sup> Florida Department of Economic Opportunity, *Letter to Ms. Lenita Jacobs-Simmons- Regional Administrator Employment and Training Administration* (Feb. 18, 2021), available at [https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0\\_6](https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0_6) (last visited March 8, 2021).

<sup>69</sup> Agreement Between the Florida Department of Economic Opportunity and CareerSource Florida, Inc., *Agreement No: BCS02* (July 1, 2019-June 20, 2021), available at <https://careersourceflorida.com/wp-content/uploads/2020/01/DEO-CSF-Agreement.pdf> (last visited March 8, 2021).

<sup>70</sup> Florida Department of Economic Opportunity, *Letter to Ms. Lenita Jacobs-Simmons- Regional Administrator Employment and Training Administration* (Feb. 18, 2021), at 5, available at [https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0\\_6](https://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2020-usdol-eta-compliance-review/2021-feb-18-eta-comprehensive-monitoring-report-cap.pdf?sfvrsn=b2074db0_6) (last visited March 8, 2021).

<sup>71</sup> *Id.* at 7-9.

<sup>72</sup> Chapter 446, F.S.

<sup>73</sup> 29 C.F.R. ss. 29.1 and 29.13.

<sup>74</sup> Section 446.092, F.S.

### ***Registered Apprenticeship***

Registered apprenticeship is an employer-driven, on-the-job workforce educational training program that connects job seekers looking to learn new skills and career opportunities with employers looking to create a pipeline of highly skilled individuals for their workforce.<sup>75</sup>

The key components of a Florida registered apprenticeship program are business involvement, structured on-the-job training, related technical instruction, rewards for skill gains, and a nationally recognized credential.<sup>76</sup>

### ***Apprenticeship Programs***

An “apprentice” is a person at least 16 years of age who is engaged in learning a recognized skilled trade through actual work experience under the supervision of journeyman craftsmen, which should be combined with properly coordinated studies of technical and supplementary subjects. An apprentice must enter into an apprentice agreement with a sponsor who may be either an employer, an association of employers, or a local joint apprenticeship committee.<sup>77</sup>

Potential candidates for apprenticeships may apply with a registered sponsor, who determines whether the candidate meets the required qualifications.<sup>78</sup> Sponsors may provide private classroom instruction or coordinate with a local educational agency<sup>79</sup> to provide related supplemental classroom instruction.<sup>80</sup> The apprentices are exempt from paying tuition and fees at a school district technical center, Florida College System (FCS) institution, or state university.<sup>81</sup>

The sponsor operates and registers an agreed-upon apprenticeship program.<sup>82</sup> An apprenticeship program is an organized course of instruction, registered and approved by the DOE that contains all terms and conditions for the qualifications, recruitment, selection, employment, and training of apprentices.<sup>83</sup>

The administration and supervision of related and supplemental instruction for apprentices, coordination of such instruction with job experiences, and selection and training of teachers and coordinators for such instruction is the responsibility of the appropriate career education

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<sup>75</sup> Florida Department of Education, *Florida’s Annual Apprenticeship and Preapprenticeship Report (2019-2020)*, available at <http://www.fldoe.org/core/fileparse.php/5398/urlt/2020appr-rpt.pdf>, at 2 (last visited March 8, 2021).

<sup>76</sup> *Id.*

<sup>77</sup> Section 446.021(2), F.S.

<sup>78</sup> Florida Department of Education, *What is Registered Apprenticeship?*, <http://www.fldoe.org/academics/career-adult-edu/apprenticeship-programs/what-is-apprenticeship.stml>, (last visited March 8, 2021).

<sup>79</sup> Though not defined in the federal regulations governing the U.S. Department of Labor, the U.S. Department of Education regulations define a local educational agency as a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. 34 C.F.R. s. 400.4.

<sup>80</sup> Section 446.051(2), F.S.

<sup>81</sup> Section 1009.25(1)(b), F.S.

<sup>82</sup> Rule 65A-23.002(21), F.A.C.

<sup>83</sup> Section 446.021(6), F.S. An apprenticeship agreement may not operate to invalidate any apprenticeship provision in a collective agreement between employers and employees which establishes higher apprenticeship standards. Section 446.081(1), F.S.

institution.<sup>84</sup> The career education institution is encouraged to provide facilities, equipment and supplies, and instructors' salaries for the performance of related and supplemental instruction associated with the registered program.<sup>85</sup>

### ***Preapprenticeship Programs***

A preapprentice is any person 16 years of age or over engaged in any course of instruction in the public school system or elsewhere, which course is registered as a preapprenticeship program with the DOE.<sup>86</sup> The program's purpose is to provide training that will enable students, upon completion, to obtain entrance into a registered apprenticeship program.<sup>87</sup> The program must be registered with the DOE and sponsored by a registered apprenticeship program.<sup>88</sup>

The DOE is authorized to administer the law<sup>89</sup> relating to preapprenticeship programs in cooperation with district school boards and FCS institution boards of trustees (BOT). District school boards, FCS institution BOT, and sponsors must cooperate in developing and establishing preapprenticeship programs that include career instruction and general education courses required to obtain a high school diploma.<sup>90</sup>

### ***Department of Education Responsibilities***

The DOE is responsible for administering, facilitating, and supervising registered apprenticeship programs, including, but not limited to:<sup>91</sup>

- Developing and encouraging apprenticeship programs;
- Registering any apprenticeship or preapprenticeship program, regardless of affiliation,<sup>92</sup> which meets standards established by the DOE;
- Cooperating with and assisting sponsors to develop apprenticeship standards and training requirements;
- Monitoring registered apprenticeship programs;
- Leading and coordinating outreach efforts to educate veterans about apprenticeship and career opportunities;
- Investigating complaints regarding failure to meet the standards established by the DOE; and
- Canceling registration of programs that fail to comply with DOE standards and policies.

The DOE establishes uniform minimum standards and policies governing registered apprenticeship programs and agreements.<sup>93</sup> The standards and policies must govern the terms and conditions of the apprentice's employment and training, including the quality training of the apprentice for, but not limited to, such matters as ratios of apprentices to journeymen, safety,

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<sup>84</sup> Section 446.051(1), F.S.

<sup>85</sup> Section 446.051(2), F.S.

<sup>86</sup> Section 446.021(1), F.S.

<sup>87</sup> Rule 6A-23.010(1), F.A.C.

<sup>88</sup> Section 446.021(5), F.S.

<sup>89</sup> Sections 446.011 to 446.092, F.S.

<sup>90</sup> Section 446.052(2), F.S.

<sup>91</sup> Section 446.041, F.S.

<sup>92</sup> Apprenticeship programs may be in both non-union and union workplaces; sponsors may include employers, labor organizations, and joint labor-management organizations.

<sup>93</sup> Section 446.032(1), F.S.

related instruction, and on-the-job training. The DOE is also required to publish an annual report on apprenticeship and preapprenticeship programs, which must include:<sup>94</sup>

- A list of registered apprenticeship and preapprenticeship programs;
- A summary of each local educational agency's expenditure of funds for apprenticeship and preapprenticeship programs, per trade or occupation;
- The number of apprentices and preapprentices per trade and occupation;
- The percentage of apprentices and preapprentices who complete their respective programs in the appropriate timeframe;
- Information and resources related to applications for new apprenticeship programs and technical assistance and requirements for potential applicants; and
- Documentation of activities conducted by the DOE to promote apprenticeship and preapprenticeship programs through public engagement, community-based partnerships, and other initiatives.

### ***State Apprenticeship Advisory Council***

The State Apprenticeship Advisory Council (council) advises the DOE on matters related to apprenticeship.<sup>95</sup> The council may not establish policy, adopt rules, or consider whether particular apprenticeship programs should be approved by DOE. The Commissioner of Education (commissioner) or the commissioner's designee must serve *ex officio* as chair of the council, but may not vote. The state director of the USDOL also serves *ex officio* as a nonvoting member of the council. The council is comprised of 10 voting members appointed by the Governor.<sup>96</sup> The council must meet at the call of the chair or at the request of a majority of its membership, but at least twice a year.<sup>97</sup>

### ***Florida Pathways to Career Opportunities Grant Program***

In 2019, the Governor issued an executive order directing the DOE to seek funding to seed high quality workforce apprenticeships and other industry specific learning opportunities for students.<sup>98</sup>

The Florida Pathways to Career Opportunities Grant Program (grant program) was established in 2019<sup>99</sup> in the DOE to provide grants on a competitive basis to high schools, career centers, charter technical career centers, FCS institutions, and other entities authorized to sponsor an apprenticeship or preapprenticeship program to establish new apprenticeship or preapprenticeship programs, and expand existing apprenticeship or preapprenticeship programs. Grant funds may be used for instructional equipment, supplies, personnel, student services, and other expenses associated with the creation or expansion of an apprenticeship program. Grant funds may not be used for recurring instructional costs or for indirect costs.<sup>100</sup>

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<sup>94</sup> Section 446.032(2), F.S.

<sup>95</sup> Section 446.045(2)(a), F.S.

<sup>96</sup> Section 446.045(2)(b), F.S.

<sup>97</sup> Section 446.045(2)(c), F.S.

<sup>98</sup> Florida Office of the Governor, Executive Order 19-31, at 3.

<sup>99</sup> Section 33, ch. 2019-119, Laws of Fla.

<sup>100</sup> Section 1011.802, F.S.



## **The Florida Career and Professional Education (CAPE) Act**

The CAPE Act was created to provide a statewide planning partnership between the business and education communities to attract, expand and retain targeted, high-value industry to sustain a strong, knowledge-based economy. The primary purpose of the CAPE Act is to:

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;
- Provide rigorous and relevant career-themed courses that articulate to postsecondary-level coursework and lead to industry certification;
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.<sup>101</sup>

In order to fulfill the requirements of the CAPE Act the DOE incentivizes school districts and FCS institutions<sup>102</sup> through two statewide lists.<sup>103</sup>

The CAPE Industry Certification Funding List includes CAPE industry certifications, CAPE acceleration industry certifications, and CAPE digital tool certificates. Industry certifications on the final approved CAPE Industry Certification Funding list are eligible for additional weighted funding through the Florida Education Finance Program (FEFP).<sup>104</sup> The value is added to the total FTE in secondary career education programs for grades 9 through 12. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification to the program that generated the funds.<sup>105</sup>

### ***CAPE Industry Certification Funding List (K-12)***

Florida's current process for submitting, reviewing, and approving certifications starts with the submission of a certification application to CareerSource by local boards or public school principals. All submissions are then researched by CareerSource staff, the DOE, and the DEO to determine eligibility and to develop a list of recommended certifications for approval. The CareerSource Board of Directors is responsible for the final approval of certifications which the DOE may consider for funding eligibility and addition to the CAPE Industry Certification Funding List.<sup>106</sup>

Approved industry certifications are published by the DOE, CareerSource, and the Department of Agriculture and Consumer Services (DACCS).<sup>107</sup> The selection of industry certifications occurs in two phases. First, CareerSource must identify industry certifications and compile them into a Comprehensive Industry Certification List.<sup>108</sup> Second, the DOE must:

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<sup>101</sup> Section 1003.491, F.S.

<sup>102</sup> Sections 1011.62(1)(o), 1008.44, 1011.80, and 1011.81(2), F.S.

<sup>103</sup> Sections 1011.62(1)(o), 1011.80(7)(b), and 1011.81(2)(c), F.S.

<sup>104</sup> Section 1011.62(1)(o), F.S.; Rule 6A-6.0573(12), F.A.C.

<sup>105</sup> Section 1011.62(1)(o), F.S.

<sup>106</sup> CareerSource Florida, *2021-2022 Submission Process and Guidelines for Career and Professional Education Act*, available at: [https://careersourceflorida.com/wp-content/uploads/2018/08/CAPE\\_Process\\_and\\_Guidelines.pdf](https://careersourceflorida.com/wp-content/uploads/2018/08/CAPE_Process_and_Guidelines.pdf) (last visited March 8, 2021).

<sup>107</sup> Section 1003.492(3), F.S.

<sup>108</sup> Section 1003.492(4), F.S.; rule 6A-6.0573(2)(d), F.A.C.

- Review CareerSource’s Comprehensive Industry Certification List that includes 236 certifications;<sup>109</sup>
- Identify industry certifications that qualify for additional weighted funding;<sup>110</sup>
- Consider district requests that industry certifications be added to the approved list;<sup>111</sup> and
- Annually publish a final list.<sup>112</sup>

In order for an industry certification to be included on the CAPE Industry Certification Funding List, a certification must require a minimum of 150 hours of instruction and be achievable by secondary students.<sup>113</sup>

CAPE acceleration industry certifications which are annually approved by the commissioner, must articulate for 15 or more college credit hours and, if successfully completed, must be eligible for additional FTE funding.<sup>114</sup> In order for a CAPE acceleration industry certification to be included on the CAPE Industry Certification Funding List, it must meet the same requirements as an industry certification and also have a statewide articulation agreement that enables students to earn 15 hours or more of college credit.<sup>115</sup>

CAPE digital tool certificates recognize a student’s attainment of digital skills. The DOE is required to identify, by June 15 of each year, digital tool certificates that indicate a student’s digital skills. The DOE must notify each school district when a digital tool certificate is available. Digital tool certificates must be made available to all public elementary and middle grades students. By July 1, 2018, and on an annual basis thereafter, at least 75 percent of public middle grades students are expected to earn at least one digital tool certificate.<sup>116</sup> In order for a CAPE digital tool certificate to be included on the CAPE Industry Certification Funding List a certificate must:

- Be achievable by elementary school and middle grades students;
- Assess at least one of the following digital skills: word processing; development of spreadsheets; digital arts; cybersecurity; coding; and development of sound, motion, and color presentations; and
- Be part of a career pathway leading to the attainment of a career and professional education industry certification on the career and professional education funding list.<sup>117</sup>

The commissioner may at any time recommend adding to the CAPE Industry Certification Funding List no more than 30 career and professional education digital tool certificates limited to the areas of word processing; development of spreadsheets; digital arts; cybersecurity; coding;

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<sup>109</sup> Rule 6A-6.0573(3), F.A.C. *See also*, Florida Department of Education, Division of Career and Adult Education, *2020-21 Career Source Florida Recommendations*, available at <http://www.fldoe.org/core/fileparse.php/8904/urlt/2021-csfl-rec-all.pdf> (last visited March 8, 2021).

<sup>110</sup> Rule 6A-6.0573(4), F.A.C.

<sup>111</sup> Rule 6A-6.0573(9), F.A.C.

<sup>112</sup> Section 1003.492(4), F.S.; rule 6A-6.0573(8), F.A.C.

<sup>113</sup> Rule 6A-6.0573(7)(a), F.A.C.

<sup>114</sup> Section 1003.4203(5)(b), F.S.

<sup>115</sup> Rule 6A-6.0573(7)(c), F.A.C.

<sup>116</sup> Section 1003.4203(3), F.S.

<sup>117</sup> Rule 6A-6.0573(7)(d), F.A.C.

and development of sound, motion, and color presentations that do not articulate for college credit.<sup>118</sup>

The Chancellor of Career and Adult Education may identify certificates and certifications for students with disabilities, which must be included on the CAPE Industry Certification Funding List, i.e., digital tool certifications, workplace industry certification, and occupation safety and health administration industry certifications.<sup>119</sup>

### *CAPE Postsecondary Industry Certification Funding List*

The CAPE Postsecondary Industry Certification Funding List is developed by the Chancellor of the FCS<sup>120</sup> and the Chancellor of Career and Adult Education<sup>121</sup> and approved by the SBE.<sup>122</sup> These industry certifications are linked to occupational areas identified in the General Appropriations Act.<sup>123</sup>

## III. Effect of Proposed Changes:

### Workforce Development

**Section 1** amends s. 216.136, F.S., to change the name of the Workforce Estimating Conference to the Labor Market Estimating Conference.

The bill clarifies that the Labor Market Estimating Conference must meet at least twice a year to develop information regarding real-time supply and demand in Florida's statewide, regional, and local labor markets.

The bill provides that the Labor Market Estimating Conference will provide information on labor supply by education level, analyses of labor demand by occupational groups and occupations compared to labor supply, a ranking of critical areas of concern, and identification of in-demand, high-skill, and high-wage occupations.

The bill provides that all state agencies must provide the Office of Economic and Demographic Research with the necessary data to accomplish the goals of the Labor Market Estimating Conference.

**Section 2** amends s. 445.002, F.S., to include "gross mismanagement" in the definition of "for cause." The "for cause" standard is used in ch. 445, F.S., as a standard by which the Governor may remove a member of the state board or a local board, and a chief elected official may remove a member of a local board.

**Section 3** amends s. 445.004, F.S., to revise provisions relating to the purpose, operation, and organizational structure of the state board.

<sup>118</sup> Section 1008.44(1)(b), F.S.

<sup>119</sup> Section 1008.44(1)(c), F.S.

<sup>120</sup> Section 1011.81(2)(b), F.S.

<sup>121</sup> Section 1011.80(7)(b)2., F.S.

<sup>122</sup> Section 1011.81(2)(b), F.S. and s. 1011.80(7)(b)2., F.S.

<sup>123</sup> Sections 1011.80(7)(b) and 1011.81(2)(b), F.S.; ss. 124 and 130, ch. 2020-111, Laws of Fla.

- The state board must include one member representing each of the WIOA partners, including the Division of Vocational Rehabilitation and the Department of Children and Families.
- The state board must create a state employment, education, and training policy that ensures workforce-related programs are responsive to present and future business and industry needs.
- The state board must establish policy direction for a uniform funding system that prioritizes evidence-based, results-driven solutions by providing certain incentives to improve the outcomes of career education, registered apprenticeship, and work-based learning programs.
- The state board must establish a comprehensive policy related to the education and training of target populations, which should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance by combining two or more sources of funding to support workforce-related programs or activities for vulnerable populations when appropriate or authorized.
- The state board must identify barriers to coordination and alignment among workforce-related programs and activities, and develop solutions to remove such barriers.
- The state board, in consultation with the DEO must submit a complete and detailed annual report by December 1 of each year to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader.
- The state board's annual report must include all audits and investigations, the state board's operations and accomplishments, the number of mandatory partners located within one-stop centers, and the amount of progress made toward implementing solutions to address barriers to coordination and alignment among programs and activities.
- The state board, beginning July 1, 2022, must annually assign a letter grade for each local board.
- The state board must establish incentives for effective alignment of federal and state programs, outline rewards for achieving long-term self-sufficiency of participants, and institute collaborative approaches among local service providers.
- The state board must establish uniform performance accountability measures, and any local performance accountability measures established must be based on identified local area needs.

**Section 4** amends s. 445.007, F.S., to revise provisions relating to transparency and oversight of local boards.

The bill establishes term limits for a local board chair as no more than 2 years and establishes term limits for all members of a local board as no more than 6 consecutive years, unless the member is a representative of a government entity.

The bill requires local boards to make publicly available on the local board's website, or the DEO's website if the local board does not maintain a website, the following:

- Information for the public that a public disclosure of financial interest filed with the Commission on Ethics has been completed for each local board member and executive director and provide information on how each disclosure or statement may be reviewed;<sup>124</sup>

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<sup>124</sup> The notice to the public must remain on the website throughout the term of office or employment of the filer and until 1 year after the term ends.

- The local board's budget within 10 days after approval by the DEO;<sup>125</sup> and
- Annual publication of its most recent Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax.<sup>126</sup>

The bill requires prior approval from the DEO for contracts between the local board and an organization or individual represented on the local board and states that such contracts may not be included on a consent agenda by the board. Additionally, a member whose organization may benefit from the contract must abstain from voting on the contract.

The bill reduces the threshold from \$25,000 to \$10,000 for contracts between local boards, a relative of a local board, or an employee of the board, which do not require prior approval from the DEO but do require a two-thirds board approval.

The bill requires the publication of contracts between a local board and a member of the local board, a relative of a local board member, an organization or individual represented on the local board, or an employee of the local board approved on or after July 1, 2021, to be published on the local board's website, or the DEO's website if the local board does not maintain a website within ten days after approval by the DEO and requires it to remain published for at least 1 year after termination of the contract.

The bill requires the DEO, in their review of required contracts to consider documentation provided by the local board, including the performance rating of the entity under consideration for contract and whether such entity is the only provider of the desired goods and services within the area served.

The bill removes a provision that requires a two-thirds vote of a local board if the local board enters into a contract with an organization or individual represented on the local board.

The bill requires each local board to annually, within 30 days after the end of the fiscal year, disclose to the DEO, the amount and nature of compensation paid to all executives, officers, directors, trustees, key employees, and the highest compensated employees, as defined for purposes of the Internal Revenue Service Form 990, Return of Organization Exempt from Income Tax.<sup>127</sup>

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<sup>125</sup> The budget must remain published on the website for the duration of the fiscal year for which it accounts for the expenditure of funds.

<sup>126</sup> The form must be posted on the local board's website within 60 calendar days after it is filed with the Internal Revenue Service and remain posted for 3 years after it is filed.

<sup>127</sup> The bill provides that the reported compensation must include salary, bonuses, present value of vested benefits including but not limited to retirement, accrued leave and paid time off, cashed-in leave, cash equivalents, severance pay, pension plan accruals and contributions, deferred compensation, real property gifts, and any other liability owed to such persons. The disclosure must be accompanied by a written declaration from the chief financial officer, or his or her designee, that he or she has read the compensation disclosure and affirms it is true and accurate. The compensation disclosure information must also be published on the local board's website, or the DOE's website if the local board does not maintain a website, for a period of 3 years after it is first published.

**Section 5** amends s. 445.009, F.S., to provide that Individual Training Accounts<sup>128</sup> must be expended on programs that prepare people to enter occupations identified by the Labor Market Estimating Conference.

The bill requires training services provided through Individual Training Accounts to be performance-based, with successful job placement triggering final payment of at least 10 percent.

**Sections 6 and 18** amend ss. 445.038 and 445.011, F.S., respectively, to make conforming changes to provisions made by the bill.

### **Apprenticeship and Preapprenticeship**

**Section 7** amends s. 446.021, F.S., to change the term “Uniform minimum preapprenticeship standards” to “standards,” which means the minimum requirements established uniformly for each occupation under which an apprenticeship or preapprenticeship program is administered.<sup>129</sup>

**Section 8** amends s. 446.032, F.S., to clarify the role of the DOE in the administration of apprenticeship training programs.

The bill requires the DOE to establish uniform minimum standards and policies governing apprenticeship programs and agreements which must require training providers to submit data necessary to determine program performance consistent with state and federal law.

The bill requires the DOE to adopt rules necessary to administer the standards and policies governing apprenticeship programs and agreements.

The bill provides that the DOE must include the following in its annual report on apprenticeship and preapprenticeship programs:

- The total amount of funds allocated by training provider, program, and occupation;
- The total amount of funds expended for administrative costs by training provider, program, and occupation;
- The total amount of funds expended for instructional costs by training provider, program, and occupation;
- Documentation of activities conducted by the DOE to promote apprenticeship and preapprenticeship programs through public engagement, community-based partnerships, and other initiatives and the outcomes of such activities and their impact on establishing or expanding apprenticeship or preapprenticeship programs;
- Retention and completion rates of participants aggregated by training provider, program, and occupation; and
- Wage progression of participants as demonstrated by starting, exit, and postapprenticeship wages.

<sup>128</sup> Individual Training Account expenditures include tuition, books, and fees of training providers and other training services authorized by the WIOA. See s. 445.003, F.S.

<sup>129</sup> The bill clarifies that the term includes standards of admission, training goals, training objectives, curriculum outlines, objective standards to measure successful completion of the apprenticeship or preapprenticeship program, and the percentage of credit which may be given to an apprentice or a preapprentice.

The bill requires the DOE to provide career planning resources to district school boards, Florida College System institution boards of trustees, program sponsors, and local workforce development boards.

**Section 9** amends s. 446.045, F.S., to establish that the Governor must fill any vacancy on the State Apprenticeship Advisory Council for the remainder of an unexpired term.

**Section 17** amends s. 1011.802, F.S., to require the DOE to give priority to apprenticeship programs, such as health care programs, with demonstrated regional demand identified by the Labor Market Estimating Conference.

The bill authorizes the DOE to award grants, which only expand existing programs that exceed the median completion rate and employment rate one year after completion for similar programs in the region, or in the state if there are no similar programs in the region.

### **Career and Education Planning**

**Section 10** amends s. 1003.4156, F.S., to provide that the required course<sup>130</sup> in career and education planning must include information from the DEO's economic security report and other state career planning resources.

**Section 11** amends s. 1003.4203, F.S., to specify that the DOE must identify CAPE Digital Tool certificates under ss. 1003.492 and 1008.44, F.S.

The bill provides that CAPE Innovation courses and CAPE Acceleration Industry Certifications are identified in the CAPE Industry Certification Funding List, rather than approved by the Commissioner of Education.

**Section 12** amends s. 1003.491, F.S., to require the CAPE strategic 3-year plan developed jointly by the local school district, local work force development boards, economic development agencies, and state-approved postsecondary institutions to be developed based on local and regional workforce needs for the ensuing 3 years, using labor projections as identified by the Labor Market Estimating Conference and strategies to develop and implement career academies or career-themed courses based on occupations identified by the Labor Market Estimating Conference.

**Sections 13 and 14** amend ss. 1003.4935 and 1008.41, F.S., respectively, to make conforming changes to provisions made by the bill.

**Section 15** amends s. 1008.44, F.S., to require the Commissioner of Education to conduct a review of the methodology used to determine additional full-time equivalent membership weights assigned in s. 1011.62(1)(o), F.S., and if necessary, recommend revised weights. The results of the commissioner's recommendations must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives no later than December 31, 2021.

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<sup>130</sup> The course is required before a student will be promoted to high school.

**Sections 16 and 19** amend ss. 1011.801 and 1011.80, F.S., respectively, to make conforming changes to provisions made by the bill.

**Effective Date**

**Section 20** provides that the bill takes effect July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 216.136, 445.002, 445.004, 445.007, 445.009, 445.038, 446.021, 446.032, 446.045, 1003.4156, 1003.4203, 1003.491, 1003.4935, 1008.41, 1008.44, 1011.801, 1011.802, 445.011, 1011.80.

**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.

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By Senator Albritton

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1 A bill to be entitled  
 2 An act relating to workforce related programs and  
 3 services; amending s. 216.136, F.S.; renaming the  
 4 Workforce Estimating Conference as the Labor Market  
 5 Estimating Conference; removing requirements for the  
 6 Workforce Estimating Conference; providing  
 7 requirements for the Labor Market Estimating  
 8 Conference; amending s. 445.002, F.S.; redefining the  
 9 term "for cause"; amending s. 445.004, F.S.; expanding  
 10 the membership of the state workforce development  
 11 board; specifying entities that can authorize certain  
 12 expenditures; providing and revising requirements for  
 13 the state board in order to achieve certain purposes;  
 14 requiring the state board, in consultation with the  
 15 department, to submit a report to the Governor and  
 16 Legislature; providing and revising reporting  
 17 requirements; requiring the state board to assign  
 18 letter grades to local workforce development boards;  
 19 requiring local performance accountability measures to  
 20 be based on identified local area needs; amending s.  
 21 445.007, F.S.; removing authority for a local board to  
 22 review a decision by the department to deny a  
 23 contract; requiring a local board to disclose certain  
 24 compensation information to the department; providing  
 25 term limits for local board members; providing an  
 26 exception; requiring actions of the local board to be  
 27 consistent with federal and state law; providing  
 28 requirements for certain contracts between a local  
 29 board and certain entities; providing an exception;

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30 requiring the department to review certain  
 31 documentation when considering whether to approve a  
 32 contract; removing authority for a local board to  
 33 review a decision by the department to deny a  
 34 contract; requiring a local board to disclose certain  
 35 compensation information to the department; requiring  
 36 local boards to publish specified information;  
 37 requiring the department to review certain information  
 38 provided by a local board in reviewing contracts;  
 39 amending s. 445.009, F.S.; requiring a certain final  
 40 payment amount to Individual Training Accounts;  
 41 conforming provisions to changes made by the act;  
 42 amending s. 445.038, F.S.; conforming provisions to  
 43 changes made by the act; amending s. 446.021, F.S.;  
 44 revising the definition of the term "uniform minimum  
 45 preapprenticeship standards"; expanding the definition  
 46 to include apprenticeship programs; amending s.  
 47 446.032, F.S.; requiring certain standards and  
 48 policies established by the Department of Education to  
 49 include a specified requirement for training  
 50 providers; requiring, rather than authorizing, the  
 51 department to adopt rules; providing requirements for  
 52 a certain annual report; requiring the department to  
 53 provide data from certain resources to specified  
 54 persons and entities; amending s. 446.045, F.S.;  
 55 specifying that the Governor shall fill vacancies on  
 56 the State Apprenticeship Advisory Council for the  
 57 remainder of a term; amending s. 1003.4156, F.S.;  
 58 requiring a career and education planning course to

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59 include certain resources; amending s. 1003.4203,  
 60 F.S.; specifying the sections under which the  
 61 Department of Education must identify certain CAPE  
 62 Digital Tool certificates; removing the deadline for  
 63 such identification; removing specified skills that  
 64 must be mastered; authorizing courses identified in  
 65 the CAPE Industry Certification Funding List to  
 66 articulate for college credit; removing the course  
 67 limit; amending s. 1003.491, F.S.; requiring certain  
 68 strategic plans to use labor projections identified by  
 69 the Labor Market Estimating Conference; amending s.  
 70 1003.4935, F.S.; requiring that middle grades career  
 71 and professional academies and career-themed courses  
 72 lead to careers in occupations aligned with the CAPE  
 73 Industry Certification Funding List; amending s.  
 74 1008.41, F.S.; adding the Labor Market Estimating  
 75 Conference as a source of workforce data; amending s.  
 76 1008.44, F.S.; requiring the Commissioner of Education  
 77 to conduct a review of the methodology used to  
 78 determine certain full-time equivalent membership  
 79 weights and, if necessary, recommend revised weights;  
 80 requiring that the recommendations be provided to the  
 81 Governor and the Legislature by a specified date;  
 82 amending s. 1011.801, F.S.; conforming a provision to  
 83 changes made by the act; amending s. 1011.802, F.S.;  
 84 requiring the department to prioritize programs  
 85 identified by the Labor Market Estimating Conference;  
 86 providing requirements for awards under the Florida  
 87 Pathways to Career Opportunities Grant Program;

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88 amending s. 445.011, F.S.; conforming a cross-  
 89 reference; amending s. 1011.80, F.S.; conforming a  
 90 provision to changes made by the act; providing an  
 91 effective date.  
 92

93 Be It Enacted by the Legislature of the State of Florida:  
 94

95 Section 1. Subsection (7) of section 216.136, Florida  
 96 Statutes, is amended to read:

97 216.136 Consensus estimating conferences; duties and  
 98 principals.—

99 (7) LABOR MARKET WORKFORCE ESTIMATING CONFERENCE.—

100 (a) The Labor Market Workforce Estimating Conference shall  
 101 develop such official information with respect to real-time  
 102 supply and demand in Florida's statewide, regional, and local  
 103 labor markets on the workforce development system planning  
 104 process as it relates to the personnel needs of current, new,  
 105 and emerging industries as the conference determines is needed  
 106 by the state planning and budgeting system. Such information  
 107 must include labor supply by education level, analyses of labor  
 108 demand by occupational groups and occupations compared to labor  
 109 supply, a ranking of critical areas of concern, and  
 110 identification of in-demand, high-skill, high-wage occupations.  
 111 The Office of Economic and Demographic Research is designated as  
 112 the official lead for the United States Census Bureau's State  
 113 Data Center Program or its successor. All state agencies must  
 114 provide the Office of Economic and Demographic Research with the  
 115 necessary data to accomplish the goals of the conference. In  
 116 accordance with s. 216.135, state agencies shall ensure that any

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117 work product regarding labor demand and supply is consistent  
 118 with the official information developed by the Labor Market  
 119 Estimating Conference, using quantitative and qualitative  
 120 research methods, must include at least: short-term and long-  
 121 term forecasts of employment demand for jobs by occupation and  
 122 industry; entry and average wage forecasts among those  
 123 occupations; and estimates of the supply of trained and  
 124 qualified individuals available or potentially available for  
 125 employment in those occupations, with special focus upon those  
 126 occupations and industries which require high skills and have  
 127 high entry wages and experienced wage levels. In the development  
 128 of workforce estimates, the conference shall use, to the fullest  
 129 extent possible, local occupational and workforce forecasts and  
 130 estimates.

131 (b) The Workforce Estimating Conference shall review data  
 132 concerning local and regional demands for short-term and long-  
 133 term employment in High-Skills/High-Wage Program jobs, as well  
 134 as other jobs, which data is generated through surveys conducted  
 135 as part of the state's Internet-based job matching and labor  
 136 market information system authorized under s. 445.011. The  
 137 conference shall consider this data in developing its forecasts  
 138 for statewide employment demand, including reviewing local and  
 139 regional data for common trends and conditions among localities  
 140 or regions which may warrant inclusion of a particular  
 141 occupation on the statewide occupational forecasting list  
 142 developed by the conference. Based upon its review of such  
 143 survey data, the conference shall also make recommendations  
 144 semiannually to CareerSource Florida, Inc., on additions or  
 145 deletions to lists of locally targeted occupations approved by

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146 ~~CareerSource Florida, Inc.~~

147 ~~(e) The Labor Market Workforce Estimating Conference, for~~  
 148 ~~the purposes described in paragraph (a), shall meet at least~~  
 149 ~~twice a year for the purposes described in paragraph (a) no less~~  
 150 ~~than 2 times in a calendar year. The first meeting shall be held~~  
 151 ~~in February, and the second meeting shall be held in August.~~  
 152 ~~Other meetings may be scheduled as needed.~~

153 Section 2. Subsection (2) of section 445.002, Florida  
 154 Statutes, is amended to read:

155 445.002 Definitions.—As used in this chapter, the term:

156 (2) "For cause" includes, but is not limited to, engaging  
 157 in fraud or other criminal acts, incapacity, unfitness, neglect  
 158 of duty, official incompetence and irresponsibility,  
 159 misfeasance, malfeasance, nonfeasance, gross mismanagement, or  
 160 lack of performance.

161 Section 3. Present subsections (8) through (13) of section  
 162 445.004, Florida Statutes, are redesignated as subsections (9)  
 163 through (14), respectively, a new subsection (8) is added to  
 164 that section, and paragraph (d) of subsection (3), subsections  
 165 (6) and (7), paragraph (b) of present subsection (9), and  
 166 present subsection (11) of that section are amended, to read:

167 445.004 CareerSource Florida, Inc., and the state board;  
 168 creation; purpose; membership; duties and powers.—

169 (3)

170 (d) The state board must include the vice chairperson of  
 171 the board of directors of Enterprise Florida, Inc., and one  
 172 member representing each of the Workforce Innovation and  
 173 Opportunity Act partners, including the Division of Career and  
 174 Adult Education, the Division of Vocational Rehabilitation, the

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175 Department of Children and Families, and other entities  
 176 representing programs identified in the Workforce Innovation and  
 177 Opportunity Act, as determined necessary.

178 (6) The state board ~~shall may take action that it deems~~  
 179 ~~necessary to~~ achieve the purposes of this section by, including,  
 180 ~~but not limited to:~~

181 (a) Creating a state employment, education, and training  
 182 policy that ensures that workforce-related programs ~~to prepare~~  
 183 ~~workers~~ are responsive to present and future business and  
 184 industry needs and complement the initiatives of Enterprise  
 185 Florida, Inc.

186 (b) Establishing policy direction for a uniform funding  
 187 system that prioritizes evidence-based, results-driven solutions  
 188 by providing ~~provides~~ incentives to improve the outcomes of  
 189 career education, registered apprenticeship, and work-based  
 190 learning programs and that focuses resources on occupations  
 191 related to new or emerging industries that add greatly to the  
 192 value of the state's economy.

193 (c) Establishing a comprehensive policy related to the  
 194 education and training of target populations such as those who  
 195 have disabilities, are economically disadvantaged, receive  
 196 public assistance, are not proficient in English, or are  
 197 dislocated workers. This approach should ensure the effective  
 198 use of federal, state, local, and private resources in reducing  
 199 the need for public assistance by combining two or more sources  
 200 of funding to support workforce-related programs or activities  
 201 for vulnerable populations when appropriate or authorized.

202 (d) Identifying barriers to coordination and alignment  
 203 among workforce-related programs and activities and developing

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204 ~~solutions to remove such barriers~~ Designating Institutes of  
 205 ~~Applied Technology composed of public and private postsecondary~~  
 206 ~~institutions working together with business and industry to~~  
 207 ~~ensure that career education programs use the most advanced~~  
 208 ~~technology and instructional methods available and respond to~~  
 209 ~~the changing needs of business and industry.~~

210 (e) Providing policy direction for a system to project and  
 211 evaluate labor market supply and demand using the results of the  
 212 Labor Market Workforce Estimating Conference created in s.  
 213 216.136 and the career education performance standards  
 214 identified under s. 1008.43.

215 (f) Reviewing the performance of public programs that are  
 216 responsible for economic development, education, employment, and  
 217 training. The review must include an analysis of the return on  
 218 investment of these programs.

219 (g) Expanding the occupations identified by the Labor  
 220 Market Workforce Estimating Conference to meet needs created by  
 221 local emergencies or plant closings or to capture occupations  
 222 within emerging industries.

223 (7) By December 1 of each year, the state board, in  
 224 consultation with the department, shall submit to the Governor,  
 225 the President of the Senate, the Speaker of the House of  
 226 Representatives, the Senate Minority Leader, and the House  
 227 Minority Leader a complete and detailed annual report setting  
 228 forth:

229 (a) All audits and investigations, including any audit or  
 230 investigation conducted under subsection (9) ~~(8)~~.

231 (b) The operations and accomplishments of the state board,  
 232 including the programs or entities specified in subsection (6).

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233 (c) The number of mandatory partners located within one-  
 234 stop centers.

235 (d) The amount of progress made toward implementing  
 236 solutions to address barriers to coordination and alignment  
 237 among programs and activities identified under paragraph (6) (d).

238 (8) Beginning July 1, 2022, the state board shall annually  
 239 assign a letter grade for each local workforce development  
 240 board.

241 (10)(9) The state board, in collaboration with the local  
 242 workforce development boards and appropriate state agencies and  
 243 local public and private service providers, shall establish  
 244 uniform performance accountability measures that apply across  
 245 the core programs to gauge the performance of the state and  
 246 local workforce development boards in achieving the workforce  
 247 development strategy.

248 (b) The performance accountability measures for each local  
 249 area consist of the primary indicators of performance, any  
 250 additional indicators of performance, and a local level of  
 251 performance for each indicator pursuant to Pub. L. No. 113-128.  
 252 The local level of performance is determined by the local board,  
 253 the chief elected official, and the Governor pursuant to Pub. L.  
 254 No. 113-128, Title I, s. 116(c). Any local performance  
 255 accountability measures that are established must be based on  
 256 identified local area needs.

257 (12)(11) The workforce development system must use local  
 258 design and control of service delivery and targeted activities.  
 259 The state board, in consultation with the department, is  
 260 responsible for ensuring that local workforce development boards  
 261 have a membership consistent with the requirements of federal

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262 and state law and have developed a plan consistent with the  
 263 state's workforce development strategy. The plan must specify  
 264 methods for allocating the resources and programs in a manner  
 265 that eliminates unwarranted duplication, minimizes  
 266 administrative costs, meets the existing job market demands and  
 267 the job market demands resulting from successful economic  
 268 development activities, ensures access to quality workforce  
 269 development services for all Floridians, allows for pro rata or  
 270 partial distribution of benefits and services, prohibits the  
 271 creation of a waiting list or other indication of an unserved  
 272 population, serves as many individuals as possible within  
 273 available resources, and maximizes successful outcomes. The  
 274 state board shall establish incentives for effective alignment  
 275 ~~coordination~~ of federal and state programs, outline rewards for  
 276 achieving the long-term self-sufficiency of participants  
 277 ~~successful job placements~~, and institute collaborative  
 278 approaches among local service providers.

279 Section 4. Subsection (1), paragraph (a) of subsection (2),  
 280 and subsections (6), (11), and (12) of section 445.007, Florida  
 281 Statutes, are amended, and subsections (13) and (14) are added  
 282 to that section, to read:

283 445.007 Local workforce development boards.—

284 (1) One local workforce development board shall be  
 285 appointed in each designated service delivery area and shall  
 286 serve as the local workforce development board pursuant to Pub.  
 287 L. No. 113-128. The membership of the local board must be  
 288 consistent with Pub. L. No. 113-128, Title I, s. 107(b). If a  
 289 public education or training provider is represented on the  
 290 local board, a representative of a private education provider

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291 must also be appointed to the local board. The state board may  
 292 waive this requirement if requested by a local workforce  
 293 development board if it is demonstrated that such  
 294 representatives do not exist in the region. The importance of  
 295 minority and gender representation shall be considered when  
 296 making appointments to the local board. The local board, its  
 297 committees, subcommittees, and subdivisions, and other units of  
 298 the workforce system, including units that may consist in whole  
 299 or in part of local governmental units, may use any method of  
 300 telecommunications to conduct meetings, including establishing a  
 301 quorum through telecommunications, provided that the public is  
 302 given proper notice of the telecommunications meeting and  
 303 reasonable access to observe and, when appropriate, participate.  
 304 Local workforce development boards are subject to chapters 119  
 305 and 286 and s. 24, Art. I of the State Constitution. ~~If the~~  
 306 ~~local workforce development board enters into a contract with an~~  
 307 ~~organization or individual represented on the local board, the~~  
 308 ~~contract must be approved by a two-thirds vote of the local~~  
 309 ~~board, a quorum having been established, and the local board~~  
 310 ~~member who could benefit financially from the transaction must~~  
 311 ~~abstain from voting on the contract. A local board member must~~  
 312 ~~disclose any such conflict in a manner that is consistent with~~  
 313 ~~the procedures outlined in s. 112.3143.~~ Each member of a local  
 314 workforce development board who is not otherwise required to  
 315 file a full and public disclosure of financial interests under  
 316 s. 8, Art. II of the State Constitution or s. 112.3144 shall  
 317 file a statement of financial interests under s. 112.3145. The  
 318 executive director or designated person responsible for the  
 319 operational and administrative functions of the local workforce

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320 development board who is not otherwise required to file a full  
 321 and public disclosure of financial interests under s. 8, Art. II  
 322 of the State Constitution or s. 112.3144 shall file a statement  
 323 of financial interests under s. 112.3145. The local workforce  
 324 development board's website, or the department's website if the  
 325 local board does not maintain a website, must inform the public  
 326 that each disclosure or statement has been filed with the  
 327 Commission on Ethics and provide information as to how each  
 328 disclosure or statement may be reviewed. The notice to the  
 329 public must remain on the website throughout the term of office  
 330 or employment of the filer and until 1 year after his or her  
 331 term on the local board or employment, as applicable, ends.  
 332 (2) (a) The local workforce development board shall elect a  
 333 chair from among the representatives described in Pub. L. No.  
 334 113-128, Title I, s. 107(b)(2)(A) to serve for a term of no more  
 335 than 2 years and may not shall serve no more than two terms as  
 336 chair. A member of a local workforce development board may not  
 337 serve as a member of the board for more than 6 consecutive  
 338 years, unless such member is a representative of a governmental  
 339 entity.  
 340 (6) Consistent with federal and state law, the local  
 341 workforce development board shall designate all local service  
 342 providers and may not transfer this authority to a third party.  
 343 Consistent with the intent of the Workforce Innovation and  
 344 Opportunity Act, local workforce development boards should  
 345 provide the greatest possible choice of training providers to  
 346 those who qualify for training services. A local ~~workforce~~  
 347 ~~development~~ board may not restrict the choice of training  
 348 providers based upon cost, location, or historical training

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349 arrangements. However, a local board may restrict the amount of  
 350 training resources available to any one client. Such  
 351 restrictions may vary based upon the cost of training in the  
 352 client's chosen occupational area. The local workforce  
 353 development board may be designated as a one-stop operator and  
 354 direct provider of intake, assessment, eligibility  
 355 determinations, or other direct provider services except  
 356 training services. Such designation may occur only with the  
 357 agreement of the chief elected official and the Governor as  
 358 specified in 29 U.S.C. s. 2832(f)(2). The state board shall  
 359 establish procedures by which a local workforce development  
 360 board may request permission to operate under this section and  
 361 the criteria under which such permission may be granted. The  
 362 criteria shall include, but need not be limited to, a reduction  
 363 in the cost of providing the permitted services. Such permission  
 364 shall be granted for a period not to exceed 3 years for any  
 365 single request submitted by the local workforce development  
 366 board.

367 (11)(a) To increase transparency and accountability, a  
 368 local workforce development board must comply with the  
 369 requirements of this section before contracting with a member of  
 370 the local board; ~~or~~ a relative, as defined in s. 112.3143(1)(c),  
 371 of a local board member; an organization or individual  
 372 represented on the local board; or of an employee of the local  
 373 board. Such contracts may not be executed before or without the  
 374 prior approval of the department. Such contracts, as well as  
 375 documentation demonstrating adherence to this section as  
 376 specified by the department, must be submitted to the department  
 377 for review and approval. Such a contract must be approved by a

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378 two-thirds vote of the local board, a quorum having been  
 379 established; all conflicts of interest must be disclosed before  
 380 the vote in a manner that is consistent with the procedures  
 381 outlined in s. 112.3143(4); and any member who may benefit from  
 382 the contract, or whose organization or relative may benefit from  
 383 the contract, must abstain from the vote. A contract subject to  
 384 the requirements of this subsection may not be included on a  
 385 consent agenda.

386 (b) A contract under \$10,000 ~~\$25,000~~ between a local  
 387 workforce development board and ~~a member of that board or~~  
 388 ~~between~~ a relative, as defined in s. 112.3143(1)(c), of a local  
 389 board member or of an employee of the local board is not  
 390 required to have the prior approval of the department, but must  
 391 be approved by a two-thirds vote of the local board, a quorum  
 392 having been established, and must be reported to the department  
 393 and the state board within 30 days after approval.

394 (c) All contracts between a local board and a member of the  
 395 local board; a relative, as defined in s. 112.3143(1)(c), of a  
 396 local board member; an organization or individual represented on  
 397 the local board; or an employee of the local board, approved on  
 398 or after July 1, 2021, also must be published on the local  
 399 board's website, or on the department's website if the local  
 400 board does not maintain a website, within 10 days after approval  
 401 by the local board or department, whichever is later. Such  
 402 contracts must remain published on the website for at least 1  
 403 year after termination of the contract.

404 (d) In considering whether to approve a contract under this  
 405 subsection, the department shall review and consider all  
 406 documentation provided to the department by the local board,

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407 including the performance rating of the entity with which the  
 408 local board is proposing to contract, if applicable, and the  
 409 nature, size, and makeup of the business community served by the  
 410 local board, including whether the entity with which the local  
 411 board is proposing to contract is the only provider of the  
 412 desired goods or services within the area served by the local  
 413 board ~~If a contract cannot be approved by the department, a~~  
 414 ~~review of the decision to disapprove the contract may be~~  
 415 ~~requested by the local workforce development board or other~~  
 416 ~~parties to the disapproved contract.~~

417 (12) Each local workforce development board shall develop a  
 418 budget for the purpose of carrying out the duties of the local  
 419 board under this section, subject to the approval of the chief  
 420 elected official. Each local workforce development board shall  
 421 submit its annual budget for review to the department no later  
 422 than 2 weeks after the chair approves the budget. The local  
 423 board shall publish the budget on its website, or the  
 424 department's website if the local board does not maintain a  
 425 website, within 10 days after approval by the department. The  
 426 budget shall remain published on the website for the duration of  
 427 the fiscal year for which it accounts for the expenditure of  
 428 funds.

429 (13) Each local workforce development board annually,  
 430 within 30 days after the end of the fiscal year, shall disclose  
 431 to the department, in a manner determined by the department, the  
 432 amount and nature of compensation paid to all executives,  
 433 officers, directors, trustees, key employees, and highest  
 434 compensated employees, as defined for purposes of the Internal  
 435 Revenue Service Form 990, Return of Organization Exempt from

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436 Income Tax, including salary, bonuses, present value of vested  
 437 benefits, including, but not limited to, retirement, accrued  
 438 leave and paid time off, cashed-in leave, cash equivalents,  
 439 severance pay, pension plan accruals and contributions, deferred  
 440 compensation, real property gifts, and any other liability owed  
 441 to such persons. The disclosure must be accompanied by a written  
 442 declaration, as provided for under s. 92.525(2), from the Chief  
 443 Financial Officer, or his or her designee, stating that he or  
 444 she has read the foregoing document and the facts stated in it  
 445 are true. Such information also must be published on the local  
 446 board's website, or the department's website if the local board  
 447 does not maintain a website, for a period of 3 years after it is  
 448 first published.

449 (14) Each local workforce development board shall annually  
 450 publish its most recent Internal Revenue Service Form 990,  
 451 Return of Organization Exempt from Income Tax, on its website,  
 452 or the department's website if the local board does not maintain  
 453 a website. The form must be posted on the local board's website  
 454 within 60 calendar days after it is filed with the Internal  
 455 Revenue Service and remain posted for 3 years after it is filed.

456 Section 5. Paragraphs (a) and (e) of subsection (8) of  
 457 section 445.009, Florida Statutes, are amended to read:

458 445.009 One-stop delivery system.—

459 (8) (a) Individual Training Accounts must be expended on  
 460 programs that prepare people to enter ~~high-wage~~ occupations  
 461 identified by the Labor Market Workforce Estimating Conference  
 462 created by s. 216.136, and on other programs recommended and  
 463 approved by the state board following a review by the department  
 464 to determine the program's compliance with federal law.

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465 (e) Training services provided through Individual Training  
 466 Accounts must be performance-based, with successful job  
 467 placement triggering final full payment of at least 10 percent.

468 Section 6. Section 445.038, Florida Statutes, is amended to  
 469 read:

470 445.038 Digital media; job training.—CareerSource Florida,  
 471 Inc., through the Department of Economic Opportunity, may use  
 472 funds dedicated for incumbent worker training for the digital  
 473 media industry. Training may be provided by public or private  
 474 training providers for broadband digital media jobs listed on  
 475 the ~~targeted~~ occupations list developed by the Labor Market  
 476 ~~Workforce Estimating Conference or CareerSource Florida, Inc.~~  
 477 Programs that operate outside the normal semester time periods  
 478 and coordinate the use of industry and public resources should  
 479 be given priority status for funding.

480 Section 7. Subsection (8) of section 446.021, Florida  
 481 Statutes, is amended to read:

482 446.021 Definitions of terms used in ss. 446.011-446.092.—  
 483 As used in ss. 446.011-446.092, the term:

484 (8) "~~Uniform minimum preapprenticeship~~ Standards" means the  
 485 minimum requirements established uniformly for each occupation  
 486 ~~craft~~ under which an apprenticeship or a preapprenticeship  
 487 program is administered. ~~The term and~~ includes standards of  
 488 admission, training goals, training objectives, curriculum  
 489 outlines, objective standards to measure successful completion  
 490 of the apprenticeship or preapprenticeship program, and the  
 491 percentage of credit which may be given to an apprentice or a  
 492 preapprentice ~~preapprenticeship graduates upon acceptance into~~  
 493 ~~the apprenticeship program.~~

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494 Section 8. Subsections (1), (2), and (3) of section  
 495 446.032, Florida Statutes, are amended to read:

496 446.032 General duties of the department for apprenticeship  
 497 training.—The department shall:

498 (1) Establish uniform minimum standards and policies  
 499 governing apprenticeship ~~apprentice~~ programs and agreements  
 500 which must require training providers to submit data necessary  
 501 to determine program performance consistent with state and  
 502 federal law. The standards and policies shall govern the terms  
 503 and conditions of the apprentice's employment and training,  
 504 including the quality training of the apprentice for, but not  
 505 limited to, such matters as ratios of apprentices to  
 506 journeyworkers, safety, related instruction, and on-the-job  
 507 training; but these standards and policies may not include  
 508 rules, standards, or guidelines that require the use of  
 509 apprentices and job trainees on state, county, or municipal  
 510 contracts. The department shall ~~may~~ adopt rules necessary to  
 511 administer the standards and policies.

512 (2) By September 1 of each year, publish an annual report  
 513 on apprenticeship and preapprenticeship programs. The report  
 514 must be published on the department's website and, at a minimum,  
 515 include all of the following:

516 (a) A list of registered apprenticeship and  
 517 preapprenticeship programs, sorted by local educational agency,  
 518 as defined in s. 1004.02(18), and apprenticeship sponsor, under  
 519 s. 446.071.

520 (b) A detailed summary of each local educational agency's  
 521 expenditure of funds for apprenticeship and preapprenticeship  
 522 programs, including:

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- 523 1. The total amount of funds received for apprenticeship  
524 and preapprenticeship programs;
- 525 2. The total amount of funds allocated by training  
526 provider, program, and to each trade or occupation;
- 527 3. The total amount of funds expended for administrative  
528 costs by training provider, program, and per trade or  
529 occupation; and
- 530 4. The total amount of funds expended for instructional  
531 costs by training provider, program, per trade and occupation.
- 532 (c) The number of apprentices and preapprentices per trade  
533 and occupation.
- 534 (d) The percentage of apprentices and preapprentices who  
535 complete their respective programs in the appropriate timeframe.
- 536 (e) Information and resources related to applications for  
537 new apprenticeship programs and technical assistance and  
538 requirements for potential applicants.
- 539 (f) Documentation of activities conducted by the department  
540 to promote apprenticeship and preapprenticeship programs through  
541 public engagement, community-based partnerships, and other  
542 initiatives and the outcomes of such activities and their impact  
543 on establishing or expanding apprenticeship and  
544 preapprenticeship programs.
- 545 (g) Retention and completion rates of participants  
546 aggregated by training provider, program, and occupation.
- 547 (h) Wage progression of participants as demonstrated by  
548 starting, exit, and postapprenticeship wages.
- 549 (3) Provide assistance to district school boards, Florida  
550 College System institution boards of trustees, program sponsors,  
551 and local workforce development boards in notifying students,

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- 552 parents, and members of the community of the availability of  
553 apprenticeship and preapprenticeship opportunities, including  
554 data provided in the economic security report ~~under pursuant to~~  
555 s. 445.07 and other state career planning resources.
- 556 Section 9. Paragraph (b) of subsection (2) of section  
557 446.045, Florida Statutes, is amended to read:  
558 446.045 State Apprenticeship Advisory Council.—  
559 (2)
- 560 (b) The Commissioner of Education or the commissioner's  
561 designee shall serve ex officio as chair of the State  
562 Apprenticeship Advisory Council, but may not vote. The state  
563 director of the Office of Apprenticeship of the United States  
564 Department of Labor shall serve ex officio as a nonvoting member  
565 of the council. The Governor shall appoint to the council four  
566 members representing employee organizations and four members  
567 representing employer organizations. Each of these eight members  
568 shall represent industries that have registered apprenticeship  
569 programs. The Governor shall also appoint two public members who  
570 are knowledgeable about registered apprenticeship and  
571 apprenticeable occupations and who are independent of any joint  
572 or nonjoint organization. Members shall be appointed for 4-year  
573 staggered terms. The Governor A vacancy shall fill any vacancy  
574 ~~be filled~~ for the remainder of the unexpired term.
- 575 Section 10. Paragraph (e) of subsection (1) of section  
576 1003.4156, Florida Statutes, is amended to read:  
577 1003.4156 General requirements for middle grades  
578 promotion.—
- 579 (1) In order for a student to be promoted to high school  
580 from a school that includes middle grades 6, 7, and 8, the

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581 student must successfully complete the following courses:  
 582 (e) One course in career and education planning to be  
 583 completed in grades 6, 7, or 8, which may be taught by any  
 584 member of the instructional staff. The course must be Internet-  
 585 based, customizable to each student, and include research-based  
 586 assessments to assist students in determining educational and  
 587 career options and goals. In addition, the course must result in  
 588 a completed personalized academic and career plan for the  
 589 student that may be revised as the student progresses through  
 590 middle school and high school; must emphasize the importance of  
 591 entrepreneurship and employability skills; and must include  
 592 information from the Department of Economic Opportunity's  
 593 economic security report under s. 445.07 and other state career  
 594 planning resources. The required personalized academic and  
 595 career plan must inform students of high school graduation  
 596 requirements, including a detailed explanation of the  
 597 requirements for earning a high school diploma designation under  
 598 s. 1003.4285; the requirements for each scholarship in the  
 599 Florida Bright Futures Scholarship Program; state university and  
 600 Florida College System institution admission requirements;  
 601 available opportunities to earn college credit in high school,  
 602 including Advanced Placement courses; the International  
 603 Baccalaureate Program; the Advanced International Certificate of  
 604 Education Program; dual enrollment, including career dual  
 605 enrollment; and career education courses, including career-  
 606 themed courses, preapprenticeship and apprenticeship programs,  
 607 and course sequences that lead to industry certification  
 608 pursuant to s. 1003.492 or s. 1008.44. The course may be  
 609 implemented as a stand-alone course or integrated into another

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610 course or courses.  
 611 Section 11. Subsections (3) and (5) of section 1003.4203,  
 612 Florida Statutes, are amended to read:  
 613 1003.4203 Digital materials, CAPE Digital Tool  
 614 certificates, and technical assistance.—  
 615 (3) CAPE DIGITAL TOOL CERTIFICATES.—The department shall  
 616 identify, in the CAPE Industry Certification Funding List under  
 617 ss. 1003.492 and 1008.44 by June 15 of each year, CAPE Digital  
 618 Tool certificates that indicate a student's digital skills. The  
 619 department shall notify each school district when the  
 620 certificates are available. The certificates shall be made  
 621 available to all public elementary and middle grades students.  
 622 (a) Targeted skills to be mastered for the certificate  
 623 include digital skills that are necessary to the student's  
 624 academic work and skills the student may need in future  
 625 employment. ~~The skills must include, but are not limited to,~~  
 626 ~~word processing; spreadsheets; presentations, including sound,~~  
 627 ~~motion, and color presentations; digital arts; cybersecurity;~~  
 628 ~~and coding consistent with CAPE industry certifications that are~~  
 629 ~~listed on the CAPE Industry Certification Funding List, pursuant~~  
 630 ~~to ss. 1003.492 and 1008.44.~~ CAPE Digital Tool certificates  
 631 earned by students are eligible for additional full-time  
 632 equivalent membership under pursuant to s. 1011.62(1)(o)1.a.  
 633 (b) The school district shall notify each middle school  
 634 advisory council of the methods of delivery of the open-access  
 635 content and assessments for the certificates. If there is no  
 636 middle school advisory council, notification must be provided to  
 637 the district advisory council.  
 638 (c) The Legislature intends that by July 1, 2018, on an

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639 annual basis, at least 75 percent of public middle grades  
640 students earn at least one CAPE Digital Tool certificate.

641 (5) CAPE INNOVATION AND CAPE ACCELERATION.—

642 (a) ~~CAPE Innovation.—Up to five Courses, identified in the~~  
643 ~~CAPE Industry Certification Funding List, which annually~~  
644 ~~approved by the commissioner that~~ combine academic and career  
645 content, and performance outcome expectations that, if achieved  
646 by a student, must shall articulate for college credit and be  
647 eligible for additional full-time equivalent membership under  
648 ~~pursuant to~~ s. 1011.62(1)(o)1.c. Such approved courses must  
649 incorporate at least two third-party assessments that, if  
650 successfully completed by a student, must shall articulate for  
651 college credit. At least one of the two third-party assessments  
652 must be associated with an industry certification that is  
653 identified on the CAPE Industry Certification Funding List. Each  
654 course that is approved by the commissioner must be specifically  
655 identified in the Course Code Directory as a CAPE Innovation  
656 Course.

657 (b) ~~CAPE Acceleration.—Industry certifications, annually~~  
658 ~~approved by the commissioner,~~ that articulate for 15 or more  
659 college credit hours ~~and~~, if successfully completed, are shall  
660 ~~be~~ eligible for additional full-time equivalent membership under  
661 ~~pursuant to~~ s. 1011.62(1)(o)1.d. Each approved industry  
662 certification must be specifically identified in the CAPE  
663 Industry Certification Funding List as a CAPE Acceleration  
664 Industry Certification.

665 Section 12. Subsection (3) and paragraph (b) of subsection  
666 (5) of section 1003.491, Florida Statutes, are amended to read:  
667 1003.491 Florida Career and Professional Education Act.—The

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668 Florida Career and Professional Education Act is created to  
669 provide a statewide planning partnership between the business  
670 and education communities in order to attract, expand, and  
671 retain targeted, high-value industry and to sustain a strong,  
672 knowledge-based economy.

673 (3) The strategic 3-year plan developed jointly by the  
674 local school district, local workforce development boards,  
675 economic development agencies, and state-approved postsecondary  
676 institutions shall be constructed and based on:

677 (a) Research conducted to objectively determine local and  
678 regional workforce needs for the ensuing 3 years, using labor  
679 projections as identified by the Labor Market Estimating  
680 Conference created in s. 216.136 of the United States Department  
681 of Labor and the Department of Economic Opportunity;

682 (b) Strategies to develop and implement career academies or  
683 career-themed courses based on occupations identified by the  
684 Labor Market Estimating Conference created in s. 216.136 ~~those~~  
685 ~~careers determined to be high-wage, high-skill, and high-demand;~~

686 (c) Strategies to provide shared, maximum use of private  
687 sector facilities and personnel;

688 (d) Strategies that ensure instruction by industry-  
689 certified faculty and standards and strategies to maintain  
690 current industry credentials and for recruiting and retaining  
691 faculty to meet those standards;

692 (e) Strategies to provide personalized student advisement,  
693 including a parent-participation component, and coordination  
694 with middle grades to promote and support career-themed courses  
695 and education planning;

696 (f) Alignment of requirements for middle school career

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697 planning, middle and high school career and professional  
698 academies or career-themed courses leading to industry  
699 certification or postsecondary credit, and high school  
700 graduation requirements;

701 (g) Provisions to ensure that career-themed courses and  
702 courses offered through career and professional academies are  
703 academically rigorous, meet or exceed appropriate state-adopted  
704 subject area standards, result in attainment of industry  
705 certification, and, when appropriate, result in postsecondary  
706 credit;

707 (h) Plans to sustain and improve career-themed courses and  
708 career and professional academies;

709 (i) Strategies to improve the passage rate for industry  
710 certification examinations if the rate falls below 50 percent;

711 (j) Strategies to recruit students into career-themed  
712 courses and career and professional academies which include  
713 opportunities for students who have been unsuccessful in  
714 traditional classrooms but who are interested in enrolling in  
715 career-themed courses or a career and professional academy.  
716 School boards shall provide opportunities for students who may  
717 be deemed as potential dropouts or whose cumulative grade point  
718 average drops below a 2.0 to enroll in career-themed courses or  
719 participate in career and professional academies. Such students  
720 must be provided in-person academic advising that includes  
721 information on career education programs by a certified school  
722 counselor or the school principal or his or her designee during  
723 any semester the students are at risk of dropping out or have a  
724 cumulative grade point average below a 2.0;

725 (k) Strategies to provide sufficient space within academies

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726 to meet workforce needs and to provide access to all interested  
727 and qualified students;

728 (l) Strategies to implement career-themed courses or career  
729 and professional academy training that lead to industry  
730 certification in juvenile justice education programs;

731 (m) Opportunities for high school students to earn weighted  
732 or dual enrollment credit for higher-level career and technical  
733 courses;

734 (n) Promotion of the benefits of the Gold Seal Bright  
735 Futures Scholarship;

736 (o) Strategies to ensure the review of district pupil-  
737 progression plans and to amend such plans to include career-  
738 themed courses and career and professional academy courses and  
739 to include courses that may qualify as substitute courses for  
740 core graduation requirements and those that may be counted as  
741 elective courses;

742 (p) Strategies to provide professional development for  
743 secondary certified school counselors on the benefits of career  
744 and professional academies and career-themed courses that lead  
745 to industry certification; and

746 (q) Strategies to redirect appropriated career funding in  
747 secondary and postsecondary institutions to support career  
748 academies and career-themed courses that lead to industry  
749 certification.

750 (5) (b) Using the findings from the annual review required  
751 in paragraph (a), the commissioner shall phase out career and  
752 technical education offerings that are not aligned with the  
753 needs of the state employers or do not provide program  
754 ~~completers with a middle-wage or high-wage occupation and~~

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755 encourage school districts and Florida College System  
 756 institutions to offer programs that are not ~~offered~~ currently  
 757 offered.

758 Section 13. Subsections (2) and (3) of section 1003.4935,  
 759 Florida Statutes, are amended to read:

760 1003.4935 Middle grades career and professional academy  
 761 courses and career-themed courses.—

762 (2) Each middle grades career and professional academy or  
 763 career-themed course must be aligned with at least one high  
 764 school career and professional academy or career-themed course  
 765 offered in the district and maintain partnerships with local  
 766 business and industry and economic development boards. Middle  
 767 grades career and professional academies and career-themed  
 768 courses must:

769 (a) Lead to careers in occupations aligned with designated  
 770 ~~as high-skill, high-wage, and high-demand~~ in the CAPE Industry  
 771 Certification Funding List approved under rules adopted by the  
 772 State Board of Education;

773 (b) Integrate content from core subject areas;

774 (c) Integrate career and professional academy or career-  
 775 themed course content with intensive reading, English Language  
 776 Arts, and mathematics pursuant to s. 1003.4282;

777 (d) Coordinate with high schools to maximize opportunities  
 778 for middle grades students to earn high school credit;

779 (e) Provide access to virtual instruction courses provided  
 780 by virtual education providers legislatively authorized to  
 781 provide part-time instruction to middle grades students. The  
 782 virtual instruction courses must be aligned to state curriculum  
 783 standards for middle grades career and professional academy

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784 courses or career-themed courses, with priority given to  
 785 students who have required course deficits;

786 (f) Provide instruction from highly skilled professionals  
 787 who hold industry certificates in the career area in which they  
 788 teach;

789 (g) Offer externships; and

790 (h) Provide personalized student advisement that includes a  
 791 parent-participation component.

792 (3) Beginning with the 2012-2013 school year, if a school  
 793 district implements a middle school career and professional  
 794 academy or a career-themed course, the Department of Education  
 795 shall collect and report student achievement data pursuant to  
 796 performance factors identified under s. 1003.492(3) ~~or~~  
 797 ~~1003.492(5)~~ for students enrolled in an academy or a career-  
 798 themed course.

799 Section 14. Subsection (3) of section 1008.41, Florida  
 800 Statutes, is amended to read:

801 1008.41 Workforce education; management information  
 802 system.—

803 (3) Planning and evaluation of job-preparatory programs  
 804 shall be based on standard sources of data and use standard  
 805 occupational definitions and coding structures, including, but  
 806 not limited to:

807 (a) The Florida Occupational Information System ;~~+~~

808 (b) The Florida Education and Training Placement  
 809 Information Program ;~~+~~

810 (c) The Department of Economic Opportunity ;~~+~~

811 (d) The United States Department of Labor ;~~+~~ ~~and~~

812 (e) The Labor Market Estimating Conference created under s.

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813 216.136.

814 (f) Other sources of data developed using statistically  
815 valid procedures.

816 Section 15. Paragraph (f) is added to subsection (1) of  
817 section 1008.44, Florida Statutes, to read:

818 1008.44 CAPE Industry Certification Funding List and CAPE  
819 Postsecondary Industry Certification Funding List.—

820 (1) Pursuant to ss. 1003.4203 and 1003.492, the Department  
821 of Education shall, at least annually, identify, under rules  
822 adopted by the State Board of Education, and the Commissioner of  
823 Education may at any time recommend adding the following  
824 certificates, certifications, and courses:

825 (f) The Commissioner of Education shall conduct a review of  
826 the methodology used to determine additional full-time  
827 equivalent membership weights assigned in s. 1011.62(1)(o) and,  
828 if necessary, recommend revised weights. The results of the  
829 review and the commissioner's recommendations must be submitted  
830 to the Governor, the President of the Senate, and the Speaker of  
831 the House of Representatives no later than December 31, 2021.

832 Section 16. Subsection (3) of section 1011.801, Florida  
833 Statutes, is amended to read:

834 1011.801 Workforce Development Capitalization Incentive  
835 Grant Program.—The Legislature recognizes that the need for  
836 school districts and Florida College System institutions to be  
837 able to respond to emerging local or statewide economic  
838 development needs is critical to the workforce development  
839 system. The Workforce Development Capitalization Incentive Grant  
840 Program is created to provide grants to school districts and  
841 Florida College System institutions on a competitive basis to

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842 fund some or all of the costs associated with the creation or  
843 expansion of workforce development programs that serve specific  
844 employment workforce needs.

845 (3) The State Board of Education shall give highest  
846 priority to programs that train people to enter high-skill,  
847 high-wage occupations identified by the Labor Market Workforce  
848 Estimating Conference and other programs approved by the state  
849 board as defined in s. 445.002, programs that train people to  
850 enter occupations under the welfare transition program, or  
851 programs that train for the workforce adults who are eligible  
852 for public assistance, economically disadvantaged, disabled, not  
853 proficient in English, or dislocated workers. The State Board of  
854 Education shall consider the statewide geographic dispersion of  
855 grant funds in ranking the applications and shall give priority  
856 to applications from education agencies that are making maximum  
857 use of their workforce development funding by offering high-  
858 performing, high-demand programs.

859 Section 17. Subsection (3) of section 1011.802, Florida  
860 Statutes, is amended to read:

861 1011.802 Florida Pathways to Career Opportunities Grant  
862 Program.—

863 (3) The department shall give priority to apprenticeship  
864 programs with demonstrated regional demand identified by the  
865 Labor Market Estimating Conference, such as health care  
866 programs. Grant funds may be used for instructional equipment,  
867 supplies, personnel, student services, and other expenses  
868 associated with the creation or expansion of an apprenticeship  
869 program. The department may award grants to expand only those  
870 existing programs that exceed the median completion rate and



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871 employment rate 1 year after completion for similar programs in  
 872 the region, or in the state if there are no similar programs in  
 873 the region. Grant funds may not be used for recurring  
 874 instructional costs or for indirect costs. Grant recipients must  
 875 submit quarterly reports in a format prescribed by the  
 876 department.

877 Section 18. Paragraph (a) of subsection (1) of section  
 878 445.011, Florida Statutes, is amended to read:

879 445.011 Workforce information systems.—

880 (1) The department, in consultation with the state board,  
 881 shall implement, subject to legislative appropriation, automated  
 882 information systems that are necessary for the efficient and  
 883 effective operation and management of the workforce development  
 884 system. These information systems shall include, but need not be  
 885 limited to, the following:

886 (a) An integrated management system for the one-stop  
 887 service delivery system, which includes, at a minimum, common  
 888 registration and intake, screening for needs and benefits, case  
 889 planning and tracking, training benefits management, service and  
 890 training provider management, performance reporting, executive  
 891 information and reporting, and customer-satisfaction tracking  
 892 and reporting.

893 1. The system should report current budgeting, expenditure,  
 894 and performance information for assessing performance related to  
 895 outcomes, service delivery, and financial administration for  
 896 workforce programs pursuant to s. 445.004(5) and (10) ~~(9)~~.

897 2. The information system should include auditable systems  
 898 and controls to ensure financial integrity and valid and  
 899 reliable performance information.

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900 3. The system should support service integration and case  
 901 management by providing for case tracking for participants in  
 902 welfare transition programs.

903 Section 19. Paragraph (a) of subsection (9) of section  
 904 1011.80, Florida Statutes, is amended to read:

905 1011.80 Funds for operation of workforce education  
 906 programs.—

907 (9) The State Board of Education and the state board as  
 908 defined in s. 445.002 shall provide the Legislature with  
 909 recommended formulas, criteria, timeframes, and mechanisms for  
 910 distributing performance funds. The commissioner shall  
 911 consolidate the recommendations and develop a consensus proposal  
 912 for funding. The Legislature shall adopt a formula and  
 913 distribute the performance funds to the State Board of Education  
 914 for Florida College System institutions and school districts  
 915 through the General Appropriations Act. These recommendations  
 916 shall be based on formulas that would discourage low-performing  
 917 or low-demand programs and encourage through performance-funding  
 918 awards:

919 (a) Programs that prepare people to enter high-wage  
 920 occupations identified by the Labor Market Workforce Estimating  
 921 Conference created by s. 216.136 and other programs as approved  
 922 by the state board as defined in s. 445.002. At a minimum,  
 923 performance incentives shall be calculated for adults who reach  
 924 completion points or complete programs that lead to specified  
 925 high-wage employment and to their placement in that employment.

926 Section 20. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1672

INTRODUCER: Senator Diaz

SUBJECT: State University Free Seat Program

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 1672 creates the State University Free Seat Program to exempt Florida residents who have not been enrolled in a postsecondary institution for more than 5 years from the payment of tuition and fees for one online course at a state university each academic year. The bill also specifies that:

- A state university may not charge a student who meets such criteria more than 75 percent of the tuition rate or tuition differential for other courses.
- A student who qualifies for the tuition discount is eligible to receive the discount for up to 110 percent of the number of required credit hours of the enrolled degree program.

The bill has an indeterminate fiscal impact.

The bill takes effect July 1, 2021.

**II. Present Situation:**

**Tuition and Fees**

Tuition is the basic fee a student is charged for instruction provided by a public postsecondary educational institution in Florida.<sup>1</sup> All students are charged fees except students who are exempt or whose fees are waived.<sup>2</sup> State university boards of trustees are authorized to establish fees, which include activity and service, health, and athletic fees; a technology fee; a financial aid fee; a tuition differential; and various user fees, including an application fee; an orientation fee; a fee for security, access, or identification cards; registration fees and a late-registration fee; fees for

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<sup>1</sup> Section 1009.01(1), F.S.

<sup>2</sup> Section 1009.24(2), F.S.

transcripts and diploma replacement; library fees and fines; and traffic and parking fines.<sup>3</sup> State universities may also charge a per-credit hour distance learning course fee.<sup>4</sup>

### ***Tuition and Fee Rate***

The resident undergraduate tuition is set by law at \$105.07 per credit hour.<sup>5</sup> The 2020-2021 State University System (SUS) resident undergraduate tuition and fees average is \$199.72 per credit hour.<sup>6</sup>

### ***Tuition Differential***

Each university board of trustees may establish, upon approval by the Board of Governors, a tuition differential to promote improvements in the quality of undergraduate education and is required to provide financial aid to undergraduate students who exhibit financial need for undergraduate courses.<sup>7</sup>

Seventy percent of the revenues from the tuition differential must be expended for purposes of undergraduate education, such as increasing course offerings, improving graduation rates, increasing the percentage of undergraduate students who are taught by faculty, decreasing student-faculty ratios, providing salary increases for faculty who have a history of excellent teaching in undergraduate courses, improving the efficiency of the delivery of undergraduate education through academic advisement and counseling, and reducing the percentage of students who graduate with excess hours.<sup>8</sup> Except as otherwise provided, the remaining 30 percent of the revenues from the tuition differential, or the equivalent amount of revenue from private sources, must be expended to provide financial aid to undergraduate students who exhibit financial need, to meet the cost of university attendance.<sup>9</sup>

The aggregate sum of undergraduate tuition and fees per credit hour, including the tuition differential, may not exceed the national average of undergraduate tuition and fees at four-year degree-granting public postsecondary educational institutions.<sup>10</sup> Each tuition differential may be assessed on one or more undergraduate courses or on all undergraduate courses at a state university, may vary by course or courses, by campus or center location, and by institution.<sup>11</sup>

In 2020-2021, the SUS average resident undergraduate student tuition differential fee is \$42.88 per credit hour.<sup>12</sup>

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<sup>3</sup> Sections 1009.24(4), (5), (7), (8), (9), (10), (11), (12), (13), (14), and (16), F.S.

<sup>4</sup> Sections 1009.24(17), F.S.

<sup>5</sup> Section 1009.24(4)(a), F.S.

<sup>6</sup> State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 1.

<sup>7</sup> Section 1009.24(16), F.S.

<sup>8</sup> Section 1009.24(16)(a), F.S.

<sup>9</sup> Section 1009.24(16)(a), F.S.

<sup>10</sup> Section 1009.24(16)(b)4., F.S.

<sup>11</sup> Section 1009.24(16)(b), F.S.

<sup>12</sup> State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 4.

### ***Residency for Tuition Purposes***

A legal resident of Florida for tuition purposes means one who has maintained his or her residence in this state for the preceding year, has purchased and occupies a home as primary residence, or has established a domicile in this state.<sup>13</sup> Unless costs are exempted or waived, all students are charged fees.<sup>14</sup> An out-of-state fee is charged as an additional fee for a student who does not qualify for the in-state tuition rate.<sup>15</sup>

### **Online Courses at State University System Institutions**

Nationally, Florida ranks second in the number and percentage of students enrolled in distance learning courses.<sup>16</sup> In the 2018-1019 academic year, 75 percent of undergraduate students at Florida's state universities took at least one distance learning course.<sup>17</sup> At four institutions, the University of Central Florida, University of Florida, University of South Florida, and University of West Florida, at least 80 percent of undergraduate students take one or more distance learning courses.<sup>18</sup> Across the SUS, 11 percent (36,648) of undergraduate students took distance learning courses exclusively, and a majority (63 percent) of undergraduate students (202,895) in the SUS took a combination of distance learning, classroom, or hybrid courses.<sup>19</sup> Systemwide, 30 percent of total undergraduate credit hours were taken in distance learning courses.<sup>20</sup>

During the Fall 2019 term, SUS institutions offered 164 online bachelor's degree programs.<sup>21</sup> Additionally, SUS institutions converted almost 50,000 courses from primarily classroom, hybrid, and primarily distance learning, to courses that could be completed fully at a distance during the Spring 2020 term.<sup>22</sup>

### ***University of Florida Online***

University of Florida Online (UF Online) was created by the 2013 Legislature as an institute for online learning at a preeminent state research university to provide for high quality, fully online baccalaureate degree programs at an affordable cost.<sup>23</sup> By 2018-2019, strategic development and expansion efforts allowed the program to offer 21 fully online majors and 7 minors.<sup>24</sup> More than

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<sup>13</sup> Section. 1009.21(1)(d), F.S. A person or, if that person is a dependent child, his or her parent or parents, must have established legal residence in this state and must have maintained legal residence in this state for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education. Section 1009.21(2)(a)1., F.S.

<sup>14</sup> Section 1009.24(2), F.S.

<sup>15</sup> Section 1009.01(2), F.S. The in-state tuition rate is described in s. 1009.21(1)(g), F.S.

<sup>16</sup> State University System of Florida, *2019 Annual Report for Online Education* (July 21, 2020), available at [https://www.flbog.edu/wp-content/uploads/2019-Annual-Report\\_FINAL.pdf](https://www.flbog.edu/wp-content/uploads/2019-Annual-Report_FINAL.pdf), at 9.

<sup>17</sup> *Id.* at 4 and 10.

<sup>18</sup> *Id.* at 10.

<sup>19</sup> *Id.* at 10.

<sup>20</sup> *Id.* at 13.

<sup>21</sup> *Id.* at 24.

<sup>22</sup> *Id.* at 4-6.

<sup>23</sup> Section 1001.7065(4), F.S., permits the university to establish a tuition structure for its online institute, not to exceed 75 percent of the tuition rate established by the Legislature.

<sup>24</sup> State University System of Florida, *2019 Annual Report for Online Education* (July 21, 2020), available at [https://www.flbog.edu/wp-content/uploads/2019-Annual-Report\\_FINAL.pdf](https://www.flbog.edu/wp-content/uploads/2019-Annual-Report_FINAL.pdf), at 24.

2,000 students have graduated from UF Online.<sup>25</sup> The resident undergraduate tuition rate for UF Online courses is \$78.80 per credit hour.<sup>26</sup>

### ***National Recognition***

In 2020, *U.S. News & World Report* ranked UF Online as one of the top five best online bachelor's degree programs in the nation.<sup>27</sup> The University of Central Florida ranked in the top 15, while Florida Atlantic University, Florida International University, and University of West Florida all ranked in the top 100.<sup>28</sup>

### **III. Effect of Proposed Changes:**

SB 1672 creates s. 1009.266, F.S., to establish the State University Free Seat Program to encourage nontraditional students to enroll in and attend a state university.

The bill specifies that:

- A student who is a resident for tuition purposes and who has not been enrolled in a postsecondary institution for more than 5 years is exempt from the payment of tuition and fees, including lab fees, for one online course at a state university during each academic year.
- For all other courses, a state university may not charge a student who meets such criteria more than 75 percent of the tuition rate and 75 percent of the tuition differential, if the student remains enrolled in at least one online course during each academic year.

The bill also specifies that a student who qualifies for the tuition discount as specified is eligible to receive the discount for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled. Most SUS baccalaureate degree programs are set at 120 credit hours, which would authorize the tuition discount for up to 132 credit hours.

The bill takes effect July 1, 2021.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

<sup>25</sup> State University System of Florida, *2019 Annual Report for Online Education* (July 21, 2020), available at [https://www.flbog.edu/wp-content/uploads/2019-Annual-Report\\_FINAL.pdf](https://www.flbog.edu/wp-content/uploads/2019-Annual-Report_FINAL.pdf), at 24.

<sup>26</sup> State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 4.

<sup>27</sup> *Id.* showing UF Online ranked at number 4 in 2020 and number 5 in 2019. See also U.S. News and World Report, *Best Online Bachelor's Programs*, accessible at <https://www.usnews.com/education/online-education/bachelors/rankings>.

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

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Providing specified students one free online course in an online baccalaureate degree program at a state university and a 25 percent discount on tuition for all other courses in the program, provided each student remains enrolled in at least one online course during each academic year, may increase access to online classes and enrollment at state universities.

C. Government Sector Impact:

The number of students who will qualify for and make use of the State University Free Seat Program is unknown. For each eligible student, a state university will not receive tuition and fees for one online course in an academic year. For example, at UF Online this represents a loss of \$117.17<sup>29</sup> per credit hour, and at Florida State University, a loss of 180.49<sup>30</sup> per credit hour. Additionally, for all other courses, each state university will not receive 25 percent of the resident undergraduate tuition rate of \$105.07 and 25 percent of the resident undergraduate tuition differential, which averages \$42.88 in the State University System, for a total loss of approximately \$36.99 per credit hour. The fiscal impact to each state university would continue for up to 110 percent of the required credit hours of the student's degree program.

**VI. Technical Deficiencies:**

None.

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<sup>29</sup> State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 4.

<sup>30</sup> Florida State University, *2020-2021 Tuition, Distance Learning*, available at [https://studentbusiness.fsu.edu/sites/g/files/upcbnu1241/files/2020-2021%20Tuition\\_DistanceLearning.pdf](https://studentbusiness.fsu.edu/sites/g/files/upcbnu1241/files/2020-2021%20Tuition_DistanceLearning.pdf).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1009.266 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.

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440644

LEGISLATIVE ACTION

Senate

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House

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The Committee on Education (Diaz) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (18) is added to section 1009.26,  
Florida Statutes, to read:

1009.26 Fee waivers.—

(18) The State University Free Seat Program is created to  
encourage veterans, active duty members of the United States  
Armed Forces, active drilling members of the Florida National  
Guard, and nontraditional students to enroll in an online





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12 baccalaureate degree program at a state university.

13 (a) A state university shall waive the tuition and fees,  
14 including lab fees, for one online course for a student who is a  
15 resident for tuition purposes under s. 1009.21 and enrolled in  
16 an online baccalaureate degree program, provided the student  
17 meets one of the following eligibility requirements:

18 1. Is a veteran as defined in s. 1.01(14);

19 2. Is an active duty member of the United States Armed  
20 Forces;

21 3. Is an active drilling member of the Florida National  
22 Guard; or

23 4. Has not been enrolled in a postsecondary institution for  
24 more than five years.

25 (b) For all other courses in the program, a state  
26 university may not charge a student specified in paragraph (a)  
27 more than 75 percent of the tuition rate as specified in s.  
28 1009.24(4) and 75 percent of the tuition differential pursuant  
29 to s. 1009.24(16), if the student remains enrolled in at least  
30 one online course during each academic year.

31 (c) A student who qualifies for the tuition discount under  
32 paragraph (b) is eligible to receive the discount for up to 110  
33 percent of the number of required credit hours of the degree  
34 program for which the student is enrolled.

35 (d) Each state university shall report to the Board of  
36 Governors the number and value of all fee waivers granted  
37 annually under this subsection.

38 (e) The Board of Governors shall adopt regulations to  
39 administer this subsection.

40 Section 2. This act shall take effect July 1, 2021.



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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to the State University Free Seat  
Program; amending s. 1009.26, F.S.; creating the State  
University Free Seat Program; providing a purpose;  
providing an exemption from tuition and fees,  
including lab fees, for one online course at a state  
university for certain resident students; prohibiting  
a state university from charging such students more  
than a specified percentage of the tuition rate and  
the tuition differential under certain circumstances;  
providing a limitation on the application of such  
tuition discount; requiring each state university to  
report certain information regarding waivers under the  
program to the Board of Governors annually; requiring  
the board to adopt regulations; providing an effective  
date.

By Senator Diaz

36-01364-21

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1 A bill to be entitled  
 2 An act relating to the State University Free Seat  
 3 Program; creating s. 1009.266, F.S.; creating the  
 4 State University Free Seat Program; providing a  
 5 purpose for the program; providing an exemption from  
 6 tuition and fees, including lab fees, for one online  
 7 course at a state university for certain resident  
 8 students; prohibiting a state university from charging  
 9 such students more than a specified percentage of the  
 10 tuition rate and the tuition differential under  
 11 certain circumstances; providing a limitation on the  
 12 application of such tuition discount; providing an  
 13 effective date.

14  
 15 Be It Enacted by the Legislature of the State of Florida:

16  
 17 Section 1. Section 1009.266, Florida Statutes, is created  
 18 to read:

19 1009.266 State University Free Seat Program.—

20 (1) The State University Free Seat Program is created to  
 21 encourage nontraditional students to enroll in and attend a  
 22 state university.

23 (2) (a) A student who is a resident for tuition purposes  
 24 under s. 1009.21 and who has not been enrolled in a  
 25 postsecondary institution for more than 5 years is exempt from  
 26 the payment of tuition and fees, including lab fees, for one  
 27 online course at a state university during each academic year.

28 (b)1. For all other courses, a state university may not  
 29 charge a student who meets the criteria in paragraph (a) more

Page 1 of 2

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

36-01364-21

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30 than 75 percent of the tuition rate as specified in s.  
 31 1009.24(4) and 75 percent of the tuition differential pursuant  
 32 to s. 1009.24(16), if the student remains enrolled in at least  
 33 one online course during each academic year.

34 2. A student who qualifies for the tuition discount under  
 35 subparagraph 1. is eligible to receive the discount for up to  
 36 110 percent of the number of required credit hours of the degree  
 37 program for which the student is enrolled.

38 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1728

INTRODUCER: Senator Baxley

SUBJECT: Out-of-state Fee Waiver for Nonresident Students

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 1728 provides an out-of-state fee waiver, applicable for up to 110 percent of the number of required credit hours of the enrolled degree program, for a nonresident student who meets specified criteria, as follows:

- Is a United States citizen.
- Has a grandparent who is a legal resident.
- Earns the equivalent of a standard Florida high school diploma.
- Achieves an SAT combined score no lower than the 89th national percentile or appropriate concordant score on the ACT or the Classic Learning Test.
- Enrolls as a full-time undergraduate student at a state university in the fall academic term immediately following high school graduation.

In addition, the bill requires each university to annually report to the Board of Governors (BOG) the number and amount of fee waivers, and the BOG to adopt appropriate regulations to implement the waiver.

The bill has an indeterminate fiscal impact.

The bill takes effect July 1, 2021.

**II. Present Situation:**

**Tuition and Out-of-State Fees**

Tuition is the basic fee a student is charged for instruction provided by a public postsecondary educational institution in Florida.<sup>1</sup> An out-of-state fee is charged as an additional fee for a student who does not qualify for the in-state tuition rate.<sup>2</sup>

**Residency for Tuition Purposes**

A legal resident of Florida for tuition purposes means one who has maintained his or her residence in this state for the preceding year, has purchased and occupies a home as primary residence, or has established a domicile in this state.<sup>3</sup> For tuition purposes, a person who does not qualify for the in-state tuition rate is considered a nonresident.<sup>4</sup>

Unless costs are exempted or waived, residents for tuition purposes are charged the in-state rate for tuition while nonresident students pay the out-of-state fees in addition to tuition.<sup>5</sup> The in-state tuition rate for Florida residents for the State University System (SUS) is currently set at \$105.07 per credit hour.<sup>6</sup> The average cost of resident and nonresident tuition and fees per credit is shown in the table below.<sup>7</sup>

<b>State University Tuition &amp; Fees<sup>8</sup></b>				
<b>Undergraduate Baccalaureate</b>	<b>Standard Tuition (Per Credit Hour)</b>	<b>Average Tuition &amp; Fees (Per Credit Hour)</b>	<b>Standard Tuition (Per 30 Credit Hours)</b>	<b>Average Tuition &amp; Fees (Per 30 Credit Hours)</b>
<b>Resident</b>	\$105.07	\$199.72	\$3,152.10	\$5,991.79
<b>Nonresident<sup>9</sup></b>	\$105.07	\$690.63	\$3,152.10	\$20,719.07
<b>Difference</b>	-	\$490.91	-	\$14,727.28

The Board of Governors (BOG) of the SUS currently limits the systemwide enrollment of out-of-state students to ten percent.<sup>10</sup>

<sup>1</sup> Section 1009.01(1), F.S.

<sup>2</sup> Section 1009.01(2), F.S. The in-state tuition rate is described in s. 1009.21(1)(g), F.S.

<sup>3</sup> Section. 1009.21(1)(d), F.S. To qualify as a resident for tuition purposes, a person or, if that person is a dependent child, his or her parent or parents, must have established legal residence in this state and must have maintained legal residence in this state for at least 12 consecutive months immediately prior to his or her initial enrollment in an institution of higher education. Section 1009.21(2)(a)1., F.S.

<sup>4</sup> Section 1009.21(1)(e), F.S. In general, nonresidents are ineligible for state merit- and need-based financial aid and tuition assistance. Section 1009.40(1)(a)2., F.S. However, specified nonresident students may be eligible for a Benacquisto Scholarship. Section 1009.893(4)(b), F.S.

<sup>5</sup> Section 1009.24(2), F.S.

<sup>6</sup> Section 1009.24(4)(a), F.S.

<sup>7</sup> State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 4.

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

<sup>9</sup> The BOG may establish out-of-state fees. Section 1009.24(4)(b), F.S.

<sup>10</sup> BOG Regulation 7.006.

## **Fee Waivers**

Florida law provides for waivers from specified fees to certain students who meet identified criteria.<sup>11</sup> Some waivers are mandatory,<sup>12</sup> while others are permissive.<sup>13</sup> Each university board of trustees is authorized to waive tuition and out-of-state fees for purposes that support and enhance the mission of the university. All fees waived must be based on policies that are adopted by the university board of trustees pursuant to BOG regulations.<sup>14</sup> Each state university is required to report the purpose, number, authority, and value of all fee waivers and exemptions granted annually in a format prescribed by the BOG.<sup>15</sup>

## **High School Graduation and College Entrance Requirements**

### ***High School Diploma Requirements***

Receipt of a standard high school diploma requires successful completion of 24 credits, an International Baccalaureate curriculum, or an Advanced International Certificate of Education curriculum.<sup>16</sup> In order to graduate from a Florida high school with a standard high school diploma under a 24-credit option, a student must complete:<sup>17</sup>

- Four credits in English Language Arts;
- Four credits in mathematics, including one credit in Algebra I and one credit in Geometry;
- Three credits in science, of which two credits must have a laboratory component;
- Three credits in social studies, comprised of one credit in United States History, one credit in World History, one-half credit in economics, and one-half credit in United States Government;
- One credit in fine or performing arts, speech and debate, or practical arts;
- One credit in physical education; and
- Eight credits in electives.

### ***Home Education Program***

A home education program in Florida means the sequentially progressive instruction of a student directed by his or her parent in order to satisfy attendance requirements specified in law.<sup>18</sup> Students completing a home education program satisfy the state university admissions requirement that a student earn a high school diploma or equivalent, but each university may require additional documentation to verify eligibility.<sup>19</sup>

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<sup>11</sup> Section 1009.26, F.S.

<sup>12</sup> Section 1009.26 (5), (7)-(8), (12)-(14), F.S.

<sup>13</sup> Section 1009.26 (1)-(4), (6), (9)-(11), (15)-(16), F.S.

<sup>14</sup> Section 1009.26(9), F.S.

<sup>15</sup> Board of Governors Regulation 7.008(5).

<sup>16</sup> Section 1003.4282(1)(a), F.S.

<sup>17</sup> Section 1003.4282(3), F.S. A student who completes the Career and Technical Education Pathway is not required to complete one credit in fine or performing arts, speech and debate, or practical arts; one credit in physical education, and eight credits in electives. Section 1002.4282(11), F.S. A student who completes the 18-credit Academically Challenging Curriculum to Enhance Learning (ACCEL) option under s. 1002.3105, F.S., is not required to complete the physical education or elective requirements. A student with a disability may satisfy standard high school diploma options as specified in the student's individual education plan. Section 1003.4282(10), F.S.

<sup>18</sup> Section 1002.01(1), F.S.

<sup>19</sup> Board of Governors Regulation 6.002(1)(d).

### *College Entrance Exams*

College entrance exams accepted by institutions of higher education in Florida include the SAT, the ACT, and the Classic Learning Test (CLT).

The SAT is comprised of sections that assess skills in reading, writing and language, math, and analysis in science.<sup>20</sup> Income-eligible SAT takers receive college application fee waivers and all students can select to receive free information about admission and financial aid from colleges, universities, and scholarship programs.<sup>21</sup> Nationally, close to 2.2 million students in the class of 2020 took the SAT.<sup>22</sup>

The ACT contains multiple-choice tests in four areas: English, mathematics, reading, and science.<sup>23</sup> Nearly 1.8 million graduates in the United States took the ACT during high school.<sup>24</sup>

The CLT is an online college entrance exam that assesses English, mathematical, and critical reasoning skills.<sup>25</sup> The CLT is taken online and offers scoring within 24 hours.<sup>26</sup> As of 2019, about 21,000 students took the CLT.<sup>27</sup>

### **III. Effect of Proposed Changes:**

SB 1728 modifies s. 1009.26, F.S., to specify that a state university must waive the out-of-state fee for a nonresident student who meets the following criteria:

- Is a United States citizen.
- Has a grandparent who is a legal resident.
- Earns a high school diploma comparable to a standard Florida high school diploma, or its equivalency, or completes a home education program.
- Achieves an SAT combined score no lower than the 89th national percentile on the SAT; achieves an ACT score concordant to the required SAT score as specified, using the latest published national concordance table developed jointly by the College Board and ACT, Inc.; or if a state university accepts the Classic Learning Test (CLT) for admission purposes, achieves a CLT score concordant to the required SAT score as specified, using the latest published scoring comparison developed by Classic Learning Initiatives.<sup>28</sup>

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<sup>20</sup> CollegeBoard, *SAT Test Description*, <https://collegereadiness.collegeboard.org/sat/inside-the-test/sat-test-description> (last visited March 10, 2021).

<sup>21</sup> CollegeBoard, *Benefits*, <https://collegereadiness.collegeboard.org/about/benefits> (last visited March 10, 2021).

<sup>22</sup> CollegeBoard *SAT Suite of Assessments Annual Report (2020)*, available at <https://reports.collegeboard.org/pdf/2020-total-group-sat-suite-assessments-annual-report.pdf>, at 3.

<sup>23</sup> ACT, *The ACT Test*, <http://www.act.org/content/act/en/products-and-services/the-act.html> (last visited March 10, 2021).

<sup>24</sup> ACT, *About ACT*, <https://www.act.org/content/act/en/about-act.html> (last visited March 10, 2021).

<sup>25</sup> CLT, *Products*, <https://www.cltxam.com/products> (last visited March 10, 2021).

<sup>26</sup> CLT, *CLT vs. SAT vs. ACT*, <https://www.cltxam.com/comparison> (last visited March 19, 2021).

<sup>27</sup> Scott Jaschik, *The Classical Alternative to the SAT*, Inside Higher Ed, Oct. 21, 2019, available at <https://www.insidehighered.com/admissions/article/2019/10/21/classic-learning-test-aims-challenge-sat#:~:text=The%20test%20had%20more%20than,the%20same%20took%20the%20ACT..>

<sup>28</sup> The 89<sup>th</sup> percentile for the SAT is 1330. CollegeBoard, *SAT: Understanding Scores (2020)*, available at <https://collegereadiness.collegeboard.org/pdf/understanding-sat-scores.pdf>, at 5. This could be compared with the grade of 85 on the CLT. CLT, *CLT vs. SAT vs. ACT*, <https://www.cltxam.com/comparison> (last visited March 19, 2021). The ACT concordant score to an SAT score of 1330 is 29. CollegeBoard, ACT, *Guide to the 2018 ACT/SAT Concordance*, available at <https://collegereadiness.collegeboard.org/pdf/guide-2018-act-sat-concordance.pdf>.

- Enrolls as a full-time undergraduate student at a state university in the fall academic term immediately following high school graduation.

In addition, the bill specifies that:

- This waiver is applicable for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled. Most SUS baccalaureate degree programs are set at 120 credit hours, which would authorize the tuition discount for up to 132 credit hours.
- Prior to waiving the out-of-state fee, the state university must require the student, or the student's parent if the student is a dependent child, to provide a written declaration pursuant to law<sup>29</sup> verifying the student's familial relationship to a grandparent who is a legal resident.
- Each state university must report to the Board of Governors (BOG) the number and value of all fee waivers granted annually.
- A nonresident student granted an out-of-state fee waiver under this subsection must be excluded from the limitation on systemwide total enrollment of nonresident students established by regulation of the BOG, currently set at 10 percent.

The bill requires the BOG to adopt regulations to implement this waiver.

The bill takes effect July 1, 2021.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None.

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<sup>29</sup> A written declaration is a statement declaring, under penalty of perjury, that one has read and verifies the specified document, followed by the signature of the person making the declaration, except when a verification on information or belief is permitted by law. Section 92.525(2), F.S.



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

None.

**B. Private Sector Impact:**

Providing in-state tuition for out-of-state high-school graduates who meet specified criteria, including having a grandparent who is a Florida resident, may increase the number of students residing and enrolled in postsecondary institutions in Florida.

**C. Government Sector Impact:**

The number of students who will qualify for and make use of the out-of-state fee waiver is unknown. For each student who makes use of the waiver, a state university would collect only the resident undergraduate tuition and fees, which systemwide averages \$199.72 per credit hour, instead of nonresident undergraduate tuition and fees, which systemwide averages \$690.63 per credit hour.<sup>30</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1009.26 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.

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<sup>30</sup> State University System of Florida, *Tuition and Required Fees, 2020-2021*, available at <https://www.flbog.edu/wp-content/uploads/2020-2021-SUS-Tuition-and-Fees-Report-1.pdf>, at 1.



640458

LEGISLATIVE ACTION

Senate

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. .  
. .  
. .  
. .

House

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The Committee on Education (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 1009.261, Florida Statutes, is created  
to read:

1009.261 Grandchild Out-of-State Fees Waiver Compact.—The  
Grandchild Out-of-State Fees Waiver Compact is enacted into law  
and entered into by this state with all other jurisdictions  
legally joining therein in the form substantially as follows:



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12 GRANDCHILDREN OUT-OF-STATE  
13 FEE WAIVER COMPACT

14 ARTICLE I  
15 DECLARATION OF PURPOSE

16 The general purposes of this compact are to:

17  
18 (1) Increase access to postsecondary education to students  
19 whose families are split between two or more states by reducing  
20 costs associated with out-of-state fees.

21  
22 (2) Encourage students to exercise their rights to travel  
23 and to choose the postsecondary education that best suits their  
24 needs.

25 (3) Increase postsecondary educational choices.

26 (4) Decrease the economic burden posed by postsecondary  
27 out-of-state fees.

28  
29 ARTICLE II  
30 DEFINITIONS

31  
32 As used in this compact, the term:

33 (1) "Grandparent" means a person who has a legal  
34 relationship to a student's parent as the natural or adopted  
35 parent or legal guardian of the student's parent.

36 (2) "Member state" means a state that has enacted this  
37 compact.

38 (3) "Out-of-state fees" means any additional fee for  
39 instruction, which is charged to a student who does not qualify  
40 for the in-state tuition rate pursuant to the laws of a member



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41 state, imposed by a public postsecondary educational institution  
42 located within the member state. A charge for any other purpose  
43 may not be included within this fee.

44 (4) "Postsecondary educational institution" means a public  
45 university or college located within a member state.

46 (5) "State" includes the District of Columbia and any  
47 state, territory, or possession of the United States which  
48 oversees one or more public postsecondary educational  
49 institutions.

50 (6) "Student's parent" means a person who has a legal  
51 relationship to a student as the natural or adopted parent or  
52 legal guardian of the student.

53  
54 ARTICLE III

55 OUT-OF-STATE FEES WAIVER

56  
57 (1) Postsecondary educational institutions located within  
58 each member state shall waive out-of-state fees for a  
59 nonresident student who:

60 (a) Is a United States citizen.

61 (b) Has a grandparent who is a legal resident under the  
62 applicable laws of the member state.

63 (c)1. Achieves an SAT combined score no lower than the 89th  
64 national percentile on the SAT;

65 2. Achieves an ACT score concordant to the SAT score  
66 required in subparagraph 1., as designated in the latest  
67 published national concordance table developed jointly by the  
68 College Board and ACT, Inc.; or

69 3. Achieves a Classic Learning Test (CLT) score concordant



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70 to the required SAT score in subparagraph 1., as designated in  
71 the latest published scoring comparison developed by Classic  
72 Learning Initiatives, but only if the member state postsecondary  
73 institution accepts the CLT for admission purposes.

74 (d) Enrolls as a full-time undergraduate student at a  
75 member state postsecondary institution in the fall academic term  
76 immediately following high school graduation.

77 (2) The waiver under this compact is applicable for up to  
78 110 percent of the number of required credit hours of the degree  
79 program in which the student is enrolled.

80 (3) Prior to waiving any out-of-state fees, a member state  
81 postsecondary educational institution shall require the student,  
82 or the student's parent if the student is a dependent child, to  
83 provide a written declaration verifying the student's familial  
84 relationship to a grandparent who is a legal resident of the  
85 member state.

86  
87 ARTICLE IV

88 OVERSIGHT

89  
90 The executive, legislative, and judicial branches of state  
91 government in each member state shall enforce this compact and  
92 take all actions necessary and appropriate to effectuate the  
93 compact's purposes and intent. The provisions of this compact  
94 have standing as statutory law.

95  
96 ARTICLE V

97 DATE OF IMPLEMENTATION, WITHDRAWAL, AND AMENDMENT

98



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99           (1) The compact shall take effect on the date on which it  
100 is enacted into law by two states. Thereafter it is effective as  
101 to any state upon its enactment by that state.

102           (2) A member state may withdraw from this compact by  
103 repealing the statute in which it is enacted. A member state's  
104 withdrawal may not take effect until 6 months after enactment of  
105 the repeal.

106           (3) This compact may not be construed to invalidate or  
107 prohibit any law of a member state that does not conflict with  
108 the provisions of this compact.

109           (4) This compact may be amended by the member states. An  
110 amendment to this compact is effective and binding after it is  
111 enacted into the laws of all member states.

112  
113                                   ARTICLE VI

114                                   CONSTRUCTION AND SEVERABILITY

115  
116           This compact shall be liberally construed so as to  
117 effectuate its purposes. The provisions of this compact are  
118 severable, and if any phrase, clause, sentence, or provision  
119 thereof is declared to be contrary to the constitution of any  
120 state or to the Constitution of the United States, or the  
121 application thereof to any government, agency, person, or  
122 circumstance is held invalid, the validity of the remainder of  
123 this compact and the applicability thereof to any government,  
124 agency, person, or circumstance is not affected thereby. If this  
125 compact is held to be contrary to the constitution of any state  
126 participating therein, it remains in full force and effect as to  
127 the state affected as to all severable provisions.



128 Section 2. This act shall take effect July 1, 2021.

129

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

131 And the title is amended as follows:

132 Delete everything before the enacting clause

133 and insert:

134 A bill to be entitled

135 An act relating to the Grandchild Out-of-State Fees  
136 Waiver Compact; creating s. 1009.261, F.S.; enacting  
137 the Grandchild Out-of-State Fees Waiver Compact;  
138 providing the purposes of the compact; defining terms;  
139 requiring postsecondary educational institutions  
140 located within member states to waive out-of-state  
141 fees for students who meet specified criteria;  
142 providing that the waiver is applicable for up to a  
143 specified amount of credits; requiring member-state  
144 postsecondary educational institutions to require a  
145 student, or the student's parent if the student is a  
146 dependent child, to provide a written declaration  
147 verifying eligibility; requiring the executive,  
148 legislative, and judicial branches of member state  
149 governments to enforce the compact; providing that the  
150 provisions of the compact have standing as statutory  
151 law; providing for the implementation, withdrawal, and  
152 amendment of the compact; providing construction;  
153 providing an effective date.

By Senator Baxley

12-01362A-21

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A bill to be entitled

An act relating to an out-of-state fee waiver for nonresident students; amending s. 1009.26, F.S.; requiring a state university to waive the out-of-state fee for a nonresident student who meets certain requirements; providing applicability; requiring each state university to report specified information regarding such out-of-state fee waivers to the Board of Governors annually; requiring that a student who is granted such out-of-state fee waiver be excluded from the limitation on the systemwide total enrollment of nonresident students; requiring the Board of Governors to adopt regulations; providing an effective date.

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

Section 1. Subsection (18) is added to section 1009.26, Florida Statutes, to read:

1009.26 Fee waivers.-

(18) (a) A state university shall waive the out-of-state fee for a nonresident student who:

1. Is a United States citizen.

2. Has a grandparent who is a legal resident as defined in s. 1009.21(1).

3. Earns a high school diploma comparable to a standard Florida high school diploma, or its equivalency, or completes a home education program.

4.a. Achieves an SAT combined score no lower than the 89th national percentile on the SAT;

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

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b. Achieves an ACT score concordant to the required SAT score in sub-subparagraph a., using the latest published national concordance table developed jointly by the College Board and ACT, Inc.; or

c. If a state university accepts the Classic Learning Test (CLT) for admission purposes, achieves a CLT score concordant to the required SAT score in sub-subparagraph a., using the latest published scoring comparison developed by Classic Learning Initiatives.

5. Enrolls as a full-time undergraduate student at a state university in the fall academic term immediately following high school graduation.

(b) The waiver under this subsection is applicable for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled.

(c) Prior to waiving the out-of-state fee, the state university shall require the student, or the student's parent if the student is a dependent child, to provide a written declaration pursuant to s. 92.525(2) verifying the student's familial relationship to a grandparent who is a legal resident.

(d) Each state university shall report to the Board of Governors the number and value of all fee waivers granted annually under this subsection.

(e) A nonresident student granted an out-of-state fee waiver under this subsection shall be excluded from the limitation on systemwide total enrollment of nonresident students established by regulation of the Board of Governors.

(f) The Board of Governors shall adopt regulations to administer this subsection.

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



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59

Section 2. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 2010

INTRODUCER: Senator Diaz

SUBJECT: Foreign Influence

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 2010 provides safeguards against foreign influence through establishing processes that govern screening and disclosure of foreign gifts, contracts, employment, travel, and research arrangements, as well as cultural agreements, with countries of concern. Specifically, the bill:

- Requires specified entities that apply for or receive any gift or grant with a value of \$50,000 or more from any foreign source to disclose such gift or grant to the appropriate agency.
- Requires the Department of Financial Services (DFS) to manage a website to publish required disclosures and maintain an active and current list of ineligible entities on the website, and requires DFS to investigate an allegation of a disclosure violation.
- Requires the Department of Management Services to, at least once every five years, screen specified vendors participating in the online procurement system.
- Subjects an institution of higher education that knowingly, willfully, or negligently fails to disclose to a civil penalty of 105 percent of the amount of the undisclosed gift.
- Requires each state university or specified entity that receives state appropriations or state tax revenue and has a research budget of \$10 million or more to screen applicants for research or research-related support positions who are citizens of a foreign country and who are not permanent residents of the United States, including graduate and undergraduate students.
- Requires the state university or entity to keep detailed records of expenses and activities related to individual traveler's professional, research, and academic activities.
- Prohibits specified participation in agreements with or acceptance of any grant from a foreign country of concern, or any entity controlled by such a country, for specified activities.

The bill has an indeterminate fiscal impact. See Section V.

The bill takes effect July 1, 2021.

## II. Present Situation:

In March 2021, Governor Ron DeSantis and members of the Florida House and Senate highlighted proposed legislation to combat foreign influence, in response to the Communist Party of China's deliberate attempts to economically infiltrate the United States. Among the purposes of the proposed legislation were to place strategic safeguards against foreign influence through strengthening institutional vetting and applying protections for Florida's institutions of higher education, public entities, and recipients of public grants or contracts.<sup>1</sup>

### **Legislative Background – Select Committee on Integrity of Research Institutions**

In 2020, the Florida House of Representatives Select Committee on the Integrity of Research Institutions (Select Committee) undertook an extensive review of Florida's university-based research programs. This investigation arose out of revelations that the CEO of H. Lee Moffitt Cancer Center and Research Institute and three other officers or research scientists had failed to disclose support from relationships with Chinese talent and research programs. Following that disclosure, the University of Florida (UF) disclosed to the Select Committee that three of its research staff were under similar investigations. The Select Committee learned of additional investigations, some of which remain confidential due to active law enforcement investigations.

The Select Committee learned that Florida-based research institutions had a combined annual budget of \$2.7 billion with Florida's public universities accounting for \$2.3 billion of that research spending. Eight of Florida's State University System universities had research budgets of \$10 million or more. Four private institutions had budgets exceeding \$10 million. Research grants from public sources fund the vast majority of this research and universities receive generous shares of research grants for administration. Consequently, research activity generates significant profits for many institutions.<sup>2</sup>

The open and collaborative research environment in the free world depends on the honesty and integrity of individual scientists, technicians, and administrators. The Select Committee in 2020 learned that federal officials were investigating about 200 cases across the U.S. involving federal grant recipients of research funds who had failed to disclose professional, academic, and business relationships in violation of various grant requirements. The Select Committee also ascertained that Florida state research grants often lacked similar requirements deemed reasonably necessary to ensure research integrity.<sup>3</sup>

In 2020, Florida law<sup>4</sup> required that any person engaged in the design, conduct, or reporting of research and employed by a state university or specified entity engaging in research, is required by the policies of such university or entity to disclose and receive a determination that the

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<sup>1</sup> Florida Governor Ron DeSantis, *Governor Ron DeSantis and House Speaker Chris Sprowls Highlight Proposed Legislation to Combat Foreign Influence and Corporate Espionage* (March 1, 2021), available at <https://www.flgov.com/2021/03/01/governor-ron-desantis-and-house-speaker-chris-sprows-highlight-proposed-legislation-to-combat-foreign-influence-and-corporate-espionage/>.

<sup>2</sup> Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 7.

<sup>3</sup> *Id.*

<sup>4</sup> Section 18, ch. 2020-117, L.O.F.

outside activity<sup>5</sup> or financial interest<sup>6</sup> does not affect the integrity of the state university or entity.<sup>7</sup> An employee who does not disclose any outside activity or financial interest as required must be suspended without pay pending the outcome of an investigation which must not exceed 60 days.<sup>8</sup> Additionally, upon conclusion of the investigation, the university or entity may terminate the contract of the employee.<sup>9</sup>

The Select Committee also learned that a U.S. visa to study or teach in the U.S. does not adequately screen foreign scientists' and students' security risk or trustworthiness. As with many employment or enrollment decisions, verifying representations made by an applicant regarding experience and credentials is a significant tool to protect an institution's integrity.<sup>10</sup>

In addition, the Select Committee learned that many undisclosed activities relate to foreign travel of U.S.-based faculty. International travel by faculty and graduate students creates opportunities for recruitment to engage in unethical conduct and for misappropriation of property and theft of university research. If an institution does not scrutinize and monitor foreign travel, it can expect compromising activities to take place.<sup>11</sup>

As part of its investigation, the Select Committee reviewed studies indicating that sister cities programs, academic language and culture centers, foreign funding of domestic institutions and foreign-influenced employment of domestic scientists and engineers are all means to influence domestic policy, advance hostile foreign interests, and limit academic freedom. Such activities project foreign interests into domestic affairs.<sup>12</sup>

## **Federal Law and Recommended Practices**

### ***Threats to the U.S. Research Enterprise***

Although state law currently imposes few limitations on relationships between foreign governments and state agencies, political subdivisions, or public contractors, federal law imposes many layers of scrutiny on certain dealings with foreigners, mostly related to science and technology having military implications, sales of arms and certain financial transactions related to terrorism, human trafficking, international drug dealing and other important national interests. Various agencies publish many lists related to various sanctions, restrictions and scrutiny imposed by federal law. In addition, many programs scrutinize transactions involving America's biggest global competitors, China and Russia. On January 19, 2021, the U.S. Department of Commerce published an interim final rule entitled: "Securing the Information and

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<sup>5</sup> "Outside activity" is defined to include anything an employee does for an organization or an individual, other than the university or entity, that is related to the employee's expertise. Section 1012.977(2)(b), F.S.

<sup>6</sup> "Financial interest" is defined to include anything of value other than that provided directly by the university or entity. Section 1012.977(2)(a), F.S.

<sup>7</sup> Section 1012.977, F.S.

<sup>8</sup> Section 1012.977(3), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 7.

<sup>11</sup> *Id.*

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

Communications Technology and Services Supply Chain.” That interim rule<sup>13</sup> defined “foreign adversaries” to include Russia, China, the Nicolás Maduro government of Venezuela, Cuba, Iran, and North Korea. Along with Syria, a state sponsor of terrorism, these reflect the foreign governments most hostile to U.S. interests.<sup>14</sup>

As of March 2018, more than 1.4 million international students and professors were participating in America’s open and collaborative academic environment. The inclusion of these international scholars at U.S. colleges and universities entails both substantial benefit—and notable risk. Some foreign actors, particularly foreign state adversaries, seek to illicitly or illegitimately acquire U.S. academic research and information to advance their scientific, economic, and military development goals. Through their exploitative efforts, they reduce U.S. competitiveness and deprive victimized parties of revenue and credit for their work.<sup>15</sup>

The Chinese government’s strategic goals include becoming a comprehensive national power, creating innovation-driven economic growth, and modernizing its military.<sup>16</sup> It aspires to equal or surpass the U.S. as a global superpower and influence the world with a value system shaped by undemocratic, totalitarian ideals.<sup>17</sup> The Chinese government has historically sponsored economic espionage, and China is the world’s principal infringer of intellectual property.<sup>18</sup> The annual cost to the U.S. economy of counterfeit goods, pirated software, and theft of trade secrets is between \$225 billion and \$600 billion.<sup>19</sup>

A 2019 U.S. Senate report found that China prioritizes a strategy of military-civilian fusion which seeks to pool talent and financial resources to jointly develop technologies, conduct research, and attract talent that mutually reinforces both the military and civilian sectors.<sup>20</sup> As of 2017, China has reportedly recruited 7,000 researchers and scientists, with U.S.-based researchers and scientists targeted specifically if they focus on or have access to cutting-edge research and technology.<sup>21</sup> In response to U.S. government scrutiny, China has attempted to delete online references to its talent recruitment plans and reportedly instructed Chinese institutions on how to avoid additional U.S. scrutiny.<sup>22</sup> Employment contracts used by China’s most prominent talent recruitment plan, the Thousand Talents Plan, contain provisions that violate U.S. research values, including non-disclosure provision related to their research and

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<sup>13</sup> 86 Fed. Reg. 4911 (January 19, 2021).

<sup>14</sup> Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 8.

<sup>15</sup> Florida House of Representatives, Select Committee on the Integrity of Research Institutions, *Meeting Packet* (Jan. 21, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3075&Session=2020&DocumentType=Meeting%20Packets&FileName=sci%201-21-20.pdf>, at 253.

<sup>16</sup> *Id.* at 255.

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

<sup>18</sup> *Id.* at 254.

<sup>19</sup> *Id.*

<sup>20</sup> U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Threats to the U.S. Research Enterprise: China’s Talent Recruitment Plans* (Nov. 18, 2019), available at <https://www.hsgac.senate.gov/imo/media/doc/2019-11-18%20PSI%20Staff%20Report%20-%20China's%20Talent%20Recruitment%20Plans%20Updated2.pdf>, at 7.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

employment with Chinese institutions.<sup>23</sup> In some cases, members of China’s Thousand Talents Plan received both U.S. grants and Chinese grants for similar research, established “shadow labs” in China to conduct parallel research being conducted in the U.S., and stole intellectual capital and property.<sup>24</sup>

In response to these findings, recommendations from the U.S. Senate report include:<sup>25</sup>

- Federal agencies should declassify and disseminate more information on foreign talent recruitment plans.
- U.S. grant-making agencies should harmonize the grant proposal process and standardize reporting requirements for disclosing all foreign conflicts of interest, conflicts of commitment, and all outside and foreign support.
- U.S. research institutions should establish best practices in monitoring scientific and research collaboration with foreign nationals.

### ***Presidential Memorandum on National Security***

On January 14, 2021, President Donald Trump signed National Security Presidential Memorandum 33 (the Memorandum) to direct a national response to safeguard the security and integrity of federally funded research and development in the United States. Among other directives, the Memorandum:<sup>26</sup>

- Prohibited federal personnel from participating in foreign government-sponsored talent recruitment programs.
- Directed specified entities to ensure that vetting processes for foreign students and researchers reflect the changing nature of the risks to the U.S. research enterprise.
- Directed departments and agencies to standardize disclosure processes, definitions, and forms related to research security across funding agencies to the maximum extent practicable.

### ***Strengthening the Security and Integrity of America’s Research Enterprise***

Also in January 2021, the National Science and Technology Council released recommended practices for strengthening the security of America’s research in science and technology. Recommended practices include:<sup>27</sup>

- Establish and operate a comprehensive research security program.<sup>28</sup>

<sup>23</sup> U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Threats to the U.S. Research Enterprise: China’s Talent Recruitment Plans* (Nov. 18, 2019), available at <https://www.hsgac.senate.gov/imo/media/doc/2019-11-18%20PSI%20Staff%20Report%20-%20China's%20Talent%20Recruitment%20Plans%20Updated2.pdf>, at 8.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 11-13.

<sup>26</sup> Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (Feb. 15, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%202-15-21.pdf>, at 7-25.

<sup>27</sup> *Id.* at 27-48.

<sup>28</sup> According to the recommendation, research security programs should include, at a minimum, elements of cyber security, foreign travel security, insider threat awareness and education, and export control training. Depending on the organization’s individual risk profile and resources, cyber security elements can include robust access and device registration protocols, hardware encryption, and incorporating use of commercial threat management and commercial compliance solutions into internal due diligence programs. Economies of scale often can be realized by coordinating with other organizations to leverage physical and intellectual assets and avoid unnecessary duplication.

- Require disclosure to the organization of all information necessary to identify and assess potential conflicts of interest and commitment, including filing of relevant disclosures.
- Ensure compliance with requirements for reporting foreign gifts and contracts.
- Establish and operate a risk-based security process for foreign travel review and guidance.

### **Disclosure and Screening of Foreign Gifts and Contracts**

Federal law restricts the receipt and disposition of foreign gifts.<sup>29</sup> Any federal employee, member of the Armed Forces and their spouses may not request or accept a gift from any unit or agent of a foreign government. The Attorney General may bring a civil action against any employee who knowingly solicits or accepts an unauthorized gift from a foreign government or who fails to deposit or report such gift. The court may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.<sup>30</sup>

The most critical list of foreign nations identifies “state sponsors of terrorism” as Cuba, North Korea, Iran, and Syria.<sup>31</sup> Further, foreign adversaries to the United States have been defined to include Russia, China, the Nicolás Maduro government of Venezuela, Cuba, Iran, and North Korea.<sup>32</sup>

### **Reporting, Inspection, and Penalties for Foreign Gifts**

#### ***Current Disclosure Requirements – Institutions of Higher Education***

Divisions of sponsored research at state universities must disclose the amount and source of research funding, even when the research itself involves records that are confidential and exempt from public inspection. However, university and Florida College System institution direct support organizations (DSOs) enjoy a broad confidentiality exemption for records related to donors who wish to be anonymous and expenditures of donated funds other than travel expenditures.<sup>33</sup>

The Higher Education Act of 1965 requires education institutions to report foreign gifts and grants valued at \$250,000 or more. Between 2018 and 2021, the U.S. Department of Education carefully scrutinized the reporting program and discovered billions of dollars of unreported foreign gifts from many of the best-funded institutions. At the same time, it became evident that the federal mandate does not extend to foreign donations to foundations and other non-profit entities controlled by, or formed or operated for the exclusive benefit of, the reporting institutions.<sup>34</sup>

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<sup>29</sup> 5 U.S. Code § 7342.

<sup>30</sup> *Id.*

<sup>31</sup> U.S. Department of State, *State Sponsors of Terrorism*, <https://www.state.gov/statesponsors-of-terrorism/> (last visited March 18, 2021).

<sup>32</sup> See 86 Fed. Reg. 4911 (January 19, 2021).

<sup>33</sup> Florida House of Representatives, Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 10.

<sup>34</sup> U.S. Department of Education Office of General Counsel, *Institutional Compliance with Section 117 of the Higher Education Act of 1965* (Oct. 2020), available at <https://www2.ed.gov/policy/highered/leg/institutional-compliance-section-117.pdf>.

From 1984 to 1994, Florida law required universities and community colleges to report foreign receipts valued \$100,000 or more to the Commissioner of Education and legislative leaders.<sup>35</sup> As with the federal law, the statute did not extend to university foundations and DSOs, and the requirement appears to have generated few such reports.<sup>36</sup>

### **Applicant Screening and Research Integrity of Foreign Researchers**

At present, state law imposes no responsibility on research institutions to screen foreign applicants.

### **Approval Processes for International Travel**

UF has implemented an active registration and screening program for international travel, including specific prohibitions and limitations on activities with Iran and Cuba.<sup>37</sup> The program provides faculty and travelers clear guidance on legal and ethical restrictions.<sup>38</sup> It also ensures protection of UF property including intellectual property.<sup>39</sup> Other institutions may also have international travel screening and monitoring in place.

### **State Law and Regulations**

#### ***Code of Ethics for Public Officers and Employees***

The Florida constitution requires a code of ethics for all state employees and non-judicial officers prohibiting conflict between public duty and private interests.<sup>40</sup> The Code of Ethics for Public Officers and Employees (the Code) is outlined in Florida law,<sup>41</sup> and includes standards of conduct for public officers, employees of agencies, and local government attorneys;<sup>42</sup> full and public disclosure of financial interests;<sup>43</sup> and investigative procedures in response to prohibited personnel actions.<sup>44</sup>

Ethics laws generally consist of two types of provisions, either prohibiting certain actions or conduct or requiring that certain disclosures be made to the public.<sup>45</sup> Prohibited actions or conduct include solicitation and acceptance of gifts, unauthorized compensation, misuse or abuse of public position, disclosure or use of specified information, and solicitation or acceptance of

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<sup>35</sup> Section 240.138, F.S. 1994 (repealed ch. 95-196 and ch.95-392, L.O.F.).

<sup>36</sup> Florida House Public Integrity & Elections Committee, *Meeting Packet* (March 4, 2020), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3104&Session=2021&DocumentType=Meeting%20Packets&FileName=pie%203-4-21.pdf>, at 10.

<sup>37</sup> See UF Research, *International Travel*, <https://research.ufl.edu/compliance/export-controls/international-travel.html> (last visited March 15, 2021).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> State of Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees* (2021), available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>, at 1.

<sup>41</sup> See ss. 112.311 - 112.3261, F.S.

<sup>42</sup> Section 112.313, F.S.

<sup>43</sup> Sections 112.3144 and 112.31445, F.S.

<sup>44</sup> Section 112.31895, F.S.

<sup>45</sup> State of Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees* (2021), available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>, at 2.



honoraria.<sup>46</sup> Prohibited employment and business relationships include doing business with one's agency, and conflicting contractual relationship,<sup>47</sup> among others. Public officers and employees are required to publicly disclose their financial interests to prevent conflicts of interests.<sup>48</sup>

### **International Cultural Agreements**

Florida law provides for coordination of certain international relationships, including those between sister states and sister cities.<sup>49</sup> Florida's economic development programs emphasize commerce with foreign jurisdictions.<sup>50</sup> However, such agreements may impose the public policy of foreign competitors upon local U.S. governments; it has been reported that the China requires sister city agreements to enforce its "One China" policy.<sup>51</sup> According to the Tampa Bay Protocol and Trade Council, there are a number of sister city agreements with jurisdictions in nations describe above as "foreign adversaries": eleven with political subdivisions of China, six with Russian jurisdictions and three with Venezuelan cities.<sup>52</sup>

In the past decade, the University of North Florida, the University of West Florida, the University of South Florida, and Miami-Dade College each were home to a Confucius Institute under a program of the Communist Party of China promoting Chinese language and culture, funded by significant Chinese grants. By 2014, there were at least 90 Confucius Institutes in the U.S. and more than 400 worldwide.<sup>53</sup> By September 2019, each of the four above-named Florida institutions had closed its Confucius Institute following significant criticism by U.S. Senator Marco Rubio and others. A U.S. Senate Subcommittee found that the limitations on Confucius Institutes "export China's censorship of political debate to the United States and prevent the academic community from discussing topics" sensitive to the Communist Party of China,<sup>54</sup> and some Confucius Institute agreements apply law of the Communist Party of China to activities on U.S. campuses.<sup>55</sup>

### **Linkage Institutes**

Beginning in 1987, Florida law established linkage institutions between Florida postsecondary

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<sup>46</sup> State of Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees* (2021), available at <http://www.ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf>, at 3-4.

<sup>47</sup> *Id.* at 5.

<sup>48</sup> *Id.* at 11.

<sup>49</sup> See s. 288.816, F.S.

<sup>50</sup> See ss. 288.816 and 288.826, F.S.

<sup>51</sup> See Matej Šimalčík and Adam Kalivoda, *Sister-City Relations and Identity Politics: The Case of Prague, Beijing, Taipei, and Shanghai*, *The Diplomat*, Feb. 25, 2020, available at <https://thediplomat.com/2020/02/sister-city-relations-and-identity-politics-the-case-of-prague-beijing-taipei-and-shanghai/>.

<sup>52</sup> Tampa Bay Protocol & Trade, *Florida Sister Cities Database*, <https://tampabayprotocol.com/sister-cities-database> (last visited March 15, 2021)..

<sup>53</sup> UWF Newsroom, *UWF to Host Opening Ceremony of Confucius Institute* (April 28, 2014), available at <https://news.uwf.edu/uwf-host-opening-ceremony-confucius-institute/>.

<sup>54</sup> U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *Threats to the U.S. Research Enterprise: China's Talent Recruitment Plans* (Nov. 18, 2019).

<sup>55</sup> See also U.S. Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations, *China's Impact on the U.S. Education System* (Feb 29, 2019), available at <https://www.hsgac.senate.gov/imo/media/doc/PSI%20Report%20China's%20Impact%20on%20the%20US%20Education%20System.pdf>.

institutions and foreign countries to assist in the development of stronger economic, cultural, educational, and social ties between this state and strategic foreign countries through the promotion of the following specified activities between the postsecondary institutions in this state and those of selected foreign countries:<sup>56</sup>

- Expanded public and private dialogue on cooperative research and technical assistance activities;
- Increased bilateral commerce;
- Student and faculty exchange;
- Cultural exchange; and
- The enhancement of language training skills.

A Florida-China Institute is currently authorized by law for three postsecondary institutions in Florida,<sup>57</sup> and ten other institutes are established by law.

As of March 4, 2021, the U.S. Senate passed a bill restricting federal departmental funding from institutions of higher education or other postsecondary educational institutions that maintain any contract or agreement with a Confucius Institute, unless such agreement includes clear provisions that protect academic freedom, prohibit the application of any foreign law on any campus of such institution, and grant full managerial authority, including full control over what is being taught, to such institution.<sup>58</sup>

### **III. Effect of Proposed Changes:**

SB 2010 provides safeguards against foreign influence through establishing processes that govern screening and disclosure of foreign gifts, contracts, employment, travel, and research arrangements, as well as cultural agreements, with countries of concern.

#### **Disclosure and Screening of Foreign Gifts and Contracts**

The bill requires any state agency or political subdivision that receives any gift or grant with a value of \$50,000 or more from any foreign source to disclose such gift or grant to the Department of Financial Services (DFS) within 30 days after its receipt.<sup>59</sup>

The bill requires any entity that applies to a state agency or political subdivision for a grant or proposes a contract of \$100,000 or more to disclose to the state agency or political subdivision any current, or for the past five years, any prior interest of, any contract with, or any grant or gift received from a foreign country of concern<sup>60</sup> of \$50,000 or more. The bill also specifies requirements for updates to the disclosure during the gift, grant, or contract. Within one year

<sup>56</sup> Section 288.8175(1), F.S.

<sup>57</sup> Section 288.8175(4)(e), F.S.

<sup>58</sup> CONFUCIUS Act, S. 590, 117th Cong. (2021).

<sup>59</sup> Disclosure is not required if such gift or grant is disclosed under s. 1010.25, F.S., established in the bill.

<sup>60</sup> “Foreign country of concern” is defined in the bill to mean the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian Arab Republic, including any agency of or any other entity under significant control of such foreign country of concern.

before applying for any grant or proposing any contract, such entity must provide a copy of such disclosure to DFS.

The bill exempts from the disclosure requirements a proposal to sell commodities or services through the online procurement program established by law.<sup>61</sup> In addition, the bill requires, at least once every five years, the Department of Management Services (DMS) to screen each vendor of commodities or services participating in the online procurement system if the vendor has the capacity to fill an order of \$100,000 or more. Screening must be conducted through federal agencies responsible for identifying persons and organizations subject to trade sanctions, embargoes, or other restrictions under federal law.

If a vendor is so identified, the vendor must make the required disclosures until such restriction expires. A notification regarding the applicability of the disclosure requirement to the vendor must be included on the online procurement system when applicable. DMS must ensure that the disclosures made by vendors using the online procurement system are easily accessible by the system's participants.

The bill requires DFS to establish and maintain a website to publish the disclosures. DFS must include and maintain an active and current list of ineligible entities on the website, and must investigate an allegation of a disclosure violation upon receiving a valid referral from an inspector general or other compliance officer of a state agency or political subdivision or any sworn complaint. The bill also:

- Authorizes DFS, an inspector general, or any other agent or compliance officer authorized by a state agency or political subdivision to request records relevant to any reasonable suspicion of a violation. Records must be provided within 30 days or at a later agreed upon time.
- Specifies that failures to disclose or provide records constitutes a civil violation and fine of \$5,000 for a first violation or \$10,000 for any subsequent violation.

The bill specifies, in addition to any fine assessed, a final order determining a third or subsequent violation:

- By a state agency or political subdivision must include a determination of the identity of the officer responsible for acceptance of the undisclosed grant or gift. DFS must send the order to the Governor or other authorized officer able to suspend or remove a public officer. The referral must also be provided to the President of the Senate and the Speaker of the House of Representatives for oversight of such suspension and removal authority.
- By an entity other than a state agency or political subdivision must automatically disqualify the entity from eligibility for any grant or contract funded by a state agency or any political subdivision until such ineligibility is lifted by the Administration Commission for good cause.

The bill specifies that information and records relating to a gift or grant from a foreign source are not confidential or exempt.<sup>62</sup>

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<sup>61</sup> See s. 287.057(22), F.S.

<sup>62</sup> As defined in s. 119.07(1), F.S., and Art. 1, s. 24(a), Fla. Const.

The bill authorizes DMS and DFS to adopt rules necessary to carry out their responsibilities as specified. Specifically:

- DMS may identify the federal agencies to be consulted as specified and the procedure for notifying a vendor of the disclosure requirements when applicable.
- DMS may adopt rules to apply requirements as specified to the online procurement system.
- Any rules necessary for implementation must be published by December 1, 2021, subject to certain exceptions.

### **Reporting, Inspection, and Penalties for Foreign Gifts**

The bill requires each institution of higher education (IHE)<sup>63</sup> to semiannually report, each January 31 and July 31, any gift received directly or indirectly from a foreign source with a value of \$50,000 or more during the fiscal year. If a foreign source provides more than one gift directly or indirectly to an IHE in a single fiscal year and the total value of those gifts is \$50,000 or more, all gifts received from that foreign source must be reported. A gift received from a foreign source through an intermediary is considered an indirect gift to the IHE.

The bill requires a report required under this subsection to be made to the following entities:

- The Board of Governors (BOG), if the recipient is a state university, a branch campus, center, institute, or special program as specified in law<sup>64</sup> that has its own governing board or DSO.
- The State Board of Education (SBE), if the recipient is a Florida College System institution, or any Florida independent college or university required to report, or any affiliated DSO.

Specifically, the bill requires, for each gift subject to the reporting requirement, the IHE to provide to the BOG or SBE, as applicable, all of the following information, unless otherwise prohibited or deemed confidential under federal or state law:

- The amount of the gift and the date it was received.
- The contract start and end dates if the gift is a contract.
- The name of the foreign source and, if not a foreign government, the country of citizenship, if known, and the principal residence or domicile of the foreign source.
- A copy of a gift agreement between the foreign source and the IHE, signed by the foreign source and the chief administrative officer of the IHE, which must include the purpose, terms, and conditions of the gift.

Beginning July 1, 2022, the bill requires the Inspector General of the BOG or the Inspector General of the Department of Education (DOE), as applicable, to randomly inspect or audit at least 10 percent of the total number of gifts or gift agreements received from IHEs during the previous year. The inspection or audit must examine the extent to which the IHE exercised due diligence with respect to whether the gift was received from a foreign source, as well as the

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<sup>63</sup> The bill defines “Institution of higher education” as a state university; an entity listed in law that has its own governing board; a Florida College System institution; an independent nonprofit college or university that is located in and chartered by the state and grants baccalaureate or higher degrees; any other institution that has a physical presence in the state and is required to report foreign gifts or contracts pursuant to 20 U.S.C. s. 1011(f); or an affiliate organization of an institution of higher education.

<sup>64</sup> See ss. 1004.33-1004.64991, F.S.

IHE's compliance with the reporting requirements. However, upon the request of the Governor, the President of the Senate, or the Speaker of the House of Representatives, the Inspector General of the BOG or the Inspector General of the DOE, as applicable, must inspect or audit a gift or gift agreement.

The bill requires the BOG or SBE, as applicable, to exercise the oversight and enforcement authority provided in law<sup>65</sup> to sanction an IHE that fails to report a reportable gift within 60 days after the reporting deadlines established as specified.

The bill subjects an IHE that knowingly, willfully, or negligently fails to disclose the information to a civil penalty of 105 percent of the amount of the undisclosed gift, payable only from nonstate funds of the IHE or the affiliate organization that received such gift. The bill authorizes the BOG and SBE, as applicable, to administratively enforce and impose the civil penalty. In the absence of enforcement by the BOG or SBE, as applicable, the bill authorizes the Attorney General or Chief Financial Officer to bring a civil action to enforce as specified.

The bill specifies that information and records relating to a gift from a foreign source are not confidential or exempt.<sup>66</sup>

The bill authorizes the BOG to adopt regulations and the SBE to adopt appropriate rules.

### **Applicant Screening and Research Integrity of Foreign Researchers**

The bill requires, beginning July 1, 2021, each state university or entity listed as specified in law<sup>67</sup> that receives state appropriations or state tax revenue and has a research budget of \$10 million or more to screen applicants for research or research-related support positions who are citizens of a foreign country and who are not permanent residents of the United States, including graduate and undergraduate students.

The bill requires, in addition to satisfying all federal employment and enrollment qualifications, the BOG or the governing board of the applicable entity to require a foreign applicant to submit a complete copy of his or her most recently submitted Nonimmigrant Visa Application, DS-160; a complete resume and curriculum vitae, including every institution of higher education attended; all previous employment since the applicant's 18th birthday; and a list of all published material for which the applicant received credit as an author, a researcher, or otherwise, or to which the applicant contributed significant research, writing, or editorial support. For applicants who have been continually employed or enrolled in a postsecondary education institution in the United States for 20 years or more, the resume may, but need not, include employment history before the most recent 20 years.

The bill requires the president or chief administrative officer of the state university or applicable entity to designate a research integrity office to verify all attendance, employment, publications, and contributions listed in the application required as specified. The research integrity office must search public databases for any omissions from the application. The research integrity

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<sup>65</sup> Section 1008.322 or 1008.32, F.S., respectively,

<sup>66</sup> As defined in s. 119.07(1), F.S., and Art. 1, s. 24(a), Fla. Const.

<sup>67</sup> See ss. 1004.33-1004.64991, F.S.

office must submit the applicant's name and other identifying information to the Federal Bureau of Investigation (FBI) or any federal agency willing to scrutinize such applicant for national security or counterespionage purposes and search any public listings of persons subject to sanctions or restrictions under federal law.

The bill requires the screening be completed before employing an applicant in any research or research-related support position, or granting an applicant any access to sensitive data. An applicant who fails to disclose substantial information may not be employed in any research or research-related support position, unless the department head, or his or designee, certifies in writing the substance of the nondisclosure and the reasons for disregarding such failure to disclose. A copy of such certification must be kept in the investigative file of the research integrity office and must be submitted to the nearest FBI field office.

In addition, the bill requires the research integrity office to report to the nearest FBI office, and to any law enforcement agency designated by the Governor or the BOG and the governing board of the applicable entity described, the identity of any applicant who was rejected for employment based on the scrutiny required or other security-related screening.

The bill requires, by July 1, 2025, the Inspector General of the BOG, the inspector general of an entity described, or the Auditor General to perform an operational audit regarding such implementation of screening requirements.

### **Approval Processes for International Travel**

The bill requires, by January 1, 2022, each state university or associated entity listed in specified law<sup>68</sup> that receives state appropriations or state tax revenue and has a research budget of \$10 million or more to establish an international travel approval and monitoring program. The program must require preapproval and screening by the research integrity office for any foreign travel and foreign employment-related activities engaged in by all faculty, researchers, and research department staff.

The bill specifies that preapproval by the research integrity office must be based on the applicant's review and acknowledgement of guidance published by the employing state university or entity which relates to countries under sanctions or other restrictions of the state or the U.S. government, and preapproval must be based on the binding commitment of the individual traveler not to violate the state university's or entity's limitations on travel and activities abroad and to obey all applicable federal laws.

The bill requires the state university or entity to keep detailed records of expenses and activities related to the individual traveler's professional, research, and academic activities undertaken during foreign travel. Such records must be retained for at least 10 years or any longer period of time required by any other applicable state or federal law.

The bill requires the state university or entity to provide an annual report of foreign travel and activities listing individual travelers, foreign locations visited, and foreign institutions visited for

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<sup>68</sup> See ss. 1004.33-1004.64991, F.S.

presentations, teaching, or research to the BOG or the governing board of the applicable entity and publish such report on its website.

In addition, the bill requires, unless an operational audit has been previously submitted by the institution's inspector general or internal auditor, by January 1, 2022, the Auditor General to perform an audit of the institution to ensure compliance as specified as part of the institution's next scheduled operational audit.

### **International Cultural Agreements**

The bill specifies that a state agency, political subdivision, public school, state college, or state university authorized to expend state-appropriated funds or levy ad valorem taxes may not participate in any agreement with or accept any grant from a foreign country of concern, or any entity controlled by a foreign country of concern, which establishes a program or other endeavor to promote the language or culture of a foreign country of concern, or accept anything of value conditioned upon participation in a program or other endeavor to promote the language or culture of a foreign country of concern.

The fiscal impact of this bill is indeterminate.

The bill takes effect July 1, 2021.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Compliance with gift reporting, applicant screening, and approval travel as specified may result in indeterminate costs to institutions required to arrange or conduct these activities. Implementing travel review and approval processes and eliminating existing cultural agreements with countries of concern may reduce business and academic exchange between Florida and such countries. Given that the annual cost to the U.S. economy of counterfeit goods, pirated software, and theft of trade secrets is between \$225 billion and \$600 billion, however, enhanced integrity and security of Florida's research environment should offset any reduction in foreign donations or contracts the bill may cause.<sup>69</sup>

**C. Government Sector Impact:**

In addition, requirements to disclose to the Department of Financial Services any gifts or grants of \$50,000 or more from any foreign source may remove confidentiality of donors, with the potential to discourage some foreign donations or grants if anonymity or secrecy is important to the donor.<sup>70</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 286.101, 288.860, 1010.25, 1010.35, and 1010.36.

**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.

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<sup>69</sup> Florida House of Representatives, *Staff Analysis of HB 7017 (2021)*, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h7017a.EEC.DOCX&DocumentType=Analysis&BillNumber=7017&Session=2021>, at 7.

<sup>70</sup> *Id.*



By Senator Diaz

36-01358-21

20212010\_\_

1 A bill to be entitled  
 2 An act relating to foreign influence; creating s.  
 3 286.101, F.S.; providing definitions; requiring any  
 4 state agency or political subdivision to disclose  
 5 certain gifts or grants received from any foreign  
 6 source to the Department of Financial Services within  
 7 a specified timeframe; providing an exception;  
 8 requiring any entity that applies for a certain grant  
 9 or proposes a certain contract to disclose to a state  
 10 agency or political subdivision any current or prior  
 11 interest of, contract with, or grant or gift received  
 12 from a foreign country of concern under certain  
 13 circumstances; requiring such entity to provide a copy  
 14 of such disclosure to the department within a  
 15 specified timeframe before applying for any grant or  
 16 proposing any contract; requiring such entity to  
 17 revise its disclosure within a specified timeframe  
 18 under certain circumstances; requiring the Department  
 19 of Management Services to screen certain vendors  
 20 periodically; requiring certain notification on the  
 21 online procurement system; requiring the Department of  
 22 Financial Services to establish and maintain an  
 23 Internet website to publish the disclosures;  
 24 authorizing the department to establish an online  
 25 system for making such disclosures; authorizing the  
 26 Department of Management Services to coordinate with  
 27 the Department of Financial Services to establish such  
 28 online system; requiring the Department of Financial  
 29 Services to investigate allegations of certain

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

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30 violations under certain circumstances; authorizing  
 31 the department or specified persons to request certain  
 32 records; providing for the assessment of fines and  
 33 penalties under certain circumstances; requiring the  
 34 department to include and maintain a list of  
 35 ineligible entities on a certain Internet website;  
 36 providing that information and records relating to a  
 37 gift or grant from a foreign source are not  
 38 confidential or exempt from public records  
 39 requirements; authorizing rulemaking; creating s.  
 40 288.860, F.S.; providing definitions; prohibiting  
 41 certain agencies and entities from participating in  
 42 agreements with or accepting grants received from  
 43 foreign countries of concern under certain  
 44 circumstances; prohibiting such agencies and entities  
 45 from accepting anything of value as a condition for  
 46 participation in certain programs or endeavors that  
 47 promote the language or culture of foreign countries  
 48 of concern; creating s. 1010.25, F.S.; providing  
 49 definitions; requiring institutions of higher  
 50 education to semiannually report to certain entities  
 51 regarding certain gifts they received directly or  
 52 indirectly from a foreign source; requiring such  
 53 institutions to provide certain information regarding  
 54 such gifts; requiring random inspections or audits of  
 55 gifts or gift agreements by certain inspectors  
 56 general; providing requirements for such inspections  
 57 or audits; requiring the Board of Governors or State  
 58 Board of Education, as applicable, to sanction

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59 institutions that fail to report certain gifts within  
 60 a specified timeframe; providing for a civil penalty  
 61 for willful violations; requiring that the proceeds  
 62 from such penalty be deposited in a specified trust  
 63 fund; authorizing the Attorney General or Chief  
 64 Financial Officer to bring a civil action under  
 65 certain circumstances; providing for attorney fees and  
 66 costs; providing that information and records relating  
 67 to a gift from a foreign source are not confidential  
 68 or exempt from public records requirements;  
 69 authorizing the Board of Governors and State Board of  
 70 Education to adopt regulations and rules,  
 71 respectively; creating s. 1010.35, F.S.; requiring  
 72 certain state universities and other entities to  
 73 screen certain foreign applicants before employing  
 74 such applicants for research or research-related  
 75 support positions; requiring such applicants to  
 76 provide additional specified information as part of  
 77 the application process; requiring the president or  
 78 chief administrative officer of the state university  
 79 or entity to designate a research integrity office to  
 80 verify certain information contained in such  
 81 applications, search certain public databases, and  
 82 submit certain information to specified federal  
 83 agencies; prohibiting the employment of an applicant  
 84 who fails to make certain disclosures; providing an  
 85 exception; requiring certain records to be maintained  
 86 by the research integrity office; requiring such  
 87 office to report the identity of any applicant who was

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88 rejected for employment to certain law enforcement  
 89 agencies; requiring certain inspectors general or the  
 90 Auditor General to perform an operational audit by a  
 91 specified date; creating s. 1010.36, F.S.; requiring  
 92 certain state universities and other entities to  
 93 establish an international travel approval and  
 94 monitoring program; providing requirements for such  
 95 program; providing requirements for preapproval and  
 96 screening for foreign travel and foreign employment-  
 97 related activities engaged in by faculty, researchers,  
 98 and research department staff; requiring state  
 99 universities and entities to maintain certain records  
 100 relating to foreign travel and activities for at least  
 101 10 years; requiring a state university or entity to  
 102 provide a certain annual report to the Board of  
 103 Governors or the governing board of the applicable  
 104 entity and publish such report on its Internet  
 105 website; requiring the Auditor General to perform, by  
 106 a specified date, an audit of the institution to  
 107 ensure compliance as part of the institution's next  
 108 scheduled operational audit; providing an effective  
 109 date.

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

112  
 113 Section 1. Section 286.101, Florida Statutes, is created to  
 114 read:

115 286.101 Foreign gifts and contracts.-  
 116 (1) As used in this section, the term:

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117 (a) "Contract" means any agreement for the direct benefit  
 118 or use of any party to such agreement, including an agreement  
 119 for the sale of commodities or services.

120 (b) "Foreign country of concern" means the People's  
 121 Republic of China, the Russian Federation, the Islamic Republic  
 122 of Iran, the Democratic People's Republic of Korea, the Republic  
 123 of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian  
 124 Arab Republic, including any agency of or any other entity under  
 125 significant control of such foreign country of concern.

126 (c) "Foreign government" means the government of any  
 127 country, nation, or group of nations, or any province or other  
 128 political subdivision of any country or nation, other than the  
 129 government of the United States or the government of a state or  
 130 political subdivision, including any agent of such foreign  
 131 government.

132 (d) "Foreign source" means any of the following:

133 1. A foreign government or an agency of a foreign  
 134 government.

135 2. A legal entity, governmental or otherwise, created  
 136 solely under the laws of a foreign state or states.

137 3. An individual who is not a citizen or a national of the  
 138 United States or a territory or protectorate of the United  
 139 States.

140 4. An agent, including a subsidiary or an affiliate of a  
 141 foreign legal entity, acting on behalf of a foreign source.

142 (e) "Gift" means any gift of money or property.

143 (f) "Grant" means a transfer of money for a specified  
 144 purpose, including a conditional gift.

145 (g) "Interest" in an entity means any direct or indirect

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146 investment in or loan to the entity valued at 5 percent or more  
 147 of the entity's net worth or any form of direct or indirect  
 148 control exerting similar or greater influence on the governance  
 149 of the entity.

150 (h) "State agency" means any agency or unit of state  
 151 government created or established by law.

152 (2) Any state agency or political subdivision that receives  
 153 any gift or grant with a value of \$50,000 or more from any  
 154 foreign source shall disclose such gift or grant to the  
 155 Department of Financial Services within 30 days after receiving  
 156 such gift or grant. Disclosure is not required if such gift or  
 157 grant is disclosed under s. 1010.25.

158 (3) (a) Any entity, other than a state agency or political  
 159 subdivision, that applies to a state agency or political  
 160 subdivision for a grant or proposes a contract having a value of  
 161 \$100,000 or more, except for a proposal to sell commodities or  
 162 services through the online procurement program established  
 163 pursuant to s. 287.057(22), shall disclose to the state agency  
 164 or political subdivision any current or prior interest of, any  
 165 contract with, or any grant or gift received from a foreign  
 166 country of concern if such interest, contract, or grant or gift  
 167 has a value of \$50,000 or more and such interest existed at any  
 168 time or such contract or grant or gift was received or in force  
 169 at any time during the previous 5 years. Within 1 year before  
 170 applying for any grant or proposing any contract, such entity  
 171 must provide a copy of such disclosure to the Department of  
 172 Financial Services.

173 (b) From the time a disclosure is made under paragraph (a)  
 174 through the term of any awarded state grant or contract, the

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175 entity must revise its disclosure within 30 days after entering  
 176 into a contract with or receiving a grant or gift from a foreign  
 177 country of concern or within 30 days after the acquisition of  
 178 any interest in the entity by a foreign country of concern.

179 (4) At least once every 5 years, the Department of  
 180 Management Services shall screen each vendor of commodities or  
 181 services participating in the online procurement system if such  
 182 vendor has the capacity to fill an order of \$100,000 or more.  
 183 Screening must be conducted through federal agencies responsible  
 184 for identifying persons and organizations subject to trade  
 185 sanctions, embargoes, or other restrictions under federal law.  
 186 If a vendor is identified as being subject to any such  
 187 sanctions, embargoes, or other restrictions, the vendor must  
 188 make the disclosures required under subsection (3) until such  
 189 restriction expires. A notification regarding the applicability  
 190 of the disclosure requirement in subsection (3) to the vendor  
 191 must be included on the online procurement system when  
 192 applicable. The Department of Management Services must ensure  
 193 that the disclosures made by vendors using the online  
 194 procurement system are easily accessible by the system's  
 195 participants.

196 (5) The Department of Financial Services must establish and  
 197 maintain an Internet website to publish the disclosures required  
 198 under this section. The Department of Financial Services may  
 199 establish an online system for making such disclosures. The  
 200 Department of Management Services may coordinate with the  
 201 Department of Financial Services to establish the online system.

202 (6) (a) Upon receiving a referral from an inspector general  
 203 or other compliance officer of a state agency or political

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204 subdivision or any sworn complaint based upon substantive  
 205 information and reasonable belief, the Department of Financial  
 206 Services must investigate an allegation of a violation of this  
 207 section.

208 (b) The Department of Financial Services, an inspector  
 209 general, or any other agent or compliance officer authorized by  
 210 a state agency or political subdivision may request records  
 211 relevant to any reasonable suspicion of a violation of this  
 212 section. Such entity must provide the required records within 30  
 213 days after such request or at a later time agreed to by the  
 214 investigating state agency or political subdivision.

215 (7) (a) Failure to make a disclosure required under this  
 216 section or failure to provide records requested under paragraph  
 217 (6) (b) constitutes a civil violation punishable upon a final  
 218 order of the Department of Financial Services by an  
 219 administrative fine of \$5,000 for a first violation or \$10,000  
 220 for any subsequent violation.

221 (b) In addition to any fine assessed under paragraph (a), a  
 222 final order determining a third or subsequent violation by a  
 223 state agency or political subdivision must include a  
 224 determination of the identity of the officer responsible for  
 225 acceptance of the undisclosed grant or gift. Such order must  
 226 also include a referral by the Department of Financial Services  
 227 to the Governor or other officer authorized to suspend or remove  
 228 the officer responsible for acceptance of the undisclosed grant  
 229 or gift from public office. A copy of such referral must be  
 230 provided to the President of the Senate and the Speaker of the  
 231 House of Representatives for oversight of such suspension and  
 232 removal authority.

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233 (c) In addition to any fine assessed under paragraph (a), a  
 234 final order determining a third or subsequent violation by an  
 235 entity other than a state agency or political subdivision shall  
 236 automatically disqualify the entity from eligibility for any  
 237 grant or contract funded by a state agency or any political  
 238 subdivision until such ineligibility is lifted by the  
 239 Administration Commission for good cause. The Department of  
 240 Financial Services shall include and maintain an active and  
 241 current list of such ineligible entities on the Internet website  
 242 maintained under subsection (5).

243 (8) Notwithstanding any other law to the contrary,  
 244 information and records relating to a gift or grant from a  
 245 foreign source are not confidential or exempt from s. 119.07(1)  
 246 and s. 24(a), Art. I of the State Constitution.

247 (9) (a) The Department of Management Services may adopt  
 248 rules necessary to carry out its responsibilities under this  
 249 section. The rules may identify the federal agencies to be  
 250 consulted under subsection (4) and the procedure for notifying a  
 251 vendor of the disclosure requirements under this section when  
 252 applicable. The Department of Management Services may also adopt  
 253 rules providing for the application of this section to the  
 254 online procurement system.

255 (b) The Department of Financial Services may adopt rules  
 256 necessary to carry out its responsibilities under this section.

257 (c) Any rules necessary to implement this section must be  
 258 published by December 1, 2021, unless the applicable department  
 259 head certifies in writing that a delay is necessary and the date  
 260 by which the proposed rules will be published. Such  
 261 certification must be published in the Florida Administrative

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262 Register and a copy provided to the Joint Administrative  
 263 Procedures Committee.

264 Section 2. Section 288.860, Florida Statutes, is created to  
 265 read:

266 288.860 International cultural agreements.—  
 267 (1) As used in this section, the term:

268 (a) "Foreign country of concern" means the People's  
 269 Republic of China, the Russian Federation, the Islamic Republic  
 270 of Iran, the Democratic People's Republic of Korea, the Republic  
 271 of Cuba, the Venezuelan regime of Nicolas Maduro, or the Syrian  
 272 Arab Republic, including any agency of or any other entity under  
 273 significant control of such foreign country of concern.

274 (b) "Political subdivision" means any entity under the  
 275 control of or established for the benefit of a political  
 276 subdivision.

277 (c) "Public school" means any education institution under  
 278 the supervision of a school district.

279 (d) "State agency" means any agency or unit of state  
 280 government created or established by law.

281 (e) "State college" means any postsecondary education  
 282 institution under the supervision of the State Board of  
 283 Education, including any entity under the control of or  
 284 established for the benefit of a state college.

285 (f) "State university" means any state university under the  
 286 supervision of the Board of Governors, including any entity  
 287 under the control of or established for the benefit of a state  
 288 university.

289 (2) A state agency, political subdivision, public school,  
 290 state college, or state university authorized to expend state-

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291 appropriated funds or levy ad valorem taxes may not participate  
 292 in any agreement with or accept any grant from a foreign country  
 293 of concern, or any entity controlled by a foreign country of  
 294 concern, which establishes a program or other endeavor to  
 295 promote the language or culture of a foreign country of concern.

296 (3) A state agency, political subdivision, public school,  
 297 state college, or state university may not accept anything of  
 298 value conditioned upon participation in a program or other  
 299 endeavor to promote the language or culture of a foreign country  
 300 of concern.

301 Section 3. Section 1010.25, Florida Statutes, is created to  
 302 read:

303 1010.25 Foreign gift reporting.-

304 (1) As used in this section, the term:

305 (a) "Affiliate organization" means any entity under the  
 306 control of or established for the benefit of an organization  
 307 required to report under this section, including a direct-  
 308 support organization.

309 (b) "Direct-support organization" has the same meaning as  
 310 provided in ss. 1004.28(1)(a), 1004.70(1)(a), and 1004.71(1)(a).

311 (c) "Foreign government" means the government of any  
 312 country, nation, or group of nations, or any province or other  
 313 political subdivision of any country or nation, other than the  
 314 government of the United States or the government of a state or  
 315 political subdivision, including any agent of such foreign  
 316 government.

317 (d) "Foreign source" means any of the following:

318 1. A foreign government or an agency of a foreign  
 319 government.

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320 2. A legal entity, governmental or otherwise, created  
 321 solely under the laws of a foreign state or states.

322 3. An individual who is not a citizen or a national of the  
 323 United States or a territory or protectorate of the United  
 324 States.

325 4. An agent, including a subsidiary or an affiliate of a  
 326 foreign legal entity, acting on behalf of a foreign source.

327 (e) "Gift" means any contract, gift, grant, endowment,  
 328 award, or donation of money or property of any kind, or any  
 329 combination thereof, including a conditional or an unconditional  
 330 pledge of such contract, gift, grant, endowment, award, or  
 331 donation. For purposes of this paragraph, the term "pledge"  
 332 means a promise, an agreement, or an expressed intention to give  
 333 a gift.

334 (f) "Institution of higher education" means a state  
 335 university; an entity listed in subpart B of part II of chapter  
 336 1004 that has its own governing board; a Florida College System  
 337 institution; an independent nonprofit college or university that  
 338 is located in and chartered by the state and grants  
 339 baccalaureate or higher degrees; any other institution that has  
 340 a physical presence in the state and is required to report  
 341 foreign gifts or contracts pursuant to 20 U.S.C. s. 1011f; or an  
 342 affiliate organization of an institution of higher education.

343 (2) Each institution of higher education must semiannually  
 344 report, each January 31 and July 31, any gift received directly  
 345 or indirectly from a foreign source with a value of \$50,000 or  
 346 more during the fiscal year. If a foreign source provides more  
 347 than one gift directly or indirectly to an institution of higher  
 348 education in a single fiscal year and the total value of those

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 349 gifts is \$50,000 or more, all gifts received from that foreign  
 350 source must be reported. For purposes of this subsection, a gift  
 351 received from a foreign source through an intermediary shall be  
 352 considered an indirect gift to the institution of higher  
 353 education. A report required under this subsection must be made  
 354 to the following entities:

355 (a) The Board of Governors, if the recipient is a state  
 356 university, an entity listed in subpart B of part II of chapter  
 357 1004 that has its own governing board, or an affiliate  
 358 organization.

359 (b) The State Board of Education, if the recipient is any  
 360 other institution of higher education or an affiliate  
 361 organization.

362 (3) For each gift subject to the reporting requirement in  
 363 subsection (2), the institution of higher education must provide  
 364 the applicable entity all of the following information, unless  
 365 otherwise prohibited or deemed confidential under federal or  
 366 state law:

367 (a) The amount of the gift and the date it was received.

368 (b) The contract start and end date if the gift is a  
 369 contract.

370 (c) The name of the foreign source and, if not a foreign  
 371 government, the country of citizenship, if known, and the  
 372 principal residence or domicile of the foreign source.

373 (d)1. A copy of a gift agreement between the foreign source  
 374 and the institution of higher education, signed by the foreign  
 375 source and the chief administrative officer of the institution  
 376 of higher education, or their respective designees, which must  
 377 include a detailed description of the purpose for which the gift

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 378 will be used by the institution of higher education, the  
 379 identification of the persons for whom the gift is explicitly  
 380 intended to benefit, and any applicable conditions,  
 381 requirements, restrictions, or terms made a part of the gift  
 382 regarding the control of curricula, faculty, student admissions,  
 383 student fees, or contingencies placed upon the institution of  
 384 higher education to take a specific public position or to award  
 385 an honorary degree.

386 2. Beginning July 1, 2022, the Inspector General of the  
 387 Board of Governors or the Inspector General of the Department of  
 388 Education, as applicable, shall, within existing resources,  
 389 randomly inspect or audit at least 10 percent of the total  
 390 number of gifts or gift agreements received from institutions of  
 391 higher education pursuant to this paragraph during the previous  
 392 year. The inspection or audit shall examine the extent to which  
 393 the institution of higher education exercised due diligence with  
 394 respect to whether the gift was received from a foreign source,  
 395 as well as the institution of higher education's compliance with  
 396 the requirements of this section.

397 3. Upon the request of the Governor, the President of the  
 398 Senate, or the Speaker of the House of Representatives, the  
 399 Inspector General of the Board of Governors or the Inspector  
 400 General of the Department of Education, as applicable, must  
 401 inspect or audit a gift or gift agreement.

402 (4) The Board of Governors or the State Board of Education,  
 403 as applicable, shall exercise the authority provided pursuant to  
 404 s. 1008.322 or s. 1008.32, respectively, to sanction an  
 405 institution of higher education that fails to report a  
 406 reportable gift within 60 days after the reporting deadlines

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407 established in subsection (2).

408 (5) (a) An institution of higher education that knowingly,  
 409 willfully, or negligently fails to disclose the information  
 410 required by this section shall be subject to a civil penalty of  
 411 105 percent of the amount of the undisclosed gift, payable only  
 412 from nonstate funds of the institution of higher education or  
 413 the affiliate organization that received such gift. The  
 414 recovered funds must be deposited into the General Revenue Fund.  
 415 The Board of Governors and the State Board of Education, as  
 416 applicable, may administratively enforce this section and impose  
 417 the civil penalty as an administrative penalty.

418 (b) In the absence of enforcement by the Board of Governors  
 419 or the State Board of Education, as applicable, the Attorney  
 420 General or Chief Financial Officer may bring a civil action to  
 421 enforce this section. If such action is successful, the Attorney  
 422 General or Chief Financial Officer, as applicable, is entitled  
 423 to reasonable attorney fees and costs.

424 (6) Notwithstanding any other law to the contrary,  
 425 information and records relating to a gift from a foreign source  
 426 are not confidential or exempt from s. 119.07(1) and s. 24(a),  
 427 Art. I of the State Constitution.

428 (7) The Board of Governors may adopt regulations, and the  
 429 State Board of Education may adopt rules, to implement this  
 430 section.

431 Section 4. Section 1010.35, Florida Statutes, is created to  
 432 read:

433 1010.35 Screening foreign researchers.—

434 (1) Beginning July 1, 2021, each state university or entity  
 435 listed in subpart B of part II of chapter 1004 that receives

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436 state appropriations or state tax revenue and has a research  
 437 budget of \$10 million or more must screen applicants for  
 438 research or research-related support positions who are citizens  
 439 of a foreign country and who are not permanent residents of the  
 440 United States, including graduate and undergraduate students.

441 (2) In addition to satisfying all employment and enrollment  
 442 qualifications imposed by federal law, the Board of Governors or  
 443 the governing board of the applicable entity must require a  
 444 foreign applicant as described in subsection (1) to submit a  
 445 complete copy of his or her most recently submitted Nonimmigrant  
 446 Visa Application, DS-160; a complete resume and curriculum  
 447 vitae, including every institution of higher education attended;  
 448 all previous employment since the applicant's 18th birthday; and  
 449 a list of all published material for which the applicant  
 450 received credit as an author, a researcher, or otherwise or to  
 451 which the applicant contributed significant research, writing,  
 452 or editorial support. For applicants who have been continually  
 453 employed or enrolled in a postsecondary education institution in  
 454 the United States for 20 years or more, the resume may, but need  
 455 not, include employment history before the most recent 20 years.

456 (3) The president or chief administrative officer of the  
 457 state university or applicable entity shall designate a research  
 458 integrity office to verify all attendance, employment,  
 459 publications, and contributions listed in the application  
 460 required in subsection (2). The research integrity office must  
 461 search public databases for research publications and  
 462 presentations and public conflict of interest records to  
 463 identify any research publication or presentation that may have  
 464 been omitted from the application. The research integrity office



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465 must submit the applicant's name and other identifying  
 466 information to the Federal Bureau of Investigation or any  
 467 federal agency willing to scrutinize such applicant for national  
 468 security or counterespionage purposes and search any public  
 469 listings of persons subject to sanctions or restrictions under  
 470 federal law.

471 (4) The requirements of this section must be completed  
 472 before employing an applicant described in subsection (1) in any  
 473 research or research-related support position and before  
 474 granting such applicant any access to research data or  
 475 activities or other sensitive data. An applicant may not be  
 476 employed in any research or research-related support position if  
 477 he or she fails to disclose a substantial educational,  
 478 employment, or research-related activity or publication or  
 479 presentation at the time of submitting the application required  
 480 in subsection (2), unless the department head, or his or  
 481 designee, certifies in writing the substance of the  
 482 nondisclosure and the reasons for disregarding such failure to  
 483 disclose. A copy of such certification must be kept in the  
 484 investigative file of the research integrity office and must be  
 485 submitted to the nearest Federal Bureau of Investigation field  
 486 office.

487 (5) The research integrity office must report to the  
 488 nearest Federal Bureau of Investigation field office, and to any  
 489 law enforcement agency designated by the Governor or the Board  
 490 of Governors and the governing board of the applicable entity  
 491 described in subsection (1), the identity of any applicant who  
 492 was rejected for employment based on the scrutiny required by  
 493 this section or other security-related screening.

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494 (6) By July 1, 2025, the Inspector General of the Board of  
 495 Governors, the inspector general of an entity described in  
 496 subsection (1), or the Auditor General must perform an  
 497 operational audit regarding the implementation of this section.

498 Section 5. Section 1010.36, Florida Statutes, is created to  
 499 read:

500 1010.36 Foreign travel; research institutions.—

501 (1) By January 1, 2022, each state university or entity  
 502 listed in subpart B of part II of chapter 1004 that receives  
 503 state appropriations or state tax revenue and has a research  
 504 budget of \$10 million or more must establish an international  
 505 travel approval and monitoring program. The program must require  
 506 preapproval and screening by a research integrity office  
 507 designated by the president or chief administrative officer of  
 508 the state university or entity for any foreign travel and  
 509 foreign employment-related activities engaged in by all faculty,  
 510 researchers, and research department staff. Such requirement is  
 511 in addition to any other travel approval process applicable to  
 512 the state university or entity.

513 (2) (a) Preapproval by the research integrity office must be  
 514 based on the applicant's review and acknowledgement of guidance  
 515 published by the employing state university or entity which  
 516 relates to countries under sanctions or other restrictions of  
 517 the state or the United States government, including any federal  
 518 license requirement; customs rules; export controls;  
 519 restrictions on taking state university or entity property,  
 520 including intellectual property, abroad; restrictions on  
 521 presentations, teaching, and interactions with foreign  
 522 colleagues; and other subjects important to the research and

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523 academic integrity of the state university or entity.

524 (b) Preapproval must be based on the binding commitment of  
525 the individual traveler not to violate the state university's or  
526 entity's limitations on travel and activities abroad and to obey  
527 all applicable federal laws.

528 (3) The state university or entity must maintain records of  
529 all applications for foreign travel and activities; expenses  
530 incurred during such travel and activities, including for  
531 travel, food, and lodging; and payments and honoraria received  
532 during such travel and activities, including for travel, food,  
533 and lodging. The state university or entity must also keep  
534 records of all teaching, presentations, and other activities  
535 related to the individual traveler's professional, research, and  
536 academic activities undertaken during foreign travel. Such  
537 records must be retained for at least 10 years or any longer  
538 period of time required by any other applicable state or federal  
539 law.

540 (4) The state university or entity must provide an annual  
541 report of foreign travel and activities listing individual  
542 travelers, foreign locations visited, and foreign institutions  
543 visited for presentations, teaching, or research to the Board of  
544 Governors or the governing board of the applicable entity and  
545 publish such report on its Internet website.

546 (5) Unless an operational audit has been previously  
547 submitted by the institution's inspector general or internal  
548 auditor, by January 1, 2022, the Auditor General must perform an  
549 audit of the institution to ensure compliance with this section  
550 as part of the institution's next scheduled operational audit.

551 Section 6. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 2012

INTRODUCER: Senator Stargel

SUBJECT: Promoting Equality of Athletic Opportunity

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	<b>Pre-meeting</b>
2.			HP	
3.			RC	

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**I. Summary:**

SB 2012 establishes the Promoting Equality of Athletic Opportunity Act, to provide opportunities for female athletes to demonstrate their strength, skills, athletic abilities, and realize the long-term benefits that result from participating and competing in athletic endeavors. Specifically, the bill:

- Requires interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by, or compete against, a public school or public postsecondary institution to be designated as male, female, or coed.
- Prohibits athletic teams designated for females, to be open to students of the male sex.
- Requires persons who transition from male to female to be eligible to compete in the female category if the student has declared a female gender identity to her school or institution and demonstrates a total testosterone level in serum below 10 nmol/L for at least 12 months before her first competition and throughout the period of desired eligibility.

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules to implement the provisions of the act.

The bill provides private causes of action for injunctive relief, damages, and any other relief available under law for students, schools, and public postsecondary institutions harmed by a violation of the Act's provisions. All such civil actions must be initiated within two years after the alleged harm occurred.

The impact of state revenues or expenditures is indeterminate. See Section V.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Athletic Programs

Middle and high school interscholastic athletic programs play a vital role in the education of students who participate in them.<sup>1</sup> Through their participation in interscholastic athletics, students are provided character-building opportunities to demonstrate honesty, integrity, respect, caring, cooperation, trustworthiness, leadership, tolerance and personal responsibility. These fundamental values enable participants to realize and fulfill their potential as students, as athletes, as individuals and as citizens.<sup>2</sup>

Athletics programs are widely accepted as integral parts of the college experience as well.<sup>3</sup> The benefits of athletics participation include many positive effects on physical, social, and emotional well-being. Playing sports can provide student-athletes with important lessons about self-discipline, teamwork, success, and failure, as well as the joy and shared excitement that being a member of a sports team can bring.<sup>4</sup>

### *Title IX and Sex Discrimination*

Title IX is a federal civil rights law passed as part of the Education Amendments of 1972.<sup>5</sup> This law protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance. Title IX states that:<sup>6</sup>

*“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”*

Athletic programs are considered educational programs and activities.<sup>7</sup> Title IX gives women athletes the right to equal opportunity in sports in educational institutions that receive federal funds, from elementary schools to colleges and universities. While there are few private elementary, middle school or high schools that receive federal funds, almost all colleges and universities, private and public, receive such funding.<sup>8</sup>

Title IX applies to approximately 16,500 local school districts, 7,000 postsecondary institutions, as well as charter schools, for-profit schools, libraries, and museums. Also included are

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<sup>1</sup> Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc. (2020-2021)* (2020), available at [https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021\\_handbook\\_website\\_1001.pdf](https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021_handbook_website_1001.pdf) at 6.

<sup>2</sup> *Id.*

<sup>3</sup> National Collegiate Athletic Association, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).

<sup>4</sup> *Id.*

<sup>5</sup> Harvard University, *What is Title IX*, <https://titleix.harvard.edu/what-title-ix> (last visited March 11, 2021).

<sup>6</sup> U.S. Department of Education, Title IX and Sex Discrimination, [https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html#:~:text=No%20person%20in%20the%20United%20States%20s hall,%20on,education%20program%20or%20activity%20receiving%20Federal%20financial%20assistance.](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html#:~:text=No%20person%20in%20the%20United%20States%20s hall,%20on,education%20program%20or%20activity%20receiving%20Federal%20financial%20assistance.) (last visited March 11, 2021).

<sup>7</sup> Women’s Sports Foundation, *What is Title IX*, <https://www.womenssportsfoundation.org/advocacy/what-is-title-ix/> (last visited March 11, 2021).

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

vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories and possessions of the United States.<sup>9</sup>

Title IX regulations require institutions that receive federal education funds to provide equal opportunities in athletics for both sexes.<sup>10</sup> Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes is considered when determining whether an institution has provided equal opportunities for both sexes.<sup>11</sup> With respect to scholarships, Title IX regulations require educational institutions that award athletic scholarships or grants-in-aid to provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.<sup>12</sup>

Title IX regulations also authorize educational institutions to sponsor separate athletics teams for members of each sex.<sup>13</sup>

According to the National Collegiate Athletic Association (NCAA), there are three areas where Title IX applies to athletics. Title IX:<sup>14</sup>

- Does not require institutions to offer identical sports but an equal opportunity to play.
- Requires that female and male student-athletes receive athletics scholarship dollars proportional to their participation; and
- Requires equal treatment of female and male athletes in the following: equipment and supplies; scheduling of games and practice times; travel and daily allowance and per diem; access to tutoring; coaching; locker rooms, practice and competitive facilities; medical and training facilities and services; housing and dining facilities and services; publicity and promotions; support services; and recruitment of student-athletes.<sup>15</sup>

### **Transgender Participation in Athletic Programs**

The number of students who identify as transgender<sup>16</sup> has steadily increased during the last decade. It is estimated that approximately 150,000 students 13 to 17 years of age identify as transgender in the United States.<sup>17</sup>

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<sup>9</sup> U.S. Department of Education, *Title IX and Sex Discrimination*, [https://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html) (last visited March 17, 2021).

<sup>10</sup> See U.S. Department of Education, Office of Civil Rights, *Athletics*, <https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue04.html> (last visited March 17, 2021).

<sup>11</sup> 34 C.F.R. s 106.41(c).

<sup>12</sup> 34 C.F.R. s 106.37(c).

<sup>13</sup> 34 C.F.R. s 106.41(c).

<sup>14</sup> NCAA, *Title IX Frequently Asked Questions*, <https://www.ncaa.org/about/resources/inclusion/title-ix-frequently-asked-questions#how> (last visited March 17, 2021).

<sup>15</sup> *Id.*

<sup>16</sup> Transathlete.com, *Trans Terminology*, <https://www.transathlete.com/starthere> (last visited March 11, 2021). NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf).

<sup>17</sup> UCLA School of Law, Williams Institute, *LGBT FAQs*, <https://williamsinstitute.law.ucla.edu/quick-facts/lgbt-faqs/> (last visited March 12, 2021).

### ***Federal Legislation***

Currently, there is no federal law governing transgender participation in sports.<sup>18</sup> However, the U.S. Supreme Court has recently ruled that discrimination in employment based on gender identity is illegal.<sup>19</sup> In addition, the Eleventh Circuit recently affirmed that a Florida school district's policy barring a transgender male student from the boys' restroom did not adhere with the Constitution's guarantee of equal protection and Title IX's prohibition of sex discrimination.<sup>20</sup>

The 117<sup>th</sup> Congress in 2020-2021, and the 116<sup>th</sup> Congress in 2019-2020 introduced multiple bills with respect to separate sex-specific athletics teams or sports.<sup>21</sup>

Currently, 25 states are proposing legislation related to transgender student athletics.<sup>22</sup> Both the NCAA and the Florida High School Athletic Association (FHSAA) have issued guidance for transgender participation in athletic programs.

### ***NCAA Inclusion of Transgender Student Athletes***

Providing equal opportunities in all aspects of school programming is a core value in education. As an integral part of higher educational institutions, college athletics programs are responsible and accountable for reflecting the goals and values of the educational institutions of which they are a part.<sup>23</sup>

The NCAA recommends that policies governing the participation of transgender student-athletes be informed by the following principles, and be included in the institution's transgender student-athlete policy statement:<sup>24</sup>

- Participation in intercollegiate athletics is a valuable part of the education experience for all students.
- Transgender student-athletes should have equal opportunity to participate in sports.
- The integrity of women's sports should be preserved.
- Policies governing sports should be based on sound medical knowledge and scientific validity.
- Policies governing sports should be objective, workable, and practicable; they should also be written, available and equitably enforced.

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<sup>18</sup> Boston College Journal of Law and Social Justice, *Hurdling Gender Identity discrimination: The Implications of State Participation Policies on Transgender Youth Athletes Ability to Thrive* (2017), available at <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1108&context=jlsj>.

<sup>19</sup> *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020).

<sup>20</sup> *Adams by & through Kasper v. Sch. Bd. of St. Johns County*, 968 F.3d 1286 (11th Cir. 2020).

<sup>21</sup> Congress.Gov, *H.R. 426-Protection of Women and Girls in Sports Act of 2021*, <https://www.congress.gov/bill/117th-congress/house-bill/426?s=7&r=54> (last visited March 17, 2021). Congress.Gov, *S.4649 Protection of Women and Girls in Sports Act of 2020*, <https://www.congress.gov/bill/116th-congress/senate-bill/4649> (last visited March 17, 2021). Congress.Gov, *H.R. 5702- Protection of Women and Girls in Sports Act of 2020*, <https://www.congress.gov/bill/116th-congress/house-bill/5702> (last visited March 17, 2021).

<sup>22</sup> The New York Times, *How Some States Are Moving To Restrict Transgender Women in Sports*, <https://www.nytimes.com/2021/03/11/sports/transgender-athletes-bills.html> (last visited March 12, 2021).

<sup>23</sup> NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf) at 6.

<sup>24</sup> *Id* at 10.

- Policies governing the participation of transgender students in sports should be fair in light of the tremendous variation among individuals in strength, size, musculature, and ability.
- The legitimate privacy interests of all student-athletes should be protected.
- The medical privacy of transgender students should be preserved.
- Athletics administrators, staff, parents of athletes, and student-athletes should have access to sound and effective educational resources and training related to the participation of transgender and gender-variant<sup>25</sup> students in athletics.
- Policies governing the participation of transgender students in athletics should comply with state and federal laws protecting students from discrimination based on sex, disability, and gender identity<sup>26</sup> and expression.

The NCAA has published policies to clarify participation of transgender student-athletes undergoing hormonal treatment for gender transition:<sup>27</sup>

- A transgender male, a female transitioning to a male, student-athlete who has received a medical exception for treatment with testosterone<sup>28</sup> for diagnosed Gender Identity Disorder or gender dysphoria<sup>29</sup> and/or Transsexualism,<sup>30</sup> for purposes of NCAA competition may compete on a men's team, but is no longer eligible to compete on a women's team without changing that team status to a mixed team.<sup>31</sup>
- A transgender female, a male transitioning to a female, student-athlete being treated with testosterone suppression medication for Gender Identity Disorder or gender dysphoria and/or Transsexualism, for the purposes of NCAA competition may continue to compete on a men's team but may not compete on a women's team without changing it to a mixed team status until completing one calendar year of testosterone suppression treatment.
- Any transgender student-athlete who is not taking hormone treatment related to gender transition may participate in sex-separated sports activities in accordance with his or her assigned birth gender.

<sup>25</sup> Gender-variant refers to gender nonconformity. Merriam-Webster Dictionary, *gender variance*, <https://www.merriam-webster.com/dictionary/gender%20variance> (last visited March 12, 2021).

<sup>26</sup> Gender Identity is defined as a person's internal sense of being male, female, some combination of male and female, or neither male nor female. Merriam-Webster Dictionary, *gender identity*, <https://www.merriam-webster.com/dictionary/gender%20identity> (last visited March 11, 2021).

<sup>27</sup> NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf) at 13.

<sup>28</sup> Testosterone is defined as a hormone that is hydroxy steroid ketone C<sub>19</sub>H<sub>28</sub>O<sub>2</sub> produced especially by the testes or made synthetically and that is responsible for inducing and maintaining male secondary sex characters. Merriam-Webster Dictionary, *testosterone*, <https://www.merriam-webster.com/dictionary/testosterone> (last visited March 12, 2021).

<sup>29</sup> Gender Identity Disorder and gender dysphoria are defined as a distressed state arising from conflict between a person's gender identity and the sex the person has or was identified as having at birth. Merriam-Webster Dictionary, *gender dysphoria*, <https://www.merriam-webster.com/dictionary/gender%20dysphoria> (last visited March 12, 2021). Merriam-Webster Dictionary, *gender identity disorder*, <https://www.merriam-webster.com/dictionary/gender%20identity%20disorder> (last visited March 12, 2021).

<sup>30</sup> Transsexual is defined as of, relating to, or being a person whose gender identity is opposite the sex the person had or was identified as having at birth. Merriam-Webster Dictionary, *transsexual*, <https://www.merriam-webster.com/dictionary/transsexualism> (last visited March 12, 2021).

<sup>31</sup> A mixed team is a varsity intercollegiate sports team on which at least one individual of each gender competes. A mixed team must be counted as one team. A male participating in competition on a female team makes the team a mixed team. Such a team is ineligible for a women's NCAA championship but is eligible for a men's NCAA championship. A female on a men's team is eligible for a men's NCAA championship. NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), available at [https://www.ncaa.org/sites/default/files/Transgender\\_Handbook\\_2011\\_Final.pdf](https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf) at 12.

- A transgender male student-athlete who is not taking testosterone related to gender transition may participate on a men's or women's team.
- A transgender female student-athlete who is not taking hormone treatments related to gender transition may not compete on a women's team.

### ***Florida High School Athletic Association (FHSAA) Policies for Transgender Athletes***

The FHSAA is designated by law as the governing nonprofit organization of athletics in Florida public schools.<sup>32</sup> The FHSAA is not a state agency, but performs similar functions.<sup>33</sup> The FHSAA is required to adopt bylaws regulating student eligibility, student residency and transfer, recruiting, and health and safety. Such bylaws include requiring all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team, to satisfactorily pass a medical evaluation each year before participating in interscholastic athletic competition or engaging in any practice, tryout, workout, conditioning, or other physical activity associated with the student's candidacy.<sup>34</sup> The bylaws of the FHSAA govern high school athletic programs in its member schools, unless otherwise specifically provided by law.<sup>35</sup>

The FHSAA's bylaws state that FHSAA will not discriminate in its governance policies, programs and employment practices on the basis of age, color, disability, gender, national origin, race, religion, creed, sexual orientation or educational choice.<sup>36</sup> The FHSAA bylaws further state the FHSAA will conduct its activities in a manner free of gender bias and will adopt rules that enhance schools' efforts to comply with applicable gender-equity laws.<sup>37</sup>

The FHSAA bylaws<sup>38</sup> on athletic participation by gender state the following:

- Girls may play on a boys' team in a sport if the school does not sponsor a girls' team in that sport.
- Team sports that have boys on a girls' team are required to compete in the boys division in that sport.
- Team sports that have both boys and girls on a mixed team are required to compete in the boys division in that sport.
- In an individual sport, girls may not participate on boys' teams in the Florida High School State Championship Series when a sport is offered in the Florida High School State Championship Series for girls.

Under the FHSAA administrative policies, all eligible students should have the opportunity to participate in interscholastic athletics in a manner that is consistent with their gender identity and expression, irrespective of the gender listed on a student's birth certificate or records.<sup>39</sup> Under

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<sup>32</sup> Section 1006.20(1), F.S.

<sup>33</sup> *Id.*

<sup>34</sup> Section 1006.20(2), F.S.

<sup>35</sup> Section 1006.20(1), F.S.

<sup>36</sup> Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc. (2020-2021)* (2020), available at [https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021\\_handbook\\_website\\_1001.pdf](https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021_handbook_website_1001.pdf) at 7.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 23.

<sup>39</sup> *Id.* at 73.



this situation, a student may seek review of his or her eligibility for participation through the following process:<sup>40</sup>

- The student and parent must contact the school administrator or athletic director, prior to the official start date of the sport season indicating the student has a consistent gender identity and expression different than the gender listed on the student's school registration records and the student desires to participate in a gender-segregated athletic sport in a manner consistent with his or her gender identity and expression.
- The student must provide the principal or athletic director, and the FHSAA with specified documentation.<sup>41</sup>
- The school administrator must contact the FHSAA which will assign a facilitator who will assist the school and student in preparation and completion of the process.
- The student will be scheduled for a review hearing before a committee<sup>42</sup> specifically established to preside over gender identity reviews.

An appeal process is available to any school, on behalf of a student-athlete, which is denied participation. If a student is granted eligibility consistent with his or her gender identity and expression, the eligibility is binding for the duration of the student's participation in every sport season of every school year.<sup>43</sup>

### ***The Role of Testosterone in Athletic Performance***

Both males and females produce testosterone naturally in their bodies, males primarily in the testes and females primarily in the ovaries.<sup>44</sup> Starting from the onset of male puberty, generally about age 11, testes begin to produce much more testosterone than ovaries. From that point forward, the normal female range is between 0.06 and 1.68 nanomoles<sup>45</sup> per liter (nmol/L), and

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<sup>40</sup> This policy does not apply to a private school member of the FHSAA which, because of its strongly held religious beliefs, would be entitled to the exemption provided to educational institutions of religious organizations by law. *Id.*

<sup>41</sup> Documentation includes current transcript and school registration information; information required for participation and eligibility in FHSAA athletics; written statement from the student affirming the consistent identity and expression to which the student self-relates; documentation from individuals such as, but not limited to, parents, friends and teachers, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent gender identification and expression; a complete list of all the student's prescribed, non-prescribed or over the counter, treatments or medications; written verification from an appropriate health-care professional of the student's consistent gender identification and expression; and any other pertinent documentation or information which the student or parent believe relevant and appropriate. *Id.*

<sup>42</sup> The committee must be comprised of a minimum of three of the following categories, one of which must be from the physical or mental health profession category: Physician with experience in gender identity health care and the World Professional Association for Transgender Health (WPATH) Standards of Care; psychiatrist, psychologist, or licensed mental health professional familiar with the WPATH Standards of Care; school administrator from outside the member school's FHSAA administrative section; athletic director from outside the member school's FHSAA administrative section; an athletic coach of the sport in which participation is desired, from outside the member school's FHSAA administrative section; an individual selected by the FHSAA familiar with Gender Identity and Expression issues. *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex* (2020), available at <https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q09-male-and-female-range-testosterone.pdf>.

<sup>45</sup> One mole contains exactly  $6.02214076 \times 10^{23}$  elementary entities; an elementary entity may be an atom, a molecule, an ion, an electron, any other particle or specified group of particles. National Institute of Standards and Technology, *Definitions of SI Base Units*, <https://www.nist.gov/si-redefinition/definitions-si-base-units> (last visited Mar. 18, 2021). A Nanomole is defined as one billionth of a mole. Merriam-Webster Dictionary, *nanomole*, <https://www.merriam-webster.com/medical/nanomole> (last visited March 15, 2021).

the normal male range is between 7.7 and 29.4 nmol/L. The gap between the top of the female range and the bottom of the male range is 6.02 nmol/L.<sup>46</sup>

International experts<sup>47</sup> in the sports science and sports medicine communities agree that males and females are materially different with respect to the main physical attributes that contribute to athletic performance, and that the primary reason for sex differences in these attributes is exposure in gonadal males to much higher levels of testosterone during growth and development, and throughout the athletic career.<sup>48</sup>

The Connecticut Interscholastic Athletics Conference (CIAC)<sup>49</sup> permits transgender girls to compete in girls' events even if they have not yet gone on puberty blockers<sup>50</sup> or gender affirming hormones.<sup>51</sup> Two transgender girls who used to compete on their schools' boys' teams moved to the girls' teams when they came out as transgender.<sup>52</sup> Cisgender<sup>53</sup> female high school students have sued the CIAC and their respective boards of education alleging that the defendants' practice of permitting biological males who claim a female gender identity to compete in girls' athletic competitions violates Title IX because it displaces girls from track events and excludes them from honors and opportunities to compete at higher levels critical to college recruitment and scholarship opportunities.<sup>54</sup>

A study<sup>55</sup> conducted on transgender males and females in the United States Air Force with an average age of 26.2 years, concluded that transgender females displayed a 15 to 31 percent athletic advantage displayed over their female counterparts prior to the starting gender affirming hormones. This advantage declined with feminizing therapy. However, transgender females still had a 9 percent faster mean run speed after the one year period of testosterone suppression that is

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<sup>46</sup> Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex* (2020), available at <https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q09-male-and-female-range-testosterone.pdf>.

<sup>47</sup> International Experts Statement of the Role of Testosterone in Athletic Performances. Duke Law Center for Sports Law and Policy, *Sex in Sport*, <https://law.duke.edu/sports/sex-sport/> (last visited March 17, 2021). Duke Law, *The Role of Testosterone in Athletic Performance* (2019), available at [https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts\\_T\\_Statement\\_2019.pdf](https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts_T_Statement_2019.pdf).

<sup>48</sup> Duke Law, *The Role of Testosterone in Athletic Performance* (2019), available at [https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts\\_T\\_Statement\\_2019.pdf](https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts_T_Statement_2019.pdf).

<sup>49</sup> CIAC, *CIAC Statement on Office of Civil Rights Decision*, <http://ciacsports.com/site/?p=14508> (last visited March 17, 2021).

<sup>50</sup> A puberty blocker is a type of medicine that is used to prevent puberty from happening. Macmillian Dictionary, *puberty blocker*, <https://www.macmillandictionary.com/dictionary/british/puberty-blocker> (last visited March 17, 2021).

<sup>51</sup> Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex*, (2020), available at <https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q21-impact-of-trans-girls-on-hs-sports.pdf>. *Soule et al v. Connecticut Association of Schools, Inc. et al*, 3:20-CV-00201 (2020).

<sup>52</sup> *Id.*

<sup>53</sup> Cisgender is defined as of, relating to, or being a person whose gender identity corresponds with the sex the person had or was identified as having at birth. Merriam-Webster Dictionary, *cisgender* <https://www.merriam-webster.com/dictionary/cisgender> (last visited March 18, 2021).

<sup>54</sup> *Justia Dockets & Filings, Soule et al v. Connecticut Association of Schools, Inc. et al*, <https://dockets.justia.com/docket/connecticut/ctdce/3:2020cv00201/137997> (last visited March 18, 2021). *Soule et al v. Connecticut Association of Schools, Inc. et al*, 3:20-CV-00201 (2020).

<sup>55</sup> Roberts T.A., Smalley J., Ahrendt D., *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators*. *British Journal of Sports Medicine* (2020), available at <https://bjsm.bmj.com/content/early/2020/11/06/bjsports-2020-102329>.

recommended by World Athletics (WA)<sup>56</sup> or the International Olympic Committee (IOC)<sup>57</sup> for inclusion in women's events.<sup>58</sup> The study confirmed that use of gender affirming hormones are associated with changes in athletic performance and demonstrated that the pretreatment differences between transgender and cisgender women persist beyond the 12 month time requirement currently being proposed for athletic competition by the WA and the IOC. The study suggests that more than 12 months of testosterone suppression may be needed to ensure that transgender women do not have an unfair competitive advantage when participating in elite level athletic competition.<sup>59</sup>

WA also requires that for a transgender female to be eligible she must demonstrate to the satisfaction of an expert panel that the concentration of testosterone in her serum has been less than 5 nmol/L continuously for a period of at least 12 months and she must keep her serum testosterone concentration below 5 nmol/L for so long as she wishes to maintain eligibility to compete in the female category of competition.<sup>60</sup>

The IOC requires that for a transgender female to be eligible:<sup>61</sup>

- The athlete has declared that her gender identity is female. The declaration cannot be changed, for sporting purposes, for a minimum of four years.
- The athlete must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition.

### III. Effect of Proposed Changes:

SB 2012 creates s. 1006.205, F.S., the Promoting Equality of Athletic Opportunity Act, to provide opportunities for female athletes to demonstrate their strength, skills, athletic abilities, and realize the long-term benefits that result from participating and competing in athletic endeavors. The bill provides a pathway for transgender females to participate on female teams while also protecting competition for female athletes. Specifically, the bill:

- Requires interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by a public school or public postsecondary institution, or any school or institution whose students or teams compete against a public school or public postsecondary institution to be designated as one of the following based on the biological sex of the team members:
  - Males, men, or boys;

<sup>56</sup> World Athletics, *World Athletics Eligibility Regulations for Transgender Athletes* (2019), available at <file:///C:/Users/sagues.holly/Downloads/Eligibility%20Regulations%20for%20Transgender%20Athletes.%20.pdf> at 6.

<sup>57</sup> Those who transition from female to male are eligible to compete in the male category without restriction. International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (2015), available at [https://stillmed.olympic.org/Documents/Commissions\\_PDFfiles/Medical\\_commission/2015-11\\_ioc\\_consensus\\_meeting\\_on\\_sex\\_reassignment\\_and\\_hyperandrogenism-en.pdf](https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf).

<sup>58</sup> Roberts T.A., Smalley J., Ahrendt D., *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators*. *British Journal of Sports Medicine* (2020), available at <https://bjsm.bmj.com/content/early/2020/11/06/bjsports-2020-102329>.

<sup>59</sup> *Id.*

<sup>60</sup> World Athletics, *World Athletics Eligibility Regulations for Transgender Athletes* (2019), available at <file:///C:/Users/sagues.holly/Downloads/Eligibility%20Regulations%20for%20Transgender%20Athletes.%20.pdf> at 6.

<sup>61</sup> International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (2015), available at [https://stillmed.olympic.org/Documents/Commissions\\_PDFfiles/Medical\\_commission/2015-11\\_ioc\\_consensus\\_meeting\\_on\\_sex\\_reassignment\\_and\\_hyperandrogenism-en.pdf](https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf).

- Females, women, or girls; or
- Coed or mixed, including both males and females.
- Prohibits athletic teams or sports designated for females, to be open to students of the male sex.
- Specifies that persons who transition from male to female are eligible to compete in the female category if the student has declared a female gender identity to her school or institution and meets both of the following conditions:
  - The student demonstrates that her total testosterone level in serum has been below 10 nanomoles per liter (nmol/L) for at least 12 months before her first competition and monthly throughout the period of desired eligibility; and
  - The student's total testosterone level remains below 10 nmol/L throughout the period of desired eligibility.

If the student does not meet both conditions the student must be suspended from female competition for 12 months. The Board of Governors must adopt regulations and the State Board of Education must adopt rules to implement the provisions of the act.

The bill provides protections for educational institutions by prohibiting specified entities from taking adverse action against any school or public postsecondary institution in Florida for maintaining separate athletic teams or sports for female students.

The bill also provides private causes of action for injunctive relief, damages, and any other relief available under law for students, schools, and public postsecondary institutions harmed by a violation of the Act's provisions. All such civil actions must be initiated within two years after the alleged harm occurred.

The bill takes effect on July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

**E. Other Constitutional Issues:**

Classifications based on transgender status are subject to heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment.<sup>62</sup> The Equal Protection Clause does not require courts to disregard the physiological differences between men and women.<sup>63</sup>

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The fiscal impact of the bill is indeterminate. School districts, postsecondary institutions, the State Board of Education, and the Board of Governors may incur costs to establish and administer transgender policies required by the act.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 1006.205 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.

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<sup>62</sup> Amend. XIV, U.S. Const. See also *Hecox v. Little*, 479 F. Supp. 3d 930, 975 (D. Idaho 2020) (citing *Karnoski v. Trump*, 926 F.3d 1180, 1201 (9th Cir. 2019)).

<sup>63</sup> *Hecox v. Little*, 479 F. Supp. 3d 930, 976 (D. Idaho 2020) (citing *Michael M. v. Superior Court of Sonoma County*, 450 U.S. 464, 481 (1981)).

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.

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By Senator Stargel

22-01360A-21

20212012\_\_

1 A bill to be entitled  
 2 An act relating to promoting equality of athletic  
 3 opportunity; creating s. 1006.205, F.S.; providing a  
 4 short title; providing legislative intent and  
 5 findings; requiring that certain athletic teams or  
 6 sports sponsored by certain educational institutions  
 7 be designated on the basis of students' biological  
 8 sex; prohibiting athletic teams or sports designated  
 9 for female students from being open to male students;  
 10 specifying conditions under which persons who  
 11 transition from male to female are eligible to compete  
 12 in the female category; requiring a student that fails  
 13 to comply with certain conditions to be suspended from  
 14 female competition for 12 months; requiring the Board  
 15 of Governors of the State University System to adopt  
 16 regulations and the State Board of Education to adopt  
 17 rules regarding the resolution of disputes; providing  
 18 protections for educational institutions from certain  
 19 adverse actions taken by a governmental entity, any  
 20 licensing or accrediting organization, or any athletic  
 21 association or organization; providing civil remedies  
 22 for students and educational institutions; providing a  
 23 statute of limitation; providing for damages;  
 24 providing an effective date.  
 25  
 26 WHEREAS, the United States Supreme Court recognized in  
 27 United States v. Virginia, 518 U.S. 515 (1996), that there are  
 28 inherent differences between men and women and these differences  
 29 remain cause for celebration, but not for denigration of the

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

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30 members of either sex for artificial constraints on an  
 31 individual's opportunity, and  
 32 WHEREAS, the Supreme Court recognized that sex  
 33 classifications may be used to compensate women for particular  
 34 economic disabilities they have suffered, to promote equal  
 35 employment opportunity, and to advance full development of the  
 36 talent and capacities of our nation's people, and  
 37 WHEREAS, one area where sex classifications allow for the  
 38 full development of the talent and capacities of our nation's  
 39 people is in the context of sports and athletics, and  
 40 WHEREAS, the Olympic Games are considered the world's  
 41 foremost sporting competitions in which thousands of male and  
 42 female athletes from more than 200 nations participate, and  
 43 WHEREAS, the biological differences between females and  
 44 males, especially as it relates to natural levels of  
 45 testosterone, explain the male and female secondary sex  
 46 characteristics, including physical strength, speed, and  
 47 endurance, and  
 48 WHEREAS, after consulting with hundreds of athletes,  
 49 doctors, and human rights experts, in November 2015, the  
 50 International Olympic Committee issued guidelines specifying  
 51 that an athlete who has transitioned from male to female is  
 52 eligible to compete if she demonstrates that her total  
 53 testosterone level in serum has been below 10 nmol/L for at  
 54 least 12 months before her first competition, with the  
 55 requirement for any longer period to be based on a confidential  
 56 case-by-case evaluation considering whether 12 months is a  
 57 sufficient length of time to minimize any advantage in women's  
 58 competition, and

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59 WHEREAS, the athlete's total testosterone level in serum  
 60 must remain below 10 nmol/L throughout the period of desired  
 61 eligibility to compete in the female category, and  
 62 WHEREAS, these guidelines remain in effect and have  
 63 successfully led to parity between athletes who have  
 64 transitioned from male to female and cisgender female athletes,  
 65 and  
 66 WHEREAS, the use of cross-sex hormone therapy is increasing  
 67 nationwide and in this state, and  
 68 WHEREAS, the number of transgender athletes is also  
 69 increasing in this state, and  
 70 WHEREAS, athletes who have transitioned from male to female  
 71 generally have higher levels of testosterone and may excel in  
 72 physical strength, speed, and endurance in comparison to  
 73 cisgender females, and  
 74 WHEREAS, the increase in athletes who have transitioned  
 75 from male to female has and will continue to displace cisgender  
 76 female athletes in this state and prevent them from excelling in  
 77 athletic competitions, and  
 78 WHEREAS, transgender athletes should compete against  
 79 athletes with similar abilities, and  
 80 WHEREAS, this act, which requires the designation of  
 81 separate sex-specific athletic teams, is necessary to redress  
 82 past discrimination against female athletes and to avoid  
 83 jeopardizing the equality of athletic opportunity in this state,  
 84 NOW, THEREFORE,  
 85  
 86 Be It Enacted by the Legislature of the State of Florida:  
 87

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88 Section 1. Section 1006.205, Florida Statutes, is created  
 89 to read:  
 90 1006.205 Promoting Equality of Athletic Opportunity Act.—  
 91 (1) SHORT TITLE.—This section may be cited as the  
 92 "Promoting Equality of Athletic Opportunity Act."  
 93 (2) LEGISLATIVE INTENT AND FINDINGS.—  
 94 (a) It is the intent of the Legislature to provide  
 95 opportunities for female athletes to demonstrate their strength,  
 96 skills, and athletic abilities and to provide them with  
 97 opportunities to obtain recognition and accolades, college  
 98 scholarships, and the numerous other long-term benefits that  
 99 result from participating and competing in athletic endeavors.  
 100 (b) The Legislature finds that promoting the equality of  
 101 athletic opportunity is an important state interest. The  
 102 Legislature finds that requiring the designation of separate  
 103 sex-specific athletic teams or sports is necessary to promote  
 104 equality of athletic opportunity.  
 105 (3) DESIGNATION OF ATHLETIC TEAMS OR SPORTS.—  
 106 (a) Interscholastic, intercollegiate, intramural, or club  
 107 athletic teams or sports that are sponsored by a public primary  
 108 or secondary school, a public postsecondary institution, or any  
 109 school or institution whose students or teams compete against a  
 110 public school or public postsecondary institution must be  
 111 expressly designated as one of the following based on the  
 112 biological sex of team members:  
 113 1. Males, men, or boys;  
 114 2. Females, women, or girls; or  
 115 3. Coed or mixed, including both males and females.  
 116 (b) Athletic teams or sports designated for females, women,

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117 or girls may not be open to students of the male sex.

118 (c) Persons who transition from male to female are eligible

119 to compete in the female category if all of the following

120 conditions are met:

121 1. The student has declared a female gender identity to her

122 school or institution.

123 2. The student demonstrates that her total testosterone

124 level in serum has been below 10 nmol/L for at least 12 months

125 before her first competition and monthly throughout the period

126 of desired eligibility to compete in the female category.

127 3. The student's total testosterone level in serum must

128 remain below 10 nmol/L throughout the period of desired

129 eligibility to compete in the female category.

130

131 A student that fails to comply with the requirements of

132 subparagraphs 2. or 3. must be suspended from female competition

133 for 12 months.

134 (d) The Board of Governors of the State University System

135 shall adopt regulations, and the State Board of Education shall

136 adopt rules, regarding the receipt and timely resolution of

137 disputes by schools and institutions, consistent with this

138 subsection.

139 (4) PROTECTION FOR EDUCATIONAL INSTITUTIONS.—A governmental

140 entity, licensing or accrediting organization, or an athletic

141 association or organization may not entertain a complaint, open

142 an investigation, or take any other adverse action against any

143 school or public postsecondary institution in this state for

144 maintaining separate interscholastic, intercollegiate,

145 intramural, or club athletic teams or sports for students of the

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146 female sex.

147 (5) CAUSE OF ACTION; CIVIL REMEDIES.—

148 (a) Any student who is deprived of an athletic opportunity

149 or suffers any direct or indirect harm as a result of a

150 violation of this section has a private cause of action for

151 injunctive relief, damages, and any other relief available under

152 law against the school or public postsecondary institution.

153 (b) Any student who is subject to retaliation or other

154 adverse action by a school, a public postsecondary institution,

155 or an athletic association or organization as a result of

156 reporting a violation of this section to an employee or a

157 representative of the school, institution, or athletic

158 association or organization, or to any state or federal agency

159 with oversight of schools or public postsecondary institutions

160 in this state, has a private cause of action for injunctive

161 relief, damages, and any other relief available under law

162 against the school, institution, or athletic association or

163 organization.

164 (c) Any public school or public postsecondary institution

165 that suffers any direct or indirect harm as a result of a

166 violation of this section shall have a private cause of action

167 for injunctive relief, damages, and any other relief available

168 under law against the governmental entity, licensing or

169 accrediting organization, or athletic association or

170 organization.

171 (d) A civil action brought under this section must be

172 initiated within 2 years after the alleged harm occurred.

173 Persons or organizations who prevail on a claim brought under

174 this section are entitled to monetary damages, including for any

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175 psychological, emotional, or physical harm suffered, reasonable  
176 attorney fees and costs, and any other appropriate relief.

177 Section 2. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1094

INTRODUCER: Senator Bean

SUBJECT: Required Health Education Instruction

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 1094 requires that the general health education curriculum for K-12 public schools be developmentally and age-appropriate. The curriculum must include information on the prevention of child sexual abuse, exploitation, and human trafficking.

The bill also modifies the existing health education requirement to specify that instruction on abstinence and the consequences of teen pregnancy applies only to those students in grades 7 through 12.

The bill has no impact on state revenues or expenditures. The bill may have a fiscal impact to school districts. See section V.

The bill takes effect on July 1, 2021.

**II. Present Situation:**

**Required Instruction in Schools**

Florida law specifies required coursework and instruction for public school students. Specifically, each district school board must provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education (SBE) adopted standards in the following subject areas: reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.<sup>1</sup>

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<sup>1</sup> Section 1003.42(1), F.S.

Instructional staff of public schools,<sup>2</sup> subject to the rules of the SBE and the district school board, must provide instruction in:<sup>3</sup>

- The history and content of the Declaration of Independence.
- The history, meaning, significance, and effect of the provisions of the Constitution of the United States.
- The arguments in support of adopting our republican form of government.
- Flag education, including proper flag display and flag salute.
- The elements of civil government.
- The history of the Holocaust.
- The history of the United States.
- The history of African Americans.
- The elementary principles of agriculture.
- The effects of alcoholic and intoxicating liquors and beverages and narcotics.
- Kindness to animals.
- The history of the state.
- The conservation of natural resources.
- Comprehensive health education.
- The study of Hispanic contributions to the United States.
- The study of women's contributions to the United States.
- The nature and importance of free enterprise to the United States economy.
- A character-development program in kindergarten through grade 12.
- The sacrifices that veterans and Medal of Honor recipients have made serving the country.

Comprehensive health education currently addresses 12 components. Eleven of the components are delivered in kindergarten through grade 12,<sup>4</sup> and include: concepts of community health; consumer health; environmental health; family life, including an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy; mental and emotional health; injury prevention and safety; Internet safety; nutrition; personal health; prevention and control of disease; and substance use and abuse. Instruction related to teen dating violence and abuse must be provided in grades 7 through 12 only.<sup>5</sup>

### ***Human Trafficking Instruction and Awareness in Schools***

Florida law defines human trafficking as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.<sup>6</sup> Human trafficking is a form of modern-day slavery.<sup>7</sup> Victims of human trafficking are young children, teenagers, and adults; include citizens of the United States and those persons trafficked

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<sup>2</sup> Instructional staff of charter schools are exempt from this section of law. Section 1002.33(16), F.S.

<sup>3</sup> The law encourages the SBE to adopt standards and pursue assessment relating to the required instructional content. Section 1003.42(2), F.S.

<sup>4</sup> Section 1003.42(2)(n), F.S.

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

<sup>6</sup> Section 787.06(2)(d), F.S.

<sup>7</sup> Section 787.06(1), F.S.

domestically within the borders of the United States; and are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.<sup>8</sup>

Florida is third in the nation for reported human trafficking cases.<sup>9</sup> In 2018, there were 767 human trafficking cases reported in Florida. Of those cases, 149 were minors. The average ages of trafficked youth are 11-13 years old.<sup>10</sup> In fiscal year 2019-2020, the total number of reports received by the Florida Abuse Hotline alleging human trafficking was 1901 reports involving 1463 children.<sup>11</sup>

Information on human trafficking is not currently included in required comprehensive health education instruction.<sup>12</sup> Additionally, SBE adopted standards do not include instruction on human trafficking, nor is there an instructional model currently available in CPALMS.<sup>13</sup>

In September 2019, the SBE adopted a rule addressing Child Trafficking Prevention Education, which requires school districts to annually provide instruction to students in grades K-12 related to child trafficking prevention and awareness using current health education standards. Age appropriate elements of effective and evidence-based programs, on child trafficking prevention and awareness must address the following topics:<sup>14</sup>

- Recognition of signs of human trafficking;
- Awareness of resources, including national, state and local resources;
- Prevention of the abuse of and addiction to alcohol, nicotine, and drugs;
- Information of the prevalence, nature, and strategies to reduce the risk of human trafficking, techniques to set healthy boundaries, and how to safely seek assistance; and
- Information on how social media and mobile device applications are used for human trafficking.

As required by the new rule, the Florida Department of Education (FDOE) maintains resources and training for the required instruction on child trafficking prevention and awareness.<sup>15</sup>

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<sup>8</sup> Florida law describes sexual exploitation as prostitution or the work in the sexual entertainment industry and forced labor as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work. *Id.*

<sup>9</sup> You Can Stop HT, *Get the Facts*, <http://www.youcanstopht.com/get-the-facts.html> (last visited March 18, 2021).

<sup>10</sup> Florida Department of Education, Presentation to the State Board of Education, *Child Trafficking Prevention Education* (Sept. 20, 2019), available at: <http://www.fldoe.org/core/fileparse.php/5575/urlt/ChildTraffickingPres.pdf>.

<sup>11</sup> Florida Department of Children and Families, *Annual Human Trafficking Report* (2020), available at <https://www.myflfamilies.com/service-programs/child-welfare/lmr/docs/2020LMRs/Human%20Trafficking%20Annual%20Report%202020.pdf>.

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

<sup>13</sup> CPALMS is the State of Florida's official source for standards information and course descriptions. It provides access to thousands of standards-aligned, free, and high-quality instructional/educational resources that have been developed specifically for the standards and vetted through a rigorous review process. CPALMS, *About CPALMS*, [http://www.cpalms.org/CPALMS/about\\_us.aspx](http://www.cpalms.org/CPALMS/about_us.aspx), (last visited March 18, 2021).

<sup>14</sup> Rule 6A-1.094124, F.A.C.

<sup>15</sup> Florida Department of Education, *Human Trafficking*, <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited March 18, 2021).

By July 1 annually, each school district must submit a report to verify completion of the instruction required under law<sup>16</sup> as well as instruction in Child Trafficking Prevention Education required by SBE rule.<sup>17</sup>

### ***Child Abuse Instruction and Awareness in Schools***

As defined by Florida law, child abuse means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired.<sup>18</sup> Every Florida citizen, including school teachers and other school personnel are required by law to report known or suspected child abuse.<sup>19</sup> In 2018, the Children's Advocacy Centers in Florida served over 34,000 children who were victims of child abuse or neglect:<sup>20</sup>

- 60 percent of the victims were female and 40 percent were male.
- 36 percent of the victims were between birth and age 6.
- 35 percent of the victims suffered from sexual abuse, of which:
  - 27 percent suffered from physical abuse; and
  - 17 percent suffered from neglect.

Child abuse awareness is not included in the required comprehensive health education instruction.<sup>21</sup> The FDOE provides child abuse prevention training materials and resources on their website.<sup>22</sup> Teachers in grades K-12 are required to participate in continuing education on identifying and reporting child abuse and neglect provided by the Florida Department of Children and Families.<sup>23</sup>

### **III. Effect of Proposed Changes:**

SB 1094 amends s. 1003.42, F.S., to require that the general health education curriculum for K-12 public schools be developmentally and age-appropriate. The curriculum must include information on the prevention of child sexual abuse, exploitation, and human trafficking. Adding such topics to the required instruction health education curriculum may help raise awareness of associated dangers and improve student health.

The bill limits the existing kindergarten through grade 12 requirement to specify that instruction on abstinence and the consequences of teen pregnancy applies only to those students in grades 7 through 12, providing developmentally and age-appropriate instruction for this topic. Also, the bill amends s. 1006.148, F.S., to conform a cross reference, which clarifies that instruction in dating violence and abuse is limited to students in grades 7 through 12.

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<sup>16</sup> Section 1003.42(2), F.S.

<sup>17</sup> Rule 6A-1.094124, F.A.C.

<sup>18</sup> Section 39.01(2), F.S.

<sup>19</sup> Section 39.201(1), F.S.

<sup>20</sup> Florida Network of Children's Advocacy Centers, Child Abuse and Neglect Statistics, <https://www.fncac.org/child-abuse-and-neglect-statistics> (last visited March 18, 2021).

<sup>21</sup> Section 1003.42(2)(n), F.S.

<sup>22</sup> Florida Department of Education, *Child Abuse Prevention*, <http://www.fldoe.org/schools/family-community/activities-programs/child-abuse-prevention.stml> (last visited March 18, 2021).

<sup>23</sup> Section 1012.98(12), F.S.

The bill takes effect on July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

For those school districts that do not already provide child sexual abuse prevention instruction, there may be a cost associated with including this instruction in the required health education curriculum.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 1003.42 and 1006.148 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.

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363262

LEGISLATIVE ACTION

Senate

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. .  
. .  
. .  
. .

House

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The Committee on Education (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 24 - 47

and insert:

appropriate K-12 health education that addresses concepts of  
community health, ~~and~~ consumer health, ~~and~~ environmental health, and  
family life, including:

~~a. An awareness of the benefits of sexual abstinence as the  
expected standard and the consequences of teenage pregnancy;~~

Mental and emotional health. ~~and~~

b. Injury prevention and safety. ~~and~~



363262

- 12        c. Internet safety.~~†~~
- 13        d. Nutrition.~~†~~
- 14        e. Personal health.~~†~~
- 15        f. Prevention and control of disease.~~†~~ and
- 16        g. Substance use and abuse.
- 17        h. Prevention of child sexual abuse, exploitation, and
- 18 human trafficking.

19        2. The health education curriculum for students in grades 7  
20 through 12 shall include a teen dating violence and abuse  
21 component that includes, but is not limited to, the definition  
22 of dating violence and abuse, the warning signs of dating  
23 violence and abusive behavior, the characteristics of healthy  
24 relationships, measures to prevent and stop dating violence and  
25 abuse, and community resources available to victims of dating  
26 violence and abuse.

27        3. The health education curriculum for students in grades 6  
28 through 12 shall include an awareness of the benefits of sexual  
29 abstinence as the expected standard and the consequences of  
30 teenage pregnancy.

31  
32 ===== T I T L E   A M E N D M E N T =====

33 And the title is amended as follows:

34        Between lines 7 and 8

35 insert:

36        requiring such education to include an awareness of  
37 the benefits of sexual abstinence as the expected  
38 standard and the consequences of teenage pregnancy;

By Senator Bean

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1 A bill to be entitled  
 2 An act relating to required health education  
 3 instruction; amending s. 1003.42, F.S.; providing  
 4 additional requirements for health education; revising  
 5 the grade levels when students receive certain health  
 6 education instruction; requiring health education  
 7 instruction to include prevention of specified harms;  
 8 amending s. 1006.148, F.S.; conforming a cross-  
 9 reference; providing an effective date.

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

11 Section 1. Paragraph (n) of subsection (2) of section  
 12 1003.42, Florida Statutes, is amended to read:

13 1003.42 Required instruction.—

14 (2) Members of the instructional staff of the public  
 15 schools, subject to the rules of the State Board of Education  
 16 and the district school board, shall teach efficiently and  
 17 faithfully, using the books and materials required that meet the  
 18 highest standards for professionalism and historical accuracy,  
 19 following the prescribed courses of study, and employing  
 20 approved methods of instruction, the following:

21 (n) 1. Comprehensive age-appropriate and developmentally  
 22 appropriate health education that addresses concepts of  
 23 community health, ~~consumer health,~~ environmental health, ~~and~~  
 24 family life, including:

25 a. An awareness of the benefits of sexual abstinence as the  
 26 expected standard and the consequences of teenage pregnancy;  
 27 Mental and emotional health. ~~;~~  
 28  
 29

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30 b. Injury prevention and safety. ~~;~~  
 31 c. Internet safety. ~~;~~  
 32 d. Nutrition. ~~;~~  
 33 e. Personal health. ~~;~~  
 34 f. Prevention and control of disease. ~~;~~ ~~and~~  
 35 g. Substance use and abuse.  
 36 h. Prevention of child sexual abuse, exploitation, and  
 37 human trafficking.  
 38 2. The health education curriculum for students in grades 7  
 39 through 12 shall include an awareness of the benefits of sexual  
 40 abstinence as the expected standard; the consequences of teenage  
 41 pregnancy; and a teen dating violence and abuse component that  
 42 includes, but is not limited to, the definition of dating  
 43 violence and abuse, the warning signs of dating violence and  
 44 abusive behavior, the characteristics of healthy relationships,  
 45 measures to prevent and stop dating violence and abuse, and  
 46 community resources available to victims of dating violence and  
 47 abuse.  
 48  
 49 The State Board of Education is encouraged to adopt standards  
 50 and pursue assessment of the requirements of this subsection. A  
 51 character development program that incorporates the values of  
 52 the recipients of the Congressional Medal of Honor and that is  
 53 offered as part of a social studies, English Language Arts, or  
 54 other schoolwide character building and veteran awareness  
 55 initiative meets the requirements of paragraphs (s) and (t).  
 56 Section 2. Paragraph (c) of subsection (1) of section  
 57 1006.148, Florida Statutes, is amended to read:  
 58 1006.148 Dating violence and abuse prohibited.—

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

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59 (1) Each district school board shall adopt and implement a  
60 dating violence and abuse policy. The policy shall:

61 (c) Define dating violence and abuse and provide for a teen  
62 dating violence and abuse component in the health education  
63 curriculum, according to s. 1003.42(2)(n)2. ~~s. 1003.42(2)(n)~~,  
64 with emphasis on prevention education.

65 Section 3. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 192

INTRODUCER: Senators Book and Rodrigues

SUBJECT: Students With Disabilities in Public Schools

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 192 revises the circumstances and procedures required for restraining students with a disability in public schools and prohibits the use of seclusion. The bill also provides enhanced mechanisms for monitoring specified classrooms. Specifically, the bill requires:

- School districts to:
  - Adopt positive behavior interventions and supports for students with a disability and identify all school personnel authorized to use the interventions and supports.
  - Provide training to all school personnel authorized to use positive behavior interventions and supports.
  - Publish the procedures for training in positive behavior interventions and supports in the district's special policies and procedures manual.
- The development of a crisis intervention plan for a student who has been restrained twice during a semester.
- Schools within the Broward and Volusia school districts, as part of the Video Cameras in Public School Classrooms Pilot Program, to install a video camera, upon the request of a parent, in self-contained classrooms where students with a disability are enrolled and specifies the circumstances under which the video recording may be viewed.
- The Department of Education (DOE) to collect information relating to the installation and maintenance of video cameras in self-contained classrooms as part of the pilot program.
- Data maintained by the DOE on the use of restraint to be updated monthly and made available to the public through the DOE's website by October 1, 2021.
- The Commissioner of Education to develop recommendations that incorporate instruction regarding emotional or behavioral disabilities into continuing education or inservice training requirements for instructional personnel.

The bill does not require a state appropriation. However, school districts may incur costs to provide training in the use of restraint or positive behavior interventions. The Broward and

Volusia County school districts may incur costs related to the installation and maintenance of video surveillance equipment. See Section V.

The bill takes effect July 1, 2021.

## II. Present Situation:

The Individuals with Disabilities Education Act (IDEA)<sup>1</sup> was enacted to ensure that all children with a disability have available to them a free appropriate public education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living; and ensuring that the rights of children with disabilities and parents of such children are protected.<sup>2</sup> Accordingly, Florida law specifies conditions regarding the use of restraint and seclusion on students with a disability.<sup>3</sup>

### The Use of Restraint and Seclusion

The Florida Department of Education (DOE) requires that all documenting, reporting, and monitoring requirements related to the use of restraint in schools are based on the definitions issued by the Office for Civil Rights (OCR) within the United States Department of Education.<sup>4</sup>

#### *Restraint*

According to the DOE:<sup>5</sup>

- Physical restraint immobilizes or reduces the ability of a student to move his or her torso, arms, legs, or head freely.
- Mechanical restraint is the use of any device or equipment to restrict a student's freedom of movement. The term does not include devices implemented by trained school personnel or devices used by a student that have been prescribed by an appropriate medical or related service professional and are used for specific and approved purposes for which such devices were designed.

School personnel are prohibited from using a mechanical restraint or a physical or manual restraint that restricts a student's breathing.<sup>6</sup>

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<sup>1</sup> 20 U.S.C. s. 1400 et seq.

<sup>2</sup> U.S. Department of Education, *IDEA Purpose*, <https://sites.ed.gov/idea/about-idea> (last visited Mar. 18, 2021).

<sup>3</sup> Section 1003.573, F.S.

<sup>4</sup> Florida Department of Education, Bureau of Exceptional Education and Student Services, *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities*, Technical Assistance Paper FY 2011-165 (Oct. 14, 2011), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-6212/dps-2011-165.pdf>, at 2.

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

<sup>6</sup> Section 1003.573(4), F.S.

### ***Seclusion***

The OCR defines seclusion as the involuntary confinement of a student alone in a room or area from which the student is physically prevented from leaving.<sup>7</sup> Seclusion does not include a time out, which is a behavior management technique that is part of an approved program, involves the monitored separation of the student in a non-locked setting, and is implemented for the purpose of calming.<sup>8</sup> School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshall for seclusion time-out rooms.<sup>9</sup>

### **School District Responsibilities**

Each school district must develop policies and procedures regarding the use of restraint and seclusion of students with a disability. School district policies and procedures must address:<sup>10</sup>

- Incident-reporting procedures.
- Data collection and monitoring, including when, where, and why students are restrained or secluded.
- Training programs relating to manual or physical restraint and seclusion.
- The district's plan for reducing the use of restraint and seclusion, particularly in settings in which it occurs frequently or with students who are restrained repeatedly,<sup>11</sup> and for reducing the use of prone restraint and mechanical restraint.

### ***Confidentiality of Student Records***

With limited exceptions, school districts may not disclose personally identifiable information contained within student records to a third party without parental consent.<sup>12</sup> School districts may disclose personally identifiable information from an education record regarding threats of violence and other issues regarding a student's well-being without parental consent in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.<sup>13</sup>

School districts may also share student information with juvenile justice and criminal justice agencies if the disclosure concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released.<sup>14</sup> If the juvenile

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<sup>7</sup> U.S. Department of Education, Office of Civil Rights, *Dear Colleague Letter: Restraint and Seclusion of Students with Disabilities* (Dec. 28, 2016), available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201612-504-restraint-seclusion-ps.pdf>, at 7.

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

<sup>9</sup> Section 1003.573(5), F.S. Rule 69A-58.0084, F.A.C.

<sup>10</sup> Section 1003.573(3)(a), F.S.

<sup>11</sup> The recurrent use of seclusion or restraint for an individual student indicates the need for a functional behavioral assessment (FBA) and should trigger a review and possible revision of that student's IEP and Behavioral Intervention Plan (BIP). For example, students with limited communication skills may exhibit aggressive behaviors in an effort to communicate. The FBA should be used to identify such situations and a BIP should be developed to address the need(s) through appropriate instructional techniques. Florida Department of Education, Bureau of Exceptional Education and Student Services, *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities*, Technical Assistance Paper FY 2011-165 (Oct. 14, 2011), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-6212/dps-2011-165.pdf>, at 15.

<sup>12</sup> Section 1002.22, F.S.; 20 U.S.C. s. 1232(g).

<sup>13</sup> 34 C.F.R. s. 99.36.

<sup>14</sup> 34 C.F.R. s. 99.38.

justice system seeks the disclosure of information on a student in order to identify and intervene with a juvenile at risk of delinquency, rather than to obtain information solely related to supervision of an adjudicated delinquent, the juvenile could be classified as a preadjudicated delinquent, and the records may be shared.<sup>15</sup>

### **School Responsibilities**

Florida law requires a school to prepare an incident report within 24 hours after a student is released from restraint or seclusion. The incident report must contain:<sup>16</sup>

- The name, age, grade, ethnicity, and disability of the student restrained or secluded.
- The date and time of the event and the duration of the restraint or seclusion.
- A description of the type of restraint.
- A description of the incident.

Before the end of the school day, a school must provide written notification to the parent or guardian of a student each time restraint or seclusion is used on the student. Reasonable efforts must also be taken to notify the parent or guardian by telephone or e-mail, or both, and these efforts must be documented. The school must obtain and keep in its records the parent's or guardian's signed acknowledgement that he or she was notified of his or her child's restraint or seclusion.<sup>17</sup> A school must also provide the parent or guardian with the completed incident report in writing by mail within three school days after a student was manually or physically restrained or secluded.<sup>18</sup>

Monitoring of the use of restraint and seclusion on students is required at the classroom, building, district, and state levels. The incident report and the notification to the parent or guardian must be provided to the school principal, the school district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services within the DOE electronically each month that school is in session.<sup>19</sup>

Forty-three school districts prohibited seclusion in the 2019-2020 school year.<sup>20</sup> In the 2019-2020 school year, school districts reported 6,300 incidents of restraint and 557 incidents of seclusion.<sup>21</sup>

### **Florida Department of Education Responsibilities**

The DOE is required to maintain aggregate data of incidents of manual or physical restraint and seclusion by county, school, student exceptionality, and other variables, including the type and method of restraint or seclusion used. This information must be updated monthly. The DOE is

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<sup>15</sup> See U.S. Dep't. of Justice and U.S. Dep't of Ed., *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs* (June 1997), available at <https://www.ncjrs.gov/pdffiles/163705.pdf> at 9.

<sup>16</sup> Section 1003.573(1), F.S. If the student's release occurs on a day before the school closes for the weekend, a holiday or another reason, the incident report must be completed by the end of the school day on the day the school reopens. *Id.*

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

<sup>18</sup> Section 1003.573(1)(d), F.S.

<sup>19</sup> Section 1003.573(2)(a)-(b), F.S.

<sup>20</sup> Florida Department of Education, *Legislative Bill Analysis for SB 192* (2021), at 6.

<sup>21</sup> Florida Department of Education, *Legislative Bill Analysis for SB 192* (2021), at 5.



also required to establish standards for documenting, reporting, and monitoring the use of manual or physical restraint or mechanical restraint, and occurrences of seclusion.<sup>22</sup>

### **Commissioner of Education Responsibilities**

The Commissioner of Education is required to develop recommendations to incorporate instruction regarding autism spectrum disorder, Down syndrome, and other developmental disabilities into continuing education or in-service training requirements for personnel. These recommendations must address:<sup>23</sup>

- Early identification and intervention methods.
- Curriculum planning and curricular and instructional modifications, adaptations, and specialized strategies and techniques.
- The use of available state and local resources.
- The use of positive behavioral supports to deescalate problem behaviors.
- Appropriate use of manual physical restraint and seclusion techniques.

### **III. Effect of Proposed Changes:**

SB 192 revises the circumstances and procedures required for restraining students with a disability in public schools and prohibits the use of seclusion. The bill also provides enhanced mechanisms for monitoring specified classrooms. Specifically, the bill requires:

- School districts to:
  - Adopt positive behavior interventions and supports for students with a disability and identify all school personnel authorized to use the interventions and supports.
  - Provide training to all school personnel authorized to use positive behavior interventions and supports.
  - Publish the procedures for training in positive behavior interventions and supports in the district's special policies and procedures manual.
- The development of a crisis intervention plan for a student who has been restrained twice during a semester.
- Schools within the Broward and Volusia school districts, as part of the Video Cameras in Public School Classrooms Pilot Program, to install a video camera, upon the request of a parent, in self-contained classrooms where students with a disability are enrolled and specifies the circumstances under which the video recording may be viewed.
- The Department of Education (DOE) to collect information relating to the installation and maintenance of video cameras in self-contained classrooms as part of the pilot program.
- Data maintained by the DOE on the use of restraint to be updated monthly and made available to the public through the DOE's website by October 1, 2020.
- The Commissioner of Education to develop recommendations that incorporate instruction regarding emotional or behavioral disabilities into continuing education or inservice training requirements for instructional personnel.

<sup>22</sup> Section 1003.573(2)(c)-(d), F.S.

<sup>23</sup> Section 1012.582(1), F.S.

## The Use of Restraint and Seclusion

### *Restraint*

The bill modifies s. 1003.573, F.S., to define terms related to restraint and ensure restraint is only used as a last resort to avoid imminent harm. Specifically, the bill defines:

- “Crisis intervention plan” means an individualized action plan for school personnel to implement when a student exhibits dangerous behavior that may lead to imminent risk of serious injury.
- “Imminent risk of serious injury” means the threat posed by dangerous behavior that may cause serious physical harm to self or others.
- “Restraint” to mean the use of a mechanical or physical restraint.
- “Mechanical restraint” to mean the use of a device that restricts a student’s freedom of movement. The term does not include the use devices prescribed or recommended by physical or behavioral health professionals when used for indicated purposes.
- “Physical restraint” to mean the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part of a student’s body but does not include briefly holding a student in order to calm or comfort the student or physically escorting a student to a safe location.
- “Positive behavior interventions and supports” means the use of behavioral interventions to prevent dangerous behaviors that may cause serious physical harm to the student or others.
- “Seclusion” means the involuntary confinement of a student in a room or area alone and preventing the student from leaving the room or area. The term does not include time-out used as a behavior management technique intended to calm a student.
- “Student”, as the term relates to the restraint of students with a disability, to mean a child with an individual education plan<sup>24</sup> enrolled in grades kindergarten through 12. The term does not include students in prekindergarten, students who reside in residential care facilities, or students participating in a Department of Juvenile Justice education program.

The bill specifies that restraint may only be used to protect the safety of students, school personnel, or others, and only after all behavioral interventions to prevent the dangerous behavior posing a risk of serious physical harm to the student or others have been exhausted, and the threat of injury posed by the dangerous behavior remains. When restraining a student, a person may only apply the degree of force necessary to protect the student or others from imminent risk of serious injury. Restraint may not:

- Be used to inflict pain, induce compliance, discipline a student, or to correct student noncompliance.
- Involve the use of straightjackets, zip ties, handcuffs, or tie-downs to obstruct or restrict breathing or blood flow.

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<sup>24</sup> The individualized education plan is the primary vehicle for communicating the school district’s commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

### ***Seclusion***

The bill prohibits the use of seclusion of students by school personnel. Seclusion is defined as the involuntary confinement of a student in a room or area alone. The term does not include time-out used as a behavior management technique to calm a student.

This prohibition may encourage school personnel to consider effective and appropriate intervention strategies to address student behavior in the school setting.

### **School District Responsibilities**

The bill requires school districts to adopt positive behavior interventions and supports for students with a disability and identify all school personnel authorized to use the interventions and supports. District policies and procedures on positive behavior interventions and supports must be publicly posted at the beginning of each school year, and any revisions must be filed with the bureau chief of the Bureau of Exceptional Education and Student Services within the DOE within 90 days after the revision.

Existing requirements governing policies and procedures for the seclusion and restraint of students with a disability are updated to align with the new definitions relating to restraint and the prohibition of the use of seclusion. The bill authorizes school districts to include in their required plans for achieving goals to reduce the use of restraint an analysis of data to determine trends related to the use of restraint.

### ***Training***

The bill requires school districts to provide training to all school personnel authorized to use positive behavior interventions and supports and publish the procedures for the training in the district's special policies and procedures manual. The bill adds the date an individual was last trained in the use of positive behavior interventions and supports to the required components of the incident report that is prepared within 24 hours after a student is released from restraint. Training must be provided annually and include:

- The use of positive behavior interventions and supports.
- Risk assessment procedures to identify when restraint may be used.
- Examples of when positive behavior interventions and support techniques have failed to reduce the imminent risk of serious injury.
- Examples of safe and appropriate restraint techniques and how to use these techniques with multiple staff members working as a team.
- Instruction in the district's documentation and reporting requirements.
- Procedures to identify and deal with possible medical emergencies arising during the use of restraint.
- Cardiopulmonary resuscitation.

The establishment of school district training protocol on the use of positive behavior interventions and supports may provide school personnel with additional resources and knowledge related to the techniques to deescalate disruptive student behavior.

### ***Crisis Intervention Plan***

The bill requires a team comprised of school personnel, applicable physical and behavioral health professionals, and a student's parent to develop a crisis intervention plan after the second time the student is restrained during a semester. A crisis intervention plan is an individualized action plan for school personnel to implement when a student exhibits dangerous behavior that may lead to imminent risk of serious injury. The bill adds the date the crisis intervention plan was last reviewed, and whether changes were recommended, to the required components to be included in an incident report prepared within 24 hours after a student is released from restraint. The crisis intervention plan must be provided to the student's parent and include:

- Specific positive behavior interventions and supports to use in response to dangerous behaviors that create a threat of imminent risk of serious injury.
- Known physical and behavioral health concerns that will limit the use of restraint for the student.
- A timetable for the review and, if necessary, revision of the crisis intervention plan.

### **Video Cameras in Self-Contained Classrooms**

#### ***Operation of Video Cameras***

The bill creates s. 1003.574, F.S., which requires school districts participating in the three-year Video Cameras in Public School Classrooms Pilot Program (Broward and Volusia) to provide a video camera to any school with a self-contained classroom upon the written request of a parent of a student in the classroom. A self-contained classroom is a classroom at a public school in which a majority of the students in regular attendance are provided special education services and are assigned to one or more such classrooms for at least 50 percent of the instructional day. Before the video camera is placed in any classroom, schools must provide written notification of the placement of the video camera to the parents of each student assigned to the self-contained classroom, the school district, and each employee assigned to work with any of the students in the self-contained classroom. The video camera must be operational in each classroom in which the student is in attendance within 30 days after receipt of the parent's written request. The bill does not apply to self-contained classrooms in which the only students receiving special education services are those who have been deemed gifted.

The video camera must be capable of recording, through both video and audio, all areas of the self-contained classroom and any room attached to that classroom when students are present.

Schools are prohibited from:

- Recording a restroom or any area where a student changes his or her clothes.
- Using videos for teacher evaluations or any purpose other than for ensuring the health, safety, and well-being of students receiving special education services in a self-contained classroom.
- Allowing regular or continuous monitoring of the video recording.

Any interruption in the operation of the video camera must be explained in writing to the school principal and the district school board. The explanation must include the duration of the interruption, and the district school board office is required to maintain the written explanation for at least one year.

If the parent withdraws the request or the student no longer attends the classroom, the school must notify the parents of the other students in the classroom at least five school days prior to ceasing operation of the video camera. The school must notify the parents that operation of the video camera will cease unless the continued use of the camera is requested by a parent. The school must also send the notification at least ten school days prior to the end of each school year.

### ***Maintenance and Disclosure of Video Camera Recordings***

The bill provides measures related to the maintenance and disclosure of recordings generated by video cameras in self-contained classrooms. The school principal is the custodian of video cameras, video recordings, and access to video recordings and must protect the confidentiality of all student records contained in video camera recordings in accordance with Florida laws governing the disclosure of student records. When making video recordings available for viewing, the school principal must conceal the identity of any student who appears in a video camera recording but is not involved in the incident which formed the basis of the request for disclosure.

The school must make a recording available for viewing within seven days after receiving a request from:

- A school or school district employee who is involved in an alleged incident that is documented by the video recording as part of the investigative process.
- A parent of a student who is involved in an alleged incident that is documented by the video recording and has been reported to the school or school district.
- A school or school district employee as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the school or school district.
- A law enforcement officer as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the law enforcement agency.
- The Department of Children and Families (DCF) as part of a child abuse or neglect investigation.

An incident is defined as an event, circumstance, act, or omission that results in the abuse or neglect of a student by an employee of a public school, school district or another student. The person who requested to view the recording must view the recording within 30 days of receiving notice that his or her request for viewing has been granted and report any suspected child abuse to the DCF. The bill specifies that an incidental viewing by a school employee or contractor involved in the installation, operation, or maintenance of video equipment, or the retention of video recordings does not violate limitations on the disclosure of video recordings.

Schools must retain video footage for at least three months after the date the video was recorded or until the conclusion of any investigation or legal proceedings that result from the recording, including the exhaustion of all appeals.

### ***State Board of Education Appeals***

An individual may appeal to the State Board of Education (SBE) an action by a school or school district which the individual alleges violates requirements related to video cameras in self-

contained classrooms, and the SBE must grant a hearing within 45 days<sup>25</sup> of receiving the request for appeal. The bill specifies that statutory requirements related to video cameras in self-contained classrooms do not:

- Limit the access of the parent of a student, under the Family Educational Rights and Privacy Act (FERPA)<sup>26</sup> or any other law, to a video recording regarding his or her student.
- Waive any immunity from liability of a school district or an employee of a school district.
- Create any liability for a cause of action against a school or school district or an employee of a school or school district carrying out the duties and responsibilities related to video cameras in self-contained classrooms.

The bill provides rulemaking authority to the SBE to implement requirements related to video cameras in classrooms.

### **Florida Department of Education Responsibilities**

The bill requires the DOE to collect various information. As part of the pilot program, DOE is required to collect information related to the installation and maintenance of video cameras. The DOE is required to make available to the public through DOE's website aggregate-level data on incidents of restraint by county, school, student exceptionality, and other variables by October 1, 2020.

The bill replaces the requirement for the DOE to establish standards for documenting, reporting, and monitoring the use of restraint with the requirement to establish standards for documenting, reporting, and monitoring the incident reports related to the use of restraint. This may assist school districts in documenting and reporting incidents related to the use of restraint.

### **Commissioner of Education Responsibilities**

The bill requires the Commissioner of Education to develop recommendations that incorporate instruction regarding emotional or behavioral disabilities into continuing education or inservice training requirements for instructional personnel. The bill also modifies the information required to be addressed in such recommendations by requiring the recommendations to address the use of positive behavior interventions and support, and effective classroom behavior management strategies.

Accordingly, the bill may help instructional personnel to be better informed and trained in strategies to teach students with emotional or behavioral disabilities.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>25</sup> The State Board of Education generally meets every other month, it is unclear if the SBE would have to schedule special meetings specifically to meet the 45-day appeal deadline. Florida Department of Education, *Legislative Bill Analysis for SB 192* (2021), at 7 and 11.

<sup>26</sup> 20 U.S.C. s. 1232g.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

School districts may incur costs to provide professional development in the use of restraint or positive behavior interventions. These costs are indeterminate.

In addition, the two school districts affected by the pilot program may incur costs associated with installing and maintaining video cameras and retaining recordings. The Department of Education estimates a cost of \$960 to install a 360-degree video camera in each classroom.<sup>27</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 1003.573, 1003.574, and 1012.582 of the Florida Statutes.

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<sup>27</sup> Florida Department of Education, *Legislative Bill Analysis for SB 192 (2021)*, at 8.

**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.

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LEGISLATIVE ACTION

Senate

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House

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The Committee on Education (Book) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 102 - 307

and insert:

Justice education program under s. 1003.52.

(7) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24 hours after a student is released from restraint ~~or seclusion~~. If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day



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12 on the day the school reopens.

13 (b) The following must be included in the incident report:

14 1. The name of the student restrained ~~or secluded~~.

15 2. The age, grade, ethnicity, and disability of the student  
16 restrained ~~or secluded~~.

17 3. The date and time of the event and the duration of the  
18 restraint ~~or seclusion~~.

19 4. The location at which the restraint ~~or seclusion~~  
20 occurred.

21 5. A description of the type of restraint used in terms  
22 established by the department ~~of Education~~.

23 6. The name of the person using or assisting in the  
24 restraint ~~or seclusion~~ of the student and the date the person  
25 was last trained in the use of positive behavior interventions  
26 and supports.

27 7. The name of any nonstudent who was present to witness  
28 the restraint ~~or seclusion~~.

29 8. A description of the incident, including all of the  
30 following:

31 a. The context in which the restraint ~~or seclusion~~  
32 occurred.

33 b. The student's behavior leading up to and precipitating  
34 the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,  
35 including an indication as to why there was an imminent risk of  
36 serious injury ~~or death~~ to the student or others.

37 c. The ~~specific~~ positive behavior interventions and  
38 supports ~~behavioral strategies~~ used to prevent and deescalate  
39 the behavior.

40 d. What occurred with the student immediately after the



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41 termination of the restraint ~~or seclusion~~.

42 e. Any injuries, visible marks, or possible medical  
43 emergencies that may have occurred during the restraint ~~or~~  
44 ~~seclusion~~, documented according to district policies.

45 f. Evidence of steps taken to notify the student's parent  
46 or guardian.

47 g. The date the crisis intervention plan was last reviewed  
48 and whether changes were recommended.

49 (c) A school shall notify the parent or guardian of a  
50 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is  
51 used. Such notification must be in writing and provided before  
52 the end of the school day on which the restraint ~~or seclusion~~  
53 occurs. Reasonable efforts must also be taken to notify the  
54 parent or guardian by telephone or ~~computer~~ e-mail, or both, and  
55 these efforts must be documented. The school shall obtain, and  
56 keep in its records, the parent's or guardian's signed  
57 acknowledgment that he or she was notified of his or her child's  
58 restraint ~~or seclusion~~.

59 (d) A school shall also provide the parent or guardian with  
60 the completed incident report in writing by mail within 3 school  
61 days after a student was ~~manually or physically~~ restrained ~~or~~  
62 ~~secluded~~. The school shall obtain, and keep in its records, the  
63 parent's or guardian's signed acknowledgment that he or she  
64 received a copy of the incident report.

65 (2) SECLUSION.—Each school district shall prohibit school  
66 personnel from using seclusion.

67 (8) MONITORING.—

68 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint  
69 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the



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70 classroom, building, district, and state levels.

71 (b) Any documentation prepared by a school pursuant to as  
72 required in subsection (7) (1) shall be provided to the school  
73 principal, the district director of Exceptional Student  
74 Education, and the bureau chief of the Bureau of Exceptional  
75 Education and Student Services electronically each month that  
76 the school is in session.

77 (c) The department shall maintain aggregate data of  
78 incidents of ~~manual or physical restraint and seclusion~~ and  
79 disaggregate the data for analysis by county, school, student  
80 exceptionality, and other variables, including the type and  
81 method of restraint ~~or seclusion~~ used. This information shall be  
82 updated monthly, de-identified, and made available to the public  
83 through the department's website no later than October 1, 2021.

84 (d) The department shall establish standards for  
85 documenting, reporting, and monitoring the incident reports  
86 related to the use of manual or physical restraint or mechanical  
87 restraint, and occurrences of seclusion. These standards shall  
88 be provided to school districts ~~by October 1, 2011.~~

89 (3) RESTRAINT.—

90 (a) Authorized school personnel may use restraint only when  
91 all positive behavior interventions and supports have been  
92 exhausted. Restraint may be used only when there is an imminent  
93 risk of serious injury and shall be discontinued as soon as the  
94 threat posed by the dangerous behavior has dissipated.  
95 Techniques or devices such as straightjackets, zip ties,  
96 handcuffs, or tie downs may not be used in ways that may  
97 obstruct or restrict breathing or blood flow or that place a  
98 student in a facedown position with the student's hands



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99 restrained behind the student's back. Restraint techniques may  
100 not be used to inflict pain to induce compliance.

101 (b) Notwithstanding the authority provided in s. 1003.32,  
102 restraint shall be used only to protect the safety of students,  
103 school personnel, or others and may not be used for student  
104 discipline or to correct student noncompliance.

105 (c) The degree of force applied during physical restraint  
106 must be only that degree of force necessary to protect the  
107 student or others from imminent risk of serious injury.

108 (4) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

109 (a) Each school district shall adopt approved behavioral  
110 interventions and restraint training, pursuant to State Board of  
111 Education rules, and identify all school personnel authorized to  
112 use the interventions. Each school district shall develop  
113 policies and procedures ~~that are~~ consistent with this section  
114 which ~~and that~~ govern the following:

115 1. Incident-reporting procedures.

116 2. Data collection and monitoring, including when, where,  
117 and why students are restrained and ~~or secluded~~; the frequency  
118 of occurrences of such restraint ~~or seclusion; and the prone or~~  
119 ~~mechanical restraint that is most used.~~

120 3. Monitoring and reporting of data collected.

121 4. Training programs and procedures relating to ~~manual or~~  
122 ~~physical~~ restraint as described in subsection (3) and seclusion.

123 5. The district's plan for selecting personnel to be  
124 trained pursuant to this subsection.

125 6. The district's plan for reducing the use of restraint,  
126 ~~and seclusion~~ particularly in settings in which it occurs  
127 frequently or with students who are restrained repeatedly, ~~and~~



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128 ~~for reducing the use of prone restraint and mechanical~~  
129 ~~restraint.~~ The plan must include a goal for reducing the use of  
130 restraint and seclusion and must include activities, skills, and  
131 resources needed to achieve that goal. Activities may include,  
132 but are not limited to:

- 133 a. Additional training in positive behavior interventions  
134 and supports. ~~behavioral support and crisis management;~~  
135 b. Parental involvement.†  
136 c. Data review.†  
137 d. Updates of students' functional behavioral analysis and  
138 positive behavior intervention plans.†  
139 e. Additional student evaluations.†  
140 f. Debriefing with staff.†  
141 g. Use of schoolwide positive behavior support.† ~~and~~  
142 h. Changes to the school environment.  
143 i. Analysis of data to determine trends.  
144 j. Ongoing reduction of the use of restraint.

145 (b) Any revisions a school district makes to its ~~to the~~  
146 ~~district's~~ policies and procedures pursuant to this section,  
147 ~~which must be prepared as part of its special policies and~~  
148 ~~procedures,~~ must be filed with the bureau chief of the Bureau of  
149 Exceptional Education and Student Services within 90 days after  
150 the revision ~~no later than January 31, 2012.~~

151 (c) At the beginning of each school year, each school  
152 district shall publicly post its policies and procedures on  
153 positive behavior interventions and supports as adopted by the  
154 school district.

155 (5) TRAINING.-Each school district shall provide training  
156 to all school personnel authorized to use positive behavior



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157 interventions and supports pursuant to school district policy.

158 Training shall be provided annually and must include:

159 (a) The use of positive behavior interventions and  
160 supports.

161 (b) Risk assessment procedures to identify when restraint  
162 may be used.

163 (c) Examples of when positive behavior interventions and  
164 support techniques have failed to reduce the imminent risk of  
165 serious injury.

166 (d) Examples of safe and appropriate restraint techniques  
167 and how to use these techniques with multiple staff members  
168 working as a team.

169 (e) Instruction in the district's documentation and  
170 reporting requirements.

171 (f) Procedures to identify and deal with possible medical  
172 emergencies arising during the use of restraint.

173 (g) Cardiopulmonary resuscitation.

174

175 Each school district shall publish the procedures for the  
176 training required under this subsection in the district's  
177 special policies and procedures manual.

178 (6) CRISIS INTERVENTION PLAN.—

179 (a) Upon the second time a student is restrained during a  
180 semester, the school shall develop a crisis intervention plan  
181 for the student. The crisis intervention plan shall be developed  
182 by a team comprised of the student's parent, school personnel,  
183 and applicable physical and behavioral health professionals.

184 (b) The crisis intervention plan must include:

185 1. Specific positive behavior interventions and supports to



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186 use in response to dangerous behaviors that create a threat of  
187 imminent risk of serious injury.

188 2. Known physical and behavioral health concerns that will  
189 limit the use of restraint for the student.

190 3. A timetable for the review and, if necessary, revision  
191 of the crisis intervention plan.

192 (c) The school must provide a copy of the crisis  
193 intervention plan to the student's parent

194 ~~(4) PROHIBITED RESTRAINT.—School personnel may not use a~~  
195 ~~mechanical restraint or a manual or physical restraint that~~  
196 ~~restricts a student's breathing.~~

197 ~~(5) SECLUSION.—School personnel may not close, lock, or~~  
198 ~~physically block a student in a room that is unlit and does not~~  
199 ~~meet the rules of the State Fire Marshal for seclusion time-out~~  
200 ~~rooms.~~

201 Section 2. Section 1003.574, Florida Statutes, is created  
202 to read:

203 1003.574 Video cameras in public school classrooms; pilot  
204 program.—Beginning with the 2021-2022 school year, the Video  
205 Cameras in Public School Classrooms Pilot Program is created for  
206 a period of 3 school years.

207 (1) As used in this section, the term:

208 (a) "Incident" means an event, a circumstance, an act, or  
209 an omission that results in the abuse or neglect of a student  
210 by:

211 1. An employee of a public school or school district; or  
212 2. Another student.

213 (b) "School district" means the Broward County Public  
214 Schools.





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215

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

217 And the title is amended as follows:

218       Delete lines 12 - 13

219 and insert:

220       adopt approved behavioral interventions and restraint  
221       training, pursuant to State Board of Education rules;  
222       requiring each school

By Senator Book

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1 A bill to be entitled  
 2 An act relating to students with disabilities in  
 3 public schools; amending s. 1003.573, F.S.; defining  
 4 terms; requiring school districts to prohibit the use  
 5 of seclusion on students with disabilities in public  
 6 schools; requiring the Department of Education to make  
 7 certain information available to the public by a  
 8 specified date; providing requirements for the use of  
 9 restraint; prohibiting specified restraint techniques;  
 10 revising school district policies and procedures  
 11 relating to restraint; requiring school districts to  
 12 adopt positive behavior interventions and supports and  
 13 certain policies and procedures; requiring each school  
 14 district to publicly post specified policies and  
 15 procedures; requiring school districts to provide  
 16 training on certain interventions and supports to  
 17 specified personnel; providing requirements for such  
 18 training; requiring each school district to publish  
 19 training procedures in its special policies and  
 20 procedures manual; requiring schools to develop a  
 21 crisis intervention plan for certain students;  
 22 providing requirements for such plans; revising the  
 23 requirements for documenting, reporting, and  
 24 monitoring the use of restraint; conforming provisions  
 25 to changes made by the act; creating s. 1003.574,  
 26 F.S.; creating the Video Cameras in Public School  
 27 Classrooms Pilot Program; defining terms; requiring a  
 28 video camera to be placed in specified classrooms upon  
 29 the request of a parent; requiring video cameras to be

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30 operational within a specified time period; providing  
 31 requirements for the discontinuation of such video  
 32 cameras; providing requirements for such video  
 33 cameras; providing an exception; requiring a written  
 34 explanation if the operation of such cameras is  
 35 interrupted; requiring district school boards to  
 36 maintain such explanation for a specified time;  
 37 requiring schools to provide written notice of the  
 38 placement of a video camera to certain individuals;  
 39 providing requirements for retaining and deleting  
 40 video recordings; prohibiting specified uses of such  
 41 video cameras and recordings; providing that school  
 42 principals are the custodians of such video cameras  
 43 and recordings; providing requirements for school  
 44 principals and video recordings; providing  
 45 requirements relating to student privacy; providing  
 46 requirements for the viewing of such video recordings;  
 47 providing for an appeal process for actions of a  
 48 school or school district; providing that incidental  
 49 viewings of video recordings by specified individuals  
 50 are not a violation of certain provisions; providing  
 51 construction; requiring the Department of Education to  
 52 collect specified information; authorizing the State  
 53 Board of Education to adopt rules; amending s.  
 54 1012.582, F.S.; requiring continuing education and  
 55 inservice training for instructional personnel  
 56 teaching students with emotional or behavioral  
 57 disabilities; conforming provisions to changes made by  
 58 the act; providing an effective date.

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

60 Section 1. Section 1003.573, Florida Statutes, is amended  
61 to read:

62 1003.573 Seclusion and Use of restraint of and seclusion on  
63 students with disabilities in public schools.-

64 (1) DEFINITIONS.-As used in this section, the term:

65 (a) "Crisis intervention plan" means an individualized  
66 action plan for school personnel to implement when a student  
67 exhibits dangerous behavior that may lead to imminent risk of  
68 serious injury.

69 (b) "Imminent risk of serious injury" means the threat  
70 posed by dangerous behavior that may cause serious physical harm  
71 to self or others.

72 (c) "Positive behavior interventions and supports" means  
73 the use of behavioral interventions to prevent dangerous  
74 behaviors that may cause serious physical harm to the student or  
75 others.

76 (d) "Restraint" means the use of a mechanical or physical  
77 restraint.

78 1. "Mechanical restraint" means the use of a device that  
79 restricts a student's freedom of movement. The term does not  
80 include the use of devices prescribed or recommended by physical  
81 or behavioral health professionals when used for indicated  
82 purposes.

83 2. "Physical restraint" means the use of manual restraint  
84 techniques that involve significant physical force applied by a  
85 teacher or other staff member to restrict the movement of all or  
86 teacher or other staff member to restrict the movement of all or  
87

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88 part of a student's body. The term does not include briefly  
89 holding a student in order to calm or comfort the student or  
90 physically escorting a student to a safe location.

91 (e) "Seclusion" means the involuntary confinement of a  
92 student in a room or area alone and preventing the student from  
93 leaving the room or area. The term does not include time-out  
94 used as a behavior management technique intended to calm a  
95 student.

96 (f) "Student" means a child with an individual education  
97 plan enrolled in kindergarten through grade 12 in a school, as  
98 defined in s. 1003.01(2), or the Florida School for the Deaf and  
99 Blind. The term does not include students in prekindergarten,  
100 students who reside in residential care facilities under s.  
101 1003.58, or students participating in a Department of Juvenile  
102 Justice education program under s. 1003.53.

103 (7) DOCUMENTATION AND REPORTING.-

104 (a) A school shall prepare an incident report within 24  
105 hours after a student is released from restraint ~~or seclusion~~.  
106 If the student's release occurs on a day before the school  
107 closes for the weekend, a holiday, or another reason, the  
108 incident report must be completed by the end of the school day  
109 on the day the school reopens.

110 (b) The following must be included in the incident report:

- 111 1. The name of the student restrained ~~or secluded~~.
- 112 2. The age, grade, ethnicity, and disability of the student  
113 restrained ~~or secluded~~.
- 114 3. The date and time of the event and the duration of the  
115 restraint ~~or seclusion~~.
- 116 4. The location at which the restraint ~~or seclusion~~

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117 occurred.

118 5. A description of the type of restraint used in terms  
119 established by the department of ~~Education~~.

120 6. The name of the person using or assisting in the  
121 restraint ~~or seclusion~~ of the student and the date the person  
122 was last trained in the use of positive behavior interventions  
123 and supports.

124 7. The name of any nonstudent who was present to witness  
125 the restraint ~~or seclusion~~.

126 8. A description of the incident, including all of the  
127 following:

128 a. The context in which the restraint ~~or seclusion~~  
129 occurred.

130 b. The student's behavior leading up to and precipitating  
131 the decision to use ~~manual or physical restraint or seclusion~~,  
132 including an indication as to why there was an imminent risk of  
133 serious injury ~~or death~~ to the student or others.

134 c. The ~~specific~~ positive behavior interventions and  
135 supports ~~behavioral strategies~~ used to prevent and deescalate  
136 the behavior.

137 d. What occurred with the student immediately after the  
138 termination of the restraint ~~or seclusion~~.

139 e. Any injuries, visible marks, or possible medical  
140 emergencies that may have occurred during the restraint ~~or~~  
141 ~~seclusion~~, documented according to district policies.

142 f. Evidence of steps taken to notify the student's parent  
143 or guardian.

144 g. The date the crisis intervention plan was last reviewed  
145 and whether changes were recommended.

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146 (c) A school shall notify the parent or guardian of a  
147 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is  
148 used. Such notification must be in writing and provided before  
149 the end of the school day on which the restraint ~~or seclusion~~  
150 occurs. Reasonable efforts must also be taken to notify the  
151 parent or guardian by telephone or ~~computer~~ e-mail, or both, and  
152 these efforts must be documented. The school shall obtain, and  
153 keep in its records, the parent's or guardian's signed  
154 acknowledgment that he or she was notified of his or her child's  
155 restraint ~~or seclusion~~.

156 (d) A school shall also provide the parent or guardian with  
157 the completed incident report in writing by mail within 3 school  
158 days after a student was ~~manually or physically~~ restrained ~~or~~  
159 ~~secluded~~. The school shall obtain, and keep in its records, the  
160 parent's or guardian's signed acknowledgment that he or she  
161 received a copy of the incident report.

162 (2) SECLUSION.—Each school district shall prohibit school  
163 personnel from using seclusion.

164 (8) MONITORING.—

165 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint  
166 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the  
167 classroom, building, district, and state levels.

168 (b) Any documentation prepared by a school pursuant to ~~as~~  
169 ~~required in~~ subsection (7) ~~(4)~~ shall be provided to the school  
170 principal, the district director of Exceptional Student  
171 Education, and the bureau chief of the Bureau of Exceptional  
172 Education and Student Services electronically each month that  
173 the school is in session.

174 (c) The department shall maintain aggregate data of

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175 incidents of ~~manual or physical~~ restraint and ~~seclusion~~ and  
 176 disaggregate the data for analysis by county, school, student  
 177 exceptionality, and other variables, including the type and  
 178 method of restraint ~~or seclusion~~ used. This information shall be  
 179 updated monthly, de-identified, and made available to the public  
 180 through the department's website no later than October 1, 2021.

181 (d) The department shall establish standards for  
 182 documenting, reporting, and monitoring the incident reports  
 183 related to the use of manual or physical restraint or mechanical  
 184 restraint, and occurrences of seclusion. These standards shall  
 185 be provided to school districts ~~by October 1, 2011.~~

186 (3) RESTRAINT.-

187 (a) Authorized school personnel may use restraint only when  
 188 all positive behavior interventions and supports have been  
 189 exhausted. Restraint may be used only when there is an imminent  
 190 risk of serious injury and shall be discontinued as soon as the  
 191 threat posed by the dangerous behavior has dissipated.  
 192 Straightjackets, zip ties, handcuffs, or tie-downs may not be  
 193 used to obstruct or restrict breathing or blood flow. Restraint  
 194 techniques may not be used to inflict pain to induce compliance.

195 (b) Notwithstanding the authority provided in s. 1003.32,  
 196 restraint shall be used only to protect the safety of students,  
 197 school personnel, or others and may not be used for student  
 198 discipline or to correct student noncompliance.

199 (c) The degree of force applied during physical restraint  
 200 must be only that degree of force necessary to protect the  
 201 student or others from imminent risk of serious injury.

202 (4) SCHOOL DISTRICT POLICIES AND PROCEDURES.-

203 (a) Each school district shall adopt positive behavior

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204 interventions and supports and identify all school personnel  
 205 authorized to use the interventions and supports. Each school  
 206 district shall develop policies and procedures ~~that are~~  
 207 consistent with this section and that govern the following:

- 208 1. Incident-reporting procedures.
- 209 2. Data collection and monitoring, including when, where,  
 210 and why students are restrained and ~~or secluded,~~ the frequency  
 211 of occurrences of such restraint ~~or seclusion,~~ and the ~~prone or~~  
 212 ~~mechanical restraint that is most used.~~
- 213 3. Monitoring and reporting of data collected.
- 214 4. Training programs and procedures relating to ~~manual or~~  
 215 ~~physical restraint as described in subsection (3) and seclusion.~~
- 216 5. The district's plan for selecting personnel to be  
 217 trained pursuant to this subsection.
- 218 6. The district's plan for reducing the use of restraint,  
 219 ~~and seclusion~~ particularly in settings in which it occurs  
 220 frequently or with students who are restrained repeatedly, ~~and~~  
 221 ~~for reducing the use of prone restraint and mechanical~~  
 222 ~~restraint.~~ The plan must include a goal for reducing the use of  
 223 restraint ~~and seclusion~~ and must include activities, skills, and  
 224 resources needed to achieve that goal. Activities may include,  
 225 but are not limited to:
  - 226 a. Additional training in positive behavior interventions  
 227 and supports. ~~behavioral support and crisis management,~~
  - 228 b. Parental involvement.+
  - 229 c. Data review.+
  - 230 d. Updates of students' functional behavioral analysis and  
 231 positive behavior intervention plans.+
  - 232 e. Additional student evaluations.+

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233 f. Debriefing with staff.~~†~~  
 234 g. Use of schoolwide positive behavior support.~~†~~ and  
 235 h. Changes to the school environment.  
 236 i. Analysis of data to determine trends.  
 237 j. Ongoing reduction of the use of restraint.  
 238 (b) Any revisions a school district makes to its ~~to the~~  
 239 ~~district's~~ policies and procedures pursuant to this section,  
 240 ~~which must be prepared as part of its special policies and~~  
 241 ~~procedures,~~ must be filed with the bureau chief of the Bureau of  
 242 Exceptional Education and Student Services within 90 days after  
 243 the revision ~~no~~ later than January 31, 2012.  
 244 (c) At the beginning of each school year, each school  
 245 district shall publicly post its policies and procedures on  
 246 positive behavior interventions and supports as adopted by the  
 247 school district.  
 248 (5) TRAINING.—Each school district shall provide training  
 249 to all school personnel authorized to use positive behavior  
 250 interventions and supports pursuant to school district policy.  
 251 Training shall be provided annually and must include:  
 252 (a) The use of positive behavior interventions and  
 253 supports.  
 254 (b) Risk assessment procedures to identify when restraint  
 255 may be used.  
 256 (c) Examples of when positive behavior interventions and  
 257 support techniques have failed to reduce the imminent risk of  
 258 serious injury.  
 259 (d) Examples of safe and appropriate restraint techniques  
 260 and how to use these techniques with multiple staff members  
 261 working as a team.

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262 (e) Instruction in the district's documentation and  
 263 reporting requirements.  
 264 (f) Procedures to identify and deal with possible medical  
 265 emergencies arising during the use of restraint.  
 266 (g) Cardiopulmonary resuscitation.  
 267  
 268 Each school district shall publish the procedures for the  
 269 training required under this subsection in the district's  
 270 special policies and procedures manual.  
 271 (6) CRISIS INTERVENTION PLAN.—  
 272 (a) Upon the second time a student is restrained during a  
 273 semester, the school shall develop a crisis intervention plan  
 274 for the student. The crisis intervention plan shall be developed  
 275 by a team comprised of the student's parent, school personnel,  
 276 and applicable physical and behavioral health professionals.  
 277 (b) The crisis intervention plan must include:  
 278 1. Specific positive behavior interventions and supports to  
 279 use in response to dangerous behaviors that create a threat of  
 280 imminent risk of serious injury.  
 281 2. Known physical and behavioral health concerns that will  
 282 limit the use of restraint for the student.  
 283 3. A timetable for the review and, if necessary, revision  
 284 of the crisis intervention plan.  
 285 (c) The school must provide a copy of the crisis  
 286 intervention plan to the student's parent  
 287 ~~(4) PROHIBITED RESTRAINT.—School personnel may not use a~~  
 288 ~~mechanical restraint or a manual or physical restraint that~~  
 289 ~~restricts a student's breathing.~~  
 290 ~~(5) SECLUSION.—School personnel may not close, lock, or~~

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291 ~~physically block a student in a room that is unlit and does not~~  
 292 ~~meet the rules of the State Fire Marshal for seclusion time-out~~  
 293 ~~rooms.~~

294 Section 2. Section 1003.574, Florida Statutes, is created  
 295 to read:

296 1003.574 Video cameras in public school classrooms; pilot  
 297 program.—Beginning with the 2021-2022 school year, the Video  
 298 Cameras in Public School Classrooms Pilot Program is created for  
 299 a period of 3 school years.

300 (1) As used in this section, the term:

301 (a) "Incident" means an event, a circumstance, an act, or  
 302 an omission that results in the abuse or neglect of a student  
 303 by:

304 1. An employee of a public school or school district; or  
 305 2. Another student.

306 (b) "School district" means the Broward County Public  
 307 Schools and the Volusia County Schools.

308 (c) "Self-contained classroom" means a classroom at a  
 309 public school in which a majority of the students in regular  
 310 attendance are provided special education services and are  
 311 assigned to one or more such classrooms for at least 50 percent  
 312 of the instructional day.

313 (2) (a) A school district shall provide a video camera to  
 314 any school with a self-contained classroom upon the written  
 315 request of a parent of a student in the classroom.

316 (b) Within 30 days after receipt of the request from a  
 317 parent, a video camera shall be operational in each self-  
 318 contained classroom in which the parent's student is in regular  
 319 attendance for the remainder of the school year, unless the

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320 parent withdraws his or her request in writing.

321 (3) If the student who is the subject of the initial  
 322 request is no longer in attendance in the classroom and a school  
 323 discontinues operation of a video camera during a school year,  
 324 no later than the fifth school day before the date the operation  
 325 of the video camera is discontinued, the school must notify the  
 326 parents of each student in regular attendance in the classroom  
 327 that operation of the video camera will cease unless the  
 328 continued use of the camera is requested by a parent. No later  
 329 than the 10th school day before the end of each school year, the  
 330 school must notify the parents of each student in regular  
 331 attendance in the classroom that operation of the video camera  
 332 will not continue during the following school year unless a  
 333 written request is submitted by a parent for the next school  
 334 year.

335 (4) (a) A video camera placed in a self-contained classroom  
 336 must be capable of all of the following:

337 1. Monitoring all areas of the self-contained classroom,  
 338 including, without limitation, any room attached to the self-  
 339 contained classroom which is used for other purposes.

340 2. Recording audio from all areas of the self-contained  
 341 classroom, including, without limitation, any room attached to  
 342 the self-contained classroom which is used for other purposes.

343 (b) A video camera placed in a self-contained classroom may  
 344 not monitor a restroom or any other area in the self-contained  
 345 classroom where a student changes his or her clothes, except for  
 346 the entryway, exitway, or hallway outside a restroom or other  
 347 area where a student changes his or her clothes because of the  
 348 layout of the self-contained classroom.

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349 (c) A video camera placed in a self-contained classroom is  
 350 not required to be in operation when students are not present in  
 351 the self-contained classroom.

352 (d) If there is an interruption in the operation of the  
 353 video camera for any reason, an explanation must be submitted in  
 354 writing to the school principal and the district school board  
 355 which explains the reason for and duration of the interruption.  
 356 The written explanation must be maintained at the district  
 357 school board office for at least 1 year.

358 (5) Before a school initially places a video camera in a  
 359 self-contained classroom pursuant to this section, the school  
 360 shall provide written notice of the placement of such video  
 361 camera to all of the following:

362 (a) The parent of each student who is assigned to the self-  
 363 contained classroom.

364 (b) Each student who is assigned to the self-contained  
 365 classroom.

366 (c) The school district.

367 (d) Each school employee who is assigned to work with one  
 368 or more students in the self-contained classroom.

369 (6) A school shall:

370 (a) Retain video recorded from a video camera placed  
 371 pursuant to this section for at least 3 months after the date  
 372 the video was recorded, after which the recording shall be  
 373 deleted or otherwise made irretrievable; or

374 (b) Retain the recording until the conclusion of any  
 375 investigation or any administrative or legal proceedings that  
 376 result from the recording have been completed, including,  
 377 without limitation, the exhaustion of all appeals.

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378 (7) A school or school district may not:

379 (a) Allow regular, continuous, or continual monitoring of  
 380 videos recorded under this section; or

381 (b) Use videos recorded under this section for teacher  
 382 evaluations or any purpose other than for ensuring the health,  
 383 safety, and well-being of students receiving special education  
 384 services in a self-contained classroom.

385 (8) The principal of the school is the custodian of a video  
 386 camera operated pursuant to this section, all recordings  
 387 generated by that video camera, and access to such recordings.

388 (a) The release or viewing of any video recording under  
 389 this section must comply with s. 1002.22.

390 (b) A school or school district shall:

391 1. Conceal the identity of any student who appears in a  
 392 video recording, but is not involved in the alleged incident  
 393 documented by the video recording, which the school allows to be  
 394 viewed under subsection (9), including, without limitation,  
 395 blurring the face of the uninvolved student.

396 2. Protect the confidentiality of all student records  
 397 contained in a video recording in accordance with s. 1002.22.

398 (9) (a) Within 7 days after receiving a request to view a  
 399 video recording, a school or school district shall allow the  
 400 following individuals to view a video recording made under this  
 401 section:

402 1. A school or school district employee who is involved in  
 403 an alleged incident that is documented by the video recording as  
 404 part of the investigative process;

405 2. A parent of a student who is involved in an alleged  
 406 incident that is documented by the video recording and has been



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407 reported to the school or school district;

408 3. A school or school district employee as part of an  
 409 investigation into an alleged incident that is documented by the  
 410 video recording and has been reported to the school or school  
 411 district;

412 4. A law enforcement officer as part of an investigation  
 413 into an alleged incident that is documented by the video  
 414 recording and has been reported to the law enforcement agency;  
 415 or

416 5. The Department of Children and Families as part of a  
 417 child abuse or neglect investigation.

418 (b) A person who requests to view a recording shall make  
 419 himself or herself available for viewing the recording within 30  
 420 days after being notified by the school or school district that  
 421 the person's request has been granted.

422 (c) A person who views the recording and suspects that  
 423 child abuse has occurred must report the suspected child abuse  
 424 to the Department of Children and Families.

425 (10) (a) Any individual may appeal to the State Board of  
 426 Education regarding an action by a school or school district  
 427 which the individual alleges to be in violation of this section.

428 (b) The state board shall grant a hearing on an appeal  
 429 under this subsection within 45 days after receiving the appeal.

430 (11) A school or school district does not violate  
 431 subsection (8) if a contractor or other employee of the school  
 432 or school district incidentally views a video recording made  
 433 under this section in connection with the performance of his or  
 434 her duties related to either of the following:

435 (a) The installation, operation, or maintenance of video

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436 equipment; or

437 (b) The retention of video recordings.

438 (12) This section does not:

439 (a) Limit the access of the parent of a student, under the  
 440 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s.  
 441 1232g, or any other law, to a video recording regarding his or  
 442 her student.

443 (b) Waive any immunity from liability of a school district  
 444 or an employee of a school district.

445 (c) Create any liability for a cause of action against a  
 446 school or school district or an employee of a school or school  
 447 district carrying out the duties and responsibilities required  
 448 by this section.

449 (d) Apply to self-contained classrooms in which the only  
 450 students receiving special education services are those who have  
 451 been deemed gifted.

452 (13) The department shall collect information relating to  
 453 the installation and maintenance of video cameras under this  
 454 section.

455 (14) The State Board of Education may adopt rules to  
 456 implement this section.

457 Section 3. Section 1012.582, Florida Statutes, is amended  
 458 to read:

459 1012.582 Continuing education and inservice training for  
 460 teaching students with developmental and emotional or behavioral  
 461 disabilities.—

462 (1) The Commissioner of Education shall develop  
 463 recommendations to incorporate instruction regarding autism  
 464 spectrum disorder, Down syndrome, ~~and~~ other developmental

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465 disabilities, and emotional or behavioral disabilities into  
 466 continuing education or inservice training requirements for  
 467 instructional personnel. These recommendations shall address:

468 (a) Early identification of, and intervention for, students  
 469 who have autism spectrum disorder, Down syndrome, ~~or~~ other  
 470 developmental disabilities, or emotional or behavioral  
 471 disabilities.

472 (b) Curriculum planning and curricular and instructional  
 473 modifications, adaptations, and specialized strategies and  
 474 techniques.

475 (c) The use of available state and local resources.

476 (d) The use of positive behavior interventions and  
 477 behavioral supports to deescalate problem behaviors.

478 (e) The ~~Appropriate~~ use of ~~manual physical~~ restraint and  
 479 ~~exclusion~~ techniques, positive behavior interventions and  
 480 supports, and effective classroom behavior management  
 481 strategies.

482 (2) In developing the recommendations, the commissioner  
 483 shall consult with the State Surgeon General, the Director of  
 484 the Agency for Persons with Disabilities, representatives from  
 485 the education community in the state, and representatives from  
 486 entities that promote awareness about autism spectrum disorder,  
 487 Down syndrome, ~~and~~ other developmental disabilities, and  
 488 emotional or behavioral disabilities and provide programs and  
 489 services to persons with ~~developmental~~ disabilities, including,  
 490 but not limited to, regional autism centers pursuant to s.  
 491 1004.55.

492 (3) Beginning with the 2010-2011 school year, the  
 493 Department of Education shall incorporate the course curricula

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494 recommended by the Commissioner of Education, pursuant to  
 495 subsection (1), into existing requirements for the continuing  
 496 education or inservice training of instructional personnel. The  
 497 requirements of this section may not add to the total hours  
 498 required for continuing education or inservice training as  
 499 currently established by the department.

500 (4) The State Board of Education may adopt rules pursuant  
 501 to ss. 120.536(1) and 120.54 to implement this section.

502 Section 4. This act shall take effect July 1, 2021.

Page 18 of 18

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

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: CS/SB 582

INTRODUCER: Judiciary Committee and Senator Rodrigues and others

SUBJECT: Parental Rights

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
2.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 582 establishes the “Parents’ Bill of Rights.” The bill provides that the state, its political subdivisions, any other governmental entity, or other institution may not infringe upon the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of a minor child. If those entities infringe upon a parent’s fundamental right, they must demonstrate that the action is reasonable and necessary to achieve a compelling state interest, and the action must be narrowly tailored and not otherwise served by less restrictive means.

The bill enumerates a list of rights that a parent possesses in order to direct the education of his or her child and be informed about the child’s educational programs. The bill also requires the school district to promote parental involvement in the public school system by providing access to the child’s studies and instructional materials while also recognizing a parent’s right to withdraw the child from objectionable portions of the school’s curriculum.

The bill also requires a parent’s permission before a health care practitioner may provide services, prescribe medicine to the child, or perform a medical procedure, unless otherwise provided by law. The bill provides a misdemeanor penalty for a health care practitioner or similar person who violates the health care provisions and subjects these persons to disciplinary actions.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Constitutional Rights of Parents

#### *Parental Guarantees in the United States Constitution*

The Fourteenth Amendment to the U.S. Constitution provides that no State shall:

[D]eprive any person of life, *liberty*, or property, without due process of law.

The U.S. Supreme Court has recognized that the Due Process Clause guarantees more than simply fair process. The Due Process Clause contains an additional component that provides a heightened level of protection against any government interference when certain fundamental rights and liberty interests are involved. In *Troxel v. Granville*,<sup>1</sup> a case to determine the scope of grandparent visitation rights when pitted against a parent's rights, the Court noted that the Fourteenth Amendment "liberty interest" at issue – the interest that parents had in the care, custody, and control over their children – was perhaps the oldest of any fundamental liberty interest that the Court had recognized.

The Court reflected back to a 1923 decision,<sup>2</sup> when it determined that the "liberty" interest protected by the Due Process Clause included the right of parents to "establish a home and bring up children" and "to control the education of their own."

The Court also noted as early as 1925<sup>3</sup> that a child was not simply the creature of the State and that the people who nurture the child and direct the child's destiny have the right, and the high duty, to recognize and prepare the child for additional obligations. In 1944, the Court confirmed the right of parents to direct the upbringing of their children when it stated:

It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder.<sup>4</sup>

Finally, in recounting the history of parental authority in 1979, the Court stated, "We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected."<sup>5</sup>

#### *Parental Guarantees in the State Constitution*

Similarly, the Florida Supreme Court has determined that the fundamental liberty interest in parenting one's child "is protected by both the Florida and federal constitutions. In Florida, it is specifically protected by our privacy provision."<sup>6</sup> The Court also noted that the state

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<sup>1</sup> *Troxel v. Granville*, 530 U.S. 57 (2000).

<sup>2</sup> *Troxel* quoting *Meyer v. Nebraska*, 262 U.S. 390, 399, 401 (1923).

<sup>3</sup> *Troxel* quoting *Pierce v. Society of Sisters*, 268 U.S. 510, 534-535 (1925).

<sup>4</sup> *Troxel* quoting *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

<sup>5</sup> *Troxel* quoting *Parham v. J.R.* 442 U.S. 584, 602 (1979).

<sup>6</sup> *Beagle v. Beagle*, 678 So. 2d 1271, 1275 (Fla. 1996).

constitutional privacy provision contained in article I, section 23 affords greater protection than that of the federal constitution.

The Court wrote in *Winfield v. Division of Pari-Mutuel Wagering*<sup>7</sup> that the standard of review that must be used to evaluate whether a state has intruded into a citizen's private life is the "compelling state interest standard." Under that test, the burden of proof is on the state to justify its intrusion on privacy. The burden can be met by the state if it demonstrates that the regulation being challenged serves a compelling state interest and the regulation accomplishes its goal by using the least intrusive means.<sup>8</sup>

## **Statutory Rights of Parents of Students**

### ***Mandatory Attendance***

All children who turn 6 years by February 1 of any school year and have not attained the age of 16 years are required to attend school regularly during the entire school term.<sup>9</sup> Parents have the option to comply with school attendance laws by enrolling the student in a public school; a parochial, religious, or denominational school; a private school; a home education program; or a private tutoring program.<sup>10</sup> The district school superintendent may authorize certificates of exemptions from school attendance requirements in certain situations.<sup>11</sup> A student who holds a valid certificate of exemption is exempt from attending school although the certificate expires at the end of the school year.<sup>12</sup>

### ***School District Obligations***

A parent of a K-12 public school student is afforded many statutory rights.<sup>13</sup> Each school district is required to:

- Provide a parent with specific information about his or her child's educational progress, comprehensive information about opportunities for involvement in the child's education, and a framework for building and strengthening partnerships among parents and school district personnel.<sup>14</sup>
- Afford a parent the opportunity to enroll his or her child in instruction for exceptional students or challenge a district school board's determination of the child's eligibility for a gifted or special education program.<sup>15</sup>
- Establish a policy enabling a parent to object to and contest specific instructional materials.<sup>16</sup>
- Notify a parent and obtain his or her consent before a public school student may be referred to or offered contraceptive services at school facilities or travel in a privately owned motor vehicle to a school function.<sup>17</sup>

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<sup>7</sup> *Winfield v. Division of Pari-Mutual Wagering*, 477 So. 2d 544, 548 (Fla. 1985).

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

<sup>9</sup> Section 1003.21(1)(a)1, F.S.

<sup>10</sup> Section 1002.20(2)(b), F.S.

<sup>11</sup> Section 1003.21(3), F.S.

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

<sup>13</sup> Section 1002.20, F.S.

<sup>14</sup> Section 1002.23, F.S.

<sup>15</sup> Section 1003.57, F.S.

<sup>16</sup> Section 1006.28(2)(a)2. and 3., F.S.

<sup>17</sup> Sections 1002.20(3)(e) and (22)(c), F.S.

### ***Parents' Rights to Exempt Their Child from Activities***

No educational agency or institution may collect, obtain, or retain information on the political affiliation, voting history, religious affiliation, or biometric information of a student, parent, or sibling of the student.<sup>18</sup> In addition, a parent has the right to exempt his or her child from:

- A health examination on religious grounds.<sup>19</sup>
- School immunization requirements on religious or certain health grounds.<sup>20</sup>
- Performing surgery or dissection in a biological science class.<sup>21</sup>
- Receiving instruction on reproductive health or any disease, including HIV/AIDS.<sup>22</sup>
- Reciting the pledge of allegiance.<sup>23</sup>
- Reciting the Declaration of Independence.<sup>24</sup>

### ***Access to Records and Information***

The rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies are protected under federal law.<sup>25</sup>

Specifically, a parent of a K-12 student has the right to:<sup>26</sup>

- Receive accurate and timely information regarding the student's academic progress and must be informed of ways a parent can help a student succeed in school.
- Access the student's education records, including the right to inspect and review those records.
- Challenge the content of education records in order to ensure that the records are not inaccurate, misleading, or otherwise a violation of privacy or other rights.
- Privacy with respect to the student's records and reports.
- Receive annual notice of the parent's rights with respect to education records.
- Receive report cards on a regular basis that clearly depict and grade the student's academic performance in each class or course, the student's conduct, and the student's attendance.<sup>27</sup>
- Receive reports at regular intervals of the academic progress and other needed information regarding the student.
- Receive timely notification of any verified report of a substance abuse violation by the student.<sup>28</sup>

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<sup>18</sup> Section 1002.222(1)(a), F.S.

<sup>19</sup> Section 1002.20(3)(a), F.S.

<sup>20</sup> Section 1002.20(3)(b), F.S.

<sup>21</sup> Section 1002.20(3)(c), F.S.

<sup>22</sup> Section 1002.20(3)(d), F.S.

<sup>23</sup> Section 1002.20(12), F.S.

<sup>24</sup> Section 1003.421(4), F.S.

<sup>25</sup> Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g; and s. 1002.22, F.S. With limited exceptions, the FERPA prohibits the distribution of federal funds to an educational agency that has a policy or practice of disclosing the education records of a student without parental consent. Section 1002.221, F.S., incorporates FERPA into Florida law. FERPA only applies to records created for an educational purpose and maintained by an educational agency. The FERPA authorizes an education agency to disclose records without parental consent to juvenile justice and criminal justice agencies if the disclosure concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released. 34 C.F.R. s. 99.38.

<sup>26</sup> Sections 1002.20, 1002.22(2), and 1006.28, F.S.

<sup>27</sup> Section 1002.20(14), F.S.

<sup>28</sup> Section 1002.20(3)(g).

- Access information relating to the school district's policies for promotion or retention, including high school graduation requirements.<sup>29</sup>
- Access information relating to student eligibility to participate in extra-curricular activities.<sup>30</sup>
- Access information relating to the state public education system, standards, and requirements.<sup>31</sup>
- Access, review, object to, and challenge instructional and supplemental education materials.<sup>32</sup>

### ***Parental Consent for Health Care***

Any medical decision made to address a student's needs is a matter between the student, the student's parent, and a competent health care professional chosen by the parent.<sup>33</sup> The right to consent to medical treatment for a child resides with a parent who has the legal responsibility to maintain and support the child.<sup>34</sup> District school boards may adopt policies to ensure an appropriate response in emergency situations and the provision of first aid and emergency medical care.<sup>35</sup>

When parental consent cannot be obtained, a licensed physician or osteopathic physician may render emergency medical care or treatment to an injured minor or a minor who is suffering from an acute illness, disease or condition if delay would endanger the minor's health or physical well-being. This provision only applies when parental consent cannot be obtained because:

- The minor's condition has rendered him or her unable to identify his or her parents, guardian, or legal custodian and the information is not known to the person accompanying the minor to the hospital; or
- The parents, guardian, or legal custodian cannot be immediately located by telephone at their residence or business.

The hospital must notify the parent or legal guardian as soon as possible after the emergency medical care or treatment is rendered. The hospital records must contain the reason why the consent was not initially obtained and must contain a statement by the attending physician that the emergency care was necessary for the minor's health or physical well-being.<sup>36</sup>

The statutes provide a list of people, in order of priority, who may consent to the medical care or treatment of a minor when, after a reasonable attempt, a person with the authority to give consent cannot be contacted by a medical provider and notice to the contrary has not been given to the provider. In order of priority those people are:

- A health care surrogate.
- The stepparent.
- The grandparent of the minor.

<sup>29</sup> Section 1008.25, F.S.

<sup>30</sup> Section 1006.195(1), F.S.

<sup>31</sup> Section 1002.23, F.S.

<sup>32</sup> Sections 1002.20(19) and 1006.28, F.S.

<sup>33</sup> Section 1006.0625, F.S.

<sup>34</sup> *O'Keefe v. Orea*, 731 So. 2d 680, 686 (Fla. 1st DCA 1998).

<sup>35</sup> Section 1001.43, F.S.

<sup>36</sup> Section 743.064, F.S.

- An adult brother or sister of the minor.
- An adult aunt or uncle of the minor.<sup>37</sup>

The treating provider's records must contain documentation that a reasonable attempt was made to contact the person who has the authority to consent to the minor's care.<sup>38</sup>

### **III. Effect of Proposed Changes:**

#### **Sections 1 and 2 – The Parents' Bill of Rights**

The bill creates a new chapter in the Florida Statutes, chapter 1014, which is entitled "Parents' Bill of Rights" and contains sections 1014.01 – 1014.06, F.S.

#### **Section 3 – Legislative Findings and Definition of "Parent"**

Section 3 contains the legislative findings and a definition. In these provisions, the Legislature finds that:

- It is a fundamental right of parents to direct the upbringing, education, and care of their minor children;
- Important information relating to a minor child should not be withheld, either inadvertently or purposefully, from a parent, including information regarding the minor child's health, well-being, and education, while the child is in the custody of the school district; and
- It is necessary to establish a consistent mechanism for parents to be notified of information relating to the health and well-being of their minor children.

A parent is defined to be a person who has legal custody of a minor child as a natural or adoptive parent or a legal guardian.

#### **Section 4 – Prohibiting Actions that Infringe on Parental Rights**

The bill provides that the following entities may not infringe on the fundamental rights of a parent to direct the upbringing, education, health care, and mental health of a parent's minor child:

- The state;
- State political subdivisions;
- Any other governmental entity; or
- Any other institution.

If any of these entities infringes on a parent's fundamental right, it must demonstrate that the action is reasonable and necessary to achieve a compelling state interest and the action is narrowly tailored and is not otherwise served by a less restrictive means. This "compelling interest" standard is the highest standard of review and is discussed above in the Present Situation under "Parental Guarantees in the State Constitution."

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<sup>37</sup> Section 743.0645, F.S. This section does not apply to a minor who has been committed to the Department of Children and Families or the Department of Juvenile Justice.

<sup>38</sup> *Id.*



## Section 5 – Parental Rights

### *Rights Reserved to the Parent of a Minor Child*

This section establishes that all parental rights are reserved to the parent of a minor child “without obstruction or interference” by any of the above-referenced governmental entities. Those rights include, but are not limited to the right of a parent to:

- Direct the education and care of the minor child.
- Direct the upbringing and the moral or religious training of the minor child.
- Apply to enroll the minor child in a public school or, as an alternative to public education, a private school, religious school, a home education program, or other available option as authorized by law.
- Access and review all school records relating to the minor child.
- Make health care decisions for the minor child, unless otherwise prohibited by law.
- Access and review all medical records of the minor child, unless prohibited by law or if the parent is the subject of an investigation of a crime committed against the minor child and a law enforcement agency or official requests that the information not be released.
- Consent in writing before a biometric scan of the minor child is made, shared, or stored.
- Consent in writing before any record of the minor child’s blood or deoxyribonucleic acid (DNA) is created, stored, or shared, except as required by general law or authorized pursuant to a court order.
- Consent in writing before the state or any of its political subdivisions makes a video or voice recording of the minor child unless the recording is made during or as part of a court proceeding, or is made as part of a forensic interview in a criminal or Department of Children and Families investigation, or is to be used solely for the following purposes:
  - A safety demonstration, including the maintenance of order and discipline in the common areas of a school or on student transportation vehicles;
  - A purpose related to a legitimate academic or extracurricular activity;
  - A purpose related to regular classroom instruction;
  - Security or surveillance of buildings or grounds; or
  - A photo identification card.
- Be notified promptly if an employee of the state, any of its political subdivisions, any other governmental entity, or any other institution suspects that a criminal offense has been committed against his or her minor child, unless the incident has first been reported to a law enforcement agency or the Department of Children and Families and notifying the parent would impede the investigation.
- Consent in writing before his or her minor child’s grades are released to a law enforcement officer of law enforcement agency by an agency or institution as defined in s. 1002.22, F.S., unless the release is authorized by s. 1002.221, F.S., and in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g.

The bill clarifies that the rights expressed in this section do not:

- Authorize a parent of a minor child to engage in conduct that is unlawful or to abuse or neglect his or her minor child in violation of general law;
- Condone, authorize, approve, or apply to a parental action or decision that would end life;

- Prohibit a court of competent jurisdiction, law enforcement officer, or employee of a government agency that is responsible for child welfare from acting in his or her official capacity within the reasonable and prudent scope of his or her authority; or
- Prohibit a court of competent jurisdiction from issuing an order that is otherwise permitted by law.

### ***Discipline***

Any employee of any of the above-referenced entities who encourages or coerces, or attempts to encourage or coerce a minor child to withhold information from his or her parent may be subject to disciplinary action.

### ***Inalienable Rights***

The final subsection states that a parent of a minor child has inalienable rights that are more comprehensive than those enumerated in this section, unless those rights have been legally waived or terminated. The bill also provides that the chapter does not prescribe all of a parent's rights and unless required by law, a parent's rights may not be limited or denied. Additionally, the chapter may not be construed to apply to a parental action or decision that would end life.

## **Section 6 – School District Notifications on Parental Rights**

The bill requires each school board, in consultation with parents, teachers, and administrators, to develop and then adopt a policy that promotes parental involvement in the public school system. The policy must include:

- A plan, pursuant to s. 1002.23, F.S., for parental participation to improve parent and teach cooperation in areas such as homework, school attendance, and discipline.
- A program, pursuant to s. 1002.20(19)(b), F.S., for a parent to learn about the minor child's course of study, including the source of any supplemental education materials.
- Procedures for a parent to object to instructional materials and other materials used in the classroom. The objections may be based on beliefs regarding morality, sex, or religion or the belief that the materials or activities are harmful. Instructional materials are defined in s. 1006.28(2), F.S.,<sup>39</sup> and may include other materials used in the classroom, but are not limited to, textbooks, workbooks and worksheets, handouts, software, applications, and any digital media available to students.
- Procedures, pursuant to s. 1002.20(3)(d), F.S. for a parent to withdraw the minor child from any portion of the school district's plan as required under s. 1003.42(2)(n), F.S., which relates to sex education or instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality if the parent provides a written objection to the child's participation. The procedures must provide for a parent to be notified in advance of the course content so that he or she may withdraw the child from those portions of the course.

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<sup>39</sup> "Instructional materials" means items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced individually. A publisher may also offer sections of state-adopted instructional materials in digital or electronic versions at reduced rates to districts, schools, and teachers. Section 1006.29(2), F.S.

- Procedures, pursuant to s. 1006.195(1)(a), F.S., for a parent to learn about the nature and purpose of clubs and activities at the child's school, including those that are extracurricular or part of the school curriculum.
- Procedures for a parent to learn about parental rights and responsibilities under general law, including all of the following:
  - The right to opt the minor child out of any portion of the school district's comprehensive health education required by statute that relates to sex education instruction in acquired immune deficiency syndrome education or any instruction regarding sexuality.
  - A plan to disseminate information about school choice options, including open enrollment.
  - The right of a parent to exempt the minor child from immunizations.
  - The right of a parent to review statewide, standardized assessment results.
  - The right to enroll the minor child in gifted or special education programs.
  - The right of a parent to inspect school district instructional materials.
  - The right to of a parent to access information relating to the school district's policies for promotion or retention, including high school graduation requirements.
  - The right of a parent to receive a school report card and be informed of the child's attendance requirements.
  - The right of a parent to access information relating to the state public education system, state standards, report card requirements, attendance requirements, and instructional materials requirements.
  - The right of a parent to participate in parent-teacher association and organizations sanctioned by a district school board or the Department of Education.
  - The right of a parent to opt out of any district-level data collection relating to the minor child that is not required by law.

The information required in this section may be provided by the district school board electronically or posted on its website.

A parent may request, in writing, from the district school superintendent, the information required under this section. The superintendent must provide the information to the parent within 10 days. If the superintendent denies a parent's request for information or does not respond to the parent's request within 10 days, the parent may appeal the denial to the district school board. The parent's appeal must be placed on the agenda for the board's next public meeting. If it is too late for a parent's appeal to be placed on the agenda at the next meeting, it must be included on the agenda for the following meeting.

### **Section 7 – Parental Consent for Health Care Services**

Unless the law provides otherwise a health care practitioner, as defined in s. 456.001, F.S., or someone employed by a health care practitioner, may not provide, solicit, or arrange to provide health care services or prescribe medicine to the minor child without first obtaining written consent from the parent.

A provider,<sup>40</sup> as defined in s. 408.803, F.S., may not allow a medical procedure to be performed on a minor child in its facility without first obtaining written consent from the parent.

This section does not apply to services provided by a clinical laboratory unless the services are delivered through a direct encounter with the minor at the clinical laboratory facility.

### ***Exception***

The provisions of this section which addresses parental consent for health care services do not apply to abortion, which is governed by chapter 390.

### ***Penalties***

A health care practitioner or other person who violates this section is subject to disciplinary action pursuant to s. 408.813 or s. 456.072, F.S., sections 8 and 9 of the bill, and commits a first degree misdemeanor which is punishable by up to 1 year imprisonment and a fine not to exceed \$1,000.<sup>41</sup>

## **Section 8 – Administrative Fines and Violations**

The Agency for Health Care Administration may impose an administrative fine for a violation of the provisions regarding the parental consent for health care services. The violation is an unclassified violation and the fine may not exceed \$500 for each violation.

## **Section 9 – Grounds for Discipline**

The Department of Health may take disciplinary action against someone who fails to comply with the parental consent requirements for health care services. The disciplinary actions range from refusing to certify a license or certify the license with restrictions, suspending or permanently revoking a license, restricting a license, imposing an administrative fine not to exceed \$10,000 for each offense, issuing a reprimand or letter of concern, placing the licensee on probation, taking corrective action, imposing an administrative fine for violations of patient rights, requiring the refund of fees billed and collected, and requiring that the practitioner to undergo remedial education.<sup>42</sup>

## **Section 10 – Effective Date**

The act takes effect July 1, 2021.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>40</sup> Section 408.803(11), F.S., defines a provider to mean any activity, service, agency, or facility regulated by the agency and listed in s. 408.802, F.S.

<sup>41</sup> Sections 775.082(4)(a) and 775.083(1)(d), F.S.

<sup>42</sup> Section 456.072(2), F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 408.813 and 456.072.

This bill creates the following sections of the Florida Statutes: 1014.01, 1014.02, 1014.03, 1014.04, 1014.05, and 1014.06.1014.01, 1014.06, 1014.02, 1014.03, 1014.04, 1014.05, 408.813, 456.072

**IX. Additional Information:**

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

**CS by Judiciary Committee on March 2, 2021:**

An additional provision is added to the parental rights section of the bill. A parent must consent in writing before his or her minor child's grades may be released to a law enforcement officer or law enforcement agency unless that release is authorized in accordance with the provisions of the Family Educational Rights and Privacy Act.

- B. **Amendments:**

None.



530544

LEGISLATIVE ACTION

Senate

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House

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The Committee on Education (Rodrigues) recommended the following:

**Senate Amendment**

Between lines 284 and 285

insert:

(5) This section does not apply to care that is necessary to treat an acute medical condition or to care provided pursuant to s. 768.135.

By the Committee on Judiciary; and Senators Rodrigues and Baxley

590-02340-21

2021582c1

1 A bill to be entitled  
 2 An act relating to parental rights; creating ch. 1014,  
 3 F.S.; creating s. 1014.01, F.S.; providing a short  
 4 title; creating s. 1014.02, F.S.; providing  
 5 legislative findings; defining the term "parent";  
 6 creating s. 1014.03, F.S.; prohibiting the state, its  
 7 political subdivisions, other governmental entities,  
 8 or other institutions from infringing on parental  
 9 rights unless specified conditions are met; creating  
 10 s. 1014.04, F.S.; prohibiting the state, its political  
 11 subdivisions, other governmental entities, or other  
 12 institutions from obstructing or interfering with  
 13 specified parental rights; providing construction;  
 14 authorizing discipline of state employees who  
 15 encourage or coerce, or attempt to encourage or  
 16 coerce, a minor child to withhold information from his  
 17 or her parent; providing construction; creating s.  
 18 1014.05, F.S.; requiring each district school board to  
 19 develop and adopt a policy to promote parental  
 20 involvement in the public school system; specifying  
 21 requirements for such policy; defining the term  
 22 "instructional materials"; authorizing a district  
 23 school board to provide such policy electronically or  
 24 on its website; authorizing a parent to request  
 25 certain information in writing from a district school  
 26 superintendent; requiring the district school  
 27 superintendent to provide requested information in a  
 28 specified timeframe; authorizing a parent to appeal a  
 29 district school superintendent's denial of, or failure

Page 1 of 11

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

590-02340-21

2021582c1

30 to provide, requested information; requiring a  
 31 district school board to place such appeal on the  
 32 agenda for its next public meeting, or the subsequent  
 33 meeting if it is too late to place such appeal on the  
 34 next agenda; creating s. 1014.06, F.S.; prohibiting  
 35 health care practitioners and their employees from  
 36 providing health care services or prescribing  
 37 medicinal drugs to a minor child without a parent's  
 38 written consent; prohibiting a provider from allowing  
 39 a medical procedure to be performed on a minor child  
 40 in its facility without a parent's written consent;  
 41 providing exceptions; providing applicability;  
 42 providing for disciplinary action and criminal  
 43 penalties; amending s. 408.813, F.S.; authorizing the  
 44 Agency for Health Care Administration to impose an  
 45 administrative fine on providers that violate certain  
 46 parental consent requirements; amending s. 456.072,  
 47 F.S.; authorizing the Department of Health to take  
 48 disciplinary action against health care practitioners  
 49 who fail to comply with certain parental consent  
 50 requirements; providing an effective date.  
 51  
 52 Be It Enacted by the Legislature of the State of Florida:  
 53  
 54 Section 1. Chapter 1014, Florida Statutes, consisting of  
 55 ss. 1014.01-1014.06, is created and shall be entitled "Parents'  
 56 Bill of Rights."  
 57 Section 2. Section 1014.01, Florida Statutes, is created to  
 58 read:

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59 1014.01 Short title.—This section and ss. 1014.02-1014.06  
 60 may be cited as the “Parents’ Bill of Rights.”

61 Section 3. Section 1014.02, Florida Statutes, is created to  
 62 read:

63 1014.02 Legislative findings and definition.—

64 (1) The Legislature finds that it is a fundamental right of  
 65 parents to direct the upbringing, education, and care of their  
 66 minor children. The Legislature further finds that important  
 67 information relating to a minor child should not be withheld,  
 68 either inadvertently or purposefully, from his or her parent,  
 69 including information relating to the minor child’s health,  
 70 well-being, and education, while the minor child is in the  
 71 custody of the school district. The Legislature further finds  
 72 that it is necessary to establish a consistent mechanism for  
 73 parents to be notified of information relating to the health and  
 74 well-being of their minor children.

75 (2) For purposes of this chapter, the term “parent” means a  
 76 person who has legal custody of a minor child as a natural or  
 77 adoptive parent or a legal guardian.

78 Section 4. Section 1014.03, Florida Statutes, is created to  
 79 read:

80 1014.03 Infringement of parental rights.—The state, any of  
 81 its political subdivisions, any other governmental entity, or  
 82 any other institution may not infringe on the fundamental right  
 83 of a parent to oversee the upbringing, education, health care,  
 84 and mental health of his or her minor child without  
 85 demonstrating that such action is reasonable and necessary to  
 86 achieve a compelling state interest and that such action is  
 87 narrowly tailored and is not otherwise served by a less

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88 restrictive means.

89 Section 5. Section 1014.04, Florida Statutes, is created to  
 90 read:

91 1014.04 Parental rights.—

92 (1) All parental rights are reserved to the parent of a  
 93 minor child in this state without obstruction or interference  
 94 from the state, any of its political subdivisions, any other  
 95 governmental entity, or any other institution, including, but  
 96 not limited to, all of the following rights of a parent of a  
 97 minor child in this state:

98 (a) The right to direct the education and care of his or  
 99 her minor child.

100 (b) The right to direct the upbringing and the moral or  
 101 religious training of his or her minor child.

102 (c) The right, pursuant to s. 1002.20(2)(b) and (6), to  
 103 apply to enroll his or her minor child in a public school or, as  
 104 an alternative to public education, a private school, including  
 105 a religious school, a home education program, or other available  
 106 options, as authorized by law.

107 (d) The right, pursuant to s. 1002.20(13), to access and  
 108 review all school records relating to his or her minor child.

109 (e) The right to make health care decisions for his or her  
 110 minor child, unless otherwise prohibited by law.

111 (f) The right to access and review all medical records of  
 112 his or her minor child, unless prohibited by law or if the  
 113 parent is the subject of an investigation of a crime committed  
 114 against the minor child and a law enforcement agency or official  
 115 requests that the information not be released.

116 (g) The right to consent in writing before a biometric scan

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117 of his or her minor child is made, shared, or stored.

118 (h) The right to consent in writing before any record of  
 119 his or her minor child's blood or deoxyribonucleic acid (DNA) is  
 120 created, stored, or shared, except as required by general law or  
 121 authorized pursuant to a court order.

122 (i) The right to consent in writing before the state or any  
 123 of its political subdivisions makes a video or voice recording  
 124 of his or her minor child, unless such recording is made during  
 125 or as part of a court proceeding or is made as part of a  
 126 forensic interview in a criminal or Department of Children and  
 127 Families investigation or is to be used solely for the following  
 128 purposes:

129 1. A safety demonstration, including the maintenance of  
 130 order and discipline in the common areas of a school or on  
 131 student transportation vehicles;

132 2. A purpose related to a legitimate academic or  
 133 extracurricular activity;

134 3. A purpose related to regular classroom instruction;

135 4. Security or surveillance of buildings or grounds; or

136 5. A photo identification card.

137 (j) The right to be notified promptly if an employee of the  
 138 state, any of its political subdivisions, any other governmental  
 139 entity, or any other institution suspects that a criminal  
 140 offense has been committed against his or her minor child,  
 141 unless the incident has first been reported to law enforcement  
 142 or the Department of Children and Families and notifying the  
 143 parent would impede the investigation.

144 (k) The right to consent in writing before his or her minor  
 145 child's grades are released to a law enforcement officer or law

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146 enforcement agency by an agency or institution as defined in s.  
 147 1002.22 unless such release is authorized by s. 1002.221 and the  
 148 Family Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

149 (2) This section does not:

150 (a) Authorize a parent of a minor child in this state to  
 151 engage in conduct that is unlawful or to abuse or neglect his or  
 152 her minor child in violation of general law;

153 (b) Condone, authorize, approve, or apply to a parental  
 154 action or decision that would end life;

155 (c) Prohibit a court of competent jurisdiction, law  
 156 enforcement officer, or employee of a government agency that is  
 157 responsible for child welfare from acting in his or her official  
 158 capacity within the reasonable and prudent scope of his or her  
 159 authority; or

160 (d) Prohibit a court of competent jurisdiction from issuing  
 161 an order that is otherwise permitted by law.

162 (3) An employee of the state, any of its political  
 163 subdivisions, or any other governmental entity who encourages or  
 164 coerces, or attempts to encourage or coerce, a minor child to  
 165 withhold information from his or her parent may be subject to  
 166 disciplinary action.

167 (4) A parent of a minor child in this state has inalienable  
 168 rights that are more comprehensive than those listed in this  
 169 section, unless such rights have been legally waived or  
 170 terminated. This chapter does not prescribe all rights to a  
 171 parent of a minor child in this state. Unless required by law,  
 172 the rights of a parent of a minor child in this state may not be  
 173 limited or denied. This chapter may not be construed to apply to  
 174 a parental action or decision that would end life.

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175 Section 6. Section 1014.05, Florida Statutes, is created to  
176 read:

177 1014.05 School district notifications on parental rights.-

178 (1) Each district school board shall, in consultation with  
179 parents, teachers, and administrators, develop and adopt a  
180 policy to promote parental involvement in the public school  
181 system. Such policy must include:

182 (a) A plan, pursuant to s. 1002.23, for parental  
183 participation in schools to improve parent and teacher  
184 cooperation in such areas as homework, school attendance, and  
185 discipline.

186 (b) A program, pursuant to s. 1002.20(19)(b), for a parent  
187 to learn about his or her minor child's course of study,  
188 including the source of any supplemental education materials.

189 (c) Procedures, pursuant to s. 1006.28(2)(a)2., for a  
190 parent to object to instructional materials and other materials  
191 used in the classroom. Such objections may be based on beliefs  
192 regarding morality, sex, or religion or on the belief that such  
193 materials are harmful. For purposes of this section, the term  
194 "instructional materials" has the same meaning as in s.  
195 1006.29(2) and may include other materials used in the  
196 classroom, including workbooks and worksheets, handouts,  
197 software, applications, and any digital media made available to  
198 students.

199 (d) Procedures, pursuant to s. 1002.20(3)(d), for a parent  
200 to withdraw his or her minor child from any portion of the  
201 school district's comprehensive health education required under  
202 s. 1003.42(2)(n) which relates to sex education or instruction  
203 in acquired immune deficiency syndrome education or any

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204 instruction regarding sexuality if the parent provides a written  
205 objection to his or her minor child's participation. Such  
206 procedures must provide for a parent to be notified in advance  
207 of such course content so that he or she may withdraw his or her  
208 minor child from those portions of the course.

209 (e) Procedures, pursuant to s. 1006.195(1)(a), for a parent  
210 to learn about the nature and purpose of clubs and activities  
211 offered at his or her minor child's school, including those that  
212 are extracurricular or part of the school curriculum.

213 (f) Procedures for a parent to learn about parental rights  
214 and responsibilities under general law, including all of the  
215 following:

216 1. Pursuant to s. 1002.20(3)(d), the right to opt his or  
217 her minor child out of any portion of the school district's  
218 comprehensive health education required under s. 1003.42(2)(n)  
219 which relates to sex education instruction in acquired immune  
220 deficiency syndrome education or any instruction regarding  
221 sexuality.

222 2. A plan to disseminate information about school choice  
223 options, pursuant to s. 1002.20(6), including open enrollment.

224 3. In accordance with s. 1002.20(3)(b), the right of a  
225 parent to exempt his or her minor child from immunizations.

226 4. In accordance with s. 1008.22, the right of a parent to  
227 review statewide, standardized assessment results.

228 5. In accordance with s. 1003.57, the right of a parent to  
229 enroll his or her minor child in gifted or special education  
230 programs.

231 6. In accordance with s. 1006.28(2)(a)1., the right of a  
232 parent to inspect school district instructional materials.

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233 7. In accordance with s. 1008.25, the right of a parent to  
 234 access information relating to the school district's policies  
 235 for promotion or retention, including high school graduation  
 236 requirements.

237 8. In accordance with s. 1002.20(14), the right of a parent  
 238 to receive a school report card and be informed of his or her  
 239 minor child's attendance requirements.

240 9. In accordance with s. 1002.23, the right of a parent to  
 241 access information relating to the state public education  
 242 system, state standards, report card requirements, attendance  
 243 requirements, and instructional materials requirements.

244 10. In accordance with s. 1002.23(4), the right of a parent  
 245 to participate in parent-teacher associations and organizations  
 246 that are sanctioned by a district school board or the Department  
 247 of Education.

248 11. In accordance with s. 1002.222(1)(a), the right of a  
 249 parent to opt out of any district-level data collection relating  
 250 to his or her minor child not required by law.

251 (2) A district school board may provide the information  
 252 required in this section electronically or post such information  
 253 on its website.

254 (3) A parent may request, in writing, from the district  
 255 school superintendent the information required under this  
 256 section. The district school superintendent must provide such  
 257 information to the parent within 10 days. If the district school  
 258 superintendent denies a parent's request for information or does  
 259 not respond to the parent's request within 10 days, the parent  
 260 may appeal the denial to the district school board. The district  
 261 school board must place a parent's appeal on the agenda for its

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262 next public meeting. If it is too late for a parent's appeal to  
 263 appear on the next agenda, the appeal must be included on the  
 264 agenda for the subsequent meeting.

265 Section 7. Section 1014.06, Florida Statutes, is created to  
 266 read:

267 1014.06 Parental consent for health care services.—  
 268 (1) Except as otherwise provided by law, a health care  
 269 practitioner as defined in s. 456.001 or an individual employed  
 270 by such health care practitioner may not provide or solicit or  
 271 arrange to provide health care services or prescribe medicinal  
 272 drugs to a minor child without first obtaining written parental  
 273 consent.

274 (2) Except as otherwise provided by law or a court order, a  
 275 provider as defined in s. 408.803 may not allow a medical  
 276 procedure to be performed on a minor child in its facility  
 277 without first obtaining written parental consent.

278 (3) This section does not apply to an abortion, which is  
 279 governed by chapter 390.

280 (4) This section does not apply to services provided by a  
 281 clinical laboratory, unless the services are delivered through a  
 282 direct encounter with the minor at the clinical laboratory  
 283 facility. For purposes of this subsection, the term "clinical  
 284 laboratory" has the same meaning as provided in s. 483.803.

285 (5) A health care practitioner or other person who violates  
 286 this section is subject to disciplinary action pursuant to s.  
 287 408.813 or s. 456.072, as applicable, and commits a misdemeanor  
 288 of the first degree, punishable as provided in s. 775.082 or s.  
 289 775.083.

290 Section 8. Paragraph (f) is added to subsection (3) of

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291 section 408.813, Florida Statutes, to read:

292 408.813 Administrative fines; violations.—As a penalty for  
293 any violation of this part, authorizing statutes, or applicable  
294 rules, the agency may impose an administrative fine.

295 (3) The agency may impose an administrative fine for a  
296 violation that is not designated as a class I, class II, class  
297 III, or class IV violation. Unless otherwise specified by law,  
298 the amount of the fine may not exceed \$500 for each violation.

299 Unclassified violations include:

300 (f) Violating the parental consent requirements of s.  
301 1014.06.

302 Section 9. Paragraph (rr) is added to subsection (1) of  
303 section 456.072, Florida Statutes, to read:

304 456.072 Grounds for discipline; penalties; enforcement.—

305 (1) The following acts shall constitute grounds for which  
306 the disciplinary actions specified in subsection (2) may be  
307 taken:

308 (rr) Failure to comply with the parental consent  
309 requirements of s. 1014.06.

310 Section 10. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 880

INTRODUCER: Senators Rodriguez and Baxley

SUBJECT: Florida High School Athletic Association

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Westmark	Bouck	ED	<b>Pre-meeting</b>
2.			GO	
3.			RC	

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**I. Summary:**

SB 880 requires the Florida High School Athletic Association (FHSAA) to adopt bylaws or policies authorizing a member school to provide 30 seconds of opening remarks over a public-access system before the start of an athletic competition, and prohibiting the FHSAA from controlling the contents of such remarks.

There is no fiscal impact to this bill.

The bill takes effect July 1, 2021.

**II. Present Situation:**

In December of 2015, Tampa's Cambridge Christian School (Cambridge Christian) advanced to Florida's state championship football game, hosted by the Florida High School Athletic Association (FHSAA), to compete with Jacksonville's University Christian School. The FHSAA denied Cambridge Christian the opportunity to broadcast a pre-game prayer, despite the practice of this tradition by both schools.<sup>1</sup>

**Federal Law Regarding Opening Remarks at Interscholastic Athletic Events**

*Free Speech Clause*

Speech is protected by the First Amendment of the United States Constitution. The government or a public actor may nevertheless regulate an individual's freedom of speech within

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<sup>1</sup> Jesse Panuccio, *A private, religious school has the right to pray before football games*, Tampa Bay Times, Jan. 13, 2020, available at <https://www.tampabay.com/opinion/2020/01/13/a-private-religious-school-has-the-right-to-pray-before-football-games-column/>.

constitutional limits.<sup>2</sup> The First Amendment’s free speech clause restricts government regulation of private speech but does not regulate government speech.<sup>3</sup> To determine whether speech is government speech or private speech, courts consider three primary factors: the history and tradition of the speech; whether a reasonable observer could conclude that the government endorses the speech; and whether the government exercise direct control over the speech.<sup>4</sup>

Further, the ability to regulate private speech on government-owned property is determined, in part, by the characterization of the type of public forum created.<sup>5</sup> There are three types of public forums: traditional public forums, limited public forums, and closed public forums.<sup>6</sup> A “traditional” or “open public forum” is a place with a longstanding tradition of freedom of expression, such as a public park, sidewalk, or street corner.<sup>7</sup> In an open public forum, the government may only impose content-neutral restrictions on the time, place, and manner of expression.<sup>8</sup> A limited public forum is a venue opened only for certain groups or topics.<sup>9</sup> A public actor may regulate the subject area content or categories of organizations allowed in limited public forums but may not restrict expression based on a favorable or unfavorable viewpoint of a speaker or organization.<sup>10</sup> Finally, a “closed public forum” is a place that is not traditionally open to public expression, such as the teacher’s school mailroom or a military base. Restrictions on speech in a closed public forum may only be reasonable and may not be designed to silence an unfavorable viewpoint.<sup>11</sup>

In 2019, the Eleventh Circuit held that the FHSAA’s application of its Public-Address Protocol prohibiting two schools from using the loudspeaker for a pre-game prayer at the 2A Florida High School State Championship game may have violated constitutional free speech protections.<sup>12</sup> The circuit court agreed with the trial court that the loudspeaker was a nonpublic forum (“closed-public forum”), but accepted the allegation that the FHSAA arbitrarily and haphazardly denied access to the forum in violation of the First Amendment.<sup>13</sup> The court’s analysis also hinged on whether the speech over the loudspeaker was considered government or private speech. The circuit court agreed with the allegation that speech over the loudspeaker was, at least in part, private.<sup>14</sup> The court determined that inconsistencies in the record and indications that the FHSAA allowed prayer over the loudspeaker at past championships suggested the factors of history and tradition of the speech and the government’s direct control over the speech suggested a potential finding of private speech that warranted further deliberation at the district court level.<sup>15</sup>

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<sup>2</sup> *Int’l Soc’y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

<sup>3</sup> *See Pleasant Grove City v. Summum*, 555 U.S. 460, 467 (2009).

<sup>4</sup> *See Pleasant Grove City*, 555 U.S. at 460; *Walker v. Texas Division, Sons of Confederate Veterans, Inc.*, 135 S. Ct. 2239 (2015); *Mech v. Sch. Bd. of Palm Beach Cnty.*, 806 F.3d 1070 (11th Cir. 2015).

<sup>5</sup> *Int’l Soc’y for Krishna Consciousness*, 505 U.S. at 678-79.

<sup>6</sup> *Id.*

<sup>7</sup> *Perry Educ. Ass’n v. Perry Local Educators Ass’n*, 460 U.S. 37, 45-46 (1992).

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

<sup>9</sup> *Id.*

<sup>10</sup> *Pleasant Grove City*, 555 U.S. at 470.

<sup>11</sup> *Perry*, 460 U.S. at 37.

<sup>12</sup> *Cambridge Christian Sch., Inc. v. Fla. High School Athletics Ass’n*, 942 F.3d 1215 (11th Cir. 2019).

<sup>13</sup> *Id.* at 1223.

<sup>14</sup> *Id.* at 1232

<sup>15</sup> *Id.* at 1251.

### ***Establishment Clause***

The U.S. Constitution prevents the government from establishing religion and protects privately initiated expression and activities from government interference and discrimination.<sup>16</sup> In order to determine whether a challenged state statute is permissible under the Establishment Clause, courts apply the *Lemon Test*, which requires that the challenged statute have a secular legislative purpose, have a principal or primary effect that neither advances nor inhibits religion, and avoid excessive government entanglement with religion.<sup>17</sup>

The Supreme Court's analysis in *Santa Fe Independent School District v. Doe* provides insight to how the Court applies the *Lemon Test* when evaluating opening remarks at athletics events on school premises.<sup>18</sup> The Court held that the school district's policy permitting student-led, student-initiated prayer over the loudspeaker at high school football games on the school's property violated the Establishment Clause.<sup>19</sup> The Court concluded that the pre-game invocations at issue were government speech because the invocations were specifically authorized by government policy and took place on government property at government-sponsored, school related events.<sup>20</sup> However, the Supreme Court cautioned that not all public speech becomes government speech simply because it is made using public facilities at government sponsored events.<sup>21</sup> *Santa Fe* school district's policy failed the *Lemon Test* because the Court found the policy did not have secular purpose and advanced certain religion at the expense of other religions given the narrow speaker selection process and criteria; and entangled the government with religion given the school district's specific encouragement of prayer and the history of the policy.<sup>22</sup>

### ***Elementary and Secondary Education Act (ESEA)***

According to updated guidance from the U.S. Department of Education on constitutionally protected prayer and religious expression in public elementary and secondary schools, student speakers at noncurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious perspectives. To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech, whether religious or nonreligious, is the speaker's and not the school's speech.<sup>23</sup>

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<sup>16</sup> See U.S. Const., Amend. 1.

<sup>17</sup> *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).

<sup>18</sup> See *Santa Fe Independent Sch. District v. Doe*, 530 U.S. 290, 314 (2000).

<sup>19</sup> *Id.* at 317.

<sup>20</sup> *Id.* at 302.

<sup>21</sup> *Id.* See *Rosenberger v. Rector*, 515 U.S.819 (1995) (holding that the University of Virginia must provide financial subsidy to a student religious organization on the same basis as other student publications).

<sup>22</sup> *Santa Fe Independent Sch. District*, 530 U.S. at 302-10.

<sup>23</sup> U.S. Department of Education, *Updated Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (Jan. 21, 2020), 85 FR 3257, available at <https://www.federalregister.gov/documents/2020/01/21/2020-00876/updated-guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary>, at 3268.



## Florida Law Regarding Opening Remarks at Interscholastic Athletic Events

The scope of the Florida Constitution’s protection of free speech is the same as required under the First Amendment,<sup>24</sup> and the Florida Constitution closely replicates the First Amendment’s protections against the establishment of religion.<sup>25</sup>

### *The Florida High School Athletic Association*

The FHSAA is designated by law as the governing nonprofit organization of athletics in Florida public schools.<sup>26</sup> Any high school, middle school, or combination school,<sup>27</sup> including charter schools, virtual schools, private schools, and home education cooperatives,<sup>28</sup> may become a member of the FHSAA.<sup>29</sup> The FHSAA is required to adopt bylaws regulating student eligibility, recruiting, and member schools’ interscholastic competition in accordance with applicable law.<sup>30</sup>

Florida law establishes that the FHSAA’s authority to organize and conduct statewide interscholastic competition includes the potential for state championships, and the FHSAA also has authority to establish terms and conditions for those contests.<sup>31</sup> The FHSAA is not a state agency, but performs similar functions.<sup>32</sup> The FHSAA operates as a representative democracy in which the sovereign authority is within its member schools.<sup>33</sup> The FHSAA also includes a board of directors, who act as a body and in accordance with the FHSAA’s bylaws, to, among other activities, act as an administrative board in the interpretation of, and final decision on, all questions and appeals arising from the directing of interscholastic athletics of member schools.<sup>34</sup>

The bylaws of the FHSAA govern high school athletic programs in its member schools, unless otherwise specifically provided by statute.<sup>35</sup>

### Florida High School State Championship Series

The FHSAA’s Florida High School State Championship Series (State Championship Series) determines official state champions among FHSAA member schools in sports sanctioned or

<sup>24</sup> Art. 1, s. 4, Fla. Const. *See Cafe Erotica v. Fla. Dep’t of Transp.*, 830 So. 2d 181, 183 (Fla. 1st DCA 2002) (stating that the scope of free speech protections in the Florida Constitution is the same as the First Amendment).

<sup>25</sup> Art. 1, s. 3, Fla. Const. *See Council for Secular Humanism, Inc. v. McNeil*, 44 So. 3d 112, 119 (Fla. 1st DCA 2010) (explaining that the Florida Constitution’s establishment clause is consistent with the First Amendment and imposes additional restrictions on state actors through the no-aid provision).

<sup>26</sup> Section 1006.20(1), F.S.

<sup>27</sup> A “combination school” is any school that provides instruction to students in high school and the middle school grades; elementary, middle or high school grades combined; or elementary and middle grades combined (e.g. K-12; K-8; 6-12; or 7-12). Bylaw 3.2.2.3, FHSAA.

<sup>28</sup> A “home education cooperative” is a parent-directed group of individual home education students that provides opportunities for interscholastic athletic competition to those students and may include students in grades 6-12. Bylaw 3.2.2.4, FHSAA.

<sup>29</sup> Section 1006.20(1), F.S.

<sup>30</sup> Section 1006.20(2), F.S.

<sup>31</sup> Section 1006.20(4)(d)6., F.S.

<sup>32</sup> *Id.*

<sup>33</sup> Section 1006.20(3)(a), F.S.

<sup>34</sup> Section 1006.20(4)(e), F.S.

<sup>35</sup> Section 1006.20(1), F.S. *See Florida High School Athletic Association, Bylaws of the Florida High School Athletic Association, Inc.* (2020-21 Ed.), [https://fhsaa.com/documents/2020/10/1//2021\\_handbook\\_website\\_1001.pdf?id=292](https://fhsaa.com/documents/2020/10/1//2021_handbook_website_1001.pdf?id=292).

recognized by the FHSAA Board of Directors.<sup>36</sup> The FHSAA limits participation in the State Championship Series to schools that are full members of the FHSAA.<sup>37</sup> The FHSAA Board of Directors determines in which sports<sup>38</sup> a State Championship Series will be offered and establishes the terms and conditions for the competition series.<sup>39</sup>

### Public Address Protocol

The FHSAA's Public Address Protocol applies to all State Championship Series. The public address announcer must maintain neutrality. The announcer is required to follow the FHSAA script for promotional announcements, player introductions, and awards ceremonies. The procedure limits other announcements to:<sup>40</sup>

- Those of an emergency nature;
- Those of a "practical" nature, such as a vehicle with lights on;
- Teams' starting lineups or entire lineups;
- Messages provided by host school management;
- Announcements about the sale of FHSAA souvenir merchandise;
- Players attempting or making a play;
- Penalties as signaled by the referee; and
- Substitutions and timeouts.

In addition, public address announcers may not provide play-by-play commentary as if announcing a radio or television broadcast, make comments that offer an unfair advantage to one team, make comments critical of contest participants, schools, or officials.<sup>41</sup>

For regular season events, the FHSAA's Public Address Protocol states that the public address announcer must maintain neutrality.<sup>42</sup> The FHSAA encourages schools to abide by the additional requirements of the Public Address Protocol for the State Championship Series but does not require compliance for regular season events.<sup>43</sup>

### **III. Effect of Proposed Changes:**

SB 880 requires the Florida High School Athletic Association (FHSAA) to adopt bylaws or policies that:

<sup>36</sup> Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc.* (2020-21 Ed.), [https://fhsaa.com/documents/2020/10/1//2021\\_handbook\\_website\\_1001.pdf?id=292](https://fhsaa.com/documents/2020/10/1//2021_handbook_website_1001.pdf?id=292). Bylaw 2.10.

<sup>37</sup> *Id.* The FHSAA must allow private schools the option of maintaining full membership in the Association or membership by sport. The FHSAA may allow public schools the option of applying for consideration to join another athletic association. Section 1006.20(1), F.S.

<sup>38</sup> The FHSAA currently conducts State Championship Series in the following sports: baseball, basketball, bowling, competitive cheerleading, cross country, flag football, football, golf, lacrosse, soccer, softball, swimming and diving, tennis, track and field, volleyball, water polo, weightlifting, and wrestling. FHSAA, *2020-21 FHSAA Administrative Procedures*, available at [https://fhsaa.com/documents/2020/10/9//2021\\_admin\\_procedures\\_1009.pdf?id=319](https://fhsaa.com/documents/2020/10/9//2021_admin_procedures_1009.pdf?id=319), at 2.

<sup>39</sup> Section 1006.20(4)(d)6., F.S.; Bylaw 2.10, FHSAA.

<sup>40</sup> *Id.* FHSAA, *2020-21 FHSAA Administrative Procedures*, Procedure 3.1.8, available at [https://fhsaa.com/documents/2020/10/9//2021\\_admin\\_procedures\\_1009.pdf?id=319](https://fhsaa.com/documents/2020/10/9//2021_admin_procedures_1009.pdf?id=319), at 13.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 11.

<sup>43</sup> *Id.*

- Authorize a member school to provide 30 seconds of opening remarks over a public-access system before the start of an athletic competition.
- Prohibit the FHSAA from controlling, monitoring, or reviewing the contents of any member school's opening remarks.
- Require that, before any opening remarks, a public address announcer announce that: "The content of the following opening remarks is not endorsed by the FHSAA or reflective of the views or opinions of the FHSAA."

There is no fiscal impact to this bill.

The bill takes effect July 1, 2021.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1006.20 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.

By Senator Rodriguez

39-00826-21

2021880\_\_

1                                   A bill to be entitled  
2           An act relating to the Florida High School Athletic  
3           Association; requiring the Florida High School  
4           Athletic Association to adopt specified bylaws or  
5           policies; providing an effective date.  
6  
7   Be It Enacted by the Legislature of the State of Florida:  
8  
9           Section 1. Paragraph (n) is added to subsection (2) of  
10          section 1006.20, Florida Statutes, to read:  
11           1006.20 Athletics in public K-12 schools.-  
12           (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.-  
13           (n) The FHSAA shall adopt bylaws or policies that:  
14           1. Authorize a member school to provide 30 seconds of  
15          opening remarks over a public-access system before the start of  
16          an athletic competition.  
17           2. Prohibit the FHSAA from controlling, monitoring, or  
18          reviewing the contents of any member school's opening remarks.  
19           3. Require that, before any opening remarks, a public-  
20          address announcer announce that: "The content of the following  
21          opening remarks is not endorsed by the FHSAA or reflective of  
22          the views or opinions of the FHSAA."  
23          Section 2. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 1028

INTRODUCER: Senator Hutson

SUBJECT: Charter Schools

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

**I. Summary:**

SB 1028 adds provisions for public postsecondary institutions to serve as a charter school sponsor, and authorizes a career and professional academy to be offered by a charter school. Specifically, the bill:

- Authorizes state universities and Florida College System (FCS) institutions to solicit applications and sponsor charter schools upon approval by the Department of Education (DOE).
- Provides that a state university sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands, and an FCS sponsored charter school may serve students from any county within the college’s service area to meet workforce demands.
- Authorizes an FCS institution that operates an approved teacher preparation program to operate additional charter schools.
- Provides that the board of trustees of a sponsoring state university or FCS institution charter school is a local educational agency for the purpose of receiving federal funds and accepting responsibility for all requirements in that role.
- Provides that students attending a state university or FCS institution sponsored charter school are not to be included in the school district’s grade calculation.
- Establishes operational funding and capital outlay funding formulas for charter schools sponsored by a state university or FCS institution.
- Requires the DOE to collaborate to develop a charter school sponsor evaluation framework.
- Authorizes charter schools to provide career and professional academies and revises charter school enrollment limitations.

The fiscal impact of the bill is indeterminate. See Section V.

The bill takes effect on July 1, 2021

## II. Present Situation:

The present situation for the relevant portions of the bill is discussed under the Effect of Proposed Changes of this bill analysis.

## III. Effect of Proposed Changes:

### Charter Schools

#### *Present Situation*

Charter schools are tuition-free public schools created through an agreement or “charter” that provides flexibility relative to regulations created for traditional public schools.<sup>1</sup> Forty-four states and the District of Columbia have enacted charter school laws as of January 2018.<sup>2</sup> Between the 2000-2001 and 2017-2018 school years, the percentage of all public schools that were charter schools increased from two to seven percent, and the total number of charter schools increased from 2,000 to 7,200. The percentage of public school students nationwide attending public charter schools increased from one to six percent between fall 2000 and fall 2017.<sup>3</sup>

All charter schools in Florida are public schools and are part of the state’s public education system.<sup>4</sup> During the 2019-2020 school year, over 329,000 students were enrolled in 673 charter schools in Florida.<sup>5</sup> Sixty-nine percent of the students attending charter schools in the 2019-2020 school year were minorities. Hispanic students comprised 44 percent of Florida’s charter school enrollment, and 19 percent were African-American students.<sup>6</sup>

#### Charter School Sponsors

Under current Florida law, a district school board may sponsor a charter school in the county over which the district school board has jurisdiction.<sup>7</sup> Additionally, a state university may sponsor a charter developmental research school (charter lab school).<sup>8</sup> FCS institutions may work with school districts to develop charter schools as provided for in law, but may not sponsor a K-12 charter school.<sup>9</sup>

A charter school sponsor has several responsibilities, including:<sup>10</sup>

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<sup>1</sup> Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (October 2020), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2020.pdf>

<sup>2</sup> Education Commission of the States, *50-State Comparison Charter School Policies* <http://ecs.force.com/mbdata/mbquestNB2C?rep=CS1708> (last visited March 17, 2021).

<sup>3</sup> National Center for Education Statistics, *Public Charter School Enrollment*, [https://nces.ed.gov/programs/coe/indicator\\_cgb.asp](https://nces.ed.gov/programs/coe/indicator_cgb.asp) (last visited March 17, 2021).

<sup>4</sup> Section 1002.33(1), F.S.

<sup>5</sup> Florida Department of Education, Fact Sheet Office of Independent Education & Parental Choice, *Florida’s Charter Schools* (October 2020), available at <http://www.fldoe.org/core/fileparse.php/7696/urlt/Charter-Sept-2020.pdf>

<sup>6</sup> *Id.*

<sup>7</sup> Section 1002.33(5)(a)1., F.S.

<sup>8</sup> Section 1002.33(5)(a)2., F.S.

<sup>9</sup> FCS institutions may only sponsor a charter technical career center. Section 1002.33(5)(b)4., F.S. and Section 1002.34(3)(b), F.S.

<sup>10</sup> Section 1002.33(5)(b), F.S.

- Approving or denying charter school applications.
- Overseeing each sponsored school’s progress toward the goals established in the charter.
- Monitoring the revenues and expenditures of the school.
- Ensuring that the school participates in the state’s education accountability system.
- Intervening when a sponsored school demonstrates deficient student performance or financial instability.

A sponsor must provide administrative and educational services<sup>11</sup> and may withhold a fee of up to five percent of each charter school’s total operating funds.<sup>12</sup>

Florida College System and State University Charter Schools

FCS institutions may work with school districts in the FCS institution’s designated service area to develop charter schools that offer secondary education, including an option for students to receive an associate degree upon high school graduation. If an FCS institution offers a teacher preparation program, it may operate one charter school for students in kindergarten through grade 12 and must implement innovative blended learning instructional models for students in kindergarten through grade 8.<sup>13</sup>

There are 15 FCS institution-operated charter schools in Florida:<sup>14</sup>

<b>District Sponsor</b>	<b>Charter School</b>	<b>Affiliated FCS Institution</b>
Charlotte	Florida SouthWestern Collegiate High School	Florida SouthWestern State College
Lee	Florida SouthWestern Collegiate High School	Florida SouthWestern State College
Manatee	State College of Florida Collegiate School - Bradenton	State College of Florida Manatee-Sarasota
Sumter	The Villages High School Early College Program	Lake-Sumter State College
Duval	San Jose Prep Charter	Florida State College at Jacksonville
Duval	Duval Charter at Baymeadows	Florida State College at Jacksonville
Duval	River City Science Academy	Florida State College at Jacksonville
Martin	Clark Advanced Learning Center	Indian River State College
Okaloosa	Collegiate High School at Northwest Florida State College	Northwest Florida State College
Polk	Polk State College Collegiate High School	Polk State College
Polk	Chain of Lakes Collegiate High School	Polk State College
Polk	Polk State Lakeland Gateway to College Charter High School	Polk State College
Pinellas	St. Petersburg Collegiate High School	St. Petersburg College
Pinellas	St. Petersburg Collegiate High School North Pinellas	St. Petersburg College
Sarasota	State College of Florida Collegiate School - Venice	State College of Florida Manatee-Sarasota

<sup>11</sup> Administrative and educational services include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the National School Lunch Program; test administration services; processing of teacher certificate data services; and information services. Section 1002.33(20)(a)1, F.S.

<sup>12</sup> Section 1002.33(20)(a)2., F.S.

<sup>13</sup> Section 1002.33(5)(b)4., F.S.

<sup>14</sup> Email, Department of Education (March 19, 2021).



There are six existing university developmental research (laboratory) schools (lab schools). Of these, three are charter lab schools.<sup>15</sup> Charter lab schools are not required to be established by the nearest state university.<sup>16</sup> In considering an application to establish a charter lab school, a state university must consult with the district school board of the county in which the school is located. If a state university denies or does not act on the application, the applicant may appeal such decision to the State Board of Education (SBE).<sup>17</sup>

There are three charter lab schools operating in Florida:<sup>18</sup>

State University Sponsor	County	Charter Lab School
Florida Atlantic University	St. Lucie	Florida Atlantic University/St. Lucie Public Schools Palm Pointe Research School
Florida State University	Leon	Florida State University Schools
Florida State University	Broward	The Pembroke Pines Florida School

***Effect of Proposed Changes***

To address the needs of educational capacity, workforce qualifications, and career education opportunities that may extend beyond a school district’s boundaries, the bill:

- Authorizes state universities and FCS institutions to solicit applications and sponsor charter schools upon approval by the SBE. A state university or FCS institution may deny an application for a charter school. Additionally:
  - A state university-sponsored charter school may serve students from multiple school districts to meet regional education or workforce demands.
  - An FCS-sponsored charter may exist in any county within its service area<sup>19</sup> to meet workforce demands; however, a charter school currently operated by an FCS institution is not eligible to be sponsored by an FCS institution until its existing charter with the school district expires. An FCS-sponsored charter may offer postsecondary programs leading to industry certifications for eligible charter school students.
- Removes the requirements that an FCS institution that operates an approved teacher preparation program:
  - May operate no more than one charter school; and
  - Implement an innovative blended learning instructional model for students in kindergarten through grade 8 at a charter school it operates.
- Specifies that a charter’s racial/ethnic balance must reflect that of nearby public schools rather than public schools located geographically within the district to address state university and FCS sponsored charter schools which may serve students from multiple school districts.
- Prohibits an FCS institution from reporting the full-time equivalent (FTE) for any students participating in FCS-sponsored charter schools who receive FTE funding through the FEFP.

<sup>15</sup> Board of Governors, *2020 Agency Analysis of SB 1578* (Jan. 27, 2020), at 2. Developmental research (laboratory) schools (lab schools) are public schools. Each lab school must be affiliated with the college of education within the state university of closest geographic proximity. A lab school to which a charter has been issued is known as a charter lab school. Section 1002.32(2), F.S.

<sup>16</sup> Section 1002.32(2), F.S.

<sup>17</sup> Section 1002.33(6)(g), F.S.

<sup>18</sup> Email, Department of Education (March 17, 2021).

<sup>19</sup> FCS institution service areas are defined in s. 1000.21(3), F.S.

- Clarifies that a student enrolled in a charter school sponsored by a state university or FCS institution may not be included in the calculation of the school district's grade.

To ensure charter school sponsor accountability, the bill requires the DOE, in collaboration with charter school sponsors and operators, to develop a sponsor evaluation framework that must address, at a minimum:

- The sponsor's strategic vision for charter school authorizing and progress towards that vision;
- Alignment of the sponsor's policies and practices to best practices for charter school authorizing;
- Academic and financial performance of all operating charter schools overseen by the sponsor; and
- The status of charter schools authorized by the sponsor, including approved, operating and closed schools.

The bill requires the DOE to compile the results of the evaluation framework, by sponsor, and add them to its annual charter school sponsor report.

The bill requires the sponsor to provide equal access to student information systems that are used by public schools in the district or by schools in the sponsor's portfolio of charter schools if the sponsor is not a school district. Additionally, the sponsor must provide student performance data, such as standardized test scores and previous public school student report cards, for each student in the charter school.

The bill replaces the terms "public school district" with "public school system" and "school district" with "sponsor" to conform to the establishment of FCS institutions and state universities as authorized charter school sponsors.

## **Establishing a Charter School**

### ***Present Situation***

Charter schools are created when an individual, a group of parents or teachers, a business, a municipality, or a legal entity submits an application to the school district; the school district approves the application; the applicants form a governing board that negotiates a contract with the district school board; and the applicants and district school board agree upon a charter or contract. The district school board then becomes the sponsor of the charter school. The negotiated contract outlines expectations of both parties regarding the school's academic and financial performance.<sup>20</sup>

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<sup>20</sup> See Florida Department of Education, Charter Schools, *Frequently Asked Questions*, <http://www.fldoe.org/schools/school-choice/charter-schools/charter-school-faqs.stml> (last visited March 17, 2021).

### Charter School Application

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under the laws of this state.<sup>21</sup> All charter applicants must prepare and submit a standard application, which:<sup>22</sup>

- Demonstrates how the school will use the guiding principles and meet the statutorily defined purpose of a charter school.
- Provides a detailed curriculum plan that illustrates how students will be provided services to attain the Sunshine State Standards.
- Contains goals and objectives for improving student learning and measuring that improvement.
- Describes the reading curriculum and differentiated strategies that will be used for students reading at grade level or higher and a separate curriculum and strategies for students who are reading below grade level.
- Contains an annual financial plan for each year requested by the charter for operation of the school for up to five years.
- Discloses the name of each applicant, governing board member, and all proposed education services providers; the name and sponsor of any charter school operated by each applicant, each governing board member, and each proposed education services provider that has closed and the reasons for the closure; and the academic and financial history of such charter schools, which the sponsor must consider in deciding whether to approve or deny the application.
- Contains additional information a sponsor may require.
- Documents, for the establishment of a virtual charter school, the applicant has contracted with a provider of virtual instruction services in accordance with law.<sup>23</sup>

A sponsor receives and reviews all charter school applications<sup>24</sup> and, within 90 calendar days of receipt, must by majority vote approve or deny the application.<sup>25</sup> A sponsor must receive and consider charter school applications received on or before February 1 of each year for charter schools to be opened 18 months later at the beginning of the school district's school year, or to be opened at a time determined by the applicant.<sup>26</sup>

### Charter School Sponsor Reporting

A charter school sponsor must submit an annual report to the DOE summarizing the following:<sup>27</sup>

- The number of draft applications received on or before May 1 and each applicant's contact information;
- The number of final applications received on or before August 1 and each applicant's contact information;

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<sup>21</sup> Section 1002.33(3)(a), F.S.

<sup>22</sup> Section 1002.33(6)(a), F.S. Charter school applications are incorporated into State Board of Education (SBE) Rule 6A-6.0786, F.A.C.

<sup>23</sup> Section 1002.45(1)(d), F.S.

<sup>24</sup> Section 1002.33(6)(b), F.S.

<sup>25</sup> Section 1002.33(6)(b)3.a., F.S.

<sup>26</sup> A sponsor may receive and consider applications after February 1, if it chooses. Section 1002.33(6)(b), F.S.

<sup>27</sup> Section 1002.33(5)(b)1.k.(I)-(II), F.S.

- The date each application was approved, denied, or withdrawn; and
- The date each final contract was executed.

The DOE must compile the reported sponsor information into an annual report, by district, and post the information on its website by November 1 each year.<sup>28</sup>

### Charter School Students

A charter school may be exempt from specific enrollment requirements if the school is open to any student covered in an inter-district agreement and any student residing in the school district in which the charter school is located.<sup>29</sup> A charter school may limit the enrollment process only to target the following student populations:<sup>30</sup>

- Students within specific age groups or grade levels.
- Students considered at risk of dropping out of school or academic failure.
- Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality.<sup>31</sup>
- Students residing within a reasonable distance of the charter school.
- Students who meet established academic, artistic, or other eligibility standards.
- Students articulating from one charter school to another.
- Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least \$5 million.

### *Effect of Proposed Changes*

The bill repeals an obsolete August 1 application deadline and specifies that each sponsor's report to the DOE must reflect the applications it receives by the February 1 deadline, which became effective in 2018. The bill removes the requirement that upon approval, the charter school initial startup commences with the beginning of the public school calendar for the district where the charter is granted.

The bill repeals the requirement that a charter school sponsor report on draft applications it receives and revises the date by which a sponsor must annually report the number of applications it receives from August 31 to November 1. Accordingly, the bill revises the date by which the DOE annually reports the number of applications on its website from November 1 to January 15.

The bill expands the criteria by which a charter school may limit the enrollment process to include students living in a development in which a developer, including any affiliated business entity or charitable foundation, contributes to the formation, acquisition, construction, or operation of one or more charter schools, facilities and related property in an amount equal to or having a total appraised value of at least \$5 million.

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<sup>28</sup> Section 1002.33(5)(b)1.k.(III), F.S. See Florida Department of Education, *Annual Authorizer Report 2019* (2020), available at <http://www.fldoe.org/core/fileparse.php/9905/urlt/19-AuthorizerReport.pdf>.

<sup>29</sup> Section 1002.33(10)(a), F.S.

<sup>30</sup> Section 1002.33(10)(e), F.S.

<sup>31</sup> Section 1002.33(15), F.S.

## Charter School Funding

### *Present Situation*

Charter school operations, like other public schools, are funded through the Florida Education Finance Program (FEFP). Each charter school reports student enrollment to its sponsor for inclusion in the district's report of student enrollment for FEFP funding.<sup>32</sup> Operating funds from the FEFP are distributed to the charter school by the sponsor. A charter school is entitled to receive its proportionate share of categorical funds included in the FEFP for qualifying students.<sup>33</sup> Categorical funds must be spent for specified purposes, such as student transportation, safe schools, and supplemental academic instruction.

Charter schools are eligible to receive federal education funding through such programs as the Individuals with Disabilities Education Act (IDEA), Title I programs for disadvantaged students, and Title II programs for improving teaching and leadership in the same manner as district school board-operated public schools and must be included in requests for federal funding by the school district or the DOE.<sup>34</sup> A high performing charter school system<sup>35</sup> governing board may be designated as a local educational agency for the purpose of receiving federal funds, the same as if the charter school system were in the school district, if the governing board of the charter school system has adopted and filed a resolution with its sponsoring district school board and the DOE.<sup>36</sup>

Capital outlay funding for charter schools consists of state funds when appropriated in the General Appropriations Act (GAA) and revenue resulting from discretionary millage authorized in law.<sup>37</sup> To be eligible to receive capital outlay funds, a charter school must:<sup>38</sup>

- Have operated for two or more years and meet specified requirements.<sup>39</sup>
- Have an annual audit that does not reveal any financial emergency conditions.
- Have satisfactory student achievement based on state accountability standards.
- Have received final approval from its sponsor for operation during that fiscal year.
- Serve students in facilities that are not provided by the charter school's sponsor.

<sup>32</sup> Section 1002.33(17)(a) and (b), F.S.

<sup>33</sup> Section 1002.33(17)(b), F.S.

<sup>34</sup> Section 1002.33(17)(c), F.S.

<sup>35</sup> A high-performing charter school system is an entity that operated at least three high-performing charter schools in the state during each of the previous 3 school years; operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of "D" or "F", and did not receive a financial audit that revealed one or more of the financial emergency conditions. Section 1002.332 (1)(b), F.S.

<sup>36</sup> Section, 1002.33(25), F.S.

<sup>37</sup> Section 10013.62, F.S.

<sup>38</sup> Section 10013.62(1)(a), F.S.

<sup>39</sup> Specified requirements include being governed by a governing board established in the state for two or more years which operates both charter schools and conversion charter schools within the state; being an expanded feeder chain of a charter school within the same school district that is currently receiving charter school capital outlay funds; having been accredited by a regional accrediting association as defined by State Board of Education rule; or serving students in facilities that are provided by a business partner for a charter school-in-the-workplace pursuant to s.1002.33(15)(b). Section 1013.62(1)(a), F.S.

While each university receives additional state capital funding, unlike local school districts, university lab schools are dependent on funding from the Legislature for both operational and capital needs.<sup>40</sup>

### ***Effect of Proposed Changes***

The bill provides that students enrolled in a charter school sponsored by a state university or FCS institution be funded as if they are in a basic program or special program in the school district.

The bill establishes the basis for funding these students as the sum of the total operating funds for the school district in which the school is located as provided from the FEFP and the GAA, including gross state and local funds, discretionary lottery funds, and funds from each school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; and multiplied by the FTE membership of the charter school.

The bill specifies that a board of trustees of a sponsoring state university or FCS institution is the local education agency for the charter schools it sponsors. As the local education agency, the sponsor may receive federal funds and accepts full responsibility for the schools it oversees, including local education agency requirements.

The DOE is required to develop a tool that each state university or FCS institution sponsoring a charter school must use for purposes of calculating the funding amount for each eligible charter school student. The total obtained by the calculation must be appropriated to the charter school from state funds in the GAA.

In addition, the bill requires capital outlay funding for state university or FCS-sponsored charter schools to be determined in accordance with the requirements established in law for other charter schools.

## **Career and Professional Academies**

### ***Present Situation***

In 2007, the Legislature enacted the Florida Career and Professional Education (CAPE) Act to provide a statewide planning partnership between the business and education communities to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.<sup>41</sup> The primary purpose of the CAPE Act is to:<sup>42</sup>

- Improve middle and high school academic performance by providing rigorous and relevant curriculum opportunities;
- Provide rigorous and relevant career-themed courses that articulate to post-secondary level coursework and lead to industry certification;
- Support local and regional economic development;
- Respond to Florida's critical workforce needs; and
- Provide state residents with access to high-wage and high-demand careers.

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<sup>40</sup> Board of Governors, *2020 Agency Analysis of SB 1578* (Jan. 27, 2020), at 3.

<sup>41</sup> Section 1003.491, F.S.

<sup>42</sup> *Id.* at (1).

Each school board must offer career and professional academies<sup>43</sup> and include plans to implement a career and professional academy or career-themed course in at least one middle school in the district as part of its three-year strategic plan.<sup>44</sup> A career and professional academy is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs.<sup>45</sup> During the 2019-20 school year, 67 school districts, as well as, the Florida Virtual School, Florida School for Deaf and Blind, the Florida State University School, and the Florida A&M University Laboratory School registered 1,706 high school and 301 middle school career and professional academies with 194,197 participating students.<sup>46</sup>

Current law does not expressly authorize charter schools to offer career and professional academies.

### *Effect of Proposed Changes*

The bill modifies s. 1003.493 F.S., to authorize charter schools to provide career and professional academies. This may increase the number of charter middle and high schools offering career and professional academies to better meet career and workforce needs.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

None.

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<sup>43</sup> Section 1003.493(1)(a), F.S.

<sup>44</sup> Section 1003.4935(1), F.S.

<sup>45</sup> Section 1003.493(1)(a), F.S.

<sup>46</sup> Florida Department of Education, *Career and Professional Education Act, Enrollment and Performance Report, 2019-20 (2021)*, available at <http://www.fldoe.org/core/fileparse.php/9904/urlt/1920capepr.pdf>.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill requires that the funds for eligible university- or FCS institution-sponsored charter school students must be appropriated from state funds in the GAA to the charter school. Currently full-time equivalent students funded in the FEFP are funded with a combination of state and local funds. Since the eligible university- or FCS institution-sponsored charter school student will only be funded from state funds appropriated in the FEFP, there may need to be additional state funds provided to offset the potential loss of local funds; however, at this time the individual amounts cannot be determined and would vary based upon the school district and its total amount of local funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 1002.33 and 1003.493 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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LEGISLATIVE ACTION

Senate

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House

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The Committee on Education (Hutson) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1), (5), and (6), paragraph (b) of  
subsection (8), and subsection (10) of section 218.39, Florida  
Statutes, are amended to read:

218.39 Annual financial audit reports.—

(1) If, by the first day in any fiscal year, a local  
governmental entity, district school board, charter school, hope  
operator, or charter technical career center has not been



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12 notified that a financial audit for that fiscal year will be  
13 performed by the Auditor General, each of the following entities  
14 shall have an annual financial audit of its accounts and records  
15 completed within 9 months after the end of its fiscal year by an  
16 independent certified public accountant retained by it and paid  
17 from its public funds:

18 (a) Each county.

19 (b) Any municipality with revenues or the total of  
20 expenditures and expenses in excess of \$250,000, as reported on  
21 the fund financial statements.

22 (c) Any special district with revenues or the total of  
23 expenditures and expenses in excess of \$100,000, as reported on  
24 the fund financial statements.

25 (d) Each district school board.

26 (e) Each charter school established under s. 1002.33.

27 (f) Each charter technical center established under s.  
28 1002.34.

29 (g) Each municipality with revenues or the total of  
30 expenditures and expenses between \$100,000 and \$250,000, as  
31 reported on the fund financial statements, which has not been  
32 subject to a financial audit pursuant to this subsection for the  
33 2 preceding fiscal years.

34 (h) Each special district with revenues or the total of  
35 expenditures and expenses between \$50,000 and \$100,000, as  
36 reported on the fund financial statement, which has not been  
37 subject to a financial audit pursuant to this subsection for the  
38 2 preceding fiscal years.

39 (i) Each hope operator operating at least one school of  
40 hope in this state.



41 (5) At the conclusion of the audit, the auditor shall  
42 discuss with the chair of the governing body of the local  
43 governmental entity or the chair's designee, the elected  
44 official of each county agency or the elected official's  
45 designee, the chair of the district school board or the chair's  
46 designee, the chair of the board of the charter school or the  
47 chair's designee, the chair of the board of the hope operator or  
48 the chair's designee, or the chair of the board of the charter  
49 technical career center or the chair's designee, as appropriate,  
50 all of the auditor's comments that will be included in the audit  
51 report. If the officer is not available to discuss the auditor's  
52 comments, their discussion is presumed when the comments are  
53 delivered in writing to his or her office. The auditor shall  
54 notify each member of the governing body of a local governmental  
55 entity, district school board, charter school, hope operator, or  
56 charter technical career center for which:

57 (a) Deteriorating financial conditions exist that may cause  
58 a condition described in s. 218.503(1) to occur if actions are  
59 not taken to address such conditions.

60 (b) A fund balance deficit in total or a deficit for that  
61 portion of a fund balance not classified as restricted,  
62 committed, or nonspendable, or a total or unrestricted net  
63 assets deficit, as reported on the fund financial statements of  
64 entities required to report under governmental financial  
65 reporting standards or on the basic financial statements of  
66 entities required to report under not-for-profit financial  
67 reporting standards, for which sufficient resources of the local  
68 governmental entity, charter school, hope operator, charter  
69 technical career center, or district school board, as reported



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70 on the fund financial statements, are not available to cover the  
71 deficit. Resources available to cover reported deficits include  
72 fund balance or net assets that are not otherwise restricted by  
73 federal, state, or local laws, bond covenants, contractual  
74 agreements, or other legal constraints. Property, plant, and  
75 equipment, the disposal of which would impair the ability of a  
76 local governmental entity, charter school, hope operator,  
77 charter technical career center, or district school board to  
78 carry out its functions, are not considered resources available  
79 to cover reported deficits.

80 (6) The officer's written statement of explanation or  
81 rebuttal concerning the auditor's findings, including corrective  
82 action to be taken, must be filed with the governing body of the  
83 local governmental entity, district school board, charter  
84 school, hope operator, or charter technical career center within  
85 30 days after the delivery of the auditor's findings.

86 (8) The Auditor General shall notify the Legislative  
87 Auditing Committee of any audit report prepared pursuant to this  
88 section which indicates that an audited entity has failed to  
89 take full corrective action in response to a recommendation that  
90 was included in the two preceding financial audit reports.

91 (b) If the committee determines that the written statement  
92 is not sufficient, it may require the chair of the governing  
93 body of the local governmental entity or the chair's designee,  
94 the elected official of each county agency or the elected  
95 official's designee, the chair of the district school board or  
96 the chair's designee, the chair of the board of the charter  
97 school or the chair's designee, the chair of the hope operator  
98 or the chair's designee, or the chair of the board of the



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99 charter technical career center or the chair's designee, as  
100 appropriate, to appear before the committee.

101 (10) Each charter school, hope operator who operates a  
102 charter school, and charter technical career center must file a  
103 copy of its audit report with the sponsoring entity; the local  
104 district school board, if not the sponsoring entity; the Auditor  
105 General; and with the Department of Education.

106 Section 2. Paragraph (c) of subsection (2), subsection (5),  
107 paragraph (b) of subsection (6), paragraphs (a) and (d) of  
108 subsection (7), paragraphs (d) and (e) of subsection (8),  
109 paragraphs (g) and (n) of subsection (9), paragraph (e) of  
110 subsection (10), subsection (14), paragraph (c) of subsection  
111 (15), subsection (17), paragraph (e) of subsection (18),  
112 subsections (20) and (21), paragraph (a) of subsection (25), and  
113 subsection (28) of section 1002.33, Florida Statutes, are  
114 amended to read:

115 1002.33 Charter schools.—

116 (2) GUIDING PRINCIPLES; PURPOSE.—

117 (c) Charter schools may fulfill the following purposes:

118 1. Create innovative measurement tools.

119 2. Provide rigorous competition within the public school  
120 system ~~district~~ to stimulate continual improvement in all public  
121 schools.

122 3. Expand the capacity of the public school system.

123 4. Mitigate the educational impact created by the  
124 development of new residential dwelling units.

125 5. Create new professional opportunities for teachers,  
126 including ownership of the learning program at the school site.

127 (5) SPONSOR; DUTIES.—



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128 (a) *Sponsoring entities.*—

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

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

136 3. Because needs relating to educational capacity,  
137 workforce qualifications, and career education opportunities are  
138 constantly changing and extend beyond school district  
139 boundaries:

140 a. A state university may, upon approval by the Department  
141 of Education, solicit applications and sponsor a charter school  
142 to meet regional education or workforce demands by serving  
143 students from multiple school districts.

144 b. A Florida College System institution may, upon approval  
145 by the Department of Education, solicit applications and sponsor  
146 a charter school in any county within its service area to meet  
147 workforce demands and may offer postsecondary programs leading  
148 to industry certifications to eligible charter school students.  
149 A charter school established under subparagraph (b)4. may not be  
150 sponsored by a Florida College System institution until its  
151 existing charter with the school district expires as provided  
152 under subsection (7).

153 c. Notwithstanding paragraph (6) (b), a state university or  
154 Florida College System institution may, at its discretion, deny  
155 an application for a charter school.

156 (b) *Sponsor duties.*—



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

160           b. The sponsor shall monitor the revenues and expenditures  
161 of the charter school and perform the duties provided in s.  
162 1002.345.

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

167           d. The sponsor shall not apply its policies to a charter  
168 school unless mutually agreed to by both the sponsor and the  
169 charter school. If the sponsor subsequently amends any agreed-  
170 upon sponsor policy, the version of the policy in effect at the  
171 time of the execution of the charter, or any subsequent  
172 modification thereof, shall remain in effect and the sponsor may  
173 not hold the charter school responsible for any provision of a  
174 newly revised policy until the revised policy is mutually agreed  
175 upon.

176           e. The sponsor shall ensure that the charter is innovative  
177 and consistent with the state education goals established by s.  
178 1000.03(5).

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

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



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

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

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

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

196 k. The sponsor shall submit an annual report to the  
197 Department of Education in a web-based format to be determined  
198 by the department.

199 (I) The report shall include the following information:

200 (A) ~~The number of draft applications received on or before~~  
201 ~~May 1 and each applicant's contact information.~~

202 ~~(B) The number of final applications received on or before~~  
203 ~~February August 1 and each applicant's contact information.~~

204 ~~(B)(C) The date each application was approved, denied, or~~  
205 ~~withdrawn.~~

206 ~~(C)(D) The date each final contract was executed.~~

207 (II) Annually, by November 1 ~~Beginning August 31, 2013, and~~  
208 ~~each year thereafter,~~ the sponsor shall submit to the department  
209 the information for the applications submitted the previous  
210 year.

211 (III) The department shall compile an annual report, by  
212 sponsor district, and post the report on its website by January  
213 15 ~~November 1~~ of each year.

214 2. Immunity for the sponsor of a charter school under





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215 subparagraph 1. applies only with respect to acts or omissions  
216 not under the sponsor's direct authority as described in this  
217 section.

218 3. This paragraph does not waive a sponsor's district  
219 ~~school board's~~ sovereign immunity.

220 4. A Florida College System institution may work with the  
221 school district or school districts in its designated service  
222 area to develop charter schools that offer secondary education.  
223 These charter schools must include an option for students to  
224 receive an associate degree upon high school graduation. If a  
225 Florida College System institution operates an approved teacher  
226 preparation program under s. 1004.04 or s. 1004.85, the  
227 institution may operate ~~no more than one~~ charter schools ~~school~~  
228 that serve ~~serves~~ students in kindergarten through grade 12 in  
229 any school district within the service area of the institution.  
230 ~~In kindergarten through grade 8, the charter school shall~~  
231 ~~implement innovative blended learning instructional models in~~  
232 ~~which, for a given course, a student learns in part through~~  
233 ~~online delivery of content and instruction with some element of~~  
234 ~~student control over time, place, path, or pace and in part at a~~  
235 ~~supervised brick-and-mortar location away from home. A student~~  
236 ~~in a blended learning course must be a full-time student of the~~  
237 ~~charter school and receive the online instruction in a classroom~~  
238 ~~setting at the charter school.~~ District school boards shall  
239 cooperate with and assist the Florida College System institution  
240 on the charter application. Florida College System institution  
241 applications for charter schools are not subject to the time  
242 deadlines outlined in subsection (6) and may be approved by the  
243 district school board at any time during the year. Florida



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244 College System institutions may not report FTE for any students  
245 participating under this subparagraph who receive FTE funding  
246 through the Florida Education Finance Program.

247       5. A school district may enter into nonexclusive interlocal  
248 agreements with federal and state agencies, counties,  
249 municipalities, and other governmental entities that operate  
250 within the geographical borders of the school district to act on  
251 behalf of such governmental entities in the inspection,  
252 issuance, and other necessary activities for all necessary  
253 permits, licenses, and other permissions that a charter school  
254 needs in order for development, construction, or operation. A  
255 charter school may use, but may not be required to use, a school  
256 district for these services. The interlocal agreement must  
257 include, but need not be limited to, the identification of fees  
258 that charter schools will be charged for such services. The fees  
259 must consist of the governmental entity's fees plus a fee for  
260 the school district to recover no more than actual costs for  
261 providing such services. These services and fees are not  
262 included within the services to be provided pursuant to  
263 subsection (20).

264       6. The board of trustees of a sponsoring state university  
265 or Florida College System institution under paragraph (a) is the  
266 local educational agency for all charter schools it sponsors for  
267 purposes of receiving federal funds and accepts full  
268 responsibility for all local educational agency requirements and  
269 the schools for which it will perform local educational agency  
270 responsibilities. A student enrolled in a charter school that is  
271 sponsored by a state university or Florida College System  
272 institution may not be included in the calculation of the school



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273 district's grade under s. 1008.34(5) for the school district in  
274 which he or she resides.

275 (c) Sponsor accountability.—

276 1. The department shall, in collaboration with charter  
277 school sponsors and charter school operators, develop a sponsor  
278 evaluation framework that must address, at a minimum:

279 a. The sponsor's strategic vision for charter school  
280 authorizing and the sponsor's progress toward that vision.

281 b. The alignment of the sponsor's policies and practices to  
282 best practices for charter school authorizing.

283 c. The academic and financial performance of all operating  
284 charter schools overseen by the sponsor.

285 d. The status of charter schools authorized by the sponsor,  
286 including approved, operating, and closed schools.

287 2. The department shall compile the results by sponsor and  
288 include the results in the report required under sub-sub-  
289 subparagraph (b)1.k.(III).

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

292 (b) A sponsor shall receive and review all applications for  
293 a charter school using the evaluation instrument developed by  
294 the Department of Education. ~~A sponsor shall receive and~~  
295 ~~consider charter school applications received on or before~~  
296 ~~August 1 of each calendar year for charter schools to be opened~~  
297 ~~at the beginning of the school district's next school year, or~~  
298 ~~to be opened at a time agreed to by the applicant and the~~  
299 ~~sponsor. A sponsor may not refuse to receive a charter school~~  
300 ~~application submitted before August 1 and may receive an~~  
301 ~~application submitted later than August 1 if it chooses.~~



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302 ~~Beginning in 2018 and thereafter,~~ A sponsor shall receive and  
303 consider charter school applications ~~received on or before~~  
304 ~~February 1 of each calendar year~~ for charter schools ~~to be~~  
305 ~~opened 18 months later at the beginning of the school district's~~  
306 ~~school year,~~ or to be opened at a time determined by the  
307 applicant. ~~A sponsor may not refuse to receive a charter school~~  
308 ~~application submitted before February 1 and may receive an~~  
309 ~~application submitted later than February 1 if it chooses.~~ A  
310 sponsor may not charge an applicant for a charter any fee for  
311 the processing or consideration of an application, and a sponsor  
312 may not base its consideration or approval of a final  
313 application upon the promise of future payment of any kind.  
314 Before approving or denying any application, the sponsor shall  
315 allow the applicant, upon receipt of written notification, at  
316 least 7 calendar days to make technical or nonsubstantive  
317 corrections and clarifications, including, but not limited to,  
318 corrections of grammatical, typographical, and like errors or  
319 missing signatures, if such errors are identified by the sponsor  
320 as cause to deny the final application.

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

330       2. In order to ensure fiscal responsibility, an application



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

337       3.a. A sponsor shall by a majority vote approve or deny an  
338 application no later than 90 calendar days after the application  
339 is received, unless the sponsor and the applicant mutually agree  
340 in writing to temporarily postpone the vote to a specific date,  
341 at which time the sponsor shall by a majority vote approve or  
342 deny the application. If the sponsor fails to act on the  
343 application, an applicant may appeal to the State Board of  
344 Education as provided in paragraph (c). If an application is  
345 denied, the sponsor shall, within 10 calendar days after such  
346 denial, articulate in writing the specific reasons, based upon  
347 good cause, supporting its denial of the application and shall  
348 provide the letter of denial and supporting documentation to the  
349 applicant and to the Department of Education.

350       b. An application submitted by a high-performing charter  
351 school identified pursuant to s. 1002.331 or a high-performing  
352 charter school system identified pursuant to s. 1002.332 may be  
353 denied by the sponsor only if the sponsor demonstrates by clear  
354 and convincing evidence that:

355       (I) The application of a high-performing charter school  
356 does not materially comply with the requirements in paragraph  
357 (a) or, for a high-performing charter school system, the  
358 application does not materially comply with s. 1002.332(2)(b);

359       (II) The charter school proposed in the application does



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360 not materially comply with the requirements in paragraphs  
361 (9) (a) - (f);

362 (III) The proposed charter school's educational program  
363 does not substantially replicate that of the applicant or one of  
364 the applicant's high-performing charter schools;

365 (IV) The applicant has made a material misrepresentation or  
366 false statement or concealed an essential or material fact  
367 during the application process; or

368 (V) The proposed charter school's educational program and  
369 financial management practices do not materially comply with the  
370 requirements of this section.

371  
372 Material noncompliance is a failure to follow requirements or a  
373 violation of prohibitions applicable to charter school  
374 applications, which failure is quantitatively or qualitatively  
375 significant either individually or when aggregated with other  
376 noncompliance. An applicant is considered to be replicating a  
377 high-performing charter school if the proposed school is  
378 substantially similar to at least one of the applicant's high-  
379 performing charter schools and the organization or individuals  
380 involved in the establishment and operation of the proposed  
381 school are significantly involved in the operation of replicated  
382 schools.

383 c. If the sponsor denies an application submitted by a  
384 high-performing charter school or a high-performing charter  
385 school system, the sponsor must, within 10 calendar days after  
386 such denial, state in writing the specific reasons, based upon  
387 the criteria in sub-subparagraph b., supporting its denial of  
388 the application and must provide the letter of denial and



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389 supporting documentation to the applicant and to the Department  
390 of Education. The applicant may appeal the sponsor's denial of  
391 the application in accordance with paragraph (c).

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

398 ~~5. Upon approval of an application, the initial startup~~  
399 ~~shall commence with the beginning of the public school calendar~~  
400 ~~for the district in which the charter is granted.~~ A charter  
401 school may defer the opening of the school's operations for up  
402 to 3 years to provide time for adequate facility planning. The  
403 charter school must provide written notice of such intent to the  
404 sponsor and the parents of enrolled students at least 30  
405 calendar days before the first day of school.

406 (7) CHARTER.—The terms and conditions for the operation of  
407 a charter school shall be set forth by the sponsor and the  
408 applicant in a written contractual agreement, called a charter.  
409 The sponsor and the governing board of the charter school shall  
410 use the standard charter contract pursuant to subsection (21),  
411 which shall incorporate the approved application and any addenda  
412 approved with the application. Any term or condition of a  
413 proposed charter contract that differs from the standard charter  
414 contract adopted by rule of the State Board of Education shall  
415 be presumed a limitation on charter school flexibility. The  
416 sponsor may not impose unreasonable rules or regulations that  
417 violate the intent of giving charter schools greater flexibility



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418 to meet educational goals. The charter shall be signed by the  
419 governing board of the charter school and the sponsor, following  
420 a public hearing to ensure community input.

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

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

425 2. The focus of the curriculum, the instructional methods  
426 to be used, any distinctive instructional techniques to be  
427 employed, and identification and acquisition of appropriate  
428 technologies needed to improve educational and administrative  
429 performance which include a means for promoting safe, ethical,  
430 and appropriate uses of technology which comply with legal and  
431 professional standards.

432 a. The charter shall ensure that reading is a primary focus  
433 of the curriculum and that resources are provided to identify  
434 and provide specialized instruction for students who are reading  
435 below grade level. The curriculum and instructional strategies  
436 for reading must be consistent with the Next Generation Sunshine  
437 State Standards and grounded in scientifically based reading  
438 research.

439 b. In order to provide students with access to diverse  
440 instructional delivery models, to facilitate the integration of  
441 technology within traditional classroom instruction, and to  
442 provide students with the skills they need to compete in the  
443 21st century economy, the Legislature encourages instructional  
444 methods for blended learning courses consisting of both  
445 traditional classroom and online instructional techniques.  
446 Charter schools may implement blended learning courses which





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447 combine traditional classroom instruction and virtual  
448 instruction. Students in a blended learning course must be full-  
449 time students of the charter school pursuant to s.  
450 1011.61(1)(a)1. Instructional personnel certified pursuant to s.  
451 1012.55 who provide virtual instruction for blended learning  
452 courses may be employees of the charter school or may be under  
453 contract to provide instructional services to charter school  
454 students. At a minimum, such instructional personnel must hold  
455 an active state or school district adjunct certification under  
456 s. 1012.57 for the subject area of the blended learning course.  
457 The funding and performance accountability requirements for  
458 blended learning courses are the same as those for traditional  
459 courses.

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

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

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

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

472  
473 A ~~The~~ district school board is required to provide academic  
474 student performance data to charter schools for each of their  
475 students coming from the district school system, as well as



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476 rates of academic progress of comparable student populations in  
477 the district school system.

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

487 5. In secondary charter schools, a method for determining  
488 that a student has satisfied the requirements for graduation in  
489 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

490 6. A method for resolving conflicts between the governing  
491 board of the charter school and the sponsor.

492 7. The admissions procedures and dismissal procedures,  
493 including the school's code of student conduct. Admission or  
494 dismissal must not be based on a student's academic performance.

495 8. The ways by which the school will achieve a  
496 racial/ethnic balance reflective of the community it serves or  
497 within the racial/ethnic range of other nearby public schools ~~in~~  
498 ~~the same school district.~~

499 9. The financial and administrative management of the  
500 school, including a reasonable demonstration of the professional  
501 experience or competence of those individuals or organizations  
502 applying to operate the charter school or those hired or  
503 retained to perform such professional services and the  
504 description of clearly delineated responsibilities and the



505 policies and practices needed to effectively manage the charter  
506 school. A description of internal audit procedures and  
507 establishment of controls to ensure that financial resources are  
508 properly managed must be included. Both public sector and  
509 private sector professional experience shall be equally valid in  
510 such a consideration.

511 10. The asset and liability projections required in the  
512 application which are incorporated into the charter and shall be  
513 compared with information provided in the annual report of the  
514 charter school.

515 11. A description of procedures that identify various risks  
516 and provide for a comprehensive approach to reduce the impact of  
517 losses; plans to ensure the safety and security of students and  
518 staff; plans to identify, minimize, and protect others from  
519 violent or disruptive student behavior; and the manner in which  
520 the school will be insured, including whether or not the school  
521 will be required to have liability insurance, and, if so, the  
522 terms and conditions thereof and the amounts of coverage.

523 12. The term of the charter which shall provide for  
524 cancellation of the charter if insufficient progress has been  
525 made in attaining the student achievement objectives of the  
526 charter and if it is not likely that such objectives can be  
527 achieved before expiration of the charter. The initial term of a  
528 charter shall be for 5 years, excluding 2 planning years. In  
529 order to facilitate access to long-term financial resources for  
530 charter school construction, charter schools that are operated  
531 by a municipality or other public entity as provided by law are  
532 eligible for up to a 15-year charter, subject to approval by the  
533 sponsor ~~district school board~~. A charter lab school is eligible



534 for a charter for a term of up to 15 years. In addition, to  
535 facilitate access to long-term financial resources for charter  
536 school construction, charter schools that are operated by a  
537 private, not-for-profit, s. 501(c)(3) status corporation are  
538 eligible for up to a 15-year charter, subject to approval by the  
539 sponsor ~~district school board~~. Such long-term charters remain  
540 subject to annual review and may be terminated during the term  
541 of the charter, but only according to the provisions set forth  
542 in subsection (8).

543 13. The facilities to be used and their location. The  
544 sponsor may not require a charter school to have a certificate  
545 of occupancy or a temporary certificate of occupancy for such a  
546 facility earlier than 15 calendar days before the first day of  
547 school.

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

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

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

558 17. In the case of an existing public school that is being  
559 converted to charter status, alternative arrangements for  
560 current students who choose not to attend the charter school and  
561 for current teachers who choose not to teach in the charter  
562 school after conversion in accordance with the existing



563 collective bargaining agreement or district school board rule in  
564 the absence of a collective bargaining agreement. However,  
565 alternative arrangements shall not be required for current  
566 teachers who choose not to teach in a charter lab school, except  
567 as authorized by the employment policies of the state university  
568 which grants the charter to the lab school.

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

581 19. Implementation of the activities authorized under s.  
582 1002.331 by the charter school when it satisfies the eligibility  
583 requirements for a high-performing charter school. A high-  
584 performing charter school shall notify its sponsor in writing by  
585 March 1 if it intends to increase enrollment or expand grade  
586 levels the following school year. The written notice shall  
587 specify the amount of the enrollment increase and the grade  
588 levels that will be added, as applicable.

589 (d) A charter may be modified during its initial term or  
590 any renewal term upon the recommendation of the sponsor or the  
591 charter school's governing board and the approval of both



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592 parties to the agreement. Modification during any term may  
593 include, but is not limited to, consolidation of multiple  
594 charters into a single charter if the charters are operated  
595 under the same governing board, regardless of the renewal cycle.  
596 A charter school that is not subject to a school improvement  
597 plan and that closes as part of a consolidation shall be  
598 reported by the sponsor ~~school district~~ as a consolidation.

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

600 (d) When a charter is not renewed or is terminated, the  
601 school shall be dissolved under the provisions of law under  
602 which the school was organized, and any unencumbered public  
603 funds, except for capital outlay funds and federal charter  
604 school program grant funds, from the charter school shall revert  
605 to the sponsor. Capital outlay funds provided pursuant to s.  
606 1013.62 and federal charter school program grant funds that are  
607 unencumbered shall revert to the department to be redistributed  
608 among eligible charter schools. In the event a charter school is  
609 dissolved or is otherwise terminated, all sponsor ~~district~~  
610 ~~school board~~ property and improvements, furnishings, and  
611 equipment purchased with public funds shall automatically revert  
612 to full ownership by the sponsor ~~district school board~~, subject  
613 to complete satisfaction of any lawful liens or encumbrances.  
614 Any unencumbered public funds from the charter school, ~~district~~  
615 ~~school board~~ property and improvements, furnishings, and  
616 equipment purchased with public funds, or financial or other  
617 records pertaining to the charter school, in the possession of  
618 any person, entity, or holding company, other than the charter  
619 school, shall be held in trust upon the sponsor's ~~district~~  
620 ~~school board's~~ request, until any appeal status is resolved.



621 (e) If a charter is not renewed or is terminated, the  
622 charter school is responsible for all debts of the charter  
623 school. The sponsor district may not assume the debt from any  
624 contract made between the governing body of the school and a  
625 third party, except for a debt that is previously detailed and  
626 agreed upon in writing by both the sponsor district and the  
627 governing body of the school and that may not reasonably be  
628 assumed to have been satisfied by the sponsor district.

629 (9) CHARTER SCHOOL REQUIREMENTS.—

630 (g)1. In order to provide financial information that is  
631 comparable to that reported for other public schools, charter  
632 schools are to maintain all financial records that constitute  
633 their accounting system:

634 a. In accordance with the accounts and codes prescribed in  
635 the most recent issuance of the publication titled "Financial  
636 and Program Cost Accounting and Reporting for Florida Schools";  
637 or

638 b. At the discretion of the charter school's governing  
639 board, a charter school may elect to follow generally accepted  
640 accounting standards for not-for-profit organizations, but must  
641 reformat this information for reporting according to this  
642 paragraph.

643 2. Charter schools shall provide annual financial report  
644 and program cost report information in the state-required  
645 formats for inclusion in sponsor district reporting in  
646 compliance with s. 1011.60(1). Charter schools that are operated  
647 by a municipality or are a component unit of a parent nonprofit  
648 organization may use the accounting system of the municipality  
649 or the parent but must reformat this information for reporting



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650 according to this paragraph.

651         3. A charter school shall, upon approval of the charter  
652 contract, provide the sponsor with a concise, uniform, monthly  
653 financial statement summary sheet that contains a balance sheet  
654 and a statement of revenue, expenditures, and changes in fund  
655 balance. The balance sheet and the statement of revenue,  
656 expenditures, and changes in fund balance shall be in the  
657 governmental funds format prescribed by the Governmental  
658 Accounting Standards Board. A high-performing charter school  
659 pursuant to s. 1002.331 may provide a quarterly financial  
660 statement in the same format and requirements as the uniform  
661 monthly financial statement summary sheet. The sponsor shall  
662 review each monthly or quarterly financial statement to identify  
663 the existence of any conditions identified in s. 1002.345(1)(a).

664         4. A charter school shall maintain and provide financial  
665 information as required in this paragraph. The financial  
666 statement required in subparagraph 3. must be in a form  
667 prescribed by the Department of Education.

668         (n)1. The director and a representative of the governing  
669 board of a charter school that has earned a grade of "D" or "F"  
670 pursuant to s. 1008.34 shall appear before the sponsor to  
671 present information concerning each contract component having  
672 noted deficiencies. The director and a representative of the  
673 governing board shall submit to the sponsor for approval a  
674 school improvement plan to raise student performance. Upon  
675 approval by the sponsor, the charter school shall begin  
676 implementation of the school improvement plan. The department  
677 shall offer technical assistance and training to the charter  
678 school and its governing board and establish guidelines for





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679 developing, submitting, and approving such plans.

680 2.a. If a charter school earns three consecutive grades  
681 below a "C," the charter school governing board shall choose one  
682 of the following corrective actions:

683 (I) Contract for educational services to be provided  
684 directly to students, instructional personnel, and school  
685 administrators, as prescribed in state board rule;

686 (II) Contract with an outside entity that has a  
687 demonstrated record of effectiveness to operate the school;

688 (III) Reorganize the school under a new director or  
689 principal who is authorized to hire new staff; or

690 (IV) Voluntarily close the charter school.

691 b. The charter school must implement the corrective action  
692 in the school year following receipt of a third consecutive  
693 grade below a "C."

694 c. The sponsor may annually waive a corrective action if it  
695 determines that the charter school is likely to improve a letter  
696 grade if additional time is provided to implement the  
697 intervention and support strategies prescribed by the school  
698 improvement plan. Notwithstanding this sub-subparagraph, a  
699 charter school that earns a second consecutive grade of "F" is  
700 subject to subparagraph 3.

701 d. A charter school is no longer required to implement a  
702 corrective action if it improves to a "C" or higher. However,  
703 the charter school must continue to implement strategies  
704 identified in the school improvement plan. The sponsor must  
705 annually review implementation of the school improvement plan to  
706 monitor the school's continued improvement pursuant to  
707 subparagraph 4.



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708 e. A charter school implementing a corrective action that  
709 does not improve to a "C" or higher after 2 full school years of  
710 implementing the corrective action must select a different  
711 corrective action. Implementation of the new corrective action  
712 must begin in the school year following the implementation  
713 period of the existing corrective action, unless the sponsor  
714 determines that the charter school is likely to improve to a "C"  
715 or higher if additional time is provided to implement the  
716 existing corrective action. Notwithstanding this sub-  
717 subparagraph, a charter school that earns a second consecutive  
718 grade of "F" while implementing a corrective action is subject  
719 to subparagraph 3.

720 3. A charter school's charter contract is automatically  
721 terminated if the school earns two consecutive grades of "F"  
722 after all school grade appeals are final unless:

723 a. The charter school is established to turn around the  
724 performance of a district public school pursuant to s.  
725 1008.33(4)(b)2. Such charter schools shall be governed by s.  
726 1008.33;

727 b. The charter school serves a student population the  
728 majority of which resides in a school zone served by a district  
729 public school subject to s. 1008.33(4) and the charter school  
730 earns at least a grade of "D" in its third year of operation.  
731 The exception provided under this sub-subparagraph does not  
732 apply to a charter school in its fourth year of operation and  
733 thereafter; or

734 c. The state board grants the charter school a waiver of  
735 termination. The charter school must request the waiver within  
736 15 days after the department's official release of school



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737 grades. The state board may waive termination if the charter  
738 school demonstrates that the Learning Gains of its students on  
739 statewide assessments are comparable to or better than the  
740 Learning Gains of similarly situated students enrolled in nearby  
741 ~~district~~ public schools. The waiver is valid for 1 year and may  
742 only be granted once. Charter schools that have been in  
743 operation for more than 5 years are not eligible for a waiver  
744 under this sub-subparagraph.

745  
746 The sponsor shall notify the charter school's governing board,  
747 the charter school principal, and the department in writing when  
748 a charter contract is terminated under this subparagraph. A  
749 charter terminated under this subparagraph must follow the  
750 procedures for dissolution and reversion of public funds  
751 pursuant to paragraphs (8) (d)-(f) and (9) (o).

752 4. The director and a representative of the governing board  
753 of a graded charter school that has implemented a school  
754 improvement plan under this paragraph shall appear before the  
755 sponsor at least once a year to present information regarding  
756 the progress of intervention and support strategies implemented  
757 by the school pursuant to the school improvement plan and  
758 corrective actions, if applicable. The sponsor shall communicate  
759 at the meeting, and in writing to the director, the services  
760 provided to the school to help the school address its  
761 deficiencies.

762 5. Notwithstanding any provision of this paragraph except  
763 sub-subparagraphs 3.a.-c., the sponsor may terminate the charter  
764 at any time pursuant to subsection (8).

765 (10) ELIGIBLE STUDENTS.-



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- 766 (e) A charter school may limit the enrollment process only  
767 to target the following student populations:
- 768 1. Students within specific age groups or grade levels.
  - 769 2. Students considered at risk of dropping out of school or  
770 academic failure. Such students shall include exceptional  
771 education students.
  - 772 3. Students enrolling in a charter school-in-the-workplace  
773 or charter school-in-a-municipality established pursuant to  
774 subsection (15).
  - 775 4. Students residing within a reasonable distance of the  
776 charter school, as described in paragraph (20)(c). Such students  
777 shall be subject to a random lottery and to the racial/ethnic  
778 balance provisions described in subparagraph (7)(a)8. or any  
779 federal provisions that require a school to achieve a  
780 racial/ethnic balance reflective of the community it serves or  
781 within the racial/ethnic range of other nearby public schools ~~in~~  
782 ~~the same school district.~~
  - 783 5. Students who meet reasonable academic, artistic, or  
784 other eligibility standards established by the charter school  
785 and included in the charter school application and charter or,  
786 in the case of existing charter schools, standards that are  
787 consistent with the school's mission and purpose. Such standards  
788 shall be in accordance with current state law and practice in  
789 public schools and may not discriminate against otherwise  
790 qualified individuals.
  - 791 6. Students articulating from one charter school to another  
792 pursuant to an articulation agreement between the charter  
793 schools that has been approved by the sponsor.
  - 794 7. Students living in a development in which a developer,



795 including any affiliated business entity or charitable  
796 foundation, contributes to the formation, acquisition,  
797 construction, or operation of one or more charter schools or  
798 charter ~~provides the school facilities facility~~ and related  
799 property in an amount equal to or having a total ~~an~~ appraised  
800 value of at least \$5 million to be used as ~~a~~ charter schools  
801 ~~school~~ to mitigate the educational impact created by the  
802 development of new residential dwelling units. Students living  
803 in the development are ~~shall be~~ entitled to ~~no more than~~ 50  
804 percent of the student stations in the charter schools ~~school~~.  
805 The students who are eligible for enrollment are subject to a  
806 random lottery, the racial/ethnic balance provisions, or any  
807 federal provisions, as described in subparagraph 4. The  
808 remainder of the student stations must ~~shall~~ be filled in  
809 accordance with subparagraph 4.

810 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS; INDEMNIFICATION  
811 OF THE STATE AND SPONSOR SCHOOL ~~SCHOOL DISTRICT~~; CREDIT OR TAXING POWER  
812 NOT TO BE PLEDGED.—Any arrangement entered into to borrow or  
813 otherwise secure funds for a charter school authorized in this  
814 section from a source other than the state or a sponsor ~~school~~  
815 ~~district~~ shall indemnify the state and the sponsor ~~school~~  
816 ~~district~~ from any and all liability, including, but not limited  
817 to, financial responsibility for the payment of the principal or  
818 interest. Any loans, bonds, or other financial agreements are  
819 not obligations of the state or the sponsor ~~school district~~ but  
820 are obligations of the charter school authority and are payable  
821 solely from the sources of funds pledged by such agreement. The  
822 credit or taxing power of the state or the sponsor ~~school~~  
823 ~~district~~ shall not be pledged and no debts shall be payable out



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824 of any moneys except those of the legal entity in possession of  
825 a valid charter approved by a sponsor ~~district school board~~  
826 pursuant to this section.

827 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-  
828 A-MUNICIPALITY.—

829 (c) A charter school-in-a-municipality designation may be  
830 granted to a municipality that possesses a charter; enrolls  
831 students based upon a random lottery that involves all of the  
832 children of the residents of that municipality who are seeking  
833 enrollment, as provided for in subsection (10); and enrolls  
834 students according to the racial/ethnic balance provisions  
835 described in subparagraph (7) (a)8. When a municipality has  
836 submitted charter applications for the establishment of a  
837 charter school feeder pattern, consisting of elementary, middle,  
838 and senior high schools, and each individual charter application  
839 is approved by the sponsor ~~district school board~~, such schools  
840 shall then be designated as one charter school for all purposes  
841 listed pursuant to this section. Any portion of the land and  
842 facility used for a public charter school shall be exempt from  
843 ad valorem taxes, as provided for in s. 1013.54, for the  
844 duration of its use as a public school.

845 (17) FUNDING.—Students enrolled in a charter school,  
846 regardless of the sponsorship, shall be funded as if they are in  
847 a basic program or a special program, the same as students  
848 enrolled in other public schools in a ~~the~~ school district.  
849 Funding for a charter lab school shall be as provided in s.  
850 1002.32.

851 (a) Each charter school shall report its student enrollment  
852 to the sponsor as required in s. 1011.62, and in accordance with



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853 the definitions in s. 1011.61. The sponsor shall include each  
854 charter school's enrollment in the sponsor's ~~district's~~ report  
855 of student enrollment. All charter schools submitting student  
856 record information required by the Department of Education shall  
857 comply with the Department of Education's guidelines for  
858 electronic data formats for such data, and all sponsors  
859 ~~districts~~ shall accept electronic data that complies with the  
860 Department of Education's electronic format.

861 (b)1. The basis for the agreement for funding students  
862 enrolled in a charter school shall be the sum of the school  
863 district's operating funds from the Florida Education Finance  
864 Program as provided in s. 1011.62 and the General Appropriations  
865 Act, including gross state and local funds, discretionary  
866 lottery funds, and funds from the school district's current  
867 operating discretionary millage levy; divided by total funded  
868 weighted full-time equivalent students in the school district;  
869 and multiplied by the weighted full-time equivalent students for  
870 the charter school. Charter schools whose students or programs  
871 meet the eligibility criteria in law are entitled to their  
872 proportionate share of categorical program funds included in the  
873 total funds available in the Florida Education Finance Program  
874 by the Legislature, including transportation, the research-based  
875 reading allocation, and the Florida digital classrooms  
876 allocation. Total funding for each charter school shall be  
877 recalculated during the year to reflect the revised calculations  
878 under the Florida Education Finance Program by the state and the  
879 actual weighted full-time equivalent students reported by the  
880 charter school during the full-time equivalent student survey  
881 periods designated by the Commissioner of Education. For charter



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882 schools operated by a not-for-profit or municipal entity, any  
883 unrestricted current and capital assets identified in the  
884 charter school's annual financial audit may be used for other  
885 charter schools operated by the not-for-profit or municipal  
886 entity within the school district. Unrestricted current assets  
887 shall be used in accordance with s. 1011.62, and any  
888 unrestricted capital assets shall be used in accordance with s.  
889 1013.62(2).

890 2.a. Students enrolled in a charter school sponsored by a  
891 state university or Florida College System institution pursuant  
892 to paragraph (5)(a) shall be funded as if they are in a basic  
893 program or a special program in the school district. The basis  
894 for funding these students is the sum of the total operating  
895 funds from the Florida Education Finance Program for the school  
896 district in which the school is located as provided in s.  
897 1011.62 and the General Appropriations Act, including gross  
898 state and local funds, discretionary lottery funds, and funds  
899 from each school district's current operating discretionary  
900 millage levy, divided by total funded weighted full-time  
901 equivalent students in the district, and multiplied by the full-  
902 time equivalent membership of the charter school. The Department  
903 of Education shall develop a tool that each state university or  
904 Florida College System institution sponsoring a charter school  
905 shall use for purposes of calculating the funding amount for  
906 each eligible charter school student. The total amount obtained  
907 from the calculation must be appropriated from state funds in  
908 the General Appropriations Act to the charter school.

909 b. Capital outlay funding for a charter school sponsored by  
910 a state university or Florida College System institution





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911 pursuant to paragraph (5) (a) is determined pursuant to s.  
912 1013.62 and the General Appropriations Act.

913 (c) Pursuant to 20 U.S.C. 8061 s. 10306, all charter  
914 schools shall receive all federal funding for which the school  
915 is otherwise eligible, including Title I funding, not later than  
916 5 months after the charter school first opens and within 5  
917 months after any subsequent expansion of enrollment. Unless  
918 otherwise mutually agreed to by the charter school and its  
919 sponsor, and consistent with state and federal rules and  
920 regulations governing the use and disbursement of federal funds,  
921 the sponsor shall reimburse the charter school on a monthly  
922 basis for all invoices submitted by the charter school for  
923 federal funds available to the sponsor for the benefit of the  
924 charter school, the charter school's students, and the charter  
925 school's students as public school students in the school  
926 district. Such federal funds include, but are not limited to,  
927 Title I, Title II, and Individuals with Disabilities Education  
928 Act (IDEA) funds. To receive timely reimbursement for an  
929 invoice, the charter school must submit the invoice to the  
930 sponsor at least 30 days before the monthly date of  
931 reimbursement set by the sponsor. In order to be reimbursed, any  
932 expenditures made by the charter school must comply with all  
933 applicable state rules and federal regulations, including, but  
934 not limited to, the applicable federal Office of Management and  
935 Budget Circulars; the federal Education Department General  
936 Administrative Regulations; and program-specific statutes,  
937 rules, and regulations. Such funds may not be made available to  
938 the charter school until a plan is submitted to the sponsor for  
939 approval of the use of the funds in accordance with applicable



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940 federal requirements. The sponsor has 30 days to review and  
941 approve any plan submitted pursuant to this paragraph.

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

949 (e) Sponsors ~~District school boards~~ shall make timely and  
950 efficient payment and reimbursement to charter schools,  
951 including processing paperwork required to access special state  
952 and federal funding for which they may be eligible. Payments of  
953 funds under paragraph (b) shall be made monthly or twice a  
954 month, beginning with the start of the sponsor's ~~district school~~  
955 ~~board's~~ fiscal year. Each payment shall be one-twelfth, or one  
956 twenty-fourth, as applicable, of the total state and local funds  
957 described in paragraph (b) and adjusted as set forth therein.  
958 For the first 2 years of a charter school's operation, if a  
959 minimum of 75 percent of the projected enrollment is entered  
960 into the sponsor's student information system by the first day  
961 of the current month, the sponsor ~~district school board~~ shall  
962 distribute funds to the school for the months of July through  
963 October based on the projected full-time equivalent student  
964 membership of the charter school as submitted in the approved  
965 application. If less than 75 percent of the projected enrollment  
966 is entered into the sponsor's student information system by the  
967 first day of the current month, the sponsor shall base payments  
968 on the actual number of student enrollment entered into the



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969 sponsor's student information system. Thereafter, the results of  
970 full-time equivalent student membership surveys shall be used in  
971 adjusting the amount of funds distributed monthly to the charter  
972 school for the remainder of the fiscal year. The payments shall  
973 be issued no later than 10 working days after the sponsor  
974 ~~district school board~~ receives a distribution of state or  
975 federal funds or the date the payment is due pursuant to this  
976 subsection. If a warrant for payment is not issued within 10  
977 working days after receipt of funding by the sponsor ~~district~~  
978 ~~school board~~, the sponsor ~~school district~~ shall pay to the  
979 charter school, in addition to the amount of the scheduled  
980 disbursement, interest at a rate of 1 percent per month  
981 calculated on a daily basis on the unpaid balance from the  
982 expiration of the 10 working days until such time as the warrant  
983 is issued. The district school board may not delay payment to a  
984 charter school of any portion of the funds provided in paragraph  
985 (b) based on the timing of receipt of local funds by the  
986 district school board.

987 (f) Funding for a virtual charter school shall be as  
988 provided in s. 1002.45(7).

989 (g) To be eligible for public education capital outlay  
990 (PECO) funds, a charter school must be located in the State of  
991 Florida.

992 (h) A charter school that implements a schoolwide standard  
993 student attire policy pursuant to s. 1011.78 is eligible to  
994 receive incentive payments.

995 (18) FACILITIES.—

996 (e) If a district school board facility or property is  
997 available because it is surplus, marked for disposal, or



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998 otherwise unused, it shall be provided for a charter school's  
999 use on the same basis as it is made available to other public  
1000 schools in the district. A charter school receiving property  
1001 from the sponsor ~~school-district~~ may not sell or dispose of such  
1002 property without written permission of the sponsor ~~school-~~  
1003 ~~district~~. Similarly, for an existing public school converting to  
1004 charter status, no rental or leasing fee for the existing  
1005 facility or for the property normally inventoried to the  
1006 conversion school may be charged by the district school board to  
1007 the parents and teachers organizing the charter school. The  
1008 charter school shall agree to reasonable maintenance provisions  
1009 in order to maintain the facility in a manner similar to  
1010 district school board standards. The Public Education Capital  
1011 Outlay maintenance funds or any other maintenance funds  
1012 generated by the facility operated as a conversion school shall  
1013 remain with the conversion school.

1014 (20) SERVICES.—

1015 (a)1. A sponsor shall provide certain administrative and  
1016 educational services to charter schools. These services shall  
1017 include contract management services; full-time equivalent and  
1018 data reporting services; exceptional student education  
1019 administration services; services related to eligibility and  
1020 reporting duties required to ensure that school lunch services  
1021 under the National School Lunch Program, consistent with the  
1022 needs of the charter school, are provided by the sponsor ~~school-~~  
1023 ~~district~~ at the request of the charter school, that any funds  
1024 due to the charter school under the National School Lunch  
1025 Program be paid to the charter school as soon as the charter  
1026 school begins serving food under the National School Lunch



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1027 Program, and that the charter school is paid at the same time  
1028 and in the same manner under the National School Lunch Program  
1029 as other public schools serviced by the sponsor or the school  
1030 district; test administration services, including payment of the  
1031 costs of state-required or district-required student  
1032 assessments; processing of teacher certificate data services;  
1033 and information services, including equal access to the  
1034 sponsor's student information systems that are used by public  
1035 schools in the district in which the charter school is located  
1036 or by schools in the sponsor's portfolio of charter schools if  
1037 the sponsor is not a school district. Student performance data  
1038 for each student in a charter school, including, but not limited  
1039 to, FCAT scores, standardized test scores, previous public  
1040 school student report cards, and student performance measures,  
1041 shall be provided by the sponsor to a charter school in the same  
1042 manner provided to other public schools in the district or by  
1043 schools in the sponsor's portfolio of charter schools if the  
1044 sponsor is not a school district.

1045 2. A sponsor may withhold an administrative fee for the  
1046 provision of such services which shall be a percentage of the  
1047 available funds defined in paragraph (17)(b) calculated based on  
1048 weighted full-time equivalent students. If the charter school  
1049 serves 75 percent or more exceptional education students as  
1050 defined in s. 1003.01(3), the percentage shall be calculated  
1051 based on unweighted full-time equivalent students. The  
1052 administrative fee shall be calculated as follows:

1053 a. Up to 5 percent for:

1054 (I) Enrollment of up to and including 250 students in a  
1055 charter school as defined in this section.



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1056 (II) Enrollment of up to and including 500 students within  
1057 a charter school system which meets all of the following:

1058 (A) Includes conversion charter schools and nonconversion  
1059 charter schools.

1060 (B) Has all of its schools located in the same county.

1061 (C) Has a total enrollment exceeding the total enrollment  
1062 of at least one school district in the state.

1063 (D) Has the same governing board for all of its schools.

1064 (E) Does not contract with a for-profit service provider  
1065 for management of school operations.

1066 (III) Enrollment of up to and including 250 students in a  
1067 virtual charter school.

1068 b. Up to 2 percent for enrollment of up to and including  
1069 250 students in a high-performing charter school as defined in  
1070 s. 1002.331.

1071 c. Up to 2 percent for enrollment of up to and including  
1072 250 students in an exceptional student education center that  
1073 meets the requirements of the rules adopted by the State Board  
1074 of Education pursuant to s. 1008.3415(3).

1075 3. A sponsor may not charge charter schools any additional  
1076 fees or surcharges for administrative and educational services  
1077 in addition to the maximum percentage of administrative fees  
1078 withheld pursuant to this paragraph.

1079 4. A sponsor shall provide to the department by September  
1080 15 of each year the total amount of funding withheld from  
1081 charter schools pursuant to this subsection for the prior fiscal  
1082 year. The department must include the information in the report  
1083 required under sub-sub-subparagraph (5)(b)1.k.(III).

1084 (b) If goods and services are made available to the charter



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1085 school through the contract with the sponsor ~~school district~~,  
1086 they shall be provided to the charter school at a rate no  
1087 greater than the sponsor's ~~district's~~ actual cost unless  
1088 mutually agreed upon by the charter school and the sponsor in a  
1089 contract negotiated separately from the charter. When mediation  
1090 has failed to resolve disputes over contracted services or  
1091 contractual matters not included in the charter, an appeal may  
1092 be made to an administrative law judge appointed by the Division  
1093 of Administrative Hearings. The administrative law judge has  
1094 final order authority to rule on the dispute. The administrative  
1095 law judge shall award the prevailing party reasonable attorney  
1096 fees and costs incurred during the mediation process,  
1097 administrative proceeding, and any appeals, to be paid by the  
1098 party whom the administrative law judge rules against. To  
1099 maximize the use of state funds, sponsors ~~school districts~~ shall  
1100 allow charter schools to participate in the sponsor's bulk  
1101 purchasing program if applicable.

1102 (c) Transportation of charter school students shall be  
1103 provided by the charter school consistent with the requirements  
1104 of subpart I.E. of chapter 1006 and s. 1012.45. The governing  
1105 body of the charter school may provide transportation through an  
1106 agreement or contract with the sponsor ~~district school board~~, a  
1107 private provider, or parents. The charter school and the sponsor  
1108 shall cooperate in making arrangements that ensure that  
1109 transportation is not a barrier to equal access for all students  
1110 residing within a reasonable distance of the charter school as  
1111 determined in its charter.

1112 (d) Each charter school shall annually complete and submit  
1113 a survey, provided in a format specified by the Department of



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1114 Education, to rate the timeliness and quality of services  
1115 provided by the sponsor ~~district~~ in accordance with this  
1116 section. The department shall compile the results, by sponsor  
1117 ~~district~~, and include the results in the report required under  
1118 sub-sub-subparagraph (5) (b)1.k.(III).

1119 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

1120 (a) The Department of Education shall provide information  
1121 to the public, directly and through sponsors, on how to form and  
1122 operate a charter school and how to enroll in a charter school  
1123 once it is created. This information shall include the standard  
1124 application form, standard charter contract, standard evaluation  
1125 instrument, and standard charter renewal contract, which shall  
1126 include the information specified in subsection (7) and shall be  
1127 developed by consulting and negotiating with both sponsors  
1128 ~~school districts~~ and charter schools before implementation. The  
1129 charter and charter renewal contracts shall be used by charter  
1130 school sponsors.

1131 (b)1. The Department of Education shall report to each  
1132 charter school receiving a school grade pursuant to s. 1008.34  
1133 or a school improvement rating pursuant to s. 1008.341 the  
1134 school's student assessment data.

1135 2. The charter school shall report the information in  
1136 subparagraph 1. to each parent of a student at the charter  
1137 school, the parent of a child on a waiting list for the charter  
1138 school, the sponsor ~~district in which the charter school is~~  
1139 ~~located~~, and the governing board of the charter school. This  
1140 paragraph does not abrogate the provisions of s. 1002.22,  
1141 relating to student records, or the requirements of 20 U.S.C. s.  
1142 1232g, the Family Educational Rights and Privacy Act.





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1143 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER  
1144 SCHOOL SYSTEMS.—

1145 (a) A charter school system's governing board shall be  
1146 designated a local educational agency for the purpose of  
1147 receiving federal funds, the same as though the charter school  
1148 system were a school district, if the governing board of the  
1149 charter school system has adopted and filed a resolution with  
1150 its sponsor ~~sponsoring district school board~~ and the Department  
1151 of Education in which the governing board of the charter school  
1152 system accepts the full responsibility for all local education  
1153 agency requirements and the charter school system meets all of  
1154 the following:

- 1155 1. Has all schools located in the same county;
- 1156 2. Has a total enrollment exceeding the total enrollment of  
1157 at least one school district in the state; and
- 1158 3. Has the same governing board.

1159  
1160 Such designation does not apply to other provisions unless  
1161 specifically provided in law.

1162 (28) RULEMAKING.—The Department of Education, after  
1163 consultation with sponsors ~~school districts~~ and charter school  
1164 directors, shall recommend that the State Board of Education  
1165 adopt rules to implement specific subsections of this section.  
1166 Such rules shall require minimum paperwork and shall not limit  
1167 charter school flexibility authorized by statute. The State  
1168 Board of Education shall adopt rules, pursuant to ss. 120.536(1)  
1169 and 120.54, to implement a standard charter application form,  
1170 standard application form for the replication of charter schools  
1171 in a high-performing charter school system, standard evaluation



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1172 instrument, and standard charter and charter renewal contracts  
1173 in accordance with this section.

1174 Section 3. Paragraph (b) of subsection (3) of section  
1175 1002.331, Florida Statutes, is amended to read:

1176 1002.331 High-performing charter schools.—

1177 (3)

1178 (b) A high-performing charter school may submit not  
1179 ~~establish more than two applications for a charter school~~  
1180 ~~schools~~ within the state under paragraph (a) to be opened at a  
1181 time determined by the high-performing charter school in any  
1182 year. A subsequent application to establish a charter school  
1183 under paragraph (a) may not be submitted unless each charter  
1184 school applicant commences operations or an application is  
1185 otherwise withdrawn established in this manner achieves high-  
1186 performing charter school status. However, a high-performing  
1187 charter school may establish more than one charter school within  
1188 the state under paragraph (a) in any year if it operates in the  
1189 area of a persistently low-performing school and serves students  
1190 from that school. This paragraph applies to any high-performing  
1191 charter school with an existing approved application.

1192 Section 4. Paragraph (c) of subsection (1), paragraphs (g)  
1193 and (h) of subsection (6), paragraph (d) of subsection (7), and  
1194 paragraph (b) of subsection (10) of section 1002.333, Florida  
1195 Statutes, are amended to read:

1196 1002.333 Persistently low-performing schools.—

1197 (1) DEFINITIONS.—As used in this section, the term:

1198 (c) "Persistently low-performing school" means a school  
1199 that has earned three grades lower than a "C," pursuant to s.  
1200 1008.34, in at least 3 of the previous 5 years that the school



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1201 received a grade and has not earned a grade of "B" or higher in  
1202 the most recent 2 school years, and a school that was closed  
1203 pursuant to s. 1008.33(4) within 2 years after the submission of  
1204 a notice of intent.

1205 (6) STATUTORY AUTHORITY.—

1206 (g) Each school of hope that has not been designated as a  
1207 local education agency shall report its students to the school  
1208 district as required in s. 1011.62, and in accordance with the  
1209 definitions in s. 1011.61. The school district shall include  
1210 each charter school's enrollment in the district's report of  
1211 student enrollment. A school of hope designated as a local  
1212 education agency may report its students to the department in  
1213 accordance with the definitions in s. 1011.61 pursuant to  
1214 procedures and timelines adopted by the department. All charter  
1215 schools submitting student record information required by the  
1216 department shall comply with the department's guidelines for  
1217 electronic data formats for such data, and all districts shall  
1218 accept electronic data that complies with the department's  
1219 electronic format.

1220 (h) A ~~school of hope~~ operator shall provide the school  
1221 district with a concise, uniform, quarterly financial statement  
1222 summary sheet that contains a balance sheet and a statement of  
1223 revenue, expenditures, and changes in fund balance. The balance  
1224 sheet and the statement of revenue, expenditures, and changes in  
1225 fund balance shall be in the governmental fund format prescribed  
1226 by the Governmental Accounting Standards Board. Additionally, a  
1227 ~~school of hope~~ operator shall comply with the annual audit  
1228 requirement ~~for charter schools~~ in s. 218.39.

1229 (7) FACILITIES.—



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1230 (d) No later than January ~~October~~ 1, the department ~~each~~  
1231 ~~school district~~ shall annually provide to school districts ~~the~~  
1232 ~~Department of Education~~ a list of all underused, vacant, or  
1233 surplus facilities owned or operated by the school district as  
1234 reported in the Florida Inventory of School Houses. A school  
1235 district may provide evidence to the department that the list  
1236 contains errors or omissions within 30 days after receipt of the  
1237 list. By each April 1, the department shall update and publish a  
1238 final list of all underused, vacant, or surplus facilities owned  
1239 or operated by each school district, based upon updated  
1240 information provided by each school district. A hope operator  
1241 establishing a school of hope may use an educational facility  
1242 identified in this paragraph at no cost or at a mutually  
1243 agreeable cost not to exceed \$600 per student. A hope operator  
1244 using a facility pursuant to this paragraph may not sell or  
1245 dispose of such facility without the written permission of the  
1246 school district. For purposes of this paragraph, the term  
1247 "underused, vacant, or surplus facility" means an entire  
1248 facility or portion thereof which is not fully used or is used  
1249 irregularly or intermittently by the school district for  
1250 instructional or program use.

1251 (10) SCHOOLS OF HOPE PROGRAM.—The Schools of Hope Program  
1252 is created within the Department of Education.

1253 (b) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
1254 funds allocated for the purpose of this subsection which are not  
1255 disbursed by June 30 of the fiscal year in which the funds are  
1256 allocated may be carried forward for up to 7 ~~5~~ years after the  
1257 effective date of the original appropriation.

1258 Section 5. Paragraph (a) of subsection (1) of section



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1259 1003.493, Florida Statutes, is amended to read:

1260 1003.493 Career and professional academies and career-  
1261 themed courses.—

1262 (1) (a) A “career and professional academy” is a research-  
1263 based program that integrates a rigorous academic curriculum  
1264 with an industry-specific curriculum aligned directly to  
1265 priority workforce needs established by the local workforce  
1266 development board or the Department of Economic Opportunity.  
1267 Career and professional academies shall be offered by public  
1268 schools and school districts. Career and professional academies  
1269 may be offered by charter schools. The Florida Virtual School is  
1270 encouraged to develop and offer rigorous career and professional  
1271 courses as appropriate. Students completing career and  
1272 professional academy programs must receive a standard high  
1273 school diploma, the highest available industry certification,  
1274 and opportunities to earn postsecondary credit if the academy  
1275 partners with a postsecondary institution approved to operate in  
1276 the state.

1277 Section 6. Present subsection (3) of section 1008.3415,  
1278 Florida Statutes, is redesignated as subsection (4), and a new  
1279 subsection (3) is added to that section, to read:

1280 1008.3415 School grade or school improvement rating for  
1281 exceptional student education centers.—

1282 (3) The Commissioner of Education, upon request by a  
1283 charter school that is an exceptional student education center  
1284 and that has received two consecutive ratings of “maintaining”  
1285 or higher pursuant to s. 1008.341(2), shall provide a letter to  
1286 the charter school and to the charter school’s sponsor stating  
1287 that the charter school may replicate its educational program in



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1288 the same manner as a high-performing charter school under s.  
1289 1002.331(3).

1290 Section 7. Subsection (2) of section 1012.32, Florida  
1291 Statutes, is amended to read:

1292 1012.32 Qualifications of personnel.—

1293 (2) (a) Instructional and noninstructional personnel who are  
1294 hired or contracted to fill positions that require direct  
1295 contact with students in any district school system or  
1296 university lab school must, upon employment or engagement to  
1297 provide services, undergo background screening as required under  
1298 s. 1012.465 or s. 1012.56, whichever is applicable.

1299 (b) 1. Instructional and noninstructional personnel who are  
1300 hired or contracted to fill positions in a ~~any~~ charter school  
1301 other than a school of hope as defined in s. 1002.333(1)(d)1.,  
1302 and members of the governing board of ~~such any~~ charter school,  
1303 in compliance with s. 1002.33(12)(g), ~~must,~~ upon employment,  
1304 engagement of services, or appointment, shall undergo background  
1305 screening as required under s. 1012.465 or s. 1012.56, whichever  
1306 is applicable, by filing with the district school board for the  
1307 school district in which the charter school is located a  
1308 complete set of fingerprints taken by an authorized law  
1309 enforcement agency or an employee of the school or school  
1310 district who is trained to take fingerprints.

1311 2. Instructional and noninstructional personnel who are  
1312 hired or contracted to fill positions in a school of hope as  
1313 defined in s. 1002.333(1)(d)1., and members of the governing  
1314 board of such school of hope, shall file with the school of hope  
1315 a complete set of fingerprints taken by an authorized law  
1316 enforcement agency, by an employee of the school of hope or



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1317 school district who is trained to take fingerprints, or by any  
1318 other entity recognized by the Department of Law Enforcement to  
1319 take fingerprints.

1320 (c) Instructional and noninstructional personnel who are  
1321 hired or contracted to fill positions that require direct  
1322 contact with students in an alternative school that operates  
1323 under contract with a district school system must, upon  
1324 employment or engagement to provide services, undergo background  
1325 screening as required under s. 1012.465 or s. 1012.56, whichever  
1326 is applicable, by filing with the district school board for the  
1327 school district to which the alternative school is under  
1328 contract a complete set of fingerprints taken by an authorized  
1329 law enforcement agency or an employee of the school or school  
1330 district who is trained to take fingerprints.

1331 (d) Student teachers and persons participating in a field  
1332 experience pursuant to s. 1004.04(5) or s. 1004.85 in any  
1333 district school system, lab school, or charter school must, upon  
1334 engagement to provide services, undergo background screening as  
1335 required under s. 1012.56.

1336  
1337 Required fingerprints must ~~shall~~ be submitted to the Department  
1338 of Law Enforcement for statewide criminal and juvenile records  
1339 checks and to the Federal Bureau of Investigation for federal  
1340 criminal records checks. A person subject to this subsection who  
1341 is found ineligible for employment under s. 1012.315, or  
1342 otherwise found through background screening to have been  
1343 convicted of any crime involving moral turpitude as defined by  
1344 rule of the State Board of Education, shall not be employed,  
1345 engaged to provide services, or serve in any position that



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1346 requires direct contact with students. Probationary persons  
1347 subject to this subsection terminated because of their criminal  
1348 record have the right to appeal such decisions. The cost of the  
1349 background screening may be borne by the district school board,  
1350 the charter school, the employee, the contractor, or a person  
1351 subject to this subsection. A district school board shall  
1352 reimburse a charter school the cost of background screening if  
1353 it does not notify the charter school of the eligibility of a  
1354 governing board member or instructional or noninstructional  
1355 personnel within the earlier of 14 days after receipt of the  
1356 background screening results from the Florida Department of Law  
1357 Enforcement or 30 days of submission of fingerprints by the  
1358 governing board member or instructional or noninstructional  
1359 personnel.

1360 Section 8. Paragraph (a) of subsection (1) of section  
1361 1013.62, Florida Statutes, is amended to read:

1362 1013.62 Charter schools capital outlay funding.-

1363 (1) For the 2020-2021 fiscal year, charter school capital  
1364 outlay funding shall consist of state funds appropriated in the  
1365 2020-2021 General Appropriations Act. Beginning in fiscal year  
1366 2021-2022, charter school capital outlay funding shall consist  
1367 of state funds when such funds are appropriated in the General  
1368 Appropriations Act and revenue resulting from the discretionary  
1369 millage authorized in s. 1011.71(2) if the amount of state funds  
1370 appropriated for charter school capital outlay in any fiscal  
1371 year is less than the average charter school capital outlay  
1372 funds per unweighted full-time equivalent student for the 2018-  
1373 2019 fiscal year, multiplied by the estimated number of charter  
1374 school students for the applicable fiscal year, and adjusted by





1375 changes in the Consumer Price Index issued by the United States  
1376 Department of Labor from the previous fiscal year. Nothing in  
1377 this subsection prohibits a school district from distributing to  
1378 charter schools funds resulting from the discretionary millage  
1379 authorized in s. 1011.71(2).

1380 (a) To be eligible to receive capital outlay funds, a  
1381 charter school must:

1382 1.a. Have been in operation for 2 or more years;

1383 b. Be governed by a governing board established in the  
1384 state for 2 or more years which operates both charter schools  
1385 and conversion charter schools within the state;

1386 c. Be an expanded feeder chain of a charter school within  
1387 the same school district that is currently receiving charter  
1388 school capital outlay funds;

1389 d. Have been accredited by a regional accrediting  
1390 association as defined by State Board of Education rule; ~~or~~

1391 e. Serve students in facilities that are provided by a  
1392 business partner for a charter school-in-the-workplace pursuant  
1393 to s. 1002.33(15) (b); or

1394 f. Be operated by a hope operator pursuant to s. 1002.333.

1395 2. Have an annual audit that does not reveal any of the  
1396 financial emergency conditions provided in s. 218.503(1) for the  
1397 most recent fiscal year for which such audit results are  
1398 available.

1399 3. Have satisfactory student achievement based on state  
1400 accountability standards applicable to the charter school.

1401 4. Have received final approval from its sponsor pursuant  
1402 to s. 1002.33 for operation during that fiscal year.

1403 5. Serve students in facilities that are not provided by



1404 the charter school's sponsor.

1405 Section 9. This act shall take effect July 1, 2021.

1406

1407 ===== T I T L E A M E N D M E N T =====

1408 And the title is amended as follows:

1409 Delete everything before the enacting clause

1410 and insert:

1411 A bill to be entitled

1412 An act relating to charter schools; amending s.

1413 218.39, F.S.; providing that a hope operator that has

1414 not been notified that a financial audit for a fiscal

1415 year will be performed by the Auditor General must

1416 retain an independent certified public accountant to

1417 complete, within 9 months after the end of its fiscal

1418 year, an annual financial audit of its accounts, which

1419 must be paid from its public funds; requiring an

1420 auditor to discuss comments that will be included in

1421 the audit report with the hope operator's board chair

1422 or the chair's designee; requiring the auditor to

1423 notify each hope operator board member of specified

1424 information; requiring hope operators to file an

1425 officer's written statement of explanation or rebuttal

1426 concerning an auditor's findings within a certain

1427 timeframe; authorizing the Legislative Auditing

1428 Committee to require the chair of the hope operator or

1429 the chair's designee to appear before the committee if

1430 it is determined that the written statement is

1431 insufficient; requiring each hope operator to file a

1432 copy of its audit report with specified entities;



1433 amending s. 1002.33, F.S.; authorizing state  
1434 universities and Florida College System institutions  
1435 to solicit applications and sponsor charter schools  
1436 under certain circumstances; prohibiting certain  
1437 charter schools from being sponsored by a Florida  
1438 College System institution until such charter school's  
1439 existing charter expires; authorizing a state  
1440 university or Florida College System institution to,  
1441 at its discretion, deny an application for a charter  
1442 school; revising the contents of an annual report that  
1443 charter school sponsors must provide to the Department  
1444 of Education; revising the date by which the  
1445 department must post a specified annual report;  
1446 revising provisions relating to Florida College System  
1447 institutions that are operating charter schools;  
1448 requiring the board of trustees of a state university  
1449 or Florida College System institution that is  
1450 sponsoring a charter school to serve as the local  
1451 educational agency for such school; prohibiting  
1452 certain charter school students from being included in  
1453 specified school district grade calculations;  
1454 requiring the department to develop a sponsor  
1455 evaluation framework; providing requirements for the  
1456 framework; requiring the department to compile  
1457 results in a specified manner; deleting obsolete  
1458 language; revising requirements for the charter school  
1459 application process; revising the student populations  
1460 for which a charter school is authorized to limit the  
1461 enrollment process; providing a calculation for the



1462 operational funding for a charter school sponsored by  
1463 a state university or Florida College System  
1464 institution; requiring the department to develop a  
1465 tool for state universities and Florida College System  
1466 institutions for specified purposes relating to  
1467 certain funding calculations; providing that such  
1468 funding must be appropriated to the charter school;  
1469 providing for capital outlay funding for such schools;  
1470 authorizing a sponsor to withhold an administrative  
1471 fee for the provision of certain services to an  
1472 exceptional student education center that meets  
1473 specified requirements; conforming provisions to  
1474 changes made by the act; amending s. 1002.331, F.S.;  
1475 revising provisions relating to the opening of  
1476 additional high-performing charter schools; amending  
1477 s. 1002.333, F.S.; revising the definition of the term  
1478 "persistently low-performing school"; authorizing,  
1479 instead of requiring, a school of hope designated as a  
1480 local education agency to report students in  
1481 accordance with procedures and timelines adopted by  
1482 the Department of Education; requiring hope operators,  
1483 rather than schools of hope, to provide school  
1484 districts with quarterly financial statement summary  
1485 sheets; revising the manner in which underused,  
1486 vacant, or surplus facilities owned or operated by  
1487 school districts are identified; increasing the number  
1488 of years for which certain funds may be carried  
1489 forward; amending s. 1003.493, F.S.; authorizing a  
1490 charter school to offer a career and professional



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1491 academy; amending s. 1008.3415, F.S.; requiring the  
1492 Commissioner of Education, upon request by a charter  
1493 school that meets specified criteria, to provide a  
1494 letter to the charter school and the charter school's  
1495 sponsor authorizing the charter school to replicate  
1496 the charter school's education program; amending s.  
1497 1012.32, F.S.; providing an alternate screening method  
1498 for specified persons employed by certain schools of  
1499 hope or serving on certain school of hope governing  
1500 boards; amending s. 1013.62, F.S.; expanding  
1501 eligibility to receive capital outlay funds to schools  
1502 of hope operated by a hope operator; providing an  
1503 effective date.

By Senator Hutson

7-00634-21

20211028\_\_

1 A bill to be entitled  
 2 An act relating to charter schools; amending s.  
 3 1002.33, F.S.; authorizing state universities and  
 4 Florida College System institutions to solicit  
 5 applications and sponsor charter schools under certain  
 6 circumstances; prohibiting certain charter schools  
 7 from being sponsored by a Florida College System  
 8 institution until such charter school's existing  
 9 charter expires; authorizing a state university or  
 10 Florida College System institution to, at its  
 11 discretion, deny an application for a charter school;  
 12 revising the contents of an annual report that charter  
 13 school sponsors must provide to the Department of  
 14 Education; revising the date by which the department  
 15 must post a specified annual report; revising  
 16 provisions relating to Florida College System  
 17 institutions that are operating charter schools;  
 18 requiring the board of trustees of a state university  
 19 or Florida College System institution that is  
 20 sponsoring a charter school to serve as the local  
 21 educational agency for such school; prohibiting  
 22 certain charter school students from being included in  
 23 specified school district grade calculations;  
 24 requiring the department to develop a sponsor  
 25 evaluation framework; providing requirements for the  
 26 framework; requiring the department to compile  
 27 results in a specified manner; deleting obsolete  
 28 language; revising the student populations for which a  
 29 charter school is authorized to limit the enrollment

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

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30 process; providing a calculation for the operational  
 31 funding for a charter school sponsored by a state  
 32 university or Florida College System institution;  
 33 requiring the department to develop a tool for state  
 34 universities and Florida College System institutions  
 35 for specified purposes relating to certain funding  
 36 calculations; providing that such funding must be  
 37 appropriated to the charter school; providing for  
 38 capital outlay funding for such schools; conforming  
 39 provisions to changes made by the act; amending s.  
 40 1003.493, F.S.; authorizing a career and professional  
 41 academy to be offered by a charter school; providing  
 42 an effective date.

43  
 44 Be It Enacted by the Legislature of the State of Florida:

45  
 46 Section 1. Paragraph (c) of subsection (2), subsection (5),  
 47 paragraph (b) of subsection (6), paragraphs (a) and (d) of  
 48 subsection (7), paragraphs (d) and (e) of subsection (8),  
 49 paragraphs (g) and (n) of subsection (9), paragraph (e) of  
 50 subsection (10), subsection (14), paragraph (c) of subsection  
 51 (15), subsection (17), paragraph (e) of subsection (18),  
 52 subsections (20) and (21), paragraph (a) of subsection (25), and  
 53 subsection (28) of section 1002.33, Florida Statutes, are  
 54 amended to read:  
 55 1002.33 Charter schools.—  
 56 (2) GUIDING PRINCIPLES; PURPOSE.—  
 57 (c) Charter schools may fulfill the following purposes:  
 58 1. Create innovative measurement tools.

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

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59 2. Provide rigorous competition within the public school  
60 ~~system district~~ to stimulate continual improvement in all public  
61 schools.

62 3. Expand the capacity of the public school system.

63 4. Mitigate the educational impact created by the  
64 development of new residential dwelling units.

65 5. Create new professional opportunities for teachers,  
66 including ownership of the learning program at the school site.

67 (5) SPONSOR; DUTIES.—

68 (a) *Sponsoring entities.*—

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

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

76 3. Because needs relating to educational capacity,  
77 workforce qualifications, and career education opportunities are  
78 constantly changing and extend beyond school district  
79 boundaries:

80 a. A state university may, upon approval by the Department  
81 of Education, solicit applications and sponsor a charter school  
82 to meet regional education or workforce demands by serving  
83 students from multiple school districts.

84 b. A Florida College System institution may, upon approval  
85 by the Department of Education, solicit applications and sponsor  
86 a charter school in any county within its service area to meet  
87 workforce demands and may offer postsecondary programs leading

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88 to industry certifications to eligible charter school students.  
89 A charter school established under subparagraph (b)4. may not be  
90 sponsored by a Florida College System institution until its  
91 existing charter with the school district expires as provided  
92 under subsection (7).

93 c. Notwithstanding paragraph (6) (b), a state university or  
94 Florida College System institution may, at its discretion, deny  
95 an application for a charter school.

96 (b) *Sponsor duties.*—

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

100 b. The sponsor shall monitor the revenues and expenditures  
101 of the charter school and perform the duties provided in s.  
102 1002.345.

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

107 d. The sponsor shall not apply its policies to a charter  
108 school unless mutually agreed to by both the sponsor and the  
109 charter school. If the sponsor subsequently amends any agreed-  
110 upon sponsor policy, the version of the policy in effect at the  
111 time of the execution of the charter, or any subsequent  
112 modification thereof, shall remain in effect and the sponsor may  
113 not hold the charter school responsible for any provision of a  
114 newly revised policy until the revised policy is mutually agreed  
115 upon.

116 e. The sponsor shall ensure that the charter is innovative

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117 and consistent with the state education goals established by s.  
 118 1000.03(5).

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

124 g. The sponsor shall not be liable for civil damages under  
 125 state law for personal injury, property damage, or death  
 126 resulting from an act or omission of an officer, employee,  
 127 agent, or governing body of the charter school.

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

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

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

136 k. The sponsor shall submit an annual report to the  
 137 Department of Education in a web-based format to be determined  
 138 by the department.

139 (I) The report shall include the following information:

140 (A) ~~The number of draft applications received on or before~~  
 141 ~~May 1 and each applicant's contact information.~~

142 ~~(B)~~ The number of final applications received on or before  
 143 February August 1 and each applicant's contact information.

144 ~~(B)~~(C) The date each application was approved, denied, or  
 145 withdrawn.

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146 ~~(C)~~(D) The date each final contract was executed.

147 (II) Annually, by November 1 ~~Beginning August 31, 2013, and~~  
 148 ~~each year thereafter~~, the sponsor shall submit to the department  
 149 the information for the applications submitted the previous  
 150 year.

151 (III) The department shall compile an annual report, by  
 152 sponsor district, and post the report on its website by January  
 153 15 November 1 of each year.

154 2. Immunity for the sponsor of a charter school under  
 155 subparagraph 1. applies only with respect to acts or omissions  
 156 not under the sponsor's direct authority as described in this  
 157 section.

158 3. This paragraph does not waive a sponsor's district  
 159 ~~school board's~~ sovereign immunity.

160 4. A Florida College System institution may work with the  
 161 school district or school districts in its designated service  
 162 area to develop charter schools that offer secondary education.  
 163 These charter schools must include an option for students to  
 164 receive an associate degree upon high school graduation. If a  
 165 Florida College System institution operates an approved teacher  
 166 preparation program under s. 1004.04 or s. 1004.85, the  
 167 institution may operate ~~no more than one~~ charter schools school  
 168 that serve ~~serve~~ students in kindergarten through grade 12 in  
 169 any school district within the service area of the institution.  
 170 ~~In kindergarten through grade 8, the charter school shall~~  
 171 ~~implement innovative blended learning instructional models in~~  
 172 ~~which, for a given course, a student learns in part through~~  
 173 ~~online delivery of content and instruction with some element of~~  
 174 ~~student control over time, place, path, or pace and in part at a~~



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175 ~~supervised brick and mortar location away from home. A student~~  
 176 ~~in a blended learning course must be a full-time student of the~~  
 177 ~~charter school and receive the online instruction in a classroom~~  
 178 ~~setting at the charter school.~~ District school boards shall  
 179 cooperate with and assist the Florida College System institution  
 180 on the charter application. Florida College System institution  
 181 applications for charter schools are not subject to the time  
 182 deadlines outlined in subsection (6) and may be approved by the  
 183 district school board at any time during the year. Florida  
 184 College System institutions may not report FTE for any students  
 185 participating under this subparagraph who receive FTE funding  
 186 through the Florida Education Finance Program.

187 5. A school district may enter into nonexclusive interlocal  
 188 agreements with federal and state agencies, counties,  
 189 municipalities, and other governmental entities that operate  
 190 within the geographical borders of the school district to act on  
 191 behalf of such governmental entities in the inspection,  
 192 issuance, and other necessary activities for all necessary  
 193 permits, licenses, and other permissions that a charter school  
 194 needs in order for development, construction, or operation. A  
 195 charter school may use, but may not be required to use, a school  
 196 district for these services. The interlocal agreement must  
 197 include, but need not be limited to, the identification of fees  
 198 that charter schools will be charged for such services. The fees  
 199 must consist of the governmental entity's fees plus a fee for  
 200 the school district to recover no more than actual costs for  
 201 providing such services. These services and fees are not  
 202 included within the services to be provided pursuant to  
 203 subsection (20).

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204 6. The board of trustees of a sponsoring state university  
 205 or Florida College System institution under paragraph (a) is the  
 206 local educational agency for all charter schools it sponsors for  
 207 purposes of receiving federal funds and accepts full  
 208 responsibility for all local educational agency requirements and  
 209 the schools for which it will perform local educational agency  
 210 responsibilities. A student enrolled in a charter school that is  
 211 sponsored by a state university or Florida College System  
 212 institution may not be included in the calculation of the school  
 213 district's grade under s. 1008.34(5) for the school district in  
 214 which he or she resides.

215 (c) Sponsor accountability.—

216 1. The department shall, in collaboration with charter  
 217 school sponsors and charter school operators, develop a sponsor  
 218 evaluation framework that must address, at a minimum:

219 a. The sponsor's strategic vision for charter school  
 220 authorizing and the sponsor's progress toward that vision.

221 b. The alignment of the sponsor's policies and practices to  
 222 best practices for charter school authorizing.

223 c. The academic and financial performance of all operating  
 224 charter schools overseen by the sponsor.

225 d. The status of charter schools authorized by the sponsor,  
 226 including approved, operating, and closed schools.

227 2. The department shall compile the results by sponsor and  
 228 include the results in the report required under sub-sub-  
 229 paragraph (b)1.k.(III).

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

232 (b) A sponsor shall receive and review all applications for

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233 a charter school using the evaluation instrument developed by  
 234 the Department of Education. ~~A sponsor shall receive and~~  
 235 ~~consider charter school applications received on or before~~  
 236 ~~August 1 of each calendar year for charter schools to be opened~~  
 237 ~~at the beginning of the school district's next school year, or~~  
 238 ~~to be opened at a time agreed to by the applicant and the~~  
 239 ~~sponsor. A sponsor may not refuse to receive a charter school~~  
 240 ~~application submitted before August 1 and may receive an~~  
 241 ~~application submitted later than August 1 if it chooses.~~  
 242 Beginning in 2018 and thereafter, A sponsor shall receive and  
 243 consider charter school applications received on or before  
 244 February 1 of each calendar year for charter schools to be  
 245 opened 18 months later at the beginning of the ~~school district's~~  
 246 school year, or to be opened at a time determined by the  
 247 applicant. A sponsor may not refuse to receive a charter school  
 248 application submitted before February 1 and may receive an  
 249 application submitted later than February 1 if it chooses. A  
 250 sponsor may not charge an applicant for a charter any fee for  
 251 the processing or consideration of an application, and a sponsor  
 252 may not base its consideration or approval of a final  
 253 application upon the promise of future payment of any kind.  
 254 Before approving or denying any application, the sponsor shall  
 255 allow the applicant, upon receipt of written notification, at  
 256 least 7 calendar days to make technical or nonsubstantive  
 257 corrections and clarifications, including, but not limited to,  
 258 corrections of grammatical, typographical, and like errors or  
 259 missing signatures, if such errors are identified by the sponsor  
 260 as cause to deny the final application.

261 1. In order to facilitate an accurate budget projection

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

270 2. In order to ensure fiscal responsibility, an application  
 271 for a charter school shall include a full accounting of expected  
 272 assets, a projection of expected sources and amounts of income,  
 273 including income derived from projected student enrollments and  
 274 from community support, and an expense projection that includes  
 275 full accounting of the costs of operation, including start-up  
 276 costs.

277 3.a. A sponsor shall by a majority vote approve or deny an  
 278 application no later than 90 calendar days after the application  
 279 is received, unless the sponsor and the applicant mutually agree  
 280 in writing to temporarily postpone the vote to a specific date,  
 281 at which time the sponsor shall by a majority vote approve or  
 282 deny the application. If the sponsor fails to act on the  
 283 application, an applicant may appeal to the State Board of  
 284 Education as provided in paragraph (c). If an application is  
 285 denied, the sponsor shall, within 10 calendar days after such  
 286 denial, articulate in writing the specific reasons, based upon  
 287 good cause, supporting its denial of the application and shall  
 288 provide the letter of denial and supporting documentation to the  
 289 applicant and to the Department of Education.

290 b. An application submitted by a high-performing charter

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291 school identified pursuant to s. 1002.331 or a high-performing  
 292 charter school system identified pursuant to s. 1002.332 may be  
 293 denied by the sponsor only if the sponsor demonstrates by clear  
 294 and convincing evidence that:

295 (I) The application of a high-performing charter school  
 296 does not materially comply with the requirements in paragraph  
 297 (a) or, for a high-performing charter school system, the  
 298 application does not materially comply with s. 1002.332(2)(b);

299 (II) The charter school proposed in the application does  
 300 not materially comply with the requirements in paragraphs  
 301 (9)(a)-(f);

302 (III) The proposed charter school's educational program  
 303 does not substantially replicate that of the applicant or one of  
 304 the applicant's high-performing charter schools;

305 (IV) The applicant has made a material misrepresentation or  
 306 false statement or concealed an essential or material fact  
 307 during the application process; or

308 (V) The proposed charter school's educational program and  
 309 financial management practices do not materially comply with the  
 310 requirements of this section.

311  
 312 Material noncompliance is a failure to follow requirements or a  
 313 violation of prohibitions applicable to charter school  
 314 applications, which failure is quantitatively or qualitatively  
 315 significant either individually or when aggregated with other  
 316 noncompliance. An applicant is considered to be replicating a  
 317 high-performing charter school if the proposed school is  
 318 substantially similar to at least one of the applicant's high-  
 319 performing charter schools and the organization or individuals

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320 involved in the establishment and operation of the proposed  
 321 school are significantly involved in the operation of replicated  
 322 schools.

323 c. If the sponsor denies an application submitted by a  
 324 high-performing charter school or a high-performing charter  
 325 school system, the sponsor must, within 10 calendar days after  
 326 such denial, state in writing the specific reasons, based upon  
 327 the criteria in sub-subparagraph b., supporting its denial of  
 328 the application and must provide the letter of denial and  
 329 supporting documentation to the applicant and to the Department  
 330 of Education. The applicant may appeal the sponsor's denial of  
 331 the application in accordance with paragraph (c).

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

338 5. ~~Upon approval of an application, the initial startup~~  
 339 ~~shall commence with the beginning of the public school calendar~~  
 340 ~~for the district in which the charter is granted.~~ A charter  
 341 school may defer the opening of the school's operations for up  
 342 to 3 years to provide time for adequate facility planning. The  
 343 charter school must provide written notice of such intent to the  
 344 sponsor and the parents of enrolled students at least 30  
 345 calendar days before the first day of school.

346 (7) CHARTER.—The terms and conditions for the operation of  
 347 a charter school shall be set forth by the sponsor and the  
 348 applicant in a written contractual agreement, called a charter.

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349 The sponsor and the governing board of the charter school shall  
 350 use the standard charter contract pursuant to subsection (21),  
 351 which shall incorporate the approved application and any addenda  
 352 approved with the application. Any term or condition of a  
 353 proposed charter contract that differs from the standard charter  
 354 contract adopted by rule of the State Board of Education shall  
 355 be presumed a limitation on charter school flexibility. The  
 356 sponsor may not impose unreasonable rules or regulations that  
 357 violate the intent of giving charter schools greater flexibility  
 358 to meet educational goals. The charter shall be signed by the  
 359 governing board of the charter school and the sponsor, following  
 360 a public hearing to ensure community input.

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

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

365 2. The focus of the curriculum, the instructional methods  
 366 to be used, any distinctive instructional techniques to be  
 367 employed, and identification and acquisition of appropriate  
 368 technologies needed to improve educational and administrative  
 369 performance which include a means for promoting safe, ethical,  
 370 and appropriate uses of technology which comply with legal and  
 371 professional standards.

372 a. The charter shall ensure that reading is a primary focus  
 373 of the curriculum and that resources are provided to identify  
 374 and provide specialized instruction for students who are reading  
 375 below grade level. The curriculum and instructional strategies  
 376 for reading must be consistent with the Next Generation Sunshine  
 377 State Standards and grounded in scientifically based reading

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378 research.

379 b. In order to provide students with access to diverse  
 380 instructional delivery models, to facilitate the integration of  
 381 technology within traditional classroom instruction, and to  
 382 provide students with the skills they need to compete in the  
 383 21st century economy, the Legislature encourages instructional  
 384 methods for blended learning courses consisting of both  
 385 traditional classroom and online instructional techniques.  
 386 Charter schools may implement blended learning courses which  
 387 combine traditional classroom instruction and virtual  
 388 instruction. Students in a blended learning course must be full-  
 389 time students of the charter school pursuant to s.  
 390 1011.61(1)(a)1. Instructional personnel certified pursuant to s.  
 391 1012.55 who provide virtual instruction for blended learning  
 392 courses may be employees of the charter school or may be under  
 393 contract to provide instructional services to charter school  
 394 students. At a minimum, such instructional personnel must hold  
 395 an active state or school district adjunct certification under  
 396 s. 1012.57 for the subject area of the blended learning course.  
 397 The funding and performance accountability requirements for  
 398 blended learning courses are the same as those for traditional  
 399 courses.

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

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

406 b. How these baseline rates will be compared to rates of

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407 academic progress achieved by these same students while  
408 attending the charter school.

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

412  
413 A ~~The~~ district school board is required to provide academic  
414 student performance data to charter schools for each of their  
415 students coming from the district school system, as well as  
416 rates of academic progress of comparable student populations in  
417 the district school system.

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

427 5. In secondary charter schools, a method for determining  
428 that a student has satisfied the requirements for graduation in  
429 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

430 6. A method for resolving conflicts between the governing  
431 board of the charter school and the sponsor.

432 7. The admissions procedures and dismissal procedures,  
433 including the school's code of student conduct. Admission or  
434 dismissal must not be based on a student's academic performance.

435 8. The ways by which the school will achieve a

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436 racial/ethnic balance reflective of the community it serves or  
437 within the racial/ethnic range of other nearby public schools ~~in~~  
438 ~~the same school district.~~

439 9. The financial and administrative management of the  
440 school, including a reasonable demonstration of the professional  
441 experience or competence of those individuals or organizations  
442 applying to operate the charter school or those hired or  
443 retained to perform such professional services and the  
444 description of clearly delineated responsibilities and the  
445 policies and practices needed to effectively manage the charter  
446 school. A description of internal audit procedures and  
447 establishment of controls to ensure that financial resources are  
448 properly managed must be included. Both public sector and  
449 private sector professional experience shall be equally valid in  
450 such a consideration.

451 10. The asset and liability projections required in the  
452 application which are incorporated into the charter and shall be  
453 compared with information provided in the annual report of the  
454 charter school.

455 11. A description of procedures that identify various risks  
456 and provide for a comprehensive approach to reduce the impact of  
457 losses; plans to ensure the safety and security of students and  
458 staff; plans to identify, minimize, and protect others from  
459 violent or disruptive student behavior; and the manner in which  
460 the school will be insured, including whether or not the school  
461 will be required to have liability insurance, and, if so, the  
462 terms and conditions thereof and the amounts of coverage.

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

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465 made in attaining the student achievement objectives of the  
 466 charter and if it is not likely that such objectives can be  
 467 achieved before expiration of the charter. The initial term of a  
 468 charter shall be for 5 years, excluding 2 planning years. In  
 469 order to facilitate access to long-term financial resources for  
 470 charter school construction, charter schools that are operated  
 471 by a municipality or other public entity as provided by law are  
 472 eligible for up to a 15-year charter, subject to approval by the  
 473 sponsor ~~district school board~~. A charter lab school is eligible  
 474 for a charter for a term of up to 15 years. In addition, to  
 475 facilitate access to long-term financial resources for charter  
 476 school construction, charter schools that are operated by a  
 477 private, not-for-profit, s. 501(c)(3) status corporation are  
 478 eligible for up to a 15-year charter, subject to approval by the  
 479 sponsor ~~district school board~~. Such long-term charters remain  
 480 subject to annual review and may be terminated during the term  
 481 of the charter, but only according to the provisions set forth  
 482 in subsection (8).

483 13. The facilities to be used and their location. The  
 484 sponsor may not require a charter school to have a certificate  
 485 of occupancy or a temporary certificate of occupancy for such a  
 486 facility earlier than 15 calendar days before the first day of  
 487 school.

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

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

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

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

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

521 19. Implementation of the activities authorized under s.  
 522 1002.331 by the charter school when it satisfies the eligibility

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 523 requirements for a high-performing charter school. A high-  
 524 performing charter school shall notify its sponsor in writing by  
 525 March 1 if it intends to increase enrollment or expand grade  
 526 levels the following school year. The written notice shall  
 527 specify the amount of the enrollment increase and the grade  
 528 levels that will be added, as applicable.

(d) A charter may be modified during its initial term or  
 530 any renewal term upon the recommendation of the sponsor or the  
 531 charter school's governing board and the approval of both  
 532 parties to the agreement. Modification during any term may  
 533 include, but is not limited to, consolidation of multiple  
 534 charters into a single charter if the charters are operated  
 535 under the same governing board, regardless of the renewal cycle.  
 536 A charter school that is not subject to a school improvement  
 537 plan and that closes as part of a consolidation shall be  
 538 reported by the sponsor ~~school district~~ as a consolidation.

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

(d) When a charter is not renewed or is terminated, the  
 541 school shall be dissolved under the provisions of law under  
 542 which the school was organized, and any unencumbered public  
 543 funds, except for capital outlay funds and federal charter  
 544 school program grant funds, from the charter school shall revert  
 545 to the sponsor. Capital outlay funds provided pursuant to s.  
 546 1013.62 and federal charter school program grant funds that are  
 547 unencumbered shall revert to the department to be redistributed  
 548 among eligible charter schools. In the event a charter school is  
 549 dissolved or is otherwise terminated, all sponsor ~~district~~  
 550 ~~school board~~ property and improvements, furnishings, and  
 551 equipment purchased with public funds shall automatically revert

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 552 to full ownership by the sponsor ~~district school board~~, subject  
 553 to complete satisfaction of any lawful liens or encumbrances.  
 554 Any unencumbered public funds from the charter school, ~~district~~  
 555 ~~school board~~ property and improvements, furnishings, and  
 556 equipment purchased with public funds, or financial or other  
 557 records pertaining to the charter school, in the possession of  
 558 any person, entity, or holding company, other than the charter  
 559 school, shall be held in trust upon the sponsor's ~~district~~  
 560 ~~school board's~~ request, until any appeal status is resolved.

(e) If a charter is not renewed or is terminated, the  
 562 charter school is responsible for all debts of the charter  
 563 school. The sponsor ~~district~~ may not assume the debt from any  
 564 contract made between the governing body of the school and a  
 565 third party, except for a debt that is previously detailed and  
 566 agreed upon in writing by both the sponsor ~~district~~ and the  
 567 governing body of the school and that may not reasonably be  
 568 assumed to have been satisfied by the sponsor ~~district~~.

(9) CHARTER SCHOOL REQUIREMENTS.—

(g)1. In order to provide financial information that is  
 571 comparable to that reported for other public schools, charter  
 572 schools are to maintain all financial records that constitute  
 573 their accounting system:

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

b. At the discretion of the charter school's governing  
 579 board, a charter school may elect to follow generally accepted  
 580 accounting standards for not-for-profit organizations, but must

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581 reformat this information for reporting according to this  
582 paragraph.

583 2. Charter schools shall provide annual financial report  
584 and program cost report information in the state-required  
585 formats for inclusion in sponsor ~~district~~ reporting in  
586 compliance with s. 1011.60(1). Charter schools that are operated  
587 by a municipality or are a component unit of a parent nonprofit  
588 organization may use the accounting system of the municipality  
589 or the parent but must reformat this information for reporting  
590 according to this paragraph.

591 3. A charter school shall, upon approval of the charter  
592 contract, provide the sponsor with a concise, uniform, monthly  
593 financial statement summary sheet that contains a balance sheet  
594 and a statement of revenue, expenditures, and changes in fund  
595 balance. The balance sheet and the statement of revenue,  
596 expenditures, and changes in fund balance shall be in the  
597 governmental funds format prescribed by the Governmental  
598 Accounting Standards Board. A high-performing charter school  
599 pursuant to s. 1002.331 may provide a quarterly financial  
600 statement in the same format and requirements as the uniform  
601 monthly financial statement summary sheet. The sponsor shall  
602 review each monthly or quarterly financial statement to identify  
603 the existence of any conditions identified in s. 1002.345(1)(a).

604 4. A charter school shall maintain and provide financial  
605 information as required in this paragraph. The financial  
606 statement required in subparagraph 3. must be in a form  
607 prescribed by the Department of Education.

608 (n)1. The director and a representative of the governing  
609 board of a charter school that has earned a grade of "D" or "F"

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610 pursuant to s. 1008.34 shall appear before the sponsor to  
611 present information concerning each contract component having  
612 noted deficiencies. The director and a representative of the  
613 governing board shall submit to the sponsor for approval a  
614 school improvement plan to raise student performance. Upon  
615 approval by the sponsor, the charter school shall begin  
616 implementation of the school improvement plan. The department  
617 shall offer technical assistance and training to the charter  
618 school and its governing board and establish guidelines for  
619 developing, submitting, and approving such plans.

620 2.a. If a charter school earns three consecutive grades  
621 below a "C," the charter school governing board shall choose one  
622 of the following corrective actions:

623 (I) Contract for educational services to be provided  
624 directly to students, instructional personnel, and school  
625 administrators, as prescribed in state board rule;

626 (II) Contract with an outside entity that has a  
627 demonstrated record of effectiveness to operate the school;

628 (III) Reorganize the school under a new director or  
629 principal who is authorized to hire new staff; or

630 (IV) Voluntarily close the charter school.

631 b. The charter school must implement the corrective action  
632 in the school year following receipt of a third consecutive  
633 grade below a "C."

634 c. The sponsor may annually waive a corrective action if it  
635 determines that the charter school is likely to improve a letter  
636 grade if additional time is provided to implement the  
637 intervention and support strategies prescribed by the school  
638 improvement plan. Notwithstanding this sub-subparagraph, a



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639 charter school that earns a second consecutive grade of "F" is  
640 subject to subparagraph 3.

641 d. A charter school is no longer required to implement a  
642 corrective action if it improves to a "C" or higher. However,  
643 the charter school must continue to implement strategies  
644 identified in the school improvement plan. The sponsor must  
645 annually review implementation of the school improvement plan to  
646 monitor the school's continued improvement pursuant to  
647 subparagraph 4.

648 e. A charter school implementing a corrective action that  
649 does not improve to a "C" or higher after 2 full school years of  
650 implementing the corrective action must select a different  
651 corrective action. Implementation of the new corrective action  
652 must begin in the school year following the implementation  
653 period of the existing corrective action, unless the sponsor  
654 determines that the charter school is likely to improve to a "C"  
655 or higher if additional time is provided to implement the  
656 existing corrective action. Notwithstanding this sub-  
657 subparagraph, a charter school that earns a second consecutive  
658 grade of "F" while implementing a corrective action is subject  
659 to subparagraph 3.

660 3. A charter school's charter contract is automatically  
661 terminated if the school earns two consecutive grades of "F"  
662 after all school grade appeals are final unless:

663 a. The charter school is established to turn around the  
664 performance of a district public school pursuant to s.  
665 1008.33(4)(b)2. Such charter schools shall be governed by s.  
666 1008.33;

667 b. The charter school serves a student population the

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668 majority of which resides in a school zone served by a district  
669 public school subject to s. 1008.33(4) and the charter school  
670 earns at least a grade of "D" in its third year of operation.  
671 The exception provided under this sub-subparagraph does not  
672 apply to a charter school in its fourth year of operation and  
673 thereafter; or

674 c. The state board grants the charter school a waiver of  
675 termination. The charter school must request the waiver within  
676 15 days after the department's official release of school  
677 grades. The state board may waive termination if the charter  
678 school demonstrates that the Learning Gains of its students on  
679 statewide assessments are comparable to or better than the  
680 Learning Gains of similarly situated students enrolled in nearby  
681 ~~district~~ public schools. The waiver is valid for 1 year and may  
682 only be granted once. Charter schools that have been in  
683 operation for more than 5 years are not eligible for a waiver  
684 under this sub-subparagraph.

685  
686 The sponsor shall notify the charter school's governing board,  
687 the charter school principal, and the department in writing when  
688 a charter contract is terminated under this subparagraph. A  
689 charter terminated under this subparagraph must follow the  
690 procedures for dissolution and reversion of public funds  
691 pursuant to paragraphs (8)(d)-(f) and (9)(o).

692 4. The director and a representative of the governing board  
693 of a graded charter school that has implemented a school  
694 improvement plan under this paragraph shall appear before the  
695 sponsor at least once a year to present information regarding  
696 the progress of intervention and support strategies implemented

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697 by the school pursuant to the school improvement plan and  
698 corrective actions, if applicable. The sponsor shall communicate  
699 at the meeting, and in writing to the director, the services  
700 provided to the school to help the school address its  
701 deficiencies.

702 5. Notwithstanding any provision of this paragraph except  
703 sub-subparagraphs 3.a.-c., the sponsor may terminate the charter  
704 at any time pursuant to subsection (8).

705 (10) ELIGIBLE STUDENTS.—

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

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

709 2. Students considered at risk of dropping out of school or  
710 academic failure. Such students shall include exceptional  
711 education students.

712 3. Students enrolling in a charter school-in-the-workplace  
713 or charter school-in-a-municipality established pursuant to  
714 subsection (15).

715 4. Students residing within a reasonable distance of the  
716 charter school, as described in paragraph (20)(c). Such students  
717 shall be subject to a random lottery and to the racial/ethnic  
718 balance provisions described in subparagraph (7)(a)8. or any  
719 federal provisions that require a school to achieve a  
720 racial/ethnic balance reflective of the community it serves or  
721 within the racial/ethnic range of other nearby public schools ~~in~~  
722 ~~the same school district.~~

723 5. Students who meet reasonable academic, artistic, or  
724 other eligibility standards established by the charter school  
725 and included in the charter school application and charter or,

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726 in the case of existing charter schools, standards that are  
727 consistent with the school's mission and purpose. Such standards  
728 shall be in accordance with current state law and practice in  
729 public schools and may not discriminate against otherwise  
730 qualified individuals.

731 6. Students articulating from one charter school to another  
732 pursuant to an articulation agreement between the charter  
733 schools that has been approved by the sponsor.

734 7. Students living in a development in which a developer,  
735 including any affiliated business entity or charitable  
736 foundation, contributes to the formation, acquisition,  
737 construction, or operation of one or more charter schools or  
738 charter ~~provides the school facilities facility~~ and related  
739 property in an amount equal to or having a total ~~an~~ appraised  
740 value of at least \$5 million to be used as a charter schools  
741 ~~school~~ to mitigate the educational impact created by the  
742 development of new residential dwelling units. Students living  
743 in the development are ~~shall be~~ entitled to ~~no more than~~ 50  
744 percent of the student stations in the charter schools ~~school~~.  
745 The students who are eligible for enrollment are subject to a  
746 random lottery, the racial/ethnic balance provisions, or any  
747 federal provisions, as described in subparagraph 4. The  
748 remainder of the student stations must ~~shall~~ be filled in  
749 accordance with subparagraph 4.

750 (14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS; INDEMNIFICATION  
751 OF THE STATE AND SPONSOR SCHOOL DISTRICT; CREDIT OR TAXING POWER  
752 NOT TO BE PLEDGED.—Any arrangement entered into to borrow or  
753 otherwise secure funds for a charter school authorized in this  
754 section from a source other than the state or a sponsor ~~school~~

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 755 ~~district~~ shall indemnify the state and the sponsor school  
 756 ~~district~~ from any and all liability, including, but not limited  
 757 to, financial responsibility for the payment of the principal or  
 758 interest. Any loans, bonds, or other financial agreements are  
 759 not obligations of the state or the sponsor school district but  
 760 are obligations of the charter school authority and are payable  
 761 solely from the sources of funds pledged by such agreement. The  
 762 credit or taxing power of the state or the sponsor school  
 763 ~~district~~ shall not be pledged and no debts shall be payable out  
 764 of any moneys except those of the legal entity in possession of  
 765 a valid charter approved by a sponsor district school board  
 766 pursuant to this section.

767 (15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER SCHOOLS-IN-  
 768 A-MUNICIPALITY.—

769 (c) A charter school-in-a-municipality designation may be  
 770 granted to a municipality that possesses a charter; enrolls  
 771 students based upon a random lottery that involves all of the  
 772 children of the residents of that municipality who are seeking  
 773 enrollment, as provided for in subsection (10); and enrolls  
 774 students according to the racial/ethnic balance provisions  
 775 described in subparagraph (7) (a)8. When a municipality has  
 776 submitted charter applications for the establishment of a  
 777 charter school feeder pattern, consisting of elementary, middle,  
 778 and senior high schools, and each individual charter application  
 779 is approved by the sponsor district school board, such schools  
 780 shall then be designated as one charter school for all purposes  
 781 listed pursuant to this section. Any portion of the land and  
 782 facility used for a public charter school shall be exempt from  
 783 ad valorem taxes, as provided for in s. 1013.54, for the

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 784 duration of its use as a public school.

785 (17) FUNDING.—Students enrolled in a charter school,  
 786 regardless of the sponsorship, shall be funded as if they are in  
 787 a basic program or a special program, the same as students  
 788 enrolled in other public schools in a the school district.  
 789 Funding for a charter lab school shall be as provided in s.  
 790 1002.32.

791 (a) Each charter school shall report its student enrollment  
 792 to the sponsor as required in s. 1011.62, and in accordance with  
 793 the definitions in s. 1011.61. The sponsor shall include each  
 794 charter school's enrollment in the sponsor's district's report  
 795 of student enrollment. All charter schools submitting student  
 796 record information required by the Department of Education shall  
 797 comply with the Department of Education's guidelines for  
 798 electronic data formats for such data, and all sponsors  
 799 ~~districts~~ shall accept electronic data that complies with the  
 800 Department of Education's electronic format.

801 (b)1. The basis for the agreement for funding students  
 802 enrolled in a charter school shall be the sum of the school  
 803 district's operating funds from the Florida Education Finance  
 804 Program as provided in s. 1011.62 and the General Appropriations  
 805 Act, including gross state and local funds, discretionary  
 806 lottery funds, and funds from the school district's current  
 807 operating discretionary millage levy; divided by total funded  
 808 weighted full-time equivalent students in the school district;  
 809 and multiplied by the weighted full-time equivalent students for  
 810 the charter school. Charter schools whose students or programs  
 811 meet the eligibility criteria in law are entitled to their  
 812 proportionate share of categorical program funds included in the

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 813 total funds available in the Florida Education Finance Program  
 814 by the Legislature, including transportation, the research-based  
 815 reading allocation, and the Florida digital classrooms  
 816 allocation. Total funding for each charter school shall be  
 817 recalculated during the year to reflect the revised calculations  
 818 under the Florida Education Finance Program by the state and the  
 819 actual weighted full-time equivalent students reported by the  
 820 charter school during the full-time equivalent student survey  
 821 periods designated by the Commissioner of Education. For charter  
 822 schools operated by a not-for-profit or municipal entity, any  
 823 unrestricted current and capital assets identified in the  
 824 charter school's annual financial audit may be used for other  
 825 charter schools operated by the not-for-profit or municipal  
 826 entity within the school district. Unrestricted current assets  
 827 shall be used in accordance with s. 1011.62, and any  
 828 unrestricted capital assets shall be used in accordance with s.  
 829 1013.62(2).

830 2.a. Students enrolled in a charter school sponsored by a  
 831 state university or Florida College System institution pursuant  
 832 to paragraph (5) (a) shall be funded as if they are in a basic  
 833 program or a special program in the school district. The basis  
 834 for funding these students is the sum of the total operating  
 835 funds from the Florida Education Finance Program for the school  
 836 district in which the school is located as provided in s.  
 837 1011.62 and the General Appropriations Act, including gross  
 838 state and local funds, discretionary lottery funds, and funds  
 839 from each school district's current operating discretionary  
 840 millage levy, divided by total funded weighted full-time  
 841 equivalent students in the district, and multiplied by the full-

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 842 time equivalent membership of the charter school. The Department  
 843 of Education shall develop a tool that each state university or  
 844 Florida College System institution sponsoring a charter school  
 845 shall use for purposes of calculating the funding amount for  
 846 each eligible charter school student. The total amount obtained  
 847 from the calculation must be appropriated from state funds in  
 848 the General Appropriations Act to the charter school.

849 b. Capital outlay funding for a charter school sponsored by  
 850 a state university or Florida College System institution  
 851 pursuant to paragraph (5) (a) is determined pursuant to s.  
 852 1013.62 and the General Appropriations Act.

853 (c) Pursuant to 20 U.S.C. 8061 s. 10306, all charter  
 854 schools shall receive all federal funding for which the school  
 855 is otherwise eligible, including Title I funding, not later than  
 856 5 months after the charter school first opens and within 5  
 857 months after any subsequent expansion of enrollment. Unless  
 858 otherwise mutually agreed to by the charter school and its  
 859 sponsor, and consistent with state and federal rules and  
 860 regulations governing the use and disbursement of federal funds,  
 861 the sponsor shall reimburse the charter school on a monthly  
 862 basis for all invoices submitted by the charter school for  
 863 federal funds available to the sponsor for the benefit of the  
 864 charter school, the charter school's students, and the charter  
 865 school's students as public school students in the school  
 866 district. Such federal funds include, but are not limited to,  
 867 Title I, Title II, and Individuals with Disabilities Education  
 868 Act (IDEA) funds. To receive timely reimbursement for an  
 869 invoice, the charter school must submit the invoice to the  
 870 sponsor at least 30 days before the monthly date of

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871 reimbursement set by the sponsor. In order to be reimbursed, any  
 872 expenditures made by the charter school must comply with all  
 873 applicable state rules and federal regulations, including, but  
 874 not limited to, the applicable federal Office of Management and  
 875 Budget Circulars; the federal Education Department General  
 876 Administrative Regulations; and program-specific statutes,  
 877 rules, and regulations. Such funds may not be made available to  
 878 the charter school until a plan is submitted to the sponsor for  
 879 approval of the use of the funds in accordance with applicable  
 880 federal requirements. The sponsor has 30 days to review and  
 881 approve any plan submitted pursuant to this paragraph.

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

889 (e) Sponsors ~~District school boards~~ shall make timely and  
 890 efficient payment and reimbursement to charter schools,  
 891 including processing paperwork required to access special state  
 892 and federal funding for which they may be eligible. Payments of  
 893 funds under paragraph (b) shall be made monthly or twice a  
 894 month, beginning with the start of the sponsor's ~~district school~~  
 895 ~~board's~~ fiscal year. Each payment shall be one-twelfth, or one  
 896 twenty-fourth, as applicable, of the total state and local funds  
 897 described in paragraph (b) and adjusted as set forth therein.  
 898 For the first 2 years of a charter school's operation, if a  
 899 minimum of 75 percent of the projected enrollment is entered

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900 into the sponsor's student information system by the first day  
 901 of the current month, the sponsor ~~district school board~~ shall  
 902 distribute funds to the school for the months of July through  
 903 October based on the projected full-time equivalent student  
 904 membership of the charter school as submitted in the approved  
 905 application. If less than 75 percent of the projected enrollment  
 906 is entered into the sponsor's student information system by the  
 907 first day of the current month, the sponsor shall base payments  
 908 on the actual number of student enrollment entered into the  
 909 sponsor's student information system. Thereafter, the results of  
 910 full-time equivalent student membership surveys shall be used in  
 911 adjusting the amount of funds distributed monthly to the charter  
 912 school for the remainder of the fiscal year. The payments shall  
 913 be issued no later than 10 working days after the sponsor  
 914 ~~district school board~~ receives a distribution of state or  
 915 federal funds or the date the payment is due pursuant to this  
 916 subsection. If a warrant for payment is not issued within 10  
 917 working days after receipt of funding by the sponsor ~~district~~  
 918 ~~school board~~, the sponsor ~~school district~~ shall pay to the  
 919 charter school, in addition to the amount of the scheduled  
 920 disbursement, interest at a rate of 1 percent per month  
 921 calculated on a daily basis on the unpaid balance from the  
 922 expiration of the 10 working days until such time as the warrant  
 923 is issued. The district school board may not delay payment to a  
 924 charter school of any portion of the funds provided in paragraph  
 925 (b) based on the timing of receipt of local funds by the  
 926 district school board.

927 (f) Funding for a virtual charter school shall be as  
 928 provided in s. 1002.45(7).

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929 (g) To be eligible for public education capital outlay  
 930 (PECO) funds, a charter school must be located in the State of  
 931 Florida.

932 (h) A charter school that implements a schoolwide standard  
 933 student attire policy pursuant to s. 1011.78 is eligible to  
 934 receive incentive payments.

935 (18) FACILITIES.—

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

954 (20) SERVICES.—

955 (a)1. A sponsor shall provide certain administrative and  
 956 educational services to charter schools. These services shall  
 957 include contract management services; full-time equivalent and

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958 data reporting services; exceptional student education  
 959 administration services; services related to eligibility and  
 960 reporting duties required to ensure that school lunch services  
 961 under the National School Lunch Program, consistent with the  
 962 needs of the charter school, are provided by the sponsor school  
 963 ~~district~~ at the request of the charter school, that any funds  
 964 due to the charter school under the National School Lunch  
 965 Program be paid to the charter school as soon as the charter  
 966 school begins serving food under the National School Lunch  
 967 Program, and that the charter school is paid at the same time  
 968 and in the same manner under the National School Lunch Program  
 969 as other public schools serviced by the sponsor or the school  
 970 district; test administration services, including payment of the  
 971 costs of state-required or district-required student  
 972 assessments; processing of teacher certificate data services;  
 973 and information services, including equal access to the  
 974 sponsor's student information systems that are used by public  
 975 schools in the district in which the charter school is located  
 976 or by schools in the sponsor's portfolio of charter schools if  
 977 the sponsor is not a school district. Student performance data  
 978 for each student in a charter school, including, but not limited  
 979 to, FCAT scores, standardized test scores, previous public  
 980 school student report cards, and student performance measures,  
 981 shall be provided by the sponsor to a charter school in the same  
 982 manner provided to other public schools in the district or by  
 983 schools in the sponsor's portfolio of charter schools if the  
 984 sponsor is not a school district.

985 2. A sponsor may withhold an administrative fee for the  
 986 provision of such services which shall be a percentage of the

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987 available funds defined in paragraph (17) (b) calculated based on  
 988 weighted full-time equivalent students. If the charter school  
 989 serves 75 percent or more exceptional education students as  
 990 defined in s. 1003.01(3), the percentage shall be calculated  
 991 based on unweighted full-time equivalent students. The  
 992 administrative fee shall be calculated as follows:

993 a. Up to 5 percent for:

994 (I) Enrollment of up to and including 250 students in a  
 995 charter school as defined in this section.

996 (II) Enrollment of up to and including 500 students within  
 997 a charter school system which meets all of the following:

998 (A) Includes conversion charter schools and nonconversion  
 999 charter schools.

1000 (B) Has all of its schools located in the same county.

1001 (C) Has a total enrollment exceeding the total enrollment  
 1002 of at least one school district in the state.

1003 (D) Has the same governing board for all of its schools.

1004 (E) Does not contract with a for-profit service provider  
 1005 for management of school operations.

1006 (III) Enrollment of up to and including 250 students in a  
 1007 virtual charter school.

1008 b. Up to 2 percent for enrollment of up to and including  
 1009 250 students in a high-performing charter school as defined in  
 1010 s. 1002.331.

1011 3. A sponsor may not charge charter schools any additional  
 1012 fees or surcharges for administrative and educational services  
 1013 in addition to the maximum percentage of administrative fees  
 1014 withheld pursuant to this paragraph.

1015 4. A sponsor shall provide to the department by September

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1016 15 of each year the total amount of funding withheld from  
 1017 charter schools pursuant to this subsection for the prior fiscal  
 1018 year. The department must include the information in the report  
 1019 required under sub-sub-subparagraph (5) (b)1.k.(III).

1020 (b) If goods and services are made available to the charter  
 1021 school through the contract with the sponsor ~~school district~~,  
 1022 they shall be provided to the charter school at a rate no  
 1023 greater than the sponsor's ~~district's~~ actual cost unless  
 1024 mutually agreed upon by the charter school and the sponsor in a  
 1025 contract negotiated separately from the charter. When mediation  
 1026 has failed to resolve disputes over contracted services or  
 1027 contractual matters not included in the charter, an appeal may  
 1028 be made to an administrative law judge appointed by the Division  
 1029 of Administrative Hearings. The administrative law judge has  
 1030 final order authority to rule on the dispute. The administrative  
 1031 law judge shall award the prevailing party reasonable attorney  
 1032 fees and costs incurred during the mediation process,  
 1033 administrative proceeding, and any appeals, to be paid by the  
 1034 party whom the administrative law judge rules against. To  
 1035 maximize the use of state funds, sponsors ~~school districts~~ shall  
 1036 allow charter schools to participate in the sponsor's bulk  
 1037 purchasing program if applicable.

1038 (c) Transportation of charter school students shall be  
 1039 provided by the charter school consistent with the requirements  
 1040 of subpart I.E. of chapter 1006 and s. 1012.45. The governing  
 1041 body of the charter school may provide transportation through an  
 1042 agreement or contract with the sponsor ~~district school board~~, a  
 1043 private provider, or parents. The charter school and the sponsor  
 1044 shall cooperate in making arrangements that ensure that

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1045 transportation is not a barrier to equal access for all students  
1046 residing within a reasonable distance of the charter school as  
1047 determined in its charter.

1048 (d) Each charter school shall annually complete and submit  
1049 a survey, provided in a format specified by the Department of  
1050 Education, to rate the timeliness and quality of services  
1051 provided by the sponsor ~~district~~ in accordance with this  
1052 section. The department shall compile the results, by sponsor  
1053 ~~district~~, and include the results in the report required under  
1054 sub-sub-paragraph (5) (b) 1.k. (III).

1055 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.—

1056 (a) The Department of Education shall provide information  
1057 to the public, directly and through sponsors, on how to form and  
1058 operate a charter school and how to enroll in a charter school  
1059 once it is created. This information shall include the standard  
1060 application form, standard charter contract, standard evaluation  
1061 instrument, and standard charter renewal contract, which shall  
1062 include the information specified in subsection (7) and shall be  
1063 developed by consulting and negotiating with both sponsors  
1064 ~~school districts~~ and charter schools before implementation. The  
1065 charter and charter renewal contracts shall be used by charter  
1066 school sponsors.

1067 (b)1. The Department of Education shall report to each  
1068 charter school receiving a school grade pursuant to s. 1008.34  
1069 or a school improvement rating pursuant to s. 1008.341 the  
1070 school's student assessment data.

1071 2. The charter school shall report the information in  
1072 subparagraph 1. to each parent of a student at the charter  
1073 school, the parent of a child on a waiting list for the charter

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1074 school, the sponsor ~~district in which the charter school is~~  
1075 ~~located~~, and the governing board of the charter school. This  
1076 paragraph does not abrogate the provisions of s. 1002.22,  
1077 relating to student records, or the requirements of 20 U.S.C. s.  
1078 1232g, the Family Educational Rights and Privacy Act.

1079 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER  
1080 SCHOOL SYSTEMS.—

1081 (a) A charter school system's governing board shall be  
1082 designated a local educational agency for the purpose of  
1083 receiving federal funds, the same as though the charter school  
1084 system were a school district, if the governing board of the  
1085 charter school system has adopted and filed a resolution with  
1086 its sponsor ~~sponsoring district school board~~ and the Department  
1087 of Education in which the governing board of the charter school  
1088 system accepts the full responsibility for all local education  
1089 agency requirements and the charter school system meets all of  
1090 the following:

- 1091 1. Has all schools located in the same county;
- 1092 2. Has a total enrollment exceeding the total enrollment of  
1093 at least one school district in the state; and
- 1094 3. Has the same governing board.

1095  
1096 Such designation does not apply to other provisions unless  
1097 specifically provided in law.

1098 (28) RULEMAKING.—The Department of Education, after  
1099 consultation with sponsors ~~school districts~~ and charter school  
1100 directors, shall recommend that the State Board of Education  
1101 adopt rules to implement specific subsections of this section.  
1102 Such rules shall require minimum paperwork and shall not limit



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1103 charter school flexibility authorized by statute. The State  
1104 Board of Education shall adopt rules, pursuant to ss. 120.536(1)  
1105 and 120.54, to implement a standard charter application form,  
1106 standard application form for the replication of charter schools  
1107 in a high-performing charter school system, standard evaluation  
1108 instrument, and standard charter and charter renewal contracts  
1109 in accordance with this section.

1110 Section 2. Paragraph (a) of subsection (1) of section  
1111 1003.493, Florida Statutes, is amended to read:

1112 1003.493 Career and professional academies and career-  
1113 themed courses.-

1114 (1) (a) A "career and professional academy" is a research-  
1115 based program that integrates a rigorous academic curriculum  
1116 with an industry-specific curriculum aligned directly to  
1117 priority workforce needs established by the local workforce  
1118 development board or the Department of Economic Opportunity.  
1119 Career and professional academies shall be offered by public  
1120 schools and school districts. Career and professional academies  
1121 may be offered by charter schools. The Florida Virtual School is  
1122 encouraged to develop and offer rigorous career and professional  
1123 courses as appropriate. Students completing career and  
1124 professional academy programs must receive a standard high  
1125 school diploma, the highest available industry certification,  
1126 and opportunities to earn postsecondary credit if the academy  
1127 partners with a postsecondary institution approved to operate in  
1128 the state.

1129 Section 3. This act shall take effect July 1, 2021.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1656

INTRODUCER: Senator Gruters

SUBJECT: Lawton Chiles Endowment Fund

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 1656 modifies how funds are used in the Lawton Chiles Endowment Fund (LCEF).

Specifically, the bill:

- Requires annually by October 31, the Chief Financial Officer (CFO) to certify the amount that reverts to the LCEF principal.
- Specifies that the CFO must transfer 50 percent of any reverted funds by December 1 to the Board of Trustees (BOT) of the University of South Florida (USF).
- Requires the BOT to expend any funds received to conduct and support cardiovascular disease research at the USF Health Heart Institute.
- Allows the BOT to use funds for annual operating costs, and for recruiting, retaining, and equipping researchers.
- Prohibits the BOT from pledging any funds to secure debt.

The bill also requires the CFO to notify the BOT annually by December 1 that, if there is no reverted balance in that year, a balance transfer will not occur.

The bill has no fiscal impact on state revenues or expenditures. However, if unappropriated funds are transferred to USF rather than back to the LCEF, it may impact the fund's balance. See Section V.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### State Board of Administration

The State Board of Administration (SBA) is created by the Florida Constitution<sup>1</sup> and is governed by a three-member Board of Trustees (Trustees), comprised of senior elected officials; the Governor as Chair, the Chief Financial Officer, and the Attorney General.<sup>2</sup>

The Trustees, by law, have ultimate oversight.<sup>3</sup> They delegate authority to the Executive Director, who serves as the chief administrative and investment officer, by administrative rule to provide the strategic direction and execution of the day-to-day operations.<sup>4</sup>

The SBA is an apolitical organization with a professional investment management staff and is required to invest assets and discharge its duties in accordance with Florida law and in compliance with fiduciary standards of care.<sup>5</sup> Under state law, the SBA and its staff are obliged to:<sup>6</sup>

- Make sound investment management decisions that are solely in the interest of beneficiaries and investment clients.
- Make investment decisions from the perspective of subject-matter experts acting under the highest standards of professionalism and care, not merely as well-intentioned persons acting in good faith.

As a fiduciary, the SBA manages assets and provides administrative services that maximize the return on investments while prudently managing risk, controlling costs and providing appropriate diversification.<sup>7</sup> The SBA is primarily responsible for investing the proceeds of the Florida Retirement System Pension Plan<sup>8</sup>, administering the Florida Retirement Investment Plan,<sup>9</sup> managing the Florida Hurricane Catastrophe Fund<sup>10</sup> and running Florida PRIME<sup>11</sup> as well as investing the proceeds of more than 25 other funds directed to the SBA by the Florida Legislature.<sup>12</sup> The Lawton Chiles Endowment Fund (LCEF) is one of those funds.

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<sup>1</sup> Art. IV, s. 4, Fla. Const. Section 20.28, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Rule 19-3.016, F.A.C.

<sup>5</sup> SBA Florida, *Summary Overview of the State Board of Administration of Florida* (2021), available at [https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview\\_20210225.pdf?ver=2021-02-25-085817-737](https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview_20210225.pdf?ver=2021-02-25-085817-737) at 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> SBA Florida, *Florida Retirement System Pension Plan*, [https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/20170619\\_FRSP.PDF?ver=2017-06-19-162056-780](https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/20170619_FRSP.PDF?ver=2017-06-19-162056-780) (last visited March 19, 2021).

<sup>9</sup> SBA Florida, *Florida Retirement System Investment Plan*, [https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/20170619\\_FRSIP.PDF?ver=2017-06-19-162255-263](https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/20170619_FRSIP.PDF?ver=2017-06-19-162255-263) (last visited March 19, 2021).

<sup>10</sup> SBA Florida, *Florida Hurricane Catastrophe Fund*, <https://www.sbafla.com/fhcf/> (last visited March 19, 2021).

<sup>11</sup> SBA Florida, *Florida PRIME*, [https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/20181005\\_FloridaPRIME.PDF?ver=2018-10-05-163903-033](https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/20181005_FloridaPRIME.PDF?ver=2018-10-05-163903-033) (last visited March 19, 2021).

<sup>12</sup> SBA Florida, *About the SBA*, [https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview\\_20210225.pdf?ver=2021-02-25-085817-737](https://www.sbafla.com/fsb/Portals/FSB/Content/Topics/SBAOverview_20210225.pdf?ver=2021-02-25-085817-737) (last visited March 16, 2021).

### **Lawton Chiles Endowment Fund (LCEF)**

Created by the Florida Legislature in 1999, the purpose of the LCEF is to provide a perpetual source of enhanced funding for state children’s health programs, child welfare programs, children’s community-based health and human services initiatives, elder programs, and biomedical research activities related to tobacco use.<sup>13</sup>

The SBA has the statutory authority and responsibility for the investment of LCEF assets.<sup>14</sup> Florida law specifies that the LCEF must be managed in perpetuity, with an investment objective of long-term preservation of the real value of the principal.<sup>15</sup> The law further requires a specified regular annual cash outflow for appropriation, as nonrecurring revenue.<sup>16</sup>

The LCEF receives money from the sale of the state’s right, title, and interest in and to the tobacco settlement agreement as defined in law.<sup>17</sup>

Funds from the LCEF which are available for legislative appropriation must be transferred by the SBA to the Department of Financial Services Tobacco Settlement Clearing Trust Fund.<sup>18</sup> Appropriations by the Legislature to the Department of Children and Families, the Department of Health, or the Department of Elderly Affairs from endowment earnings for health and human services programs must be deposited into each department’s respective Tobacco Settlement Trust Fund as appropriated.<sup>19</sup>

State agencies must use distributions from the endowment to enhance or support increases in clients served or to meet increases in program costs in health and human services program areas. Funds distributed from the endowment may not be used to supplant existing revenues.<sup>20</sup> All unencumbered balances of appropriations from each department’s respective Tobacco Settlement Trust Fund as of June 30 or undisbursed balances as of September 30 must revert to the endowment’s principal.<sup>21</sup>

The table below illustrates the funds available, appropriated, and expended in the Tobacco Settlement Trust Fund for the 2019-2020 fiscal year. During the 2019-2020 fiscal year, \$1.9M of the appropriated funds were not expended.

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<sup>13</sup> Section 215.5601, F.S.

<sup>14</sup> Subject to certain investment limitations and consistent with an Investment Policy Statement approved by the SBA Trustees. *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> “Tobacco settlement agreement” means the settlement agreement, as amended, entered into by the state and participating cigarette manufacturers in settlement of *State of Florida v. American Tobacco Co.*, No. 95-1466AH (Fla. 15th Cir. Ct. 1996). Section 215.56005, F.S.

<sup>18</sup> Funds to be credited to the Tobacco Settlement Clearing Trust Fund must consist of payments received by the state from settlement of *State of Florida v. American Tobacco Co.*, No. 95-1466AH (Fla. 15th Cir. Ct. 1996). Moneys received from the settlement and deposited into the trust fund are exempt from the service charges. Section 17.41, F.S.

<sup>19</sup> Section 215.5601(5), F.S.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

Tobacco Settlement Trust Fund Financial Outlook Statement 2019-2020 (\$ Millions)					
Funds Available <sup>22</sup>		Appropriations <sup>23</sup>		Expenditures <sup>24</sup>	
Balance Forward from 2018-2019	\$36.3	Agency for Health Care Administration <sup>25</sup>	\$269.1	Agency for Health Care Administration	\$269.1
Payments Received	\$335.0	Tobacco Prevention and Education <sup>26</sup>	\$72.1	Tobacco Prevention and Education	\$70.2
Transfer from LCEF	\$7.3				
Other funds available	\$1.6				
<b>Total</b>	<b>\$380.2</b>		<b>\$341.2</b>		<b>\$339.3</b>

**University of South Florida (USF) Health Heart Institute**

The USF Health Heart Institute conducts basic, translational, and clinical research and provides patient care related to cardiovascular diseases.<sup>27</sup> At its core, the Institute’s research activities address the root causes of cardiovascular diseases, such as coronary artery disease, heart failure, congenital heart disease, cardiac arrhythmias, peripheral vascular disease, and renal, metabolic and pulmonary disease as they relate to the heart. The Institute translates knowledge gained across these domains into novel therapeutics and diagnostics to improve treatment and quality of life.<sup>28</sup>

Cardiovascular disease is highly prevalent in the population.<sup>29</sup> When defined as coronary artery disease, heart failure, stroke, and hypertension, the prevalence of cardiovascular disease ranges from 34 percent to 71 percent of the U.S. population from the ages of 40 to 70 years.<sup>30</sup> Cardiovascular disease causes more deaths in the U.S. than any other disorder, including cancer, diabetes, and Alzheimer’s disease. Despite advances in controlling major risk factors, such as smoking cessation and high-fat diets, atherosclerotic coronary heart disease, the major cause of heart attacks remains the most common cause of the cardio-vascular diseases in the United States.<sup>31</sup>

<sup>22</sup> Office of Economic & Demographic Research, *Tobacco Settlement Trust Fund Financial Outlook Statement FY 2019-20 through FY 2025-26* (2020), available at [http://edr.state.fl.us/Content/revenues/outlook-statements/tobacco-settlement-tf/200810\\_TSTFoutl.pdf](http://edr.state.fl.us/Content/revenues/outlook-statements/tobacco-settlement-tf/200810_TSTFoutl.pdf).

<sup>23</sup> *Id.*

<sup>24</sup> Office of Economic & Demographic Research, *Tobacco Settlement Trust Fund Financial Outlook Statement FY 2019-20 through FY 2025-26 including Fiscal Year 2019-20 Closeout* (2020), available at [http://edr.state.fl.us/Content/revenues/outlook-statements/tobacco-settlement-tf/201109\\_TSTFoutl.pdf](http://edr.state.fl.us/Content/revenues/outlook-statements/tobacco-settlement-tf/201109_TSTFoutl.pdf).

<sup>25</sup> Agency for Health Care Administration, <https://ahca.myflorida.com/> (last visited march 19, 2021).

<sup>26</sup> Florida Department of Health, *Tobacco Free Florida*, <http://www.floridahealth.gov/PROGRAMS-AND-SERVICES/prevention/tobacco-free-florida/index.html> (last visited March 19, 2021).

<sup>27</sup> USF Health, *USF Heart Institute* (2015), available at <https://www.usf.edu/pdf/usf-downtown-med.pdf> at 3.

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

<sup>29</sup> *Id.* at 11.

<sup>30</sup> *Id.* at 3.

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

### III. Effect of Proposed Changes:

SB 1656 amends s. 215.5601, F.S., to modify how funds are used in the Lawton Chiles Endowment Fund (LCEF). The modifications made by the act may provide additional targeted research funding for cardiovascular disease at the University of South Florida (USF) Health Heart Institute. Specifically, the bill:

- Requires annually by October 31, the Chief Financial Officer (CFO) to certify the amount that reverts to the LCEF principal.
- Specifies that, if a balance reverts in any year, the CFO must transfer 50 percent of the reverted funds by December 1 to the Board of Trustees (BOT) of USF.
- Requires the BOT to first expend any funds received to conduct and support cardiovascular disease research at the USF Health Heart Institute.
- Allows the BOT to use funds for annual operating costs, and for recruiting, retaining, and equipping researchers engaged in cardiovascular research.
- Prohibits the BOT from pledging any funds to secure debt.

The bill also requires the CFO to notify the BOT annually by December 1 that, if there is no reverted balance in that year, a balance transfer will not occur.

The bill takes effect on July 1, 2021.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Additional funding for cardiovascular disease research may benefit Florida citizens.

**C. Government Sector Impact:**

The bill has no fiscal impact on state revenues or expenditures. However, if unappropriated funds are transferred to USF rather than back to the Lawton Chiles Endowment Fund (LCEF), it may impact the fund's balance.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 215.5601 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.

By Senator Gruters

23-01054A-21

20211656\_\_

1 A bill to be entitled  
 2 An act relating to the Lawton Chiles Endowment Fund;  
 3 amending s. 215.5601, F.S.; requiring the Chief  
 4 Financial Officer to annually certify the amount of  
 5 unencumbered and undispersed endowment funds which  
 6 reverts to the endowment's principal by a specified  
 7 date; allocating a portion of the reverted funds to  
 8 the board of trustees of the University of South  
 9 Florida; requiring that such funds be used to support  
 10 the university's Health Heart Institute; providing  
 11 conditions for the use of the funds; prohibiting the  
 12 funds from being used to secure debt; requiring the  
 13 Chief Financial Officer to notify the university's  
 14 board of trustees if a balance transfer will not occur  
 15 during a given year; providing an effective date.  
 16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18  
 19 Section 1. Paragraph (e) of subsection (5) of section  
 20 215.5601, Florida Statutes, is amended to read:  
 21 215.5601 Lawton Chiles Endowment Fund.—  
 22 (5) AVAILABILITY OF FUNDS; USES.—  
 23 (e) Notwithstanding s. 216.301 and pursuant to s. 216.351,  
 24 all unencumbered balances of appropriations from each  
 25 department's respective Tobacco Settlement Trust Fund as of June  
 26 30 or undisbursed balances as of September 30 shall revert to  
 27 the endowment's principal. Unencumbered balances in the  
 28 Biomedical Research Trust Fund shall be managed as provided in  
 29 s. 20.435(7)(b). By October 31, annually, the Chief Financial

Page 1 of 2

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

23-01054A-21

20211656\_\_

30 Officer must certify the amount that reverts to the endowment's  
 31 principal. If a balance reverts in any year, not including the  
 32 Biomedical Research Trust Fund, the Chief Financial Officer must  
 33 transfer 50 percent of the certified reverted balance by warrant  
 34 by December 1 of that year to the board of trustees of the  
 35 University of South Florida. The board of trustees must first  
 36 expend any funds received pursuant to this paragraph to conduct  
 37 and support cardiovascular disease research at the University of  
 38 South Florida Health Heart Institute and may also use the funds  
 39 for the annual operating costs of recruiting, retaining, and  
 40 equipping researchers engaged in cardiovascular disease research  
 41 and any other lawful uses of funds authorized under the  
 42 university's annual Education and General Activities  
 43 appropriation in the General Appropriations Act. The board of  
 44 trustees may not pledge any of the funds received pursuant to  
 45 this paragraph to secure debt. If the Chief Financial Officer  
 46 certifies that there is no reverted balance in any year, the  
 47 Chief Financial Officer must notify the board of trustees of the  
 48 University of South Florida by December 1 that a balance  
 49 transfer pursuant to this paragraph will not occur that year.  
 50 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 1282

INTRODUCER: Senator Harrell

SUBJECT: Early Learning and Early Grade Success

DATE: March 22, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

SB 1282 modifies the administration of the Voluntary Prekindergarten Education Program (VPK) and the school readiness program and reorganizes the regulatory structure of the Office of Early Learning to consolidate authority and oversight within the State Board of Education. The bill also transfers the Gold Seal Quality Care program to the Department of Education (DOE) from the Department of Children and Families and adds standards for accrediting entities.

The bill expands accountability and assessment requirements for VPK providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2021-2022 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages 3 to 5 years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.
- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

The bill creates the Council for Early Grade Success within the DOE to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate.

The bill appropriates \$3,088,000 in recurring funds from the General Revenue Fund to the DOE to implement the coordinated screening and progress monitoring program for VPK and kindergarten students beginning in Fiscal Year 2022-2023. The bill also appropriates \$677,759 recurring funds to implement the VPK program assessment and \$100,000 in nonrecurring funds to contract for a review of the school readiness payment rates.

The bill takes effect upon becoming law.

## II. Present Situation:

### State Level Governance

#### *State Board of Education*

The State Board of Education (SBE)<sup>1</sup> is the chief implementing and coordinating body of public education in Florida and is authorized to adopt rules to implement the provisions of law conferring duties upon the SBE to improve the state system of K-20 public education, except for the state university system. The SBE has authority over the Department of Education (DOE) and is authorized to delegate the SBE's general powers to the Commissioner of Education (commissioner) or the directors of the divisions of the DOE.<sup>2</sup>

#### *Department of Education*

The DOE is the administrative and supervisory agency under the implementation direction of the SBE.<sup>3</sup> The commissioner is appointed by the SBE and serves as the executive director of the DOE.<sup>4</sup> The DOE includes the Office of Early Learning (OEL), which is administered by an executive director who is fully accountable to the commissioner.<sup>5</sup>

#### *Office of Early Learning*

The OEL oversees three programs—the school readiness program, the Voluntary Prekindergarten Education Program (VPK), and child care resource and referral services<sup>6</sup>—and an annual budget of \$1.37 billion.<sup>7</sup> The OEL is the lead agency in Florida for administering the federal Child Care and Development Block Grant Trust Fund (CCDF).<sup>8</sup> The OEL adopts rules as required for the establishment and operation of the school readiness program and the VPK program.<sup>9</sup> The executive director of the OEL is responsible for administering early learning programs at the state level. The OEL administers statewide the child care resource and referral (CCR&R) network, which provides information about state-funded early learning programs,

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<sup>1</sup> The State Board of Education is established as “a body corporate and [shall] have such supervision of the system of free public education as is provided by law.” Art. IX, s. 2, Fla. Const.

<sup>2</sup> Section 1001.02, F.S.

<sup>3</sup> Section 1001.20(1), F.S.

<sup>4</sup> Section 20.15(2), F.S.

<sup>5</sup> Section 20.15(3)(i), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Early Learning Services Program Total, s. 2, ch. 2020-111, L.O.F.

<sup>8</sup> Section 1002.82(1), F.S.

<sup>9</sup> The OEL is required to submit the rules to the State Board of Education for approval or disapproval. If the state board does not act on a rule within 60 days after receipt, the rule shall be immediately filed with the Department of State. Section 1001.213, F.S.

provides families with a customized listing of child care providers, and is used to document requests for services and provide technical assistance to providers regarding initiating or expanding services and program and budget development.<sup>10</sup>

The OEL employs an inspector general, as required by law, to promote accountability, integrity, and efficiency in the administration of early learning programs.<sup>11</sup> Statutory duties of the inspector general include the duty to advise the OEL in the development of performance measures, standards, and procedures employed by the OEL.<sup>12</sup>

### ***Early Learning Coalitions***

The OEL governs the day-to-day operations of statewide early learning programs and administers federal and state child care funds. Across the state, 30 regional early learning coalitions (ELCs) and the Redlands Christian Migrant Association are responsible for delivering local services, including the VPK program and the school readiness program.<sup>13</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives.<sup>14</sup> The SBE does not have authority over ELCs, and early learning data is not collected in the K-20 student database as part of the management information databases governed by the SBE.<sup>15</sup>

### ***Child Care Executive Partnership Program***

A body politic and corporate known as the Child Care Executive Partnership governs the Child Care Executive Partnership (CCEP) Program.<sup>16</sup> The purpose of the CCEP Program is to use state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The CCEP Program funds are used at the discretion of local communities to meet the needs of working parents.<sup>17</sup> The CCEP Program was not funded in the 2020 fiscal year.<sup>18</sup>

### ***The Voluntary Prekindergarten Education Program***

The Florida Constitution requires the State to provide every four-year old child a high quality pre-kindergarten learning opportunity in the form of an early childhood development and education program which must be voluntary, high quality, free, and delivered according to

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<sup>10</sup> See ss. 1001.213(5), 1002.82(2)(f)1.b., and 1002.92(1) and (3), F.S.; Florida Office of Early Learning, *Welcome to Florida's Early Learning Family Portal*, <https://familyservices.floridaearlylearning.com/> (last visited Mar. 19, 2021); see also Florida's Office of Early Learning, *Family Resources: Find Quality Child Care*, <http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-a-child-care-resource-referral-service> (last visited Mar. 19, 2021).

<sup>11</sup> Section 20.055(1), F.S.

<sup>12</sup> Section 20.055(1), F.S.

<sup>13</sup> The Office of Early Learning, *Coalitions*, <http://www.floridaearlylearning.com/coalitions.aspx> (last visited Mar. 19, 2021). See also 1002.83(1), F.S.

<sup>14</sup> Section 1002.83(3), F.S.

<sup>15</sup> Florida Department of Education, *Agency Legislative Bill Analysis for HB 1013* (2020), at 13.

<sup>16</sup> Section 1002.94, F.S.

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

<sup>18</sup> Chapter 2020-111, L.O.F.

professionally accepted standards.<sup>19</sup> In 2004, the State established a free VPK program offered to eligible four-year-old children.<sup>20</sup> Parents may choose either a school-year or summer program offered by either a public or private school.<sup>21</sup> \$412.2 million was appropriated from General Revenue for the VPK program in the 2020 General Appropriations Act.<sup>22</sup> During the 2019-2020 academic year, the VPK program served 156,956 students.<sup>23</sup>

ELCs and school districts administer the VPK program at the county or regional level. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's county or multi-county service area.<sup>24</sup> A local ELC must coordinate with the local school district in the ELC's service area to develop procedures for enrolling children in public school VPK programs.<sup>25</sup>

The OEL adopts procedures governing the administration of the VPK program for ELCs and school districts, including procedures for:<sup>26</sup>

- Enrolling children and documenting and certifying student enrollment and student attendance.
- Providing parents with profiles of VPK providers.
- Registering private prekindergarten providers and public schools to deliver the program.
- Determining the eligibility of private prekindergarten providers to deliver the program and streamlining the process of provider eligibility whenever possible.
- Verifying the compliance and removing VPK providers from eligibility to deliver the program due to noncompliance or misconduct.
- Placing schools on probation and requiring corrective actions.
- Paying VPK providers.
- Reconciling advance payments in accordance with the uniform attendance policy.
- Reenrolling students dismissed by a VPK provider for noncompliance with the VPK provider's attendance policy.
- Approving improvement plans.
- Approving and paying specialized instructional services providers.

The OEL consults with the DOE regarding procedures implemented by ELCs and school districts for administering corrective action to VPK providers and administering the VPK program for specialized instructional services for children with disabilities.<sup>27</sup>

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<sup>19</sup> Art. IX, s. 1(b), Fla. Const. An early childhood development and education program means an organized program designed to address and enhance each child's ability to make age appropriate progress in an appropriate range of settings in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities through education in basic skills and such other skills as the Legislature may determine to be appropriate.

<sup>20</sup> Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const.

<sup>21</sup> Section 1002.53(3), F.S.

<sup>22</sup> Specific Appropriation 88, s. 2, ch. 2020-111, L.O.F.

<sup>23</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 8 (last visited Mar. 19, 2021).

<sup>24</sup> Section 1002.53(4), F.S.

<sup>25</sup> Section 1002.53(4), F.S.

<sup>26</sup> Section 1002.75(2), F.S.

<sup>27</sup> Section 1002.67(3), F.S.; *see also* s. 1002.66, F.S.

### ***VPK Instructor Requirements***

A VPK provider offering a school-year VPK program must have, for each class, at least one instructor with:<sup>28</sup>

- A Child Development Associate (CDA) issued by the National Credentialing Program of the Council for Professional Recognition; or
- A credential approved by the Department of Children and Families (DCF) as being equivalent to or greater than the CDA; and
- Five clock hours of training in emergent literacy and successful completion of a student performance standards training course.

An instructor in a school-year VPK program implemented by a public school district must meet the same qualifications that are required of a private VPK program instructor, in addition to standard employment requirements for all instructional personnel in public schools.<sup>29</sup> A school-year VPK provider must have a second adult instructor for each class of 12 or more students; however, the second instructor is not required to meet the same qualifications as the lead instructor.<sup>30</sup>

In lieu of the minimum credentials listed above, a private VPK program instructor may hold:<sup>31</sup>

- An associate's or higher degree in child development;
- An associate's or higher degree in an unrelated field, at least six credit hours in early childhood education or child development, and at least 480 hours of teaching or providing child care services for children any age from birth through eight years of age;
- A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;
- A bachelor's or higher degree in elementary education, if the instructor has been certified to teach children any age from birth through grade 6, regardless of whether the educator certificate is current; or
- An educational credential approved by the OEL as being equivalent to or greater than any of these educational credentials.

The OEL sets minimum standards for emergent literacy training courses for VPK instructors. Each course must be at least five clock hours long and provide strategies and techniques regarding the age-appropriate progress of prekindergarten students in developing emergent literacy skills. Each emergent literacy course must also provide strategies for helping students with disabilities and other special needs maximize their benefit from the VPK program.<sup>32</sup>

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<sup>28</sup> Sections 1002.55(3)(c)1.a. and 2., 1002.59, and 1002.63(4), F.S. An active Birth Through Five Child Care Credential awarded as a Florida Child Care Professional Credential, Florida Department of Education Child Care Apprenticeship Certificate, or Early Childhood Professional Certificate satisfies the staff credential requirement. Florida Department of Children and Families, *Child Care Facility Handbook* (2019), incorporated by reference in Rule 65C-22.001(7), F.A.C.

<sup>29</sup> Sections 1002.63(5)-(6), F.S.; see also Florida Department of Education, *Technical Assistance Paper: VPK Instructor Qualifications #07-01*, at 2 (Jan. 2007), available at

<https://info.fldoe.org/docushare/dsweb/Get/Document-4196/07-02att1.pdf>.

<sup>30</sup> Sections 1002.55(3)(f) and 1002.63(7), F.S.

<sup>31</sup> Section 1002.55(4), F.S.

<sup>32</sup> Section 1002.59(1), F.S.

Each course on performance standards must be at least three clock hours, provide instruction in strategies and techniques to address age-appropriate progress of each child in attaining the standards, and be available online.<sup>33</sup>

### ***VPK Performance Standards***

The OEL develops and adopts performance standards for students in VPK programs. The performance standards must address the age-appropriate progress of students in the development of:<sup>34</sup>

- The capabilities, capacities, and skills required in the development of language and cognitive capabilities and emotional, social, regulatory and moral capacities.
- Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

Each VPK provider's curriculum must be developmentally appropriate, designed to prepare a student for early literacy, enhance age-appropriate student progress in attaining state-adopted performance standards, and prepare students to be ready for kindergarten based on the statewide kindergarten screening.<sup>35</sup>

### ***Statewide Kindergarten Readiness Screening***

The DOE has adopted a statewide kindergarten readiness screening, the Florida Kindergarten Readiness Screener (FLKRS),<sup>36</sup> and requires each school district to administer the statewide kindergarten readiness screening within the first 30 days of each school year.<sup>37</sup> The screening must measure a child's readiness for kindergarten in eight domains: physical development; approaches to learning; social and emotional development; language and literacy; mathematical thinking; scientific inquiry; social studies; and creative expression through the arts.<sup>38</sup>

Kindergarten student scores on the FLKRS administered during the first 30 days of the school year must demonstrate a score of at least 500 on the Star Early Literacy assessment to be considered "ready for kindergarten." For the fall 2019 administration of FLKRS, 53 percent of 190,805 kindergarten students were designated as "ready for kindergarten."<sup>39</sup>

<sup>33</sup> Section 1002.59(2), F.S.

<sup>34</sup> Section 1002.67, F.S.; Art. IX, s. 1(b), Fla. Const.

<sup>35</sup> Section 1002.67(1)(b), F.S.

<sup>36</sup> The DOE selected the Star Early Literacy Assessment, developed by Renaissance Learning, Inc., as the Florida Kindergarten Readiness Screener (FLKRS). Rule 6M-8.601(3)(b)1., F.A.C.; see also FDOE, *Florida Kindergarten Readiness Screener*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/flkrs/> (last visited Mar. 13, 2021).

<sup>37</sup> Sections 1002.69(1)-(3) and 1002.73, F.S.

<sup>38</sup> See s. 1002.67(1), F.S. See also Florida's Office of Early Learning, *Early Learning and Developmental Standards: 4 Years Old to Kindergarten* (2017) at 1, incorporated by reference in rule 6M-8.602, F.A.C.

<sup>39</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 46 (last visited Mar. 19, 2021).

### ***Kindergarten Readiness Rate***

The OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the annual screening.<sup>40</sup> The readiness rates are expressed as the percentage of children whose scores demonstrate readiness for kindergarten.<sup>41</sup> The methodology for calculating the readiness rate must include student learning gains, when available, based on a VPK preassessment and postassessment, known as the “Florida VPK Assessment.”<sup>42</sup> The OEL must determine learning gains using a value-added measure based on growth demonstrated by the results of the Florida VPK Assessment from at least two successive years of administration.<sup>43</sup>

The DOE launched a VPK progress monitoring pilot program by permitting, beginning in January 2021 and continuing through the 2021-2022 school year, up to 1,900 VPK providers to access the assessment used for the statewide kindergarten screening.<sup>44</sup> The DOE allocated \$2.9 million from the CARES Act funds for the program.<sup>45</sup>

The DOE allocated \$18 million of the Child Care Development and Block Grant Fund from the CARES Act to implement summer programs for rising kindergarten students identified with limited language and emergent literacy skills as determined by the VPK assessments and teacher recommendations.<sup>46</sup>

### ***VPK Provider Probation and Corrective Action***

At least 60 percent of a VPK provider’s students must meet the “ready for kindergarten” score on the screening in order for the provider to avoid probationary status.<sup>47</sup> Providers that do not meet the minimum readiness rate are placed on probation.<sup>48</sup> An ELC or school district must require a VPK provider that falls below the minimum kindergarten readiness rate to:<sup>49</sup>

- Submit for approval and implement an improvement plan;
- Place the provide or school on probation; and
- Take certain corrective actions, including the use of an OEL-approved curriculum or an OEL approved staff development plan to strengthen instruction in language development and phonological awareness.

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<sup>40</sup> Rule 6M-8.601(3)(b), F.A.C.

<sup>41</sup> Sections 1002.69(5)-(6), F.S.; To be considered “ready for kindergarten,” a student must achieve a score of 500 or higher on the Star Early Literacy assessment. Rule 6M-8.601, F.A.C.

<sup>42</sup> Section 1002.69(5), F.S.; Rule 6A-1.09433(1)(b), F.A.C.

<sup>43</sup> Section 1002.69(5), F.S.; Rule 6M-8.601(3)(b), F.A.C.

<sup>44</sup> Florida Department of Education, *Progress Monitoring: Building Effective, Data-Informed Strategies to Close Achievement Gaps* (Nov. 18, 2020), available at <https://www.fldoe.org/core/fileparse.php/19925/urlt/2-3.pdf> at 6, (last visited Mar. 13, 2021).

<sup>45</sup> *Id.*

<sup>46</sup> Florida Department of Education, *Reopening Florida’s Schools and the CARES Act*, available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLDOEReopeningCARESAct.pdf> at 98, (last visited Mar. 13, 2021).

<sup>47</sup> *Id.*

<sup>48</sup> Section 1002.67(4), F.S.

<sup>49</sup> Section 1002.67(4)(c)1., F.S.

Out of 126,238 students who completed the VPK program, 63 percent were “ready for kindergarten” in the fall of 2019.<sup>50</sup> Of 6,611 rated VPK providers, 2,175 failed to meet the minimum rate.<sup>51</sup> Of these 2,175 providers, 2,201 remained on probation.<sup>52</sup>

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives from the OEL a good cause exemption.<sup>53</sup>

### ***Good Cause Exemption***

A VPK provider on probation and failing to meet the minimum readiness rate for two consecutive years must be removed from eligibility to provide the VPK program for 5 years; unless the provider receives a good cause exemption.<sup>54</sup> A VPK provider must submit a request for a good cause exemption to OEL for review and approval. The request must include:<sup>55</sup>

- Data which documents student achievement and learning gains, as measured by a state-approved pre- and post-assessment.
- Data available from the respective ELC or district school board, the DCF, local licensing authority, or an accrediting association, as applicable, relating to the provider’s compliance with state and local health and safety standards.
- Data available to the OEL on the performance of the children served and the calculation of the provider’s kindergarten readiness rate.

A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate.<sup>56</sup> The OEL must notify the applicable ELC of the good cause exemption, which remains valid for one year, and may be renewed upon request by the VPK provider.<sup>57</sup>

A good cause exemption may not be granted to any VPK provider that has any class I violations or two or more class II violations within the two years preceding the provider’s request for an exemption.<sup>58</sup> Additionally, if a provider refuses to comply with program requirements or engages

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<sup>50</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 46 (last visited Mar. 19, 2021).

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> Section 1002.67(4)(c)3., F.S. A VPK provider must submit a request for a good cause exemption to the OEL for review and approval and include specified data. Section 1002.69(7)(b)-(c), F.S. A VPK provider that receives a good cause exemption must continue to implement its improvement plan and take corrective actions until the provider meets the minimum kindergarten readiness rate. Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

<sup>54</sup> Section 1002.67(4)(c)3., F.S.

<sup>55</sup> Section 1002.69(7)(b)-(c), F.S.

<sup>56</sup> Sections 1002.69(7)(e) and 1002.67(3)(c)2., F.S.

<sup>57</sup> Section 1002.69(7), F.S.

<sup>58</sup> Section 1002.69(7)(d), F.S. DCF classifies licensing violations as class I, II, and III violations. Class I violations consist of conduct posing an imminent threat to a child. Class II violations pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Rule 65C-22.010(1)(d), F.A.C.



in misconduct, the OEL must require the ELC or district school board to remove the provider from eligibility to deliver the VPK program for a period of five years.<sup>59</sup>

### **The School Readiness Program**

The school readiness program provides subsidies for child care services and early childhood education for children of low-income families, children in protective services who are at risk of abuse, neglect, or abandonment, and children with disabilities.<sup>60</sup> The school readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed.<sup>61</sup> To participate in the school readiness program, a provider must execute a school readiness contract.<sup>62</sup> During the 2019-2020 academic year, 6,932 school readiness providers served 211,711 children enrolled in a school readiness program.<sup>63</sup>

### ***Program Assessment***

The OEL is required to adopt a program assessment for school readiness program providers that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages birth to five years.<sup>64</sup> The OEL has selected the Teachstone Classroom Assessment Scoring System (CLASS) Assessment Tool as the program assessment, and requirements for observations and observers are provided in the Program Assessment Requirements Handbook.<sup>65</sup> CLASS observations must be provided by each ELC annually and observers who administer the CLASS must be certified for the age group of the classroom being observed. Certification is achieved by completing and passing all trainings and assessments required by Teachstone to conduct a CLASS observation; only ELC staff, OEL vendors, or ELC designees may conduct an observation.<sup>66</sup>

All school readiness providers must receive an annual program assessment and meet the required minimum program assessment composite score prior to executing a school readiness contract.<sup>67</sup> No providers failed to earn the minimum program assessment score for eligibility to contract to deliver the school readiness program for the 2019-2020 program year.<sup>68</sup>

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<sup>59</sup> Section 1002.67(4)(b), F.S.

<sup>60</sup> Section 1002.87, F.S.

<sup>61</sup> Section 1002.86, F.S.

<sup>62</sup> Rule 6M-4.610, F.A.C. Form OEL-SR 20, *Statewide School Readiness Provider Contract*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract\\_7-8-20\\_ADA\\_final.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/images/FormOEL-SR20StatewideSRProviderContract_7-8-20_ADA_final.pdf).

<sup>63</sup> Florida Office of Early Learning, *2019-20 Annual Report*, available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA\(1\).pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf), at 20 (last visited Mar. 19, 2021).

<sup>64</sup> Section 1002.82(2)(n), F.S.

<sup>65</sup> See Form OEL-SR 740, *incorporated by reference in rule 6M-4.740, F.A.C.*; Florida's Office of Early Learning, *Classroom Assessment Scoring System* (2018), available at [http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ\\_ADA.pdf](http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CLASS%20FAQ_ADA.pdf).

<sup>66</sup> See Form OEL-SR 740 at 1, *incorporated by reference in rule 6M-4.740, F.A.C.*

<sup>67</sup> Rule 6M-4.741, F.A.C.

<sup>68</sup> Email, Florida Department of Education (Dec. 15, 2020).

The OEL has adopted a differential payment program based on quality measures of school readiness providers.<sup>69</sup> The differential payment may not exceed a total of 15 percent for each care level and unit of child care for a child care provider.<sup>70</sup> No more than five percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using a child assessment. Providers who fail to attain a minimum composite score on the program assessment are ineligible for a differential payment.<sup>71</sup>

### ***School Readiness Funding***

Funding for the school readiness program is allocated among the ELCs according to law and the General Appropriations Act.<sup>72</sup> The school readiness program is funded primarily by the CCDF block grant.<sup>73</sup> State, federal, and local matching funds provided to an ELC for purposes of the school readiness program must be used for implementation of its approved school readiness program plan, including the hiring of staff to effectively operate the school readiness program.<sup>74</sup>

For Fiscal Year 2020-2021, a total of \$895.9 million was appropriated for the school readiness program from state and federal funds.<sup>75</sup>

### ***Contracted Slots***

The OEL is required to adopt a standard statewide provider contract to be used with each school readiness program provider. The standard statewide contract must include minimum statutory requirements, such as contracted slots and provisions for provider probation and termination.<sup>76</sup> A school readiness child care slot is the number of school readiness paid child care slots filled during a month of service.<sup>77</sup> The standard statewide provider contract provides an option for school readiness providers to participate in a Contracted Slots Program whereby a provider agrees to reserve a specified number of slots determined necessary by the ELC in return for a higher reimbursement rate.<sup>78</sup>

If an ELC participates in the Contracted Slots Program, and the ELC determines a provider is eligible for the program, then the coalition may reimburse the provider up to ten percent above the 75th percentile of the market rate.<sup>79</sup>

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<sup>69</sup> Rule 6M04.500, F.A.C.

<sup>70</sup> Section 1002.82(2)(o), F.S.

<sup>71</sup> *Id.*

<sup>72</sup> Section 1002.89(1), F.S.

<sup>73</sup> The Office of Early Learning, *2019-2021 Child Care Development Fund State Plan*, [http://www.floridaearlylearning.com/oel\\_resources/ccdf\\_plan.aspx](http://www.floridaearlylearning.com/oel_resources/ccdf_plan.aspx) (last visited Mar. 19, 2021).

<sup>74</sup> Section 1002.89(5), F.S.

<sup>75</sup> Specific Appropriation 85, s. 2, ch. 2020-111, L.O.F.

<sup>76</sup> Section 1002.82(2)(m), F.S.

<sup>77</sup> Rule 6M-4.740, F.A.C.

<sup>78</sup> Rule 6M-4.610, F.A.C., Form OEL-SR 20 (July 2019).

<sup>79</sup> Rule 6M-4.500, F.A.C.

### ***Gold Seal Quality Care Program***

The DCF is responsible for enforcing compliance with licensing standards by child care facilities, including large family child care homes and family day care homes.<sup>80</sup>

The DCF also adopts rules to administer the GSQC Program.<sup>81</sup> A GSQC designation entitles a school readiness provider to a rate differential at 20 percent above the ELC's approved reimbursement rate.<sup>82</sup> The law disqualifies child care facilities from accreditation if they receive a specified maximum number of Class I, II, or III violations within the two-year period preceding the application for accreditation.<sup>83</sup>

Educational materials, such as glue, paper, paints, crayons, unique craft items, scissors, books, and educational toys purchased by a licensed child care facility that meets minimum statutory standards, holds a current GSQC designation, and provides basic health insurance to all employees are exempt from sales, rental, use, consumption, distribution, and storage tax.<sup>84</sup> A licensed or legally exempt child care facility that achieves GSQC status is an educational institution exempt from ad valorem tax.<sup>85</sup>

Currently, 1,883 child care facilities, large family child care homes, and family day care homes possess a GSQC designation.<sup>86</sup>

### ***Market Rate***

The OEL is required to establish procedures for the adoption of a market rate schedule for the school readiness program. The schedule must include, at a minimum, county-by-county rates, differentiated by type of child care provider and the type of child care services provided. Rates must be differentiated for the types of providers by:<sup>87</sup>

- The minimum and the maximum rates for child care providers that hold a Gold Seal Quality Care (GSQC) designation.
- Child care providers that do not hold a GSQC designation.
- Licensed child care facilities.
- Public or nonpublic schools exempt from licensure.
- Faith-based child care facilities exempt from licensure.
- Licensed large family child care homes.
- Licensed or registered family day care homes.

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<sup>80</sup> Section 402.305, F.S. Certain child care facilities which are an integral part of a church or specified parochial school are exempt from licensing standards. Section 402.316, F.S.

<sup>81</sup> Section 402.281, F.S.

<sup>82</sup> Rule 6M-4.500, F.A.C.

<sup>83</sup> Section 402.281, F.S. DCF rules governing child care facilities define Class I, II, and III violations, which are designated in ascending order of severity, for noncompliance with minimum licensing standards of child care facilities. Rule 65C-20.012, F.A.C.

<sup>84</sup> Section 212.08, F.S.

<sup>85</sup> Section 402.26, F.S.

<sup>86</sup> Florida Department of Children and Families, *Gold Seal Quality Care Summary and Detail Data* (Dec. 2020), available at <https://www.myflfamilies.com/service-programs/child-care/docs/gold-seal/Summary%20Dec%202020.pdf>.

<sup>87</sup> Section 1002.895, F.S.

The market rate schedule must also differentiate rate by the type of child care services provided, including services provided for:<sup>88</sup>

- Children with special needs or risk categories.
- Infants, toddlers, preschool-age children, and school-age children.
- Full-time and part-time child care.

Reimbursement rates for school readiness providers are paid based on a child's care level and unit of care as defined by the ELC's approved provider rate schedule for the county in which the provider's facility is located.<sup>89</sup> ELCs are required to consider the market rate schedule in the adoption of a payment schedule.

The payment schedule must consider the average market rate, include the projected number of children to be served, and be submitted for approval by the OEL. Informal child care arrangements may be reimbursed at no more than 50 percent of the rate adopted for a family day care home.<sup>90</sup>

The 2019 market rate report includes a state summary that reflects market rates by provider type and service type. For example, the average market rate in the state for GSQC designated private child care centers was \$42.01 for services provided to infants.<sup>91</sup> The 75<sup>th</sup> percentile rate for the same services was \$48.26.<sup>92</sup> The reimbursement rate for GSQC designated private centers was \$36.00. For private centers without a GSQC designation, the average market rate was \$36.71 for services provided to infants, and the 75<sup>th</sup> percentile rate was \$40.00, and the reimbursement rate was \$30.00.<sup>93</sup>

### **Research-Based Reading Allocation**

The state allocates funding to school districts for research-based reading instruction to students in kindergarten through grade 12.<sup>94</sup> Funds must be used to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12, including:<sup>95</sup>

- An additional hour of intensive reading instruction beyond the normal school day for students in the 300 lowest-performing elementary schools.
- Reading intervention teachers and reading coaches.
- Professional development for teachers to earn a certification or an endorsement in reading.

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<sup>88</sup> Section 1002.895, F.S.

<sup>89</sup> Rule 6M-4.500, F.A.C.

<sup>90</sup> Section 1002.895, F.S.

<sup>91</sup> Office of Early Learning, *2019 Market Rate Report: State Summary*, available at

<http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/Market%20Rate%20FY1920%20Report%20Full%20Time%20Statewide%20Summary-ADA-Final.pdf>.

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> Section 1011.62(9), F.S. The state appropriated \$130 million to school districts for the research-based reading instruction allocation for the 2020-2021 fiscal year. Specific Appropriations 8 and 92, s. 2, ch. 2020-111, L.O.F.

<sup>95</sup> Section 1011.62(9)(c), F.S.

- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies, depending on grade level.<sup>96</sup>
- Supplemental instructional materials that are grounded in scientifically based reading research as identified by the Just Read, Florida! Office (JRFO).
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized ELA assessment.

District school boards must develop reading plans which detail the specific uses of the research-based reading instruction allocation.<sup>97</sup> The plans must be annually submitted to the DOE for approval and provide for intensive reading interventions through integrated curricula that incorporate strategies identified by the JRFO and are delivered by a teacher who is certified or endorsed in reading.<sup>98</sup> The DOE monitors and tracks the implementation of each district plan and collects specific data on expenditures and reading improvement results.<sup>99</sup> By February 1 of each year, the DOE reports its findings to the Legislature.<sup>100</sup>

### III. Effect of Proposed Changes:

SB 1282 modifies the administration of the Voluntary Prekindergarten Education Program (VPK) and the school readiness program and reorganizes the regulatory structure of the Office of Early Learning (OEL) to consolidate authority and oversight within the State Board of Education (SBE). The bill also transfers the Gold Seal Quality Care program to the Department of Education (DOE) from the Department of Children and Families and adds standards for accrediting entities.

The bill expands accountability and assessment requirements for VPK providers. Specifically, the bill requires:

- A coordinated screening and progress monitoring program (CSPM) for students in VPK through grade 3 to provide information on students' progress in mastering the appropriate grade-level standards to parents, teachers, and school and program administrators.
- Beginning in the 2021-2022 program year, a program assessment composite score for each VPK provider based on the results of a program assessment that measures the quality of teacher-child interactions, including emotional and behavioral support, engaged support for learning, classroom organization, and instructional support for children ages three to five years, in each VPK classroom.
- A performance metric that provides a score to each VPK provider based on the results of the CSPM, including learning gains, and the program assessment, beginning in the 2022-2023 program year.
- The assignment of a performance designation for VPK providers beginning with the 2023-2024 program year.

<sup>96</sup> All students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on the statewide, standardized English Language Arts assessment. Section 1011.62(9)(c)5., F.S.

<sup>97</sup> Section 1011.62(9)(d)1., F.S.

<sup>98</sup> *Id.*

<sup>99</sup> Section 1011.62(9)(d)1., F.S.

<sup>100</sup> *Id.*

The bill creates the Council for Early Grade Success (Council) within the DOE to oversee the CSPM and requires the new screenings and assessments to be administered by qualified individuals.

The bill modifies the market rate schedule paid to school readiness providers to require a market rate schedule based on the prevailing market rate.

### **State Level Governance**

The bill shifts regulatory authority over the early learning system from the OEL to the SBE and the DOE and repeals the Child Care Executive Partnership Program. The bill makes conforming changes throughout Florida law and re-designates:

- The K-20 education system as the Early Learning-20 education system.
- The K-20 Education Code as the Early Learning-20 Education Code.
- The OEL as the Division of Early Learning.
- The K-20 data warehouse as the education data warehouse.

### ***State Board of Education***

The bill adds responsibilities for the SBE in the administration of early learning programs, including the responsibility to oversee the performance of Early Learning Coalitions (ELCs). The conforming changes in the bill that transform the K-20 public education system into the Early Learning-20 public education system confer general rulemaking authority to the SBE for the improvement of the early learning system. The bill extends SBE oversight and enforcement authority, including the authority of the SBE to withhold funds, to ELCs. The bill also transfers specific rulemaking authority to the SBE for various duties formerly assigned to the OEL.

The bill also requires early learning data, which is currently not part of the K-20 education data warehouse, to be included in the management information system databases overseen by the SBE in conjunction with the Florida Board of Governors.

### ***Department of Education***

The bill requires the DOE to assume responsibilities for executing processes governing the administration of early learning programs that were formerly assigned to the OEL, including the adoption of performance standards for students and instructors in early learning programs. The bill also requires the DOE to adopt performance standards and outcome measures for ELCs that, at a minimum, include the development of objective customer service surveys that must be deployed to:

- Customers who use the statewide child care resource and referral network (CCR&R).
- Parents at the time of eligibility determination.
- Child care providers that participate in the school readiness program or the VPK program at the time of execution of the statewide provider contract.
- Board members of ELCs.

### **Early Learning Coalitions**

The bill brings ELCs under SBE and DOE oversight authority. Specifically, the bill:

- Requires the results of the customer service surveys of ELCs to be based on a statistically significant sample size and calculated annually for each ELC and included in the DOE's annual report.
- Requires the DOE, beginning in 2022-2023 fiscal year, to place an ELC on a one-year corrective action plan if its customer satisfaction survey results fall below 60 percent, and authorizes the DOE to remove the ELC's eligibility, contract out, or merge the ELC to administer early learning programs if the ELC does not improve through corrective action.
- Requires the DOE to adopt procedures for merging ELCs for failure to meet the requirements for delivering early learning programs, including procedures for the consolidation of merging coalitions that minimizes duplication of programs and services due to the merger, and for the early termination of the terms of the coalition members which are necessary to accomplish the mergers.
- Authorizes the SBE to impose sanctions against ELCs that the SBE may impose against district school boards under existing law.

The bill also modifies the membership requirements of ELCs. Specifically, the bill:

- Removes the requirement that ELCs appoint a central agency administrator, where applicable.
- Authorizes, in the absence of a governor-appointed chair, the commissioner to appoint an interim chair from the current ELC board membership.
- Adds to the requirement of existing law that each ELC include a children's services council or juvenile welfare board chair or executive director to additionally require that each ELC must include a children's services council or juvenile welfare board chair or executive director from each county within the ELC's jurisdiction.
- Clarifies that a Department of Children and Families (DCF) child care regulation representative may serve as an alternative to the required member who also serves as an agency head.
- Authorizes an ELC to request an alternate ELC member who meets the same qualifications or membership requirements of a member who the ELC determines is not participating.
- Authorizes ELCs to appoint additional members who are independent private sector business members.
- Requires each ELC to complete an annual evaluation of the ELC's executive director or chief executive officer on forms adopted by the DOE. The annual evaluation must be submitted to the commissioner by June 30 of each year.

### **The Voluntary Prekindergarten Education Program**

The bill transfers to the DOE the requirements for the OEL to adopt rules for VPK administration by ELCs and school districts. For example, the bill requires the DOE to adopt procedures for distributing funds to ELCs. The bill also modifies performance standards for VPK providers, instructors, and students.

The bill adds to the list of eligible VPK providers:

- A nationally accredited child development program operating on a certified military installation, which may also demonstrate required liability coverage by affirming that it is subject to jurisdiction under the federal Tort Claims Act.<sup>101</sup>
- A private prekindergarten provider with a provisional child care facility license.

### ***VPK Instructor Requirements***

The bill also modifies requirements for VPK instructors and administrators by adding to the requirement that school districts give priority to teachers who have experience or coursework in early childhood education that the teachers must also have completed emergent literacy and performance standards courses. The bill also provides that:

- A VPK instructor in a class of 11 or less children must complete two additional emergent literacy training courses, for a total of three, and adds that they must include developmentally appropriate and experiential learning practices for children.
- The completion by a prekindergarten instructor of a student performance standards training course is not required until July 1, 2022, and the bill requires completion of the course to be recognized as part of the informal early learning career pathway and be available online or in person.
- A prekindergarten director credential must include training in the implementation of curriculum and usage of student level data to inform the delivery of instruction.
- The possession of a child care facility director credential completed before the later of the establishment of the prekindergarten director credential or July 1, 2006, no longer satisfies the requirement that a private VPK provider have a prekindergarten director who has a prekindergarten director credential.
- A certificate in educational leadership issued by the DOE to a private school administrator satisfies the requirement for a prekindergarten director credential.
- VPK curricula must support student learning gains through differentiated instruction as measured by the CSPM.

The bill modifies requirements for professional development training courses to require the DOE to make professional development courses available that train prekindergarten instructors and increase the competency of teacher-child interactions. Each course must be comprised of at least eight clock hours and be available online.

### ***VPK Performance Standards***

The bill modifies the performance standards for students in the VPK program and adds mathematical thinking and early math skills to the list of student skills required to be addressed in performance standards adopted by the DOE for the VPK program. The bill also:

- Adds early math skills to the required curricula of a VPK provider and the training courses that the DOE must adopt procedures for approving.
- Removes the requirement that performance standards be tied to the statewide kindergarten screening.

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<sup>101</sup> 28 U.S.C. s. 2671.



- Modifies the existing requirement that the OEL periodically review and revise the performance standards to require the DOE to review and revise the standards at least once every three years.

The bill repeals the existing statewide kindergarten readiness screening, but requires public schools to administer a statewide kindergarten screening in the 2021-2022 academic year within the first 30 school days and authorizes private schools to administer the statewide kindergarten screening.

### ***Coordinated Screening and Progress Monitoring***

The bill requires the Commissioner of Education (commissioner) to design a statewide, standardized CSPM to assess early literacy, dyslexia, and mathematics skills, and the English Language Arts and mathematics standards established in law.

Beginning in the 2022-2023 academic year, the bill requires all VPK and public school kindergarten students to participate in the CSPM within the first 30 days of enrollment, midyear, and within the last 30 days of the school year. The bill requires each parent who enrolls a child in VPK to allow the child to participate in the CSPM.

The bill establishes the purposes of the CSPM. Specifically, the bill requires the CSPM to:

- Provide interval level and norm-referenced data that measures equivalent levels of growth;
- Be a developmentally appropriate, valid and reliable direct assessment;
- Be able to capture data on students who may be performing below grade or developmental level and which may enable the identification of early indicators of dyslexia or other developmental delays;
- Accurately measure the core content in the applicable grade level standards;
- Document learning gains for the achievement of these standards; and
- Provide teachers with progress monitoring supports and materials that enhance differentiated instruction and parent communication.

The bill provides requirements for the use of data obtained from the administration of the CSPM. Specifically, the bill provides that the data from the CSPM must be used by VPK providers and school districts to improve instruction. The data must also be used by teachers to guide learning objectives and provide timely and appropriate supports and interventions to students not meeting grade level expectations.

The bill requires the results of the CSPM to be reported to the DOE for inclusion in the educational data warehouse and requires the DOE to use the data to:

- Identify student learning gains;
- Index development learning outcomes upon program completion relative to performance standards and representative norms; and
- Inform a provider's performance metric.

The bill requires each VPK provider and public school to provide parents with screening or progress monitoring results within seven days.

### Research-Based Reading Allocation

The bill requires any VPK student with a substantial early literacy deficiency to be referred to the local school district. The local school district may provide the student intensive reading intervention using the research-based reading allocation before the student's participation in kindergarten. The bill also requires ELC and school district representatives to meet annually to develop strategies to transition students from VPK to kindergarten.

The bill modifies the research-based reading instruction allocation to require intensive reading instruction provided under the allocation to be evidence-based and supplemental instructional materials to be scientifically-researched and evidence-based. The bill defines "evidence-based" as demonstrating a statistically significant effect on improving student outcomes or other relevant outcomes.

### Council for Early Grade Success

The bill creates the Council for Early Grade Success (Council) and requires the commissioner to coordinate with the Council to develop a plan for implementation of the CSPM in consideration of the timelines for implementing new early literacy and mathematics skills and the English Language Arts and mathematics standards and the VPK program standards. The bill requires the commissioner to provide data, reports, and information as requested to the Council. The bill also provides that the Council be composed of 15 members, who must all be residents of the state, and include:

- Two members appointed by the Governor, to include:
  - One representative from the DOE.
  - One parent of a child who is four to nine years of age.
- Thirteen members appointed jointly by the President of the Senate and the Speaker of the House, to include one representative from each of the following:
  - An urban school district
  - A rural school district
  - An urban early learning coalition
  - A rural early learning coalition
  - An early learning provider
  - A faith-based early learning provider
  - A kindergarten teacher with at least five years of teaching experience
  - A second grade teacher with at least five years of teaching experience
  - A school principal
  - Four representatives with subject matter expertise in early learning, early grade success, or child assessments, who must not be direct stakeholders within the 67 early learning or public school systems or potential recipients of a contract resulting from the council's recommendations.

The bill requires the Council to elect a chair and vice chair. The chair must be one of the four members with subject matter expertise and the vice chair must be a member appointed by the President of the Senate and Speaker of the House. The bill requires the Council to meet at least bi-annually in person or by teleconference to:

- Review the implementation of, training for, and outcomes of the CSPM and provide recommendations to the DOE to support grade-level reading by grade three.
- Identify appropriate personnel, processes, and procedures for administration of the CSPM.
- Continually review data and inform the DOE on recommendations to achieve grade level proficiency by grade three.
- Make recommendations to the DOE regarding the:
  - Methodology for calculating the performance metric and grading system for VPK providers.
  - Methodology for determining kindergarten readiness.
  - Age-appropriate learning gains by grade level required to demonstrate proficiency by grade 3.

### ***Performance Metric***

The bill requires the DOE to adopt a performance metric to measure the effectiveness of a VPK provider. For the 2020-2021 program year, the DOE must calculate the kindergarten readiness rate for each VPK provider based upon learning gains and the percentage of students who are assessed as ready for kindergarten.

The DOE must adopt a methodology for the performance metric beginning in the 2022-2023 program year. The performance metric must include:

- Program assessment composite scores weighted at no less than 50 percent.
- Learning gains from the initial and final progress monitoring results. The learning gains must be determined using a value-added measure based on growth demonstrated by the results of the pre-and post-assessment in use before the 2021-2022 program year.
- Norm-referenced developmental learning outcomes.

The bill requires the methodology for calculating the performance metric to include only prekindergarten students who have attended at least 85 percent of a VPK provider's program as opposed to the current 75 percent attendance rate required for inclusion in the kindergarten readiness rate.

The methodology must also include a statistical latent profile analysis that has been conducted by an expert. The bill requires the contracted expert to:

- Have experience in relevant quantitative analysis, early childhood assessment, and designing state-level accountability systems.
- Produce an analysis that includes a limited number of program performance metric profiles that summarize all programs' profiles that inform the assignment of designations of "unsatisfactory," "emerging proficiency," "proficient," "highly proficient," and "excellent" or comparable terminology determined by the SBE which may not include letter grades. The designation must be displayed as associated with delivery of the VPK program in the provider's performance profile and accessible through the CCR&R.
- Confer with the Council in the development of the methodology.
- Also develop a methodology for determining a student's readiness for kindergarten that must be assessed by the CSPM.
- Not have had a stake or financial interest in the design or delivery of the VPK program or public school system within the last five years.

Beginning in the 2023-2024 academic year, the DOE must calculate each VPK provider's performance metric and designation within 45 days of the conclusion of the delivered school year or summer program.

The bill specifies that the grading system adopted by the DOE must provide for a differential payment to VPK providers based on program performance, and subject to appropriations. The maximum differential payment may not exceed 15 percent of the base student allocation per full-time equivalent student. A VPK provider may not receive a differential payment if it is assigned a designation of "proficient" or below.

The bill adds the performance metric of a VPK provider to the information that the DOE must publish and provide to each parent enrolling a child in the VPK program.

### ***Probation***

The bill specifies that a designation of "proficient" or better demonstrate satisfactory delivery of the VPK program. A provider who fails to meet the minimum kindergarten readiness rate for the 2020-2021 program year must be placed on probation. Beginning in the 2021-2022 program year, if a VPK provider fails to meet the minimum program assessment composite score, the provider may not participate in the VPK program until the provider meets the minimum composite score for contracting. If a VPK provider fails to meet the minimum performance metric or designation, the bill requires the applicable ELC to place the VPK provider on probation and requires the provider to:

- Submit an improvement plan for approval by the ELC and implement the plan; and
- Implement a curriculum approved by the DOE; or
- Implement a staff development plan to strengthen instructional practices in emotional support, classroom organization, instructional support, language development, phonological awareness, alphabet knowledge, and mathematical thinking.

The probation lasts until the VPK provider attains the minimum required performance metric or grade. The bill requires an annual notification by the DOE to any providers who have been placed on probation and continue to fail to meet the minimum performance metric. The failure to comply with the probation or attain the minimum performance metric after two years of probation must result in the VPK provider's suspension from the program for a period of two to five years, as determined by the applicable ELC.

The bill also prohibits a VPK provider from delivering the VPK program if the provider's license has been converted to a probation-status license by the DCF.

### ***Good Cause Exemption***

The bill authorizes the DOE to grant a VPK provider a good cause exemption from being determined ineligible to deliver the VPK program and receive state funds for the program. The exemption is valid for one year and is renewable. A request for a good cause exemption must include data from:

- The VPK provider which documents the achievement and progress of the children served, as measured by any required screenings or assessments.

- Program assessments which demonstrates effective teaching practices as recognized by the tool developer.
- The ELC or district school board, the DCF, or the local licensing authority reflecting compliance with state and local health and safety standards.

The bill requires the DOE to adopt criteria to consider when determining whether to grant a request for an exemption. The criteria must include:

- Child demographic data that evidences a VPK provider serves a statistically significant population of children with special needs who have individual education plans and can demonstrate progress toward meeting the goals outlined in the student's individual education plans.
- Learning gains of children served in the VPK program on an alternative measure that has comparable validity and reliability of the screening and progress monitoring program.
- Program assessment data which demonstrates effective teaching practices as recognized by the contracted expert.
- Verification that local and state health and safety requirements are met.

The bill prohibits the DOE from granting a good cause exemption to any VPK provider that has any class I violations involving an imminent threat to the health, safety, or welfare of a student or two or more class II<sup>102</sup> violations involving an unreasonable risk to the health, safety, or welfare of a student within the two years preceding the provider's request for an exemption. The DOE is required to inform the applicable ELC if an exemption is granted to a VPK provider that remains on probation for two consecutive years.

The bill requires each ELC to verify VPK provider compliance with the statutory requirements for delivering the VPK. The DOE must require each applicable ELC to suspend a provider who refuses to comply with VPK requirements or commits misconduct. The ELC must suspend the provider's eligibility to provide VPK for a period of two to five years.

The bill incorporates the number of good cause exemptions and justifications into the annual reporting requirements of the DOE.

The bill provides additional transparency of VPK and School Readiness program providers by requiring the following additional information be accessible through the CCR&R:

- Whether the provider participates in the Child Care Food Program.
- A link to licensing inspection reports.
- A VPK provider's performance metric, including its program assessment composite score, learning gains score, achievement score, and its designations.
- A School Readiness provider's program assessment composite score, including care-level composite scores delineated by infant, toddler, and preschool classrooms.
- Whether a School Readiness program participates in child observation assessments.
- Whether the provider holds a GSQC designation.

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<sup>102</sup> Class I and Class II violations are defined in s. 402.281(4), F.S.

- Whether the provider implements a DOE-approved curriculum and the name of the curriculum.

### **The School Readiness Program**

The bill modifies requirements for regulating the school readiness program. Specifically, the bill:

- Requires the SBE to adopt rules for the implementation of the school readiness program assessment.
- Modifies the requirement that the OEL adopt rules for ELCs in the implementation of statewide procedures. The bill instead requires the DOE to provide technical support to ELCs to facilitate the use of a standard statewide provider contract adopted by the DOE.
- Requires the commissioner to prepare, publish, and disseminate materials relating to the school readiness program.
- Requires the DOE to monitor the alignment and consistency of the standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. This requirement modifies existing law which only requires the OEL to develop and adopt the standards and benchmarks.
- Requires the minimum program assessment composite score adopted by the DOE to align with the minimum program assessment composite score for VPK providers and requires the independent expert who conducted the statistical latent profile analysis for the methodology for calculation of the performance metric for VPK providers to review the minimum program assessment composite score.
- Requires the DOE to evaluate ELCs in the administration of school readiness programs at least biennially.

The bill modifies requirements for school readiness providers. Specifically, the bill:

- Exempts a qualified provider at a military installation from child care facility licensing requirements, health and safety and immunization requirements, and liability coverage requirements.
- Authorizes provisionally licensed child care facilities or homes to deliver the school readiness program.
- Prohibits a child care facility or home from delivering the school readiness program while its license is on a probation status.
- Provides that the DOE and the ELCs may not require a school readiness provider to administer a VPK program assessment.
- Clarifies that a contract with a qualified entity to administer a regional school readiness program in the place of a noncompliant ELC lasts until the DOE reestablishes the ELC and a new school readiness plan is approved.
- Adds a parent's participation in an Early Head Start or Head Start Program to the list of circumstances that qualify for waiver of a school readiness program copayment.

### ***Market Rate***

The bill modifies the market rate to be paid to school readiness providers by the DOE. Specifically, the bill:

- Redefines the average market rate as the “prevailing market rate” to mean the biennially determined 75<sup>th</sup> percentile of a reasonable frequency distribution of the market rate by

program level and provider type in a geographical market at which child care providers charge a person for child care services.

- Modifies the requirement that the market rate include minimum and maximum rates for GSQC providers to clarify that the GSQC providers included in the determination of rates must also adhere to the teacher to child ratios and group size requirements of their respective accrediting associations.
- Clarifies that the payment schedule must account for the prevailing market rate and the projected number of children served in each county.
- Removes the requirement for each ELC to consider the market rate schedule.
- Removes the requirement that informal child care arrangements be reimbursed at 50 percent or less than the rate adopted for a family day care home.

### ***Contracted Slots***

The bill requires, by July 1, 2022, the DOE to develop and adopt requirements for the implementation of a program designed to make available contracted slots to serve children at the greatest risk of school failure as determined by being located in an area that has been designated as a poverty area tract according to the latest census data.

The bill also provides that the contracted slot program may be used to increase the availability of child care capacity based on the assessment of local priorities within the county or multicounty region based on the needs of families and provider capacity using available community data.

### ***Gold Seal Quality Care Program***

The bill provides for a type two transfer<sup>103</sup> of the GSQC program from the DCF to the DOE and requires the SBE to adopt rules establishing GSQC accreditation standards using nationally recognized accrediting standards as well as input from accrediting associations. The bill requires the SBE to adopt rules to provide criteria for reviewing and approving accrediting associations and for conferring and revoking GSQC status.

The bill codifies and specifies standards for approval of accrediting associations by the DOE for participation in the GSQC Program. In order to be approved by the DOE, an accrediting association must apply to the DOE and demonstrate that it is operational and:

- Is a recognized accrediting association.<sup>104</sup>
- Meets or exceeds SBE standards.<sup>105</sup>
- Is a registered corporation with the Department of State.
- Accreditation requirements that include clearly defined accreditation prerequisites and procedures for:
  - Completion of a self-study and comprehensive onsite verification for each classroom that documents compliance with standards.
  - Training for accreditation verifiers to ensure inter-rater reliability.

<sup>103</sup> A program transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred. Section 20.06, F.S.

<sup>104</sup> This is an existing statutory requirement of the DCF GSQC Program.

<sup>105</sup> This is an existing statutory requirement of the DCF GSQC Program.

- Ongoing compliance to include the filing of an annual report with the accrediting association;
- Renewal requiring onsite verification at least every five years.
- Verifying compliance upon transfer of ownership.
- Revoking accreditation.
- Communicating issues to state agencies with oversight.

The bill requires the DOE to review and recommend to the SBE the termination of an accrediting association that fails to cure within 30 days any deficiencies noted by the DOE in the processes and procedures submitted to and approved by the DOE. The DOE must remove a noncompliant accrediting association for a period of two to five years. The bill provides one year for a child care provider that was accredited by a noncompliant accrediting association to obtain a new accreditation from an approved accrediting association.

If a child care provider is ineligible for GSQC status because of a class I violation, the bill authorizes the DOE to recommend to the SBE to maintain the GSQC designation if the provider has been in business for five years with no other class I violations. The bill requires licensed or legally exempt child care facilities that participate in the school readiness program and achieve GSQC status to receive at least a 20 percent rate differential for each enrolled school readiness child by care level and unit of child care. An accrediting association is liable under the bill for the repayment of any rate differentials paid to a facility as a result of a GSQC designation if the accrediting association fraudulently granted the designation.

The bill takes effect upon becoming law.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.



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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill appropriates recurring funds to the DOE as follows:

- \$3,088,000 in recurring funds to implement the coordinated screening and progress monitoring program for Voluntary Prekindergarten and kindergarten students beginning in Fiscal Year 2022-2023.
- \$677,759 in recurring funds to implement the VPK program assessment beginning in Fiscal Year 2021-2022.

The bill also appropriates \$100,000 in nonrecurring funds from the General Revenue Fund to the DOE to issue a competitive solicitation to contract for the completion of a review of the school readiness payment rates.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill substantially amends the following sections of the Florida Statutes: 20.055, 20.15, 39.202, 39.604, 212.08, 383.14, 391.308, 402.26, 402.281, 402.305, 402.315, 402.56, 411.226, 411.227, 414.295, 1000.01, 1000.02, 1000.03, 1000.04, 1000.21, 1001.02, 1001.03, 1001.10, 1001.11, 1001.215, 1001.23, 1001.70, 1001.706, 1002.22, 1002.32, 1002.34, 1002.36, 1002.53, 1002.55, 1002.57, 1002.59, 1002.61, 1002.63, 1002.67, 1002.71, 1002.72, 1002.73, 1002.79, 1002.81, 1002.82, 1002.83, 1002.84, 1002.85, 1002.88, 1002.89, 1002.895, 1002.91, 1002.92, 1002.93, 1002.945, 1002.95, 1002.96, 1002.97, 1002.995, 1007.01, 1008.25, 1008.31, 1008.32, 1008.33, and 1011.62.

The bill repeals the following sections of the Florida Statutes: 1001.213, 1002.69, 1002.75, and 1002.94.

The bill creates the following sections of the Florida Statutes: 1002.68, and 1008.2125.

The bill transfers and renumbers section 402.281 of the Florida Statutes as section 1002.945.

**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.

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By Senator Harrell

25-00633A-21

20211282\_\_

1 A bill to be entitled  
 2 An act relating to early learning and early grade  
 3 success; amending s. 20.055, F.S.; conforming  
 4 provisions to changes made by the act; amending s.  
 5 20.15, F.S.; deleting the Office of Early Learning  
 6 from within the Office of Independent Education and  
 7 Parental Choice of the Department of Education;  
 8 establishing the Division of Early Learning within the  
 9 department; amending s. 39.202, F.S.; conforming  
 10 provisions to changes made by the act; amending s.  
 11 39.604, F.S.; revising approved child care or early  
 12 education settings for the placement of certain  
 13 children; conforming a cross-reference to changes made  
 14 by the act; amending s. 212.08, F.S.; conforming  
 15 provisions and cross-references to changes made by the  
 16 act; ss. 216.136, 383.14, 391.308, and 402.26, F.S.;  
 17 conforming provisions to changes made by the act;  
 18 transferring, renumbering, and amending s. 402.281,  
 19 F.S.; revising the requirements of the Gold Seal  
 20 Quality Care program; requiring the State Board of  
 21 Education to adopt specified rules; revising  
 22 accrediting association requirements; providing  
 23 requirements for accrediting associations; requiring  
 24 the department to establish a specified process;  
 25 providing requirements for such process; deleting a  
 26 requirement for the department to consult certain  
 27 entities for specified purposes; providing  
 28 requirements for certain providers to maintain Gold  
 29 Seal Quality Care status; providing exemptions to

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

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30 certain ad valorem taxes; providing rate differentials  
 31 to certain providers; providing for a type two  
 32 transfer of the Gold Seal Quality Care program in the  
 33 Department of Children and Families to the Department  
 34 of Education; providing for the continuation of  
 35 certain contracts and interagency agreements; amending  
 36 s. 402.315, F.S.; conforming a cross-reference;  
 37 amending s. 402.56, F.S.; revising the membership of  
 38 the Children and Youth Cabinet; amending ss. 411.227,  
 39 414.295, 1000.01, 1000.02, 1000.03, 1000.04, 1000.21,  
 40 1001.02, 1001.03, 1001.10, and 1001.11, F.S.;  
 41 conforming provisions to changes made by the act;  
 42 repealing s. 1001.213, F.S., relating to the Office of  
 43 Early Learning; amending ss. 1001.215, 1001.23,  
 44 1001.70, 1001.706, F.S.; conforming provisions to  
 45 changes made by the act; amending ss. 1002.22,  
 46 1002.32, F.S.; conforming cross-references; amending  
 47 ss. 1002.34, and 1002.36, F.S.; conforming provisions  
 48 and to changes made by the act; amending s. 1002.53,  
 49 F.S.; revising the requirements for certain program  
 50 provider profiles; requiring each parent who enrolls  
 51 his or her child in the Voluntary Prekindergarten  
 52 Education Program to allow his or her child to  
 53 participate in a specified screening and progress  
 54 monitoring program; amending s. 1002.55, F.S.;  
 55 authorizing certain child development programs  
 56 operating on a military installation to be private  
 57 prekindergarten providers within the Voluntary  
 58 Prekindergarten Education Program; providing that a

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59 private prekindergarten provider is ineligible for  
 60 participation in the program under certain  
 61 circumstances; revising requirements for  
 62 prekindergarten instructors; revising requirements for  
 63 specified courses for prekindergarten instructors;  
 64 providing that a private school administrator who  
 65 holds a specified certificate meets certain credential  
 66 requirements; providing liability insurance  
 67 requirements for child development programs operating  
 68 on a military installation participating in the  
 69 program; requiring early learning coalitions to verify  
 70 private prekindergarten provider compliance with  
 71 specified provisions; requiring such coalitions to  
 72 remove a provider from eligibility under specified  
 73 circumstances; amending s. 1002.57, F.S.; revising the  
 74 minimum standards for a credential for certain  
 75 prekindergarten directors; amending s. 1002.59, F.S.;  
 76 revising requirements for emergent literacy and  
 77 performance standards training courses for  
 78 prekindergarten instructors; requiring the department  
 79 to make certain courses available; amending s.  
 80 1002.61, F.S.; authorizing certain child development  
 81 programs operating on a military installation to be  
 82 private prekindergarten providers within the summer  
 83 Voluntary Prekindergarten Education Program; revising  
 84 the criteria for a teacher to receive priority for the  
 85 summer program in school district; requiring a child  
 86 development program operating on a military  
 87 installation to comply with specified criteria;

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88 requiring early learning coalitions to verify  
 89 specified information; providing for the removal of a  
 90 program provider or public school from eligibility  
 91 under certain circumstances; amending s. 1002.63,  
 92 F.S.; requiring early learning coalitions to verify  
 93 specified information; providing for the removal of  
 94 public schools from the program under certain  
 95 circumstances; amending s. 1002.67, F.S.; revising the  
 96 performance standards for the Voluntary  
 97 Prekindergarten Education Program; requiring the  
 98 department to review and revise performance standards  
 99 on a specified schedule; revising curriculum  
 100 requirements for the program; requiring the department  
 101 to adopt procedures for the review and approval of  
 102 curricula for the program; deleting a required  
 103 preassessment and postassessment for the program;  
 104 creating s. 1002.68, F.S.; requiring providers of the  
 105 Voluntary Prekindergarten Education Program to  
 106 participate in a specified screening and progress  
 107 monitoring program; providing specified uses for the  
 108 results of such program; requiring certain portions of  
 109 the screening and progress monitoring program to be  
 110 administered by individuals who meet specified  
 111 criteria; requiring the results of specified  
 112 assessments to be reported to the parents of  
 113 participating students; providing requirements for  
 114 assessments of voluntary prekindergarten education  
 115 classrooms; providing department duties and  
 116 responsibilities relating to such assessments;

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117 providing requirements for a specified methodology  
 118 used to calculate the results of such assessments;  
 119 requiring the department to establish a designation  
 120 system for program providers; providing for the  
 121 adoption of a minimum performance metric or  
 122 designation for program participation; providing  
 123 procedures for a provider whose score or designation  
 124 falls below the minimum requirement; providing for the  
 125 revocation of program eligibility for a provider;  
 126 authorizing the department to grant good cause  
 127 exemptions to providers under certain circumstances;  
 128 providing department and provider requirements for  
 129 such exemptions; requiring an annual meeting of  
 130 representatives from specified entities to develop  
 131 certain strategies; repealing s. 1002.69, F.S.,  
 132 relating to statewide kindergarten screening and  
 133 readiness rates; amending ss. 1002.71 and 1002.72,  
 134 F.S.; conforming provisions to changes made by the  
 135 act; amending s. 1002.73, F.S.; requiring the  
 136 department to adopt a standard statewide provider  
 137 contract; requiring such contract to be published on  
 138 the department's website; providing requirements for  
 139 such contract; prohibiting providers from offering  
 140 services during an appeal of termination from the  
 141 program; providing applicability; requiring the  
 142 department to adopt specified procedures relating to  
 143 the Voluntary Prekindergarten Education Program;  
 144 providing duties of the department relating to such  
 145 program; repealing s. 1002.75, F.S., relating to the

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146 powers and duties of the Office of Early Learning;  
 147 amending ss. 1002.79 and 1002.81, F.S.; conforming  
 148 provisions and cross-references to changes made by the  
 149 act; amending s. 1002.82, F.S.; providing duties of  
 150 the department relating to early learning; exempting  
 151 certain child development programs operating on a  
 152 military installation from specified inspection  
 153 requirements; requiring the department to monitor  
 154 specified standards and benchmarks for certain  
 155 purposes; revising the age range used for specified  
 156 standards; requiring the department to provide  
 157 specified technical support; revising requirements for  
 158 a specified assessment program; requiring the  
 159 department to adopt requirements to make certain  
 160 contracted slots available to serve specified  
 161 populations; requiring the department adopt certain  
 162 standards and outcome measures including specified  
 163 surveys; requiring the department to adopt procedures  
 164 for the merging of early learning coalitions; revising  
 165 the requirements for a specified report; amending s.  
 166 1002.83, F.S.; revising the number of authorized early  
 167 learning coalitions; revising the number of and  
 168 requirements for members of an early learning  
 169 coalition; revising and adding requirements for such  
 170 coalitions; amending s. 1002.84, F.S.; revising early  
 171 learning coalition responsibilities and duties;  
 172 revising requirements for the waiver of specified  
 173 copayments; amending s. 1002.85, F.S.; revising the  
 174 requirements for school readiness program plans;

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175 amending s. 1002.88, F.S.; authorizing certain child  
 176 development programs operating on military  
 177 installations to participate in the school readiness  
 178 program; revising requirements to deliver such  
 179 program; providing that a specified annual inspection  
 180 for a child development program participating in the  
 181 school readiness program meets certain provider  
 182 requirements; providing requirements for a child  
 183 development program to meet certain liability  
 184 requirements; amending ss. 1002.89, 1002.895, and  
 185 1002.91, F.S.; conforming provisions and cross-  
 186 references to changes made by the act; amending s.  
 187 1002.92, F.S.; revising the requirements for specified  
 188 services that child care resources and referral  
 189 agencies must provide; amending s. 1002.93, F.S.;  
 190 conforming provisions to changes made by the act;  
 191 repealing s. 1002.94, F.S., relating to the Child Care  
 192 Executive Partnership Program; amending ss. 1002.95,  
 193 1002.96, 1002.97, 1002.995, and 1007.01, F.S.;  
 194 conforming provisions to changes made by the act;  
 195 creating s. 1008.2125, F.S.; creating the coordinated  
 196 screening and progress monitoring program within the  
 197 department for specified purposes; requiring the  
 198 Commissioner of Education to design such program;  
 199 providing requirements for the administration of such  
 200 program and the use of results from the program;  
 201 providing requirements for the commissioner; creating  
 202 the Council for Early Grade Success; providing duties  
 203 of the council; providing membership of the council;

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204 requiring the council to elect a chair and a vice  
 205 chair; providing requirements for such appointments;  
 206 providing for per diem for members of the council;  
 207 providing meeting requirements for the council;  
 208 providing for a quorum of the council; amending s.  
 209 1008.25, F.S.; authorizing certain students who  
 210 enrolled in the Voluntary Prekindergarten Education  
 211 Program to receive intensive reading interventions  
 212 using specified funds; amending ss. 1008.31, 1008.32,  
 213 and 1008.33, F.S.; conforming provisions to changes  
 214 made by the act; amending s. 1011.62, F.S.; revising  
 215 the research-based reading instruction allocation to  
 216 authorize the use of such funds for certain intensive  
 217 reading interventions for certain students; revising  
 218 the requirements for specified reading instruction and  
 219 interventions; defining the term "evidence-based";  
 220 providing appropriations; providing requirements for  
 221 the use of such funds; providing an effective date.

222  
 223 Be It Enacted by the Legislature of the State of Florida:

224  
 225 Section 1. Paragraphs (a) and (d) of subsection (1) of  
 226 section 20.055, Florida Statutes, are amended to read:

227 20.055 Agency inspectors general.—

228 (1) As used in this section, the term:

229 (a) "Agency head" means the Governor, a Cabinet officer, or  
 230 a secretary or executive director as those terms are defined in  
 231 s. 20.03, the chair of the Public Service Commission, the  
 232 Director of the Office of Insurance Regulation of the Financial

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233 Services Commission, the Director of the Office of Financial  
 234 Regulation of the Financial Services Commission, the board of  
 235 directors of the Florida Housing Finance Corporation, ~~the~~  
 236 ~~executive director of the Office of Early Learning,~~ and the  
 237 Chief Justice of the State Supreme Court.

238 (d) "State agency" means each department created pursuant  
 239 to this chapter and the Executive Office of the Governor, the  
 240 Department of Military Affairs, the Fish and Wildlife  
 241 Conservation Commission, the Office of Insurance Regulation of  
 242 the Financial Services Commission, the Office of Financial  
 243 Regulation of the Financial Services Commission, the Public  
 244 Service Commission, the Board of Governors of the State  
 245 University System, the Florida Housing Finance Corporation, ~~the~~  
 246 ~~Office of Early Learning,~~ and the state courts system.

247 Section 2. Present paragraphs (c) through (j) of subsection  
 248 (3) of section 20.15, Florida Statutes, are redesignated as  
 249 paragraphs (d) through (k), respectively, a new paragraph (c) is  
 250 added to that subsection, and present paragraph (i) of  
 251 subsection (3) and subsection (5) of that section are amended,  
 252 to read:

253 20.15 Department of Education.—There is created a  
 254 Department of Education.

255 (3) DIVISIONS.—The following divisions of the Department of  
 256 Education are established:

257 (c) Division of Early Learning.

258 (j)(i) The Office of Independent Education and Parental  
 259 Choice, which must include ~~the following offices:~~

260 ~~1. The Office of Early Learning, which shall be~~  
 261 ~~administered by an executive director who is fully accountable~~

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262 ~~to the Commissioner of Education. The executive director shall,~~  
 263 ~~pursuant to s. 1001.213, administer the early learning programs,~~  
 264 ~~including the school readiness program and the Voluntary~~  
 265 ~~Prekindergarten Education Program at the state level.~~

266 ~~2.~~ the Office of K-12 School Choice, which shall be  
 267 administered by an executive director who is fully accountable  
 268 to the Commissioner of Education.

269 (5) POWERS AND DUTIES.—The State Board of Education and the  
 270 Commissioner of Education shall assign to the divisions such  
 271 powers, duties, responsibilities, and functions as are necessary  
 272 to ensure the greatest possible coordination, efficiency, and  
 273 effectiveness of education for students in Early Learning-20 ~~K-~~  
 274 ~~20~~ education under the jurisdiction of the State Board of  
 275 Education.

276 Section 3. Paragraph (a) of subsection (2) of section  
 277 39.202, Florida Statutes, is amended to read:

278 39.202 Confidentiality of reports and records in cases of  
 279 child abuse or neglect.—

280 (2) Except as provided in subsection (4), access to such  
 281 records, excluding the name of, or other identifying information  
 282 with respect to, the reporter which shall be released only as  
 283 provided in subsection (5), shall be granted only to the  
 284 following persons, officials, and agencies:

285 (a) Employees, authorized agents, or contract providers of  
 286 the department, the Department of Health, the Agency for Persons  
 287 with Disabilities, the Department of Education ~~Office of Early~~  
 288 ~~Learning,~~ or county agencies responsible for carrying out:

289 1. Child or adult protective investigations;  
 290 2. Ongoing child or adult protective services;

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291 3. Early intervention and prevention services;  
 292 4. Healthy Start services;  
 293 5. Licensure or approval of adoptive homes, foster homes,  
 294 child care facilities, facilities licensed under chapter 393,  
 295 family day care homes, providers who receive school readiness  
 296 funding under part VI of chapter 1002, or other homes used to  
 297 provide for the care and welfare of children;  
 298 6. Employment screening for caregivers in residential group  
 299 homes; or  
 300 7. Services for victims of domestic violence when provided  
 301 by certified domestic violence centers working at the  
 302 department's request as case consultants or with shared clients.  
 303  
 304 Also, employees or agents of the Department of Juvenile Justice  
 305 responsible for the provision of services to children, pursuant  
 306 to chapters 984 and 985.  
 307 Section 4. Paragraph (b) of subsection (5) of section  
 308 39.604, Florida Statutes, is amended to read:  
 309 39.604 Rilya Wilson Act; short title; legislative intent;  
 310 child care; early education; preschool.-  
 311 (5) EDUCATIONAL STABILITY.-Just as educational stability is  
 312 important for school-age children, it is also important to  
 313 minimize disruptions to secure attachments and stable  
 314 relationships with supportive caregivers of children from birth  
 315 to school age and to ensure that these attachments are not  
 316 disrupted due to placement in out-of-home care or subsequent  
 317 changes in out-of-home placement.  
 318 (b) If it is not in the best interest of the child for him  
 319 or her to remain in his or her child care or early education

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320 setting upon entry into out-of-home care, the caregiver must  
 321 work with the case manager, guardian ad litem, child care and  
 322 educational staff, and educational surrogate, if one has been  
 323 appointed, to determine the best setting for the child. Such  
 324 setting may be a child care provider that receives a Gold Seal  
 325 Quality Care designation pursuant to s. 1002.945 ~~s. 402.281~~, a  
 326 ~~provider participating in a quality rating system~~, a licensed  
 327 child care provider, a public school provider, or a license-  
 328 exempt child care provider, including religious-exempt and  
 329 registered providers, and nonpublic schools.  
 330 Section 5. Paragraph (m) of subsection (5) of section  
 331 212.08, Florida Statutes, is amended to read:  
 332 212.08 Sales, rental, use, consumption, distribution, and  
 333 storage tax; specified exemptions.-The sale at retail, the  
 334 rental, the use, the consumption, the distribution, and the  
 335 storage to be used or consumed in this state of the following  
 336 are hereby specifically exempt from the tax imposed by this  
 337 chapter.  
 338 (5) EXEMPTIONS; ACCOUNT OF USE.-  
 339 (m) *Educational materials purchased by certain child care*  
 340 *facilities*.-Educational materials, such as glue, paper, paints,  
 341 crayons, unique craft items, scissors, books, ~~and~~ educational  
 342 toys, purchased by a child care facility that meets the  
 343 standards delineated in s. 402.305, is licensed under s.  
 344 402.308, holds a current Gold Seal Quality Care designation  
 345 pursuant to s. 1002.945 ~~s. 402.281~~, and provides basic health  
 346 insurance to all employees are exempt from the taxes imposed by  
 347 this chapter. For purposes of this paragraph, the term "basic  
 348 health insurance" shall be defined and promulgated in rules

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349 developed jointly by the Department of Education Children and  
 350 ~~Families~~, the Agency for Health Care Administration, and the  
 351 Financial Services Commission.

352 Section 6. Paragraph (b) of subsection (8) of section  
 353 216.136, Florida Statutes, is amended to read:

354 216.136 Consensus estimating conferences; duties and  
 355 principals.—

356 (8) EARLY LEARNING PROGRAMS ESTIMATING CONFERENCE.—

357 (b) The Division Office of Early Learning shall provide  
 358 information on needs and waiting lists for school readiness  
 359 programs, and information on the needs for the Voluntary  
 360 Prekindergarten Education Program, as requested by the Early  
 361 Learning Programs Estimating Conference or individual conference  
 362 principals in a timely manner.

363 Section 7. Paragraph (b) of subsection (1) and paragraph  
 364 (b) of subsection (2) of section 383.14, Florida Statutes, are  
 365 amended to read:

366 383.14 Screening for metabolic disorders, other hereditary  
 367 and congenital disorders, and environmental risk factors.—

368 (1) SCREENING REQUIREMENTS.—To help ensure access to the  
 369 maternal and child health care system, the Department of Health  
 370 shall promote the screening of all newborns born in Florida for  
 371 metabolic, hereditary, and congenital disorders known to result  
 372 in significant impairment of health or intellect, as screening  
 373 programs accepted by current medical practice become available  
 374 and practical in the judgment of the department. The department  
 375 shall also promote the identification and screening of all  
 376 newborns in this state and their families for environmental risk  
 377 factors such as low income, poor education, maternal and family

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378 stress, emotional instability, substance abuse, and other high-  
 379 risk conditions associated with increased risk of infant  
 380 mortality and morbidity to provide early intervention,  
 381 remediation, and prevention services, including, but not limited  
 382 to, parent support and training programs, home visitation, and  
 383 case management. Identification, perinatal screening, and  
 384 intervention efforts shall begin prior to and immediately  
 385 following the birth of the child by the attending health care  
 386 provider. Such efforts shall be conducted in hospitals,  
 387 perinatal centers, county health departments, school health  
 388 programs that provide prenatal care, and birthing centers, and  
 389 reported to the Office of Vital Statistics.

390 (b) *Postnatal screening*.—A risk factor analysis using the  
 391 department's designated risk assessment instrument shall also be  
 392 conducted as part of the medical screening process upon the  
 393 birth of a child and submitted to the department's Office of  
 394 Vital Statistics for recording and other purposes provided for  
 395 in this chapter. The department's screening process for risk  
 396 assessment shall include a scoring mechanism and procedures that  
 397 establish thresholds for notification, further assessment,  
 398 referral, and eligibility for services by professionals or  
 399 paraprofessionals consistent with the level of risk. Procedures  
 400 for developing and using the screening instrument, notification,  
 401 referral, and care coordination services, reporting  
 402 requirements, management information, and maintenance of a  
 403 computer-driven registry in the Office of Vital Statistics which  
 404 ensures privacy safeguards must be consistent with the  
 405 provisions and plans established under chapter 411, Pub. L. No.  
 406 99-457, and this chapter. Procedures established for reporting

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407 information and maintaining a confidential registry must include  
 408 a mechanism for a centralized information depository at the  
 409 state and county levels. The department shall coordinate with  
 410 existing risk assessment systems and information registries. The  
 411 department must ensure, to the maximum extent possible, that the  
 412 screening information registry is integrated with the  
 413 department's automated data systems, including the Florida On-  
 414 line Recipient Integrated Data Access (FLORIDA) system. Tests  
 415 and screenings must be performed by the State Public Health  
 416 Laboratory, in coordination with Children's Medical Services, at  
 417 such times and in such manner as is prescribed by the department  
 418 after consultation with the Genetics and Newborn Screening  
 419 Advisory Council and the Department of Education ~~Office of Early~~  
 420 ~~Learning~~.

421 (2) RULES.—

422 (b) After consultation with the Department of Education  
 423 ~~Office of Early Learning~~, the department shall adopt and enforce  
 424 rules requiring every newborn in this state to be screened for  
 425 environmental risk factors that place children and their  
 426 families at risk for increased morbidity, mortality, and other  
 427 negative outcomes.

428 Section 8. Paragraph (h) of subsection (2) of section  
 429 391.308, Florida Statutes, is amended to read:

430 391.308 Early Steps Program.—The department shall implement  
 431 and administer part C of the federal Individuals with  
 432 Disabilities Education Act (IDEA), which shall be known as the  
 433 "Early Steps Program."

434 (2) DUTIES OF THE DEPARTMENT.—The department shall:

435 (h) Promote interagency cooperation and coordination, with

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436 the Medicaid program, the Department of Education program  
 437 pursuant to part B of the federal Individuals with Disabilities  
 438 Education Act, and programs providing child screening such as  
 439 the Florida Diagnostic and Learning Resources System, ~~the Office~~  
 440 ~~of Early Learning~~, Healthy Start, and the Help Me Grow program.

441 1. Coordination with the Medicaid program shall be  
 442 developed and maintained through written agreements with the  
 443 Agency for Health Care Administration and Medicaid managed care  
 444 organizations as well as through active and ongoing  
 445 communication with these organizations. The department shall  
 446 assist local program offices to negotiate agreements with  
 447 Medicaid managed care organizations in the service areas of the  
 448 local program offices. Such agreements may be formal or  
 449 informal.

450 2. Coordination with education programs pursuant to part B  
 451 of the federal Individuals with Disabilities Education Act shall  
 452 be developed and maintained through written agreements with the  
 453 Department of Education. The department shall assist local  
 454 program offices to negotiate agreements with school districts in  
 455 the service areas of the local program offices.

456 Section 9. Subsection (6) of section 402.26, Florida  
 457 Statutes, is amended to read:

458 402.26 Child care; legislative intent.—

459 ~~(6) It is the intent of the Legislature that a child care~~  
 460 ~~facility licensed pursuant to s. 402.305 or a child care~~  
 461 ~~facility exempt from licensing pursuant to s. 402.316, that~~  
 462 ~~achieves Gold Seal Quality status pursuant to s. 402.281, be~~  
 463 ~~considered an educational institution for the purpose of~~  
 464 ~~qualifying for exemption from ad valorem tax pursuant to s.~~

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 465 ~~196.198.~~  
 466 Section 10. Section 402.281, Florida Statutes, is  
 467 transferred, renumbered as section 1002.945, Florida Statutes,  
 468 and amended to read:  
 469 1002.945 ~~402.281~~ Gold Seal Quality Care program.—  
 470 (1) (a) There is established within the Department of  
 471 Education the Gold Seal Quality Care program.  
 472 (b) A child care facility, large family child care home, or  
 473 family day care home that is accredited by an accrediting  
 474 association approved by the Department of Education under  
 475 subsection (3) and meets all other requirements shall, upon  
 476 application to the department, receive a separate "Gold Seal  
 477 Quality Care" designation.  
 478 (2) The State Board of Education ~~department~~ shall adopt  
 479 rules establishing Gold Seal Quality Care accreditation  
 480 standards using nationally recognized accrediting standards and  
 481 input from accrediting associations based on the applicable  
 482 ~~accrediting standards of the National Association for the~~  
 483 ~~Education of Young Children (NAEYC), the National Association of~~  
 484 ~~Family Child Care, and the National Early Childhood Program~~  
 485 ~~Accreditation Commission.~~  
 486 (3) (a) In order to be approved by the Department of  
 487 Education for participation in the Gold Seal Quality Care  
 488 program, an accrediting association must apply to the department  
 489 and demonstrate that it:  
 490 1. Is a recognized accrediting association.  
 491 2. Has accrediting standards that substantially meet or  
 492 exceed the Gold Seal Quality Care standards adopted by the state  
 493 board ~~department~~ under subsection (2).

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 494 3. Is a registered corporation with the Department of  
 495 State.  
 496 4. Can provide evidence that the process for accreditation  
 497 has, at a minimum, all of the following components:  
 498 a. Clearly defined prerequisites that a child care provider  
 499 must meet before beginning the accreditation process. However,  
 500 accreditation may not be granted to a child care facility, large  
 501 family child care home, or family day care home before the site  
 502 is operational and is attended by children.  
 503 b. Procedures for completion of a self-study and  
 504 comprehensive onsite verification process for each classroom  
 505 that documents compliance with accrediting standards.  
 506 c. A training process for accreditation verifiers to ensure  
 507 inter-rater reliability.  
 508 d. Ongoing compliance procedures that include requiring  
 509 each accredited child care facility, large family child care  
 510 home, and family day care home to file an annual report with the  
 511 accrediting association and risk-based, onsite auditing  
 512 protocols for accredited child care facilities, large family  
 513 child care homes, and family day care homes.  
 514 e. Procedures for the revocation of accreditation due to  
 515 failure to maintain accrediting standards as evidenced by sub-  
 516 paragraph d. or any other relevant information received by  
 517 the accrediting association.  
 518 f. Accreditation renewal procedures that include an onsite  
 519 verification occurring at least every 5 years.  
 520 g. A process for verifying continued accreditation  
 521 compliance in the event of a transfer of ownership of  
 522 facilities.

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523 h. A process to communicate issues that arise during the  
 524 accreditation period with governmental entities that have a  
 525 vested interest in the Gold Seal Quality Care program, including  
 526 the Department of Education, the Department of Children and  
 527 Families, the Department of Health, local licensing entities if  
 528 applicable, and the early learning coalition.

529 (b) The Department of Education shall establish a process  
 530 that verifies that the accrediting association meets the  
 531 provisions of paragraph (a), which must include an auditing  
 532 program and any other procedures that may reasonably determine  
 533 an accrediting association's compliance with this section. If an  
 534 accrediting association is not in compliance and fails to cure  
 535 its deficiencies within 30 days, the department shall recommend  
 536 to the state board termination of the accrediting association's  
 537 participation as an accrediting association in the program for a  
 538 period of at least 2 years but no more than 5 years. If an  
 539 accrediting association is removed from being an approved  
 540 accrediting association, each child care provider accredited by  
 541 that association shall have up to 1 year to obtain a new  
 542 accreditation from a department-approved accreditation  
 543 association.

544 (c) If an accrediting association has granted accreditation  
 545 to a child care facility, large family child care home, or  
 546 family day care under fraudulent terms or has failed to conduct  
 547 onsite verifications, the accrediting association shall be  
 548 liable for the repayment of any rate differentials paid under  
 549 subsection (6).

550 ~~(b) In approving accrediting associations, the department~~  
 551 ~~shall consult with the Department of Education, the Florida Head~~

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552 ~~Start Directors Association, the Florida Association of Child~~  
 553 ~~Care Management, the Florida Family Child Care Home Association,~~  
 554 ~~the Florida Children's Forum, the Florida Association for the~~  
 555 ~~Education of the Young, the Child Development Education~~  
 556 ~~Alliance, the Florida Association of Academic Nonpublic Schools,~~  
 557 ~~the Association of Early Learning Coalitions, providers~~  
 558 ~~receiving exemptions under s. 402.316, and parents.~~

559 (4) In order to obtain and maintain a designation as a Gold  
 560 Seal Quality Care provider, a child care facility, large family  
 561 child care home, or family day care home must meet the following  
 562 additional criteria:

563 (a) The child care provider must not have had any class I  
 564 violations, as defined by rule of the Department of Children and  
 565 Families, within the 2 years preceding its application for  
 566 designation as a Gold Seal Quality Care provider. Commission of  
 567 a class I violation shall be grounds for termination of the  
 568 designation as a Gold Seal Quality Care provider until the  
 569 provider has no class I violations for a period of 2 years.

570 (b) The child care provider must not have had three or more  
 571 class II violations, as defined by rule of the Department of  
 572 Children and Families, within the 2 years preceding its  
 573 application for designation as a Gold Seal Quality Care  
 574 provider. Commission of three or more class II violations within  
 575 a 2-year period shall be grounds for termination of the  
 576 designation as a Gold Seal Quality Care provider until the  
 577 provider has no class II violations for a period of 1 year.

578 (c) The child care provider must not have been cited for  
 579 the same class III violation, as defined by rule of the  
 580 Department of Children and Families, three or more times and

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581 failed to correct the violation within 1 year after the date of  
582 each citation, within the 2 years preceding its application for  
583 designation as a Gold Seal Quality Care provider. Commission of  
584 the same class III violation three or more times and failure to  
585 correct within the required time during a 2-year period may be  
586 grounds for termination of the designation as a Gold Seal  
587 Quality Care provider until the provider has no class III  
588 violations for a period of 1 year.

589 (d) Notwithstanding paragraph (a), if the Department of  
590 Education determines through a formal process that a provider  
591 has been in business for at least 5 years and has no other class  
592 I violations recorded, the department may recommend to the state  
593 board that the provider maintain its Gold Seal Quality Care  
594 status. The state board's determination regarding such  
595 provider's status is final.

596 (5) A child care facility licensed under s. 402.305 or a  
597 child care facility exempt from licensing under s. 402.316 which  
598 achieves Gold Seal Quality status under this section shall be  
599 considered an educational institution for the purpose of  
600 qualifying for exemption from ad valorem tax under s. 196.198.

601 (6) A child care facility licensed under s. 402.305 or a  
602 child care facility exempt from licensing pursuant to s. 402.316  
603 which achieves Gold Seal Quality status under this section and  
604 which participates in the school readiness program shall receive  
605 a minimum of a 20 percent rate differential for each enrolled  
606 school readiness child by care level and unit of child care.

607 (7)(5) The state board ~~Department of Children and Families~~  
608 shall adopt rules under ss. 120.536(1) and 120.54 which provide  
609 criteria and procedures for reviewing and approving accrediting

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610 associations for participation in the Gold Seal Quality Care  
611 program ~~and~~, conferring and revoking designations of Gold Seal  
612 Quality Care providers, ~~and classifying violations.~~

613 Section 11. Type two transfer from the Department of  
614 Children and Families.-

615 (1) All powers, duties, functions, records, offices,  
616 personnel, associated administrative support positions,  
617 property, pending issues, existing contracts, administrative  
618 authority, administrative rules, and unexpended balances of  
619 appropriations, allocations, and other funds relating to the  
620 Gold Seal Quality Care program within the Department of Children  
621 and Families are transferred by a type two transfer, as defined  
622 in s. 20.06(2), Florida Statutes, to the Department of  
623 Education.

624 (2) Any binding contract or interagency agreement existing  
625 before July 1, 2021, between the Department of Children and  
626 Families, or an entity or agent of the department, and any other  
627 agency, entity, or person relating to the Gold Seal Quality Care  
628 program shall continue as a binding contract or agreement for  
629 the remainder of the term of such contract or agreement on the  
630 successor entity responsible for the program, activity, or  
631 functions relative to the contract or agreement.

632 Section 12. Subsection (5) of section 402.315, Florida  
633 Statutes, is amended to read:

634 402.315 Funding; license fees.-

635 (5) All moneys collected by the department for child care  
636 licensing shall be held in a trust fund of the department to be  
637 reallocated to the department during the following fiscal year  
638 to fund child care licensing activities, including the Gold Seal

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639 Quality Care program created pursuant to s. 1002.945 ~~s. 402.201~~.

640 Section 13. Paragraph (a) of subsection (4) of section

641 402.56, Florida Statutes, is amended to read:

642 402.56 Children's cabinet; organization; responsibilities;

643 annual report.—

644 (4) MEMBERS.—The cabinet shall consist of 16 members

645 including the Governor and the following persons:

646 (a)1. The Secretary of Children and Families;

647 2. The Secretary of Juvenile Justice;

648 3. The director of the Agency for Persons with

649 Disabilities;

650 4. A representative from the Division ~~The director of the~~

651 ~~Office of Early Learning;~~

652 5. The State Surgeon General;

653 6. The Secretary of Health Care Administration;

654 7. The Commissioner of Education;

655 8. The director of the Statewide Guardian Ad Litem Office;

656 9. A representative of the Office of Adoption and Child

657 Protection;

658 10. A superintendent of schools, appointed by the Governor;

659 and

660 11. Five members who represent children and youth advocacy

661 organizations and who are not service providers, appointed by

662 the Governor.

663 Section 14. Paragraph (d) of subsection (1), paragraph (a)

664 of subsection (2), and paragraph (c) of subsection (3) of

665 section 411.227, Florida Statutes, are amended to read:

666 411.227 Components of the Learning Gateway.—The Learning

667 Gateway system consists of the following components:

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668 (1) COMMUNITY EDUCATION STRATEGIES AND FAMILY-ORIENTED

669 ACCESS.—

670 (d) In collaboration with other local resources, the

671 demonstration projects shall develop public awareness strategies

672 to disseminate information about developmental milestones,

673 precursors of learning problems and other developmental delays,

674 and the service system that is available. The information should

675 target parents of children from birth through age 9 and should

676 be distributed to parents, health care providers, and caregivers

677 of children from birth through age 9. A variety of media should

678 be used as appropriate, such as print, television, radio, and a

679 community-based Internet website, as well as opportunities such

680 as those presented by parent visits to physicians for well-child

681 checkups. The Learning Gateway Steering Committee shall provide

682 technical assistance to the local demonstration projects in

683 developing and distributing educational materials and

684 information.

685 1. Public awareness strategies targeting parents of

686 children from birth through age 5 shall be designed to provide

687 information to public and private preschool programs, child care

688 providers, pediatricians, parents, and local businesses and

689 organizations. These strategies should include information on

690 the school readiness performance standards adopted by the

691 Department of Education ~~Office of Early Learning~~.

692 2. Public awareness strategies targeting parents of

693 children from ages 6 through 9 must be designed to disseminate

694 training materials and brochures to parents and public and

695 private school personnel, and must be coordinated with the local

696 school board and the appropriate school advisory committees in

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697 the demonstration projects. The materials should contain  
698 information on state and district proficiency levels for grades  
699 K-3.

700 (2) SCREENING AND DEVELOPMENTAL MONITORING.-

701 (a) In coordination with ~~the Office of Early Learning,~~ the  
702 Department of Education, and the Florida Pediatric Society, and  
703 using information learned from the local demonstration projects,  
704 the Learning Gateway Steering Committee shall establish  
705 guidelines for screening children from birth through age 9. The  
706 guidelines should incorporate recent research on the indicators  
707 most likely to predict early learning problems, mild  
708 developmental delays, child-specific precursors of school  
709 failure, and other related developmental indicators in the  
710 domains of cognition; communication; attention; perception;  
711 behavior; and social, emotional, sensory, and motor functioning.

712 (3) EARLY EDUCATION, SERVICES AND SUPPORTS.-

713 (c) The steering committee, in cooperation with the  
714 Department of Children and Families and the Department of  
715 Education, ~~and the Office of Early Learning,~~ shall identify the  
716 elements of an effective research-based curriculum for early  
717 care and education programs.

718 Section 15. Subsection (1) of section 414.295, Florida  
719 Statutes, is amended to read:

720 414.295 Temporary cash assistance programs; public records  
721 exemption.-

722 (1) Personal identifying information of a temporary cash  
723 assistance program participant, a participant's family, or a  
724 participant's family or household member, except for information  
725 identifying a parent who does not live in the same home as the

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726 child, which is held by the department, ~~the Office of Early~~  
727 ~~Learning,~~ CareerSource Florida, Inc., the Department of Health,  
728 the Department of Revenue, the Department of Education, or a  
729 local workforce development board or local committee created  
730 pursuant to s. 445.007 is confidential and exempt from s.  
731 119.07(1) and s. 24(a), Art. I of the State Constitution. Such  
732 confidential and exempt information may be released for purposes  
733 directly connected with:

734 (a) The administration of the temporary assistance for  
735 needy families plan under Title IV-A of the Social Security Act,  
736 as amended, by the department, ~~the Office of Early Learning,~~  
737 CareerSource Florida, Inc., the Department of Military Affairs,  
738 the Department of Health, the Department of Revenue, the  
739 Department of Education, a local workforce development board or  
740 local committee created pursuant to s. 445.007, or a school  
741 district.

742 (b) The administration of the state's plan or program  
743 approved under Title IV-B, Title IV-D, or Title IV-E of the  
744 Social Security Act, as amended, or under Title I, Title X,  
745 Title XIV, Title XVI, Title XIX, Title XX, or Title XXI of the  
746 Social Security Act, as amended.

747 (c) An investigation, prosecution, or criminal, civil, or  
748 administrative proceeding conducted in connection with the  
749 administration of any of the plans or programs specified in  
750 paragraph (a) or paragraph (b) by a federal, state, or local  
751 governmental entity, upon request by that entity, if such  
752 request is made pursuant to the proper exercise of that entity's  
753 duties and responsibilities.

754 (d) The administration of any other state, federal, or

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755 federally assisted program that provides assistance or services  
756 on the basis of need, in cash or in kind, directly to a  
757 participant.

758 (e) An audit or similar activity, such as a review of  
759 expenditure reports or financial review, conducted in connection  
760 with the administration of plans or programs specified in  
761 paragraph (a) or paragraph (b) by a governmental entity  
762 authorized by law to conduct such audit or activity.

763 (f) The administration of the reemployment assistance  
764 program.

765 (g) The reporting to the appropriate agency or official of  
766 information about known or suspected instances of physical or  
767 mental injury, sexual abuse or exploitation, or negligent  
768 treatment or maltreatment of a child or elderly person receiving  
769 assistance, if circumstances indicate that the health or welfare  
770 of the child or elderly person is threatened.

771 (h) The administration of services to elderly persons under  
772 ss. 430.601-430.606.

773 Section 16. Section 1000.01, Florida Statutes, is amended  
774 to read:

775 1000.01 The Florida Early Learning-20 ~~K-20~~ education  
776 system; technical provisions.-

777 (1) NAME.-Chapters 1000 through 1013 shall be known and  
778 cited as the "Florida Early Learning-20 ~~K-20~~ Education Code."

779 (2) LIBERAL CONSTRUCTION.-The provisions of the Florida  
780 Early Learning-20 ~~K-20~~ Education Code shall be liberally  
781 construed to the end that its objectives may be effected. It is  
782 the legislative intent that if any section, subsection,  
783 sentence, clause, or provision of the Florida Early Learning-20

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784 ~~K-20~~ Education Code is held invalid, the remainder of the code  
785 shall not be affected.

786 (3) PURPOSE.-The purpose of the Florida Early Learning-20  
787 ~~K-20~~ Education Code is to provide by law for a state system of  
788 schools, courses, classes, and educational institutions and  
789 services adequate to allow, for all Florida's students, the  
790 opportunity to obtain a high quality education. The Florida  
791 Early Learning-20 ~~K-20~~ education system is established to  
792 accomplish this purpose; however, nothing in this code shall be  
793 construed to require the provision of free public education  
794 beyond grade 12.

795 (4) UNIFORM SYSTEM OF PUBLIC K-12 SCHOOLS INCLUDED.-As  
796 required by s. 1, Art. IX of the State Constitution, the Florida  
797 Early Learning-20 ~~K-20~~ education system shall include the  
798 uniform system of free public K-12 schools. These public K-12  
799 schools shall provide 13 consecutive years of instruction,  
800 beginning with kindergarten, and shall also provide such  
801 instruction for students with disabilities, gifted students,  
802 limited English proficient students, and students in Department  
803 of Juvenile Justice programs as may be required by law. The  
804 funds for support and maintenance of the uniform system of free  
805 public K-12 schools shall be derived from state, district,  
806 federal, and other lawful sources or combinations of sources,  
807 including any fees charged nonresidents as provided by law.

808 Section 17. Section 1000.02, Florida Statutes, is amended  
809 to read:

810 1000.02 Policy and guiding principles for the Florida Early  
811 Learning-20 ~~K-20~~ education system.-

812 (1) It is the policy of the Legislature:



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813 (a) To achieve within existing resources a seamless  
814 academic educational system that fosters an integrated continuum  
815 of early learning ~~kindergarten~~ through graduate school education  
816 for Florida's students.

817 (b) To promote enhanced academic success and funding  
818 efficiency of educational delivery systems by aligning  
819 responsibility with accountability.

820 (c) To provide consistent education policy across all  
821 educational delivery systems, focusing on students.

822 (d) To provide substantially improved articulation across  
823 all educational delivery systems.

824 (e) To provide for the decentralization of authority to the  
825 schools, Florida College System institutions, universities, and  
826 other education institutions that deliver educational services  
827 to the public.

828 (f) To ensure that independent education institutions and  
829 home education programs maintain their independence, autonomy,  
830 and nongovernmental status.

831 (2) The guiding principles for Florida's Early Learning-20  
832 ~~K-20~~ education system are:

833 (a) A coordinated, seamless system for early learning  
834 ~~kindergarten~~ through graduate school education.

835 (b) A system that is student-centered in every facet.

836 (c) A system that maximizes education access and allows the  
837 opportunity for a high quality education for all Floridians.

838 (d) A system that safeguards equity and supports academic  
839 excellence.

840 (e) A system that provides for local operational  
841 flexibility while promoting accountability for student

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842 achievement and improvement.

843 Section 18. Section 1000.03, Florida Statutes, is amended  
844 to read:

845 1000.03 Function, mission, and goals of the Florida Early  
846 Learning-20 ~~K-20~~ education system.-

847 (1) Florida's Early Learning-20 ~~K-20~~ education system shall  
848 be a decentralized system without excess layers of bureaucracy.  
849 Florida's Early Learning-20 ~~K-20~~ education system shall maintain  
850 a systemwide technology plan based on a common set of data  
851 definitions.

852 (2) (a) The Legislature shall establish education policy,  
853 enact education laws, and appropriate and allocate education  
854 resources.

855 (b) With the exception of matters relating to the State  
856 University System, the State Board of Education shall oversee  
857 the enforcement of all laws and rules, and the timely provision  
858 of direction, resources, assistance, intervention when needed,  
859 and strong incentives and disincentives to force accountability  
860 for results.

861 (c) The Board of Governors shall oversee the enforcement of  
862 all state university laws and rules and regulations and the  
863 timely provision of direction, resources, assistance,  
864 intervention when needed, and strong incentives and  
865 disincentives to force accountability for results.

866 (3) Public education is a cooperative function of the state  
867 and local educational authorities. The state retains  
868 responsibility for establishing a system of public education  
869 through laws, standards, and rules to assure efficient operation  
870 of an Early Learning-20 ~~a K-20~~ system of public education and

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871 adequate educational opportunities for all individuals. Local  
872 educational authorities have a duty to fully and faithfully  
873 comply with state laws, standards, and rules and to efficiently  
874 use the resources available to them to assist the state in  
875 allowing adequate educational opportunities.

876 (4) The mission of Florida's Early Learning-20 ~~K-20~~  
877 education system is to allow its students to increase their  
878 proficiency by allowing them the opportunity to expand their  
879 knowledge and skills through rigorous and relevant learning  
880 opportunities, in accordance with the mission statement and  
881 accountability requirements of s. 1008.31.

882 (5) The priorities of Florida's Early Learning-20 ~~K-20~~  
883 education system include:

884 (a) *Learning and completion at all levels, including*  
885 *increased high school graduation rate and readiness for*  
886 *postsecondary education without remediation.*—All students  
887 demonstrate increased learning and completion at all levels,  
888 graduate from high school, and are prepared to enter  
889 postsecondary education without remediation.

890 (b) *Student performance.*—Students demonstrate that they  
891 meet the expected academic standards consistently at all levels  
892 of their education.

893 (c) *Civic literacy.*—Students are prepared to become  
894 civically engaged and knowledgeable adults who make positive  
895 contributions to their communities.

896 (d) *Alignment of standards and resources.*—Academic  
897 standards for every level of the Early Learning-20 ~~K-20~~  
898 education system are aligned, and education financial resources  
899 are aligned with student performance expectations at each level

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900 of the Early Learning-20 ~~K-20~~ education system.

901 (e) *Educational leadership.*—The quality of educational  
902 leadership at all levels of Early Learning-20 ~~K-20~~ education is  
903 improved.

904 (f) *Workforce education.*—Workforce education is  
905 appropriately aligned with the skills required by the new global  
906 economy.

907 (g) *Parental, student, family, educational institution, and*  
908 *community involvement.*—Parents, students, families, educational  
909 institutions, and communities are collaborative partners in  
910 education, and each plays an important role in the success of  
911 individual students. Therefore, the State of Florida cannot be  
912 the guarantor of each individual student's success. The goals of  
913 Florida's Early Learning-20 ~~K-20~~ education system are not  
914 guarantees that each individual student will succeed or that  
915 each individual school will perform at the level indicated in  
916 the goals.

917 (h) *Comprehensive Early Learning-20 ~~K-20~~ career and*  
918 *education planning.*—It is essential that Florida's Early  
919 Learning-20 ~~K-20~~ education system better prepare all students at  
920 every level for the transition from school to postsecondary  
921 education or work by providing information regarding:

922 1. Career opportunities, educational requirements  
923 associated with each career, educational institutions that  
924 prepare students to enter each career, and student financial aid  
925 available to pursue postsecondary instruction required to enter  
926 each career.

927 2. How to make informed decisions about the program of  
928 study that best addresses the students' interests and abilities

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929 while preparing them to enter postsecondary education or the  
930 workforce.

931 3. Recommended coursework and programs that prepare  
932 students for success in their areas of interest and ability.

933

934 This information shall be provided to students and parents  
935 through websites, handbooks, manuals, or other regularly  
936 provided communications.

937 Section 19. Section 1000.04, Florida Statutes, is amended  
938 to read:

939 1000.04 Components for the delivery of public education  
940 within the Florida Early Learning-20 ~~K-20~~ education system.—  
941 Florida's Early Learning-20 ~~K-20~~ education system provides for  
942 the delivery of early learning and public education through  
943 publicly supported and controlled K-12 schools, Florida College  
944 System institutions, state universities and other postsecondary  
945 educational institutions, other educational institutions, and  
946 other educational services as provided or authorized by the  
947 Constitution and laws of the state.

948 (1) EARLY LEARNING.—Early learning includes the Voluntary  
949 Prekindergarten Education Program and the school readiness  
950 program.

951 (2)(4) PUBLIC K-12 SCHOOLS.—The public K-12 schools include  
952 charter schools and consist of kindergarten classes; elementary,  
953 middle, and high school grades and special classes; virtual  
954 instruction programs; workforce education; career centers;  
955 adult, part-time, and evening schools, courses, or classes, as  
956 authorized by law to be operated under the control of district  
957 school boards; and lab schools operated under the control of

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958 state universities.

959 (3)(2) PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS.—

960 Public postsecondary educational institutions include workforce  
961 education; Florida College System institutions; state  
962 universities; and all other state-supported postsecondary  
963 educational institutions that are authorized and established by  
964 law.

965 (4)(3) FLORIDA SCHOOL FOR THE DEAF AND THE BLIND.—The  
966 Florida School for the Deaf and the Blind is a component of the  
967 delivery of public education within Florida's Early Learning-20  
968 ~~K-20~~ education system.

969 (5)(4) THE FLORIDA VIRTUAL SCHOOL.—The Florida Virtual  
970 School is a component of the delivery of public education within  
971 Florida's Early Learning-20 ~~K-20~~ education system.

972 Section 20. Section 1000.21, Florida Statutes, is amended  
973 to read:

974 1000.21 Systemwide definitions.—As used in the Florida  
975 Early Learning-20 ~~K-20~~ Education Code:

976 (1) "Articulation" is the systematic coordination that  
977 provides the means by which students proceed toward their  
978 educational objectives in as rapid and student-friendly manner  
979 as their circumstances permit, from grade level to grade level,  
980 from elementary to middle to high school, to and through  
981 postsecondary education, and when transferring from one  
982 educational institution or program to another.

983 (2) "Commissioner" is the Commissioner of Education.

984 (3) "Florida College System institution" except as  
985 otherwise specifically provided, includes all of the following  
986 public postsecondary educational institutions in the Florida

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987 College System and any branch campuses, centers, or other  
 988 affiliates of the institution:

989 (a) Eastern Florida State College, which serves Brevard  
 990 County.

991 (b) Broward College, which serves Broward County.

992 (c) College of Central Florida, which serves Citrus, Levy,  
 993 and Marion Counties.

994 (d) Chipola College, which serves Calhoun, Holmes, Jackson,  
 995 Liberty, and Washington Counties.

996 (e) Daytona State College, which serves Flagler and Volusia  
 997 Counties.

998 (f) Florida SouthWestern State College, which serves  
 999 Charlotte, Collier, Glades, Hendry, and Lee Counties.

1000 (g) Florida State College at Jacksonville, which serves  
 1001 Duval and Nassau Counties.

1002 (h) The College of the Florida Keys, which serves Monroe  
 1003 County.

1004 (i) Gulf Coast State College, which serves Bay, Franklin,  
 1005 and Gulf Counties.

1006 (j) Hillsborough Community College, which serves  
 1007 Hillsborough County.

1008 (k) Indian River State College, which serves Indian River,  
 1009 Martin, Okeechobee, and St. Lucie Counties.

1010 (l) Florida Gateway College, which serves Baker, Columbia,  
 1011 Dixie, Gilchrist, and Union Counties.

1012 (m) Lake-Sumter State College, which serves Lake and Sumter  
 1013 Counties.

1014 (n) State College of Florida, Manatee-Sarasota, which  
 1015 serves Manatee and Sarasota Counties.

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1016 (o) Miami Dade College, which serves Miami-Dade County.

1017 (p) North Florida College, which serves Hamilton,  
 1018 Jefferson, Lafayette, Madison, Suwannee, and Taylor Counties.

1019 (q) Northwest Florida State College, which serves Okaloosa  
 1020 and Walton Counties.

1021 (r) Palm Beach State College, which serves Palm Beach  
 1022 County.

1023 (s) Pasco-Hernando State College, which serves Hernando and  
 1024 Pasco Counties.

1025 (t) Pensacola State College, which serves Escambia and  
 1026 Santa Rosa Counties.

1027 (u) Polk State College, which serves Polk County.

1028 (v) St. Johns River State College, which serves Clay,  
 1029 Putnam, and St. Johns Counties.

1030 (w) St. Petersburg College, which serves Pinellas County.

1031 (x) Santa Fe College, which serves Alachua and Bradford  
 1032 Counties.

1033 (y) Seminole State College of Florida, which serves  
 1034 Seminole County.

1035 (z) South Florida State College, which serves DeSoto,  
 1036 Hardee, and Highlands Counties.

1037 (aa) Tallahassee Community College, which serves Gadsden,  
 1038 Leon, and Wakulla Counties.

1039 (bb) Valencia College, which serves Orange and Osceola  
 1040 Counties.

1041 (4) "Department" is the Department of Education.

1042 (5) "Parent" is either or both parents of a student, any  
 1043 guardian of a student, any person in a parental relationship to  
 1044 a student, or any person exercising supervisory authority over a

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1045 student in place of the parent.

1046 (6) "State university," except as otherwise specifically  
1047 provided, includes the following institutions and any branch  
1048 campuses, centers, or other affiliates of the institution:

- 1049 (a) The University of Florida.
- 1050 (b) The Florida State University.
- 1051 (c) The Florida Agricultural and Mechanical University.
- 1052 (d) The University of South Florida.
- 1053 (e) The Florida Atlantic University.
- 1054 (f) The University of West Florida.
- 1055 (g) The University of Central Florida.
- 1056 (h) The University of North Florida.
- 1057 (i) The Florida International University.
- 1058 (j) The Florida Gulf Coast University.
- 1059 (k) New College of Florida.
- 1060 (l) The Florida Polytechnic University.

1061 (7) "Next Generation Sunshine State Standards" means the  
1062 state's public K-12 curricular standards adopted under s.  
1063 1003.41.

1064 (8) "Board of Governors" is the Board of Governors of the  
1065 State University System.

1066 Section 21. Subsection (1) and paragraphs (e) and (s) of  
1067 subsection (2) of section 1001.02, Florida Statutes, are amended  
1068 to read:

1069 1001.02 General powers of State Board of Education.—

1070 (1) The State Board of Education is the chief implementing  
1071 and coordinating body of public education in Florida except for  
1072 the State University System, and it shall focus on high-level  
1073 policy decisions. It has authority to adopt rules pursuant to

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1074 ss. 120.536(1) and 120.54 to implement the provisions of law  
1075 conferring duties upon it for the improvement of the state  
1076 system of Early Learning-20 ~~K-20~~ public education except for the  
1077 State University System. Except as otherwise provided herein, it  
1078 may, as it finds appropriate, delegate its general powers to the  
1079 Commissioner of Education or the directors of the divisions of  
1080 the department.

1081 (2) The State Board of Education has the following duties:

1082 (e) To adopt and submit to the Governor and Legislature, as  
1083 provided in s. 216.023, a coordinated Early Learning-20 ~~K-20~~  
1084 education budget that estimates the expenditure requirements for  
1085 the Board of Governors, as provided in s. 1001.706, the State  
1086 Board of Education, including the Department of Education and  
1087 the Commissioner of Education, and all of the boards,  
1088 institutions, agencies, and services under the general  
1089 supervision of the Board of Governors, as provided in s.  
1090 1001.706, or the State Board of Education for the ensuing fiscal  
1091 year. The State Board of Education may not amend the budget  
1092 request submitted by the Board of Governors. Any program  
1093 recommended by the Board of Governors or the State Board of  
1094 Education which will require increases in state funding for more  
1095 than 1 year must be presented in a multiyear budget plan.

1096 (s) To establish a detailed procedure for the  
1097 implementation and operation of a systemwide ~~K-20~~ technology  
1098 plan that is based on a common set of data definitions.

1099 Section 22. Subsections (8) and (9) of section 1001.03,  
1100 Florida Statutes, are amended to read:

1101 1001.03 Specific powers of State Board of Education.—

1102 (8) SYSTEMWIDE ENFORCEMENT.—The State Board of Education

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1103 shall enforce compliance with law and state board rule by all  
1104 school districts, early learning coalitions, and public  
1105 postsecondary educational institutions, except for the State  
1106 University System, in accordance with the provisions of s.  
1107 1008.32.

1108 (9) MANAGEMENT INFORMATION DATABASES.—The State Board of  
1109 Education, in conjunction with the Board of Governors regarding  
1110 the State University System, shall continue to collect and  
1111 maintain, at a minimum, the management information databases for  
1112 state universities, and all other components of the public Early  
1113 Learning-20 ~~K-20~~ education system as such databases existed on  
1114 June 30, 2002.

1115 Section 23. Subsection (1), paragraphs (g), (k), and (l) of  
1116 subsection (6), and subsection (8) of section 1001.10, Florida  
1117 Statutes, are amended to read:

1118 1001.10 Commissioner of Education; general powers and  
1119 duties.—

1120 (1) The Commissioner of Education is the chief educational  
1121 officer of the state and the sole custodian of the educational  
1122 ~~K-20~~ data warehouse, and is responsible for giving full  
1123 assistance to the State Board of Education in enforcing  
1124 compliance with the mission and goals of the Early Learning-20  
1125 ~~K-20~~ education system, except for the State University System.

1126 (6) Additionally, the commissioner has the following  
1127 general powers and duties:

1128 (g) To submit to the State Board of Education, on or before  
1129 October 1 of each year, recommendations for a coordinated Early  
1130 Learning-20 ~~K-20~~ education budget that estimates the  
1131 expenditures for the Board of Governors, the State Board of

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1132 Education, including the Department of Education and the  
1133 Commissioner of Education, and all of the boards, institutions,  
1134 agencies, and services under the general supervision of the  
1135 Board of Governors or the State Board of Education for the  
1136 ensuing fiscal year. Any program recommended to the State Board  
1137 of Education that will require increases in state funding for  
1138 more than 1 year must be presented in a multiyear budget plan.

1139 (k) To prepare, publish, and disseminate user-friendly  
1140 materials relating to the state's education system, including  
1141 the state's K-12 scholarship programs, the school readiness  
1142 program, and the Voluntary Prekindergarten Education Program.

1143 (l) To prepare and publish annually reports giving  
1144 statistics and other useful information pertaining to the  
1145 state's K-12 scholarship programs, the school readiness program,  
1146 and the Voluntary Prekindergarten Education Program.

1147 (8) In the event of an emergency situation, the  
1148 commissioner may coordinate through the most appropriate means  
1149 of communication with early learning coalitions, local school  
1150 districts, Florida College System institutions, and satellite  
1151 offices of the Division of Blind Services and the Division of  
1152 Vocational Rehabilitation to assess the need for resources and  
1153 assistance to enable each school, institution, or satellite  
1154 office the ability to reopen as soon as possible after  
1155 considering the health, safety, and welfare of students and  
1156 clients.

1157 Section 24. Paragraph (b) of subsection (1) and subsection  
1158 (4) of section 1001.11, Florida Statutes, are amended to read:

1159 1001.11 Commissioner of Education; other duties.—

1160 (1) The Commissioner of Education must independently

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1161 perform the following duties:

1162 (b) Serve as the primary source of information to the  
1163 Legislature, including the President of the Senate and the  
1164 Speaker of the House of Representatives, concerning the State  
1165 Board of Education, the Early Learning-20 ~~K-20~~ education system,  
1166 and early learning programs.

1167 (4) The commissioner shall develop and implement an  
1168 integrated Early Learning-20 ~~K-20~~ information system for  
1169 educational management in accordance with the requirements of  
1170 chapter 1008.

1171 Section 25. Section 1001.213, Florida Statutes, is  
1172 repealed.

1173 Section 26. Subsection (7) of section 1001.215, Florida  
1174 Statutes, is amended to read:

1175 1001.215 Just Read, Florida! Office.—There is created in  
1176 the Department of Education the Just Read, Florida! Office. The  
1177 office is fully accountable to the Commissioner of Education and  
1178 shall:

1179 (7) Review, evaluate, and provide technical assistance to  
1180 school districts' implementation of the ~~K-12~~ comprehensive  
1181 reading plan required in s. 1011.62(9).

1182 Section 27. Subsection (1) of section 1001.23, Florida  
1183 Statutes, is amended to read:

1184 1001.23 Specific powers and duties of the Department of  
1185 Education.—In addition to all other duties assigned to it by law  
1186 or by rule of the State Board of Education, the department  
1187 shall:

1188 ~~(1) Adopt the statewide kindergarten screening in~~  
1189 ~~accordance with s. 1002.69.~~

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1190 Section 28. Subsection (3) of section 1001.70, Florida  
1191 Statutes, is amended to read:

1192 1001.70 Board of Governors of the State University System.—

1193 (3) The Board of Governors, in exercising its authority  
1194 under the State Constitution and statutes, shall exercise its  
1195 authority in a manner that supports, promotes, and enhances an  
1196 Early Learning-20 ~~a K-20~~ education system that provides  
1197 affordable access to postsecondary educational opportunities for  
1198 residents of the state to the extent authorized by the State  
1199 Constitution and state law.

1200 Section 29. Paragraph (b) of subsection (4) of section  
1201 1001.706, Florida Statutes, is amended to read:

1202 1001.706 Powers and duties of the Board of Governors.—

1203 (4) POWERS AND DUTIES RELATING TO FINANCE.—

1204 (b) The Board of Governors shall prepare the legislative  
1205 budget requests for the State University System, including a  
1206 request for fixed capital outlay, and submit them to the State  
1207 Board of Education for inclusion in the Early Learning-20 ~~K-20~~  
1208 legislative budget request. The Board of Governors shall provide  
1209 the state universities with fiscal policy guidelines, formats,  
1210 and instruction for the development of individual university  
1211 budget requests.

1212 Section 30. Paragraph (b) of subsection (1) of section  
1213 1002.22, Florida Statutes, is amended to read:

1214 1002.22 Education records and reports of K-12 students;  
1215 rights of parents and students; notification; penalty.—

1216 (1) DEFINITIONS.—As used in this section, the term:

1217 (b) "Institution" means any public school, center,  
1218 institution, or other entity that is part of Florida's education

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 1219 system under s. 1000.04(2), (4), and (5) ~~s. 1000.04(1), (3), and~~  
 1220 ~~(4)~~.

1221 Section 31. Subsections (3) and (10) of section 1002.32,  
 1222 Florida Statutes, are amended to read:

1223 1002.32 Developmental research (laboratory) schools.—

1224 (3) MISSION.—The mission of a lab school shall be the  
 1225 provision of a vehicle for the conduct of research,  
 1226 demonstration, and evaluation regarding management, teaching,  
 1227 and learning. Programs to achieve the mission of a lab school  
 1228 shall embody the goals and standards established pursuant to ss.  
 1229 1000.03(5) and 1001.23(1) ~~1001.23(2)~~ and shall ensure an  
 1230 appropriate education for its students.

1231 (a) Each lab school shall emphasize mathematics, science,  
 1232 computer science, and foreign languages. The primary goal of a  
 1233 lab school is to enhance instruction and research in such  
 1234 specialized subjects by using the resources available on a state  
 1235 university campus, while also providing an education in  
 1236 nonspecialized subjects. Each lab school shall provide  
 1237 sequential elementary and secondary instruction where  
 1238 appropriate. A lab school may not provide instruction at grade  
 1239 levels higher than grade 12 without authorization from the State  
 1240 Board of Education. Each lab school shall develop and implement  
 1241 a school improvement plan pursuant to s. 1003.02(3).

1242 (b) Research, demonstration, and evaluation conducted at a  
 1243 lab school may be generated by the college of education and  
 1244 other colleges within the university with which the school is  
 1245 affiliated.

1246 (c) Research, demonstration, and evaluation conducted at a  
 1247 lab school may be generated by the State Board of Education.

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 1248 Such research shall respond to the needs of the education  
 1249 community at large, rather than the specific needs of the  
 1250 affiliated college.

1251 (d) Research, demonstration, and evaluation conducted at a  
 1252 lab school may consist of pilot projects to be generated by the  
 1253 affiliated college, the State Board of Education, or the  
 1254 Legislature.

1255 (e) The exceptional education programs offered at a lab  
 1256 school shall be determined by the research and evaluation goals  
 1257 and the availability of students for efficiently sized programs.  
 1258 The fact that a lab school offers an exceptional education  
 1259 program in no way lessens the general responsibility of the  
 1260 local school district to provide exceptional education programs.

1261 (10) EXCEPTIONS TO LAW.—To encourage innovative practices  
 1262 and facilitate the mission of the lab schools, in addition to  
 1263 the exceptions to law specified in s. 1001.23(1) ~~s. 1001.23(2)~~,  
 1264 the following exceptions shall be permitted for lab schools:

1265 (a) The methods and requirements of the following statutes  
 1266 shall be held in abeyance: ss. 316.75; 1001.30; 1001.31;  
 1267 1001.32; 1001.33; 1001.34; 1001.35; 1001.36; 1001.361; 1001.362;  
 1268 1001.363; 1001.37; 1001.371; 1001.372; 1001.38; 1001.39;  
 1269 1001.395; 1001.40; 1001.41; 1001.44; 1001.453; 1001.46;  
 1270 1001.461; 1001.462; 1001.463; 1001.464; 1001.47; 1001.48;  
 1271 1001.49; 1001.50; 1001.51; 1006.12(2); 1006.21(3), (4); 1006.23;  
 1272 1010.07(2); 1010.40; 1010.41; 1010.42; 1010.43; 1010.44;  
 1273 1010.45; 1010.46; 1010.47; 1010.48; 1010.49; 1010.50; 1010.51;  
 1274 1010.52; 1010.53; 1010.54; 1010.55; 1011.02(1)-(3), (5);  
 1275 1011.04; 1011.20; 1011.21; 1011.22; 1011.23; 1011.71; 1011.72;  
 1276 1011.73; and 1011.74.



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1277 (b) With the exception of s. 1001.42(18), s. 1001.42 shall  
 1278 be held in abeyance. Reference to district school boards in s.  
 1279 1001.42(18) shall mean the president of the university or the  
 1280 president's designee.

1281 Section 32. Paragraph (b) of subsection (10) of section  
 1282 1002.34, Florida Statutes, is amended to read:  
 1283 1002.34 Charter technical career centers.—  
 1284 (10) EXEMPTION FROM STATUTES.—  
 1285 (b) A center must comply with the Florida Early Learning-20  
 1286 ~~K-20~~ Education Code with respect to providing services to  
 1287 students with disabilities.

1288 Section 33. Subsection (1) of section 1002.36, Florida  
 1289 Statutes, is amended to read:  
 1290 1002.36 Florida School for the Deaf and the Blind.—  
 1291 (1) RESPONSIBILITIES.—The Florida School for the Deaf and  
 1292 the Blind, located in St. Johns County, is a state-supported  
 1293 residential public school for hearing-impaired and visually  
 1294 impaired students in preschool through 12th grade. The school is  
 1295 a component of the delivery of public education within Florida's  
 1296 Early Learning-20 ~~K-20~~ education system and shall be funded  
 1297 through the Department of Education. The school shall provide  
 1298 educational programs and support services appropriate to meet  
 1299 the education and related evaluation and counseling needs of  
 1300 hearing-impaired and visually impaired students in the state who  
 1301 meet enrollment criteria. Unless otherwise provided by law, the  
 1302 school shall comply with all laws and rules applicable to state  
 1303 agencies. Education services may be provided on an outreach  
 1304 basis for sensory-impaired children ages 0 through 5 years and  
 1305 to district school boards upon request. Graduates of the Florida

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1306 School for the Deaf and the Blind shall be eligible for the  
 1307 William L. Boyd, IV, Effective Access to Student Education Grant  
 1308 Program as provided in s. 1009.89.

1309 Section 34. Paragraph (b) of subsection (4) and subsection  
 1310 (5) of section 1002.53, Florida Statutes, are amended, and  
 1311 paragraph (d) is added to subsection (6) of that section, to  
 1312 read:  
 1313 1002.53 Voluntary Prekindergarten Education Program;  
 1314 eligibility and enrollment.—  
 1315 (4)  
 1316 (b) The application must be submitted on forms prescribed  
 1317 by the department ~~Office of Early Learning~~ and must be  
 1318 accompanied by a certified copy of the child's birth  
 1319 certificate. The forms must include a certification, in  
 1320 substantially the form provided in s. 1002.71(6)(b)2., that the  
 1321 parent chooses the private prekindergarten provider or public  
 1322 school in accordance with this section and directs that payments  
 1323 for the program be made to the provider or school. The  
 1324 department ~~Office of Early Learning~~ may authorize alternative  
 1325 methods for submitting proof of the child's age in lieu of a  
 1326 certified copy of the child's birth certificate.

1327 (5) The early learning coalition shall provide each parent  
 1328 enrolling a child in the Voluntary Prekindergarten Education  
 1329 Program with a profile of every private prekindergarten provider  
 1330 and public school delivering the program within the county where  
 1331 the child is being enrolled. The profiles shall be provided to  
 1332 parents in a format prescribed by the department in accordance  
 1333 with s. 1002.92(3) ~~Office of Early Learning~~. ~~The profiles must~~  
 1334 ~~include, at a minimum, the following information about each~~

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1335 ~~provider and school.~~1336 ~~(a) The provider's or school's services, curriculum,~~  
1337 ~~instructor credentials, and instructor-to-student ratio; and~~1338 ~~(b) The provider's or school's kindergarten readiness rate~~  
1339 ~~calculated in accordance with s. 1002.69, based upon the most~~  
1340 ~~recent available results of the statewide kindergarten~~  
1341 ~~screening.~~

1342 (6)

1343 (d) Each parent who enrolls his or her child in the  
1344 Voluntary Prekindergarten Education Program must allow his or  
1345 her child to participate in the coordinated screening and  
1346 progress monitoring program under s. 1008.2125.1347 Section 35. Paragraphs (a), (b), (c), (e), (g), (h), (i),  
1348 (j), and (l) of subsection (3), subsection (4), and paragraph  
1349 (b) of subsection (5) of section 1002.55, Florida Statutes, are  
1350 amended, and subsection (6) is added to that section, to read:1351 1002.55 School-year prekindergarten program delivered by  
1352 private prekindergarten providers.—1353 (3) To be eligible to deliver the prekindergarten program,  
1354 a private prekindergarten provider must meet each of the  
1355 following requirements:1356 (a) The private prekindergarten provider must be a child  
1357 care facility licensed under s. 402.305, family day care home  
1358 licensed under s. 402.313, large family child care home licensed  
1359 under s. 402.3131, nonpublic school exempt from licensure under  
1360 s. 402.3025(2), ~~or~~ faith-based child care provider exempt from  
1361 licensure under s. 402.316, child development program that is  
1362 accredited by a national accrediting body and operates on a  
1363 military installation that is certified by the United States

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1364 Department of Defense, or private prekindergarten provider that  
1365 has been issued a provisional license under s. 402.309. A  
1366 private prekindergarten provider may not deliver the program  
1367 while holding a probation-status license under s. 402.310.

1368 (b) The private prekindergarten provider must:

1369 1. Be accredited by an accrediting association that is a  
1370 member of the National Council for Private School Accreditation,  
1371 or the Florida Association of Academic Nonpublic Schools, or be  
1372 accredited by the Southern Association of Colleges and Schools,  
1373 or Western Association of Colleges and Schools, or North Central  
1374 Association of Colleges and Schools, or Middle States  
1375 Association of Colleges and Schools, or New England Association  
1376 of Colleges and Schools; and have written accreditation  
1377 standards that meet or exceed the state's licensing requirements  
1378 under s. 402.305, s. 402.313, or s. 402.3131 and require at  
1379 least one onsite visit to the provider or school before  
1380 accreditation is granted;1381 2. Hold a current Gold Seal Quality Care designation under  
1382 s. 1002.945 ~~s. 402.281~~; or1383 3. Be licensed under s. 402.305, s. 402.313, or s. 402.3131  
1384 and demonstrate, before delivering the Voluntary Prekindergarten  
1385 Education Program, as verified by the early learning coalition,  
1386 that the provider meets each of the requirements of the program  
1387 under this part, including, but not limited to, the requirements  
1388 for credentials and background screenings of prekindergarten  
1389 instructors under paragraphs (c) and (d), minimum and maximum  
1390 class sizes under paragraph (f), prekindergarten director  
1391 credentials under paragraph (g), and a developmentally  
1392 appropriate curriculum under s. 1002.67(2)(b).

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1393 (c) The private prekindergarten provider must have, for  
 1394 each prekindergarten class of 11 children or fewer, at least one  
 1395 prekindergarten instructor who meets each of the following  
 1396 requirements:

1397 1. The prekindergarten instructor must hold, at a minimum,  
 1398 one of the following credentials:

1399 a. A child development associate credential issued by the  
 1400 National Credentialing Program of the Council for Professional  
 1401 Recognition; or

1402 b. A credential approved by the Department of Children and  
 1403 Families as being equivalent to or greater than the credential  
 1404 described in sub-subparagraph a.

1405 The Department of Children and Families may adopt rules under  
 1406 ss. 120.536(1) and 120.54 which provide criteria and procedures  
 1407 for approving equivalent credentials under sub-subparagraph b.

1408 2. The prekindergarten instructor must successfully  
 1409 complete at least three emergent literacy training courses  
 1410 that include developmentally appropriate and experiential  
 1411 learning practices for children course and a student performance  
 1412 standards training course approved by the department office as  
 1413 meeting or exceeding the minimum standards adopted under s.  
 1414 1002.59. The requirement for completion of the standards  
 1415 training course shall take effect July 1, 2022 ~~2014~~, and be  
 1416 recognized as part of the informal early learning career pathway  
 1417 identified by the department under s. 1002.995(1)(b). Such and  
 1418 the course shall be available online or in person.

1419 (e) A private prekindergarten provider may assign a  
 1420 substitute instructor to temporarily replace a credentialed  
 1421

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1422 instructor if the credentialed instructor assigned to a  
 1423 prekindergarten class is absent, as long as the substitute  
 1424 instructor is of good moral character and has been screened  
 1425 before employment in accordance with level 2 background  
 1426 screening requirements in chapter 435. The department office ~~of~~  
 1427 ~~Early Learning~~ shall adopt rules to implement this paragraph  
 1428 which shall include required qualifications of substitute  
 1429 instructors and the circumstances and time limits for which a  
 1430 private prekindergarten provider may assign a substitute  
 1431 instructor.

1432 (g) The private prekindergarten provider must have a  
 1433 prekindergarten director who has a prekindergarten director  
 1434 credential that is approved by the department office as meeting  
 1435 or exceeding the minimum standards adopted under s. 1002.57. A  
 1436 private school administrator who holds a valid certificate in  
 1437 educational leadership issued by the department satisfies the  
 1438 requirement for a prekindergarten director credential under s.  
 1439 1002.57 Successful completion of a child care facility director  
 1440 credential under s. 402.305(2)(g) before the establishment of  
 1441 the prekindergarten director credential under s. 1002.57 or July  
 1442 1, 2006, whichever occurs later, satisfies the requirement for a  
 1443 prekindergarten director credential under this paragraph.

1444 (h) The private prekindergarten provider must register with  
 1445 the early learning coalition on forms prescribed by the  
 1446 department Office of Early Learning.

1447 (i) The private prekindergarten provider must execute the  
 1448 statewide provider contract prescribed under s. 1002.73 ~~or~~  
 1449 ~~1002.75~~, except that an individual who owns or operates multiple  
 1450 private prekindergarten sites providers within a coalition's

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1451 service area may execute a single agreement with the coalition  
1452 on behalf of each site provider.

1453 (j) The private prekindergarten provider must maintain  
1454 general liability insurance and provide the coalition with  
1455 written evidence of general liability insurance coverage,  
1456 including coverage for transportation of children if  
1457 prekindergarten students are transported by the provider. A  
1458 provider must obtain and retain an insurance policy that  
1459 provides a minimum of \$100,000 of coverage per occurrence and a  
1460 minimum of \$300,000 general aggregate coverage. The department  
1461 ~~office~~ may authorize lower limits upon request, as appropriate.  
1462 A provider must add the coalition as a named certificateholder  
1463 and as an additional insured. A provider must provide the  
1464 coalition with a minimum of 10 calendar days' advance written  
1465 notice of cancellation of or changes to coverage. The general  
1466 liability insurance required by this paragraph must remain in  
1467 full force and effect for the entire period of the provider  
1468 contract with the coalition.

1469 (l) Notwithstanding paragraph (j), for a private  
1470 prekindergarten provider that is a state agency or a subdivision  
1471 thereof, as defined in s. 768.28(2), the provider must agree to  
1472 notify the coalition of any additional liability coverage  
1473 maintained by the provider in addition to that otherwise  
1474 established under s. 768.28. The provider shall indemnify the  
1475 coalition to the extent permitted by s. 768.28. Notwithstanding  
1476 paragraph (j), for a child development program that is  
1477 accredited by a national accrediting body and operates on a  
1478 military installation that is certified by the United States  
1479 Department of Defense, the provider may demonstrate liability

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1480 coverage by affirming that it is subject to the Federal Tort  
1481 Claims Act, 28 U.S.C. s. 2671 et seq.

1482 (4) A prekindergarten instructor, in lieu of the minimum  
1483 credentials ~~and courses~~ required under paragraph (3) (c), may  
1484 hold one of the following educational credentials:

1485 (a) A bachelor's or higher degree in early childhood  
1486 education, prekindergarten or primary education, preschool  
1487 education, or family and consumer science;

1488 (b) A bachelor's or higher degree in elementary education,  
1489 if the prekindergarten instructor has been certified to teach  
1490 children any age from birth through 6th grade, regardless of  
1491 whether the instructor's educator certificate is current, and if  
1492 the instructor is not ineligible to teach in a public school  
1493 because his or her educator certificate is suspended or revoked;

1494 (c) An associate's or higher degree in child development;

1495 (d) An associate's or higher degree in an unrelated field,  
1496 at least 6 credit hours in early childhood education or child  
1497 development, and at least 480 hours of experience in teaching or  
1498 providing child care services for children any age from birth  
1499 through 8 years of age; or

1500 (e) An educational credential approved by the department as  
1501 being equivalent to or greater than an educational credential  
1502 described in this subsection. The department may adopt criteria  
1503 and procedures for approving equivalent educational credentials  
1504 under this paragraph.

1505 (5)

1506 (b) Notwithstanding any other ~~provision of~~ law, if a  
1507 private prekindergarten provider has been cited for a class I  
1508 violation, as defined by rule of the Child Care Services Program

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1509 Office of the Department of Children and Families, the coalition  
1510 may refuse to contract with the provider.

1511 (6) Each early learning coalition shall verify that each  
1512 private prekindergarten provider delivering the Voluntary  
1513 Prekindergarten Education Program within the coalition's county  
1514 or multicounty region complies with this part. If a private  
1515 prekindergarten provider fails or refuses to comply with this  
1516 part or engages in misconduct, the department must require the  
1517 early learning coalition to remove the provider from eligibility  
1518 to deliver the program and receive state funds under this part  
1519 for a period of at least 2 years but no more than 5 years.

1520 Section 36. Paragraphs (b) and (c) of subsection (2) of  
1521 section 1002.57, Florida Statutes, are redesignated as  
1522 paragraphs (c) and (d), respectively, subsection (1) is amended,  
1523 and a new paragraph (b) is added to subsection (2) of that  
1524 section, to read:

1525 1002.57 Prekindergarten director credential.—

1526 (1) The department office, in consultation with the  
1527 Department of Children and Families, shall adopt minimum  
1528 standards for a credential for prekindergarten directors of  
1529 private prekindergarten providers delivering the Voluntary  
1530 Prekindergarten Education Program. The credential must encompass  
1531 requirements for education and onsite experience.

1532 (2) The educational requirements must include training in  
1533 the following:

1534 (b) Implementation of curriculum and usage of student-level  
1535 data to inform the delivery of instruction;

1536 Section 37. Section 1002.59, Florida Statutes, is amended  
1537 to read:

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1538 1002.59 Emergent literacy and performance standards

1539 training courses.—

1540 (1) The department office shall adopt minimum standards for  
1541 ~~one or more training~~ courses in emergent literacy for  
1542 prekindergarten instructors. Each course must comprise 5 clock  
1543 hours and provide instruction in strategies and techniques to  
1544 address the age-appropriate progress of prekindergarten students  
1545 in developing emergent literacy skills, including oral  
1546 communication, knowledge of print and letters, phonemic and  
1547 phonological awareness, and vocabulary and comprehension  
1548 development. Each course must also provide resources containing  
1549 strategies that allow students with disabilities and other  
1550 special needs to derive maximum benefit from the Voluntary  
1551 Prekindergarten Education Program. Successful completion of an  
1552 emergent literacy training course approved under this section  
1553 satisfies requirements for approved training in early literacy  
1554 and language development under ss. 402.305(2)(e)5., 402.313(6),  
1555 and 402.3131(5).

1556 (2) The department office shall adopt minimum standards for  
1557 ~~one or more training~~ courses on the performance standards  
1558 adopted under s. 1002.67(1). Each course must be comprised of  
1559 ~~comprise~~ at least 3 clock hours, provide instruction in  
1560 strategies and techniques to address age-appropriate progress of  
1561 each child in attaining the standards, and be available online.

1562 (3) The department shall make available online professional  
1563 development and training courses comprised of at least 8 clock  
1564 hours that support prekindergarten instructors in increasing the  
1565 competency of teacher-child interactions.

1566 Section 38. Present subsections (6) through (8) of section

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1567 1002.61, Florida Statutes, are redesignated as subsections (7)  
 1568 through (9), respectively, a new subsection (6) and subsection  
 1569 (10) are added to that section, and paragraph (b) of subsection  
 1570 (1), paragraph (b) of subsection (3), subsection (4), and  
 1571 present subsections (6) and (8) of that section are amended, to  
 1572 read:

1573 1002.61 Summer prekindergarten program delivered by public  
 1574 schools and private prekindergarten providers.—

1575 (1)

1576 (b) Each early learning coalition shall administer the  
 1577 Voluntary Prekindergarten Education Program at the county or  
 1578 regional level for students enrolled under s. 1002.53(3)(b) in a  
 1579 summer prekindergarten program delivered by a private  
 1580 prekindergarten provider. A child development program that is  
 1581 accredited by a national accrediting body and operates on a  
 1582 military installation that is certified by the United States  
 1583 Department of Defense may administer the summer prekindergarten  
 1584 program as a private prekindergarten provider.

1585 (3)

1586 (b) Each public school delivering the summer  
 1587 prekindergarten program must execute the statewide provider  
 1588 contract prescribed under s. 1002.73 ~~s. 1002.75~~, except that the  
 1589 school district may execute a single agreement with the early  
 1590 learning coalition on behalf of all district schools.

1591 (4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),  
 1592 each public school and private prekindergarten provider must  
 1593 have, for each prekindergarten class, at least one  
 1594 prekindergarten instructor who is a certified teacher or holds  
 1595 one of the educational credentials specified in s. 1002.55(4)(a)

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1596 or (b). As used in this subsection, the term "certified teacher"  
 1597 means a teacher holding a valid Florida educator certificate  
 1598 under s. 1012.56 who has the qualifications required by the  
 1599 district school board to instruct students in the summer  
 1600 prekindergarten program. In selecting instructional staff for  
 1601 the summer prekindergarten program, each school district shall  
 1602 give priority to teachers who have experience or coursework in  
 1603 early childhood education and have completed emergent literacy  
 1604 and performance standards courses, as provided for in s.  
 1605 1002.55(3)(c)2.

1606 (6) A child development program that is accredited by a  
 1607 national accrediting body and operates on a military  
 1608 installation that is certified by the United States Department  
 1609 of Defense shall comply with the requirements of a private  
 1610 prekindergarten provider in this section.

1611 (7) ~~(6)~~ A public school or private prekindergarten provider  
 1612 may assign a substitute instructor to temporarily replace a  
 1613 credentialed instructor if the credentialed instructor assigned  
 1614 to a prekindergarten class is absent, as long as the substitute  
 1615 instructor is of good moral character and has been screened  
 1616 before employment in accordance with level 2 background  
 1617 screening requirements in chapter 435. This subsection does not  
 1618 supersede employment requirements for instructional personnel in  
 1619 public schools which are more stringent than the requirements of  
 1620 this subsection. The department ~~Office of Early Learning~~ shall  
 1621 adopt rules to implement this subsection which shall include  
 1622 required qualifications of substitute instructors and the  
 1623 circumstances and time limits for which a public school or  
 1624 private prekindergarten provider may assign a substitute

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1625 instructor.

1626 ~~(9)(8)~~ Each public school delivering the summer  
1627 prekindergarten program must also register with the early  
1628 learning coalition on forms prescribed by the department Office  
1629 ~~of Early Learning~~ and deliver the Voluntary Prekindergarten  
1630 Education Program in accordance with this part.

1631 (10)(a) Each early learning coalition shall verify that  
1632 each private prekindergarten provider and public school  
1633 delivering the Voluntary Prekindergarten Education Program  
1634 within the coalition's county or multicounty region complies  
1635 with this part.

1636 (b) If a private prekindergarten provider or public school  
1637 fails or refuses to comply with this part or engages in  
1638 misconduct, the department shall require the early learning  
1639 coalition to remove the provider or school from eligibility to  
1640 deliver the Voluntary Prekindergarten Education Program and  
1641 receive state funds under this part for a period of at least 2  
1642 years but no more than 5 years.

1643 Section 39. Paragraph (b) of subsection (3) and subsections  
1644 (6) and (8) of section 1002.63, Florida Statutes, are amended,  
1645 and subsection (9) is added to that section, to read:

1646 1002.63 School-year prekindergarten program delivered by  
1647 public schools.—

1648 (3)

1649 (b) Each public school delivering the school-year  
1650 prekindergarten program must execute the statewide provider  
1651 contract prescribed under s. 1002.73 ~~s. 1002.75~~, except that the  
1652 school district may execute a single agreement with the early  
1653 learning coalition on behalf of all district schools.

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1654 (6) A public school prekindergarten provider may assign a  
1655 substitute instructor to temporarily replace a credentialed  
1656 instructor if the credentialed instructor assigned to a  
1657 prekindergarten class is absent, as long as the substitute  
1658 instructor is of good moral character and has been screened  
1659 before employment in accordance with level 2 background  
1660 screening requirements in chapter 435. This subsection does not  
1661 supersede employment requirements for instructional personnel in  
1662 public schools which are more stringent than the requirements of  
1663 this subsection. The department Office of Early Learning shall  
1664 adopt rules to implement this subsection which shall include  
1665 required qualifications of substitute instructors and the  
1666 circumstances and time limits for which a public school  
1667 prekindergarten provider may assign a substitute instructor.

1668 (8) Each public school delivering the school-year  
1669 prekindergarten program must register with the early learning  
1670 coalition on forms prescribed by the department Office of Early  
1671 ~~Learning~~ and deliver the Voluntary Prekindergarten Education  
1672 Program in accordance with this part.

1673 (9)(a) Each early learning coalition shall verify that each  
1674 public school delivering the Voluntary Prekindergarten Education  
1675 Program within the coalition's service area complies with this  
1676 part.

1677 (b) If a public school fails or refuses to comply with this  
1678 part or engages in misconduct, the department shall require the  
1679 early learning coalition to remove the school from eligibility  
1680 to deliver the Voluntary Prekindergarten Education Program and  
1681 receive state funds under this part for a period of at least 2  
1682 years but no more than 5 years.

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1683 Section 40. Section 1002.67, Florida Statutes, is amended  
1684 to read:

1685 1002.67 Performance standards and, curricula ~~and~~  
1686 ~~accountability.~~

1687 (1) (a) The department office shall develop and adopt  
1688 performance standards for students in the Voluntary  
1689 Prekindergarten Education Program. The performance standards  
1690 must address the age-appropriate progress of students in the  
1691 development of:

1692 1. The capabilities, capacities, and skills required under  
1693 s. 1(b), Art. IX of the State Constitution; ~~and~~

1694 2. Emergent literacy skills, including oral communication,  
1695 knowledge of print and letters, phonemic and phonological  
1696 awareness, and vocabulary and comprehension development; and

1697 3. Mathematical thinking and early math skills.

1698 ~~By October 1, 2013, the office shall examine the existing~~  
1699 ~~performance standards in the area of mathematical thinking and~~  
1700 ~~develop a plan to make appropriate professional development and~~  
1701 ~~training courses available to prekindergarten instructors.~~

1702 (b) At least every 3 years, the department office shall  
1703 ~~periodically~~ review and, if necessary, revise the performance  
1704 standards established under this section for the statewide  
1705 ~~kindergarten screening administered under s. 1002.69~~ and align  
1706 the standards to the standards established by the state board  
1707 for student performance on the statewide assessments  
1708 administered pursuant to s. 1008.22.

1709 (2) (a) Each private prekindergarten provider and public  
1710 school may select or design the curriculum that the provider or  
1711

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1712 school uses to implement the Voluntary Prekindergarten Education  
1713 Program, except as otherwise required for a provider or school  
1714 that is placed on probation under s. 1002.68 ~~paragraph (4) (e).~~

1715 (b) Each private prekindergarten provider's and public  
1716 school's curriculum must be developmentally appropriate and  
1717 must:

1718 1. Be designed to prepare a student for early literacy and  
1719 provide for instruction in early math skills;

1720 2. Enhance the age-appropriate progress of students in  
1721 attaining the performance standards adopted by the department  
1722 under subsection (1); and

1723 3. Support student learning gains through differentiated  
1724 instruction that shall be measured by the coordinated screening  
1725 and progress monitoring program under s. 1008.2125 ~~Prepare~~  
1726 ~~students to be ready for kindergarten based upon the statewide~~  
1727 ~~kindergarten screening administered under s. 1002.69.~~

1728 (c) The department office shall adopt procedures for the  
1729 review and approval of ~~approve~~ curricula for use by private  
1730 prekindergarten providers and public schools that are placed on  
1731 probation under s. 1002.68 ~~paragraph (4) (e).~~ The department  
1732 office shall administer the review and approval process and  
1733 maintain a list of the curricula approved under this paragraph.  
1734 Each approved curriculum must meet the requirements of paragraph  
1735 (b).

1736 ~~(3) (a) Contingent upon legislative appropriation, each~~  
1737 ~~private prekindergarten provider and public school in the~~  
1738 ~~Voluntary Prekindergarten Education Program must implement an~~  
1739 ~~evidence based pre and post assessment that has been approved~~  
1740 ~~by rule of the State Board of Education.~~



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1741 ~~(b) In order to be approved, the assessment must be valid,~~  
 1742 ~~reliable, developmentally appropriate, and designed to measure~~  
 1743 ~~student progress on domains which must include, but are not~~  
 1744 ~~limited to, early literacy, numeracy, and language.~~  
 1745 ~~(c) The pre and post assessment must be administered by~~  
 1746 ~~individuals meeting requirements established by rule of the~~  
 1747 ~~State Board of Education.~~  
 1748 ~~(4)(a) Each early learning coalition shall verify that each~~  
 1749 ~~private prekindergarten provider delivering the Voluntary~~  
 1750 ~~Prekindergarten Education Program within the coalition's county~~  
 1751 ~~or multicounty region complies with this part. Each district~~  
 1752 ~~school board shall verify that each public school delivering the~~  
 1753 ~~program within the school district complies with this part.~~  
 1754 ~~(b) If a private prekindergarten provider or public school~~  
 1755 ~~fails or refuses to comply with this part, or if a provider or~~  
 1756 ~~school engages in misconduct, the office shall require the early~~  
 1757 ~~learning coalition to remove the provider and require the school~~  
 1758 ~~district to remove the school from eligibility to deliver the~~  
 1759 ~~Voluntary Prekindergarten Education Program and receive state~~  
 1760 ~~funds under this part for a period of 5 years.~~  
 1761 ~~(c)1. If the kindergarten readiness rate of a private~~  
 1762 ~~prekindergarten provider or public school falls below the~~  
 1763 ~~minimum rate adopted by the office as satisfactory under s.~~  
 1764 ~~1002.69(6), the early learning coalition or school district, as~~  
 1765 ~~applicable, shall require the provider or school to submit an~~  
 1766 ~~improvement plan for approval by the coalition or school~~  
 1767 ~~district, as applicable, and to implement the plan; shall place~~  
 1768 ~~the provider or school on probation; and shall require the~~  
 1769 ~~provider or school to take certain corrective actions, including~~

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1770 ~~the use of a curriculum approved by the office under paragraph~~  
 1771 ~~(2)(c) or a staff development plan to strengthen instruction in~~  
 1772 ~~language development and phonological awareness approved by the~~  
 1773 ~~office.~~  
 1774 ~~2. A private prekindergarten provider or public school that~~  
 1775 ~~is placed on probation must continue the corrective actions~~  
 1776 ~~required under subparagraph 1., including the use of a~~  
 1777 ~~curriculum or a staff development plan to strengthen instruction~~  
 1778 ~~in language development and phonological awareness approved by~~  
 1779 ~~the office, until the provider or school meets the minimum rate~~  
 1780 ~~adopted by the office as satisfactory under s. 1002.69(6).~~  
 1781 ~~Failure to implement an approved improvement plan or staff~~  
 1782 ~~development plan shall result in the termination of the~~  
 1783 ~~provider's contract to deliver the Voluntary Prekindergarten~~  
 1784 ~~Education Program for a period of 5 years.~~  
 1785 ~~3. If a private prekindergarten provider or public school~~  
 1786 ~~remains on probation for 2 consecutive years and fails to meet~~  
 1787 ~~the minimum rate adopted by the office as satisfactory under s.~~  
 1788 ~~1002.69(6) and is not granted a good cause exemption by the~~  
 1789 ~~office pursuant to s. 1002.69(7), the office shall require the~~  
 1790 ~~early learning coalition or the school district to remove, as~~  
 1791 ~~applicable, the provider or school from eligibility to deliver~~  
 1792 ~~the Voluntary Prekindergarten Education Program and receive~~  
 1793 ~~state funds for the program for a period of 5 years.~~  
 1794 ~~(d) Each early learning coalition and the office shall~~  
 1795 ~~coordinate with the Child Care Services Program Office of the~~  
 1796 ~~Department of Children and Families to minimize interagency~~  
 1797 ~~duplication of activities for monitoring private prekindergarten~~  
 1798 ~~providers for compliance with requirements of the Voluntary~~

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1799 ~~Prekindergarten Education Program under this part, the school~~  
 1800 ~~readiness program under part VI of this chapter, and the~~  
 1801 ~~licensing of providers under ss. 402.301-402.319.~~

1802 Section 41. Section 1002.68, Florida Statutes, is created  
 1803 to read:

1804 1002.68 Voluntary Prekindergarten Education Program  
 1805 accountability.—

1806 (1) (a) Beginning with the 2022-2023 program year, each  
 1807 private prekindergarten provider and public school participating  
 1808 in the Voluntary Prekindergarten Education Program must  
 1809 participate in the coordinated screening and progress monitoring  
 1810 program in accordance with s. 1008.2125. The coordinated  
 1811 screening and progress monitoring program results shall be used  
 1812 by the department to identify student learning gains, index  
 1813 development learning outcomes upon program completion relative  
 1814 to the performance standards established under s. 1002.67 and  
 1815 representative norms, and inform a private prekindergarten  
 1816 provider's and public school's performance metric.

1817 (b) At a minimum, the initial and final progress monitoring  
 1818 or screening must be administered by individuals meeting  
 1819 requirements adopted by the department under s. 1008.2125.

1820 (c) Each private prekindergarten provider and public school  
 1821 must provide a student's performance results from the  
 1822 coordinated screening and progress monitoring to the student's  
 1823 parents within 7 days after the administration of such  
 1824 coordinated screening and progress monitoring.

1825 (2) Beginning with the 2021-2022 program year, each private  
 1826 prekindergarten provider and public school in the Voluntary  
 1827 Prekindergarten Education Program must participate in a program

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1828 assessment of each voluntary prekindergarten education  
 1829 classroom. The program assessment shall measure the quality of  
 1830 teacher-child interactions, including emotional support,  
 1831 classroom organization, and instructional support for children  
 1832 ages 3 to 5 years. Each private prekindergarten provider and  
 1833 public school in the Voluntary Prekindergarten Education Program  
 1834 shall receive from the department the results of the program  
 1835 assessment for each classroom within 14 days after the  
 1836 observation. Each early learning coalition shall be responsible  
 1837 for the administration of the program assessments, which must be  
 1838 conducted by individuals qualified to conduct program  
 1839 assessments under s. 1002.82(2)(n).

1840 (3) (a) For the 2020-2021 program year, the department shall  
 1841 calculate a kindergarten readiness rate for each private  
 1842 prekindergarten provider and public school in the Voluntary  
 1843 Prekindergarten Education Program, based upon learning gains and  
 1844 the percentage of students who are assessed as ready for  
 1845 kindergarten. The department shall require that each school  
 1846 district administer the statewide kindergarten screening in use  
 1847 before the 2021-2022 school year to each kindergarten student in  
 1848 the school district within the first 30 school days of the 2021-  
 1849 2022 school year. Private schools may administer the statewide  
 1850 kindergarten screening to each kindergarten student in a private  
 1851 school who was enrolled in the Voluntary Prekindergarten  
 1852 Education Program. Learning gains shall be determined using a  
 1853 value-added measure based on growth demonstrated by the results  
 1854 of the preassessment and postassessment in use before the 2021-  
 1855 2022 program year. Any private prekindergarten provider or  
 1856 public school in the Voluntary Prekindergarten Education Program

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1857 which fails to meet the minimum kindergarten readiness rate for  
 1858 the 2020-2021 program year is subject to the probation  
 1859 requirements of subsection (5).

1860 (b) For the 2021-2022 program year, the department shall  
 1861 calculate a program assessment composite score for each provider  
 1862 based on the program assessment under subsection (2). Any  
 1863 private prekindergarten provider or public school in the  
 1864 Voluntary Prekindergarten Education Program which fails to meet  
 1865 the minimum program assessment composite score established by  
 1866 the state board pursuant to s. 1002.82(2)(n) for the 2021-2022  
 1867 program year is subject to the probation requirements of  
 1868 subsection (5).

1869 (4) (a) Beginning with the 2022-2023 program year, the  
 1870 department shall adopt a methodology for calculating each  
 1871 private prekindergarten provider's and public school provider's  
 1872 performance metric, which must be based on a combination of the  
 1873 following:

1874 1. Program assessment composite scores under subsection  
 1875 (3), which must be weighted at no less than 50 percent.

1876 2. Learning gains operationalized as change in ability  
 1877 scores from the initial and final progress monitoring results  
 1878 described in subsection (1).

1879 3. Norm-referenced developmental learning outcomes  
 1880 described in subsection (1).

1881 (b) The methodology for calculating a provider's  
 1882 performance metric may only include prekindergarten students who  
 1883 have attended at least 85 percent of a private prekindergarten  
 1884 provider's or public school's program.

1885 (c) The program assessment composite score and performance

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1886 metric must be calculated for each private prekindergarten or  
 1887 public school site.

1888 (d) The methodology shall include a statistical latent  
 1889 profile analysis that has been conducted by an independent  
 1890 expert with experience in relevant quantitative analysis, early  
 1891 childhood assessment, and designing state-level accountability  
 1892 systems. The independent expert shall be able to produce a  
 1893 limited number of performance metric profiles that summarize the  
 1894 profiles of all sites that must be used to inform the following  
 1895 designations: "unsatisfactory," "emerging proficiency,"  
 1896 "proficient," "highly proficient," and "excellent" or comparable  
 1897 terminology determined by the State Board of Education which may  
 1898 not include letter grades. The independent expert may not be a  
 1899 direct stakeholder or have had a financial interest in the  
 1900 design or delivery of the Voluntary Prekindergarten Education  
 1901 Program or public school system within the last 5 years.

1902 (e) Subject to an appropriation, the department shall  
 1903 provide for a differential payment to a private prekindergarten  
 1904 provider and public school based on the provider's designation.  
 1905 The maximum differential payment may not exceed a total of 15  
 1906 percent of the base student allocation per full-time equivalent  
 1907 student under s. 1002.71 attending in the consecutive program  
 1908 year for that program. A private prekindergarten provider or  
 1909 public school may not receive a differential payment if it  
 1910 receives a designation of proficient or lower. Before the  
 1911 adoption of the methodology, the department and the independent  
 1912 expert shall confer with the Council for Early Grade Success  
 1913 under s. 1008.2125 before receiving approval from the State  
 1914 Board of Education for the final recommendations on the

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1915 designation system and differential payments.

1916 (f) The department shall adopt procedures to annually  
 1917 calculate each private prekindergarten provider's and public  
 1918 school's performance metric, based on the methodology adopted in  
 1919 paragraphs (a) and (b), and assign a designation under paragraph  
 1920 (d). Beginning with the 2023-2024 program year, each private  
 1921 prekindergarten provider or public school shall be assigned a  
 1922 designation within 45 days after the conclusion of the school-  
 1923 year Voluntary Prekindergarten Education Program delivered by  
 1924 all participating private prekindergarten providers or public  
 1925 schools and within 45 days after the conclusion of the summer  
 1926 Voluntary Prekindergarten Education Program delivered by all  
 1927 participating private prekindergarten providers or public  
 1928 schools.

1929 (g) A private prekindergarten provider or public school  
 1930 designated "proficient," "highly proficient," or "excellent"  
 1931 demonstrates the provider's or school's satisfactory delivery of  
 1932 the Voluntary Prekindergarten Education Program.

1933 (h) The designations shall be displayed in the early  
 1934 learning provider performance profiles required under s.  
 1935 1002.92(3).

1936 (5) (a) If a public school's or private prekindergarten  
 1937 provider's program assessment composite score for its  
 1938 prekindergarten classrooms fails to meet the minimum program  
 1939 assessment composite score for contracting established by the  
 1940 department pursuant to s. 1002.82(2)(n), the private  
 1941 prekindergarten provider or public school may not participate in  
 1942 the Voluntary Prekindergarten Education Program beginning in the  
 1943 consecutive program year and thereafter until the public school

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1944 or private prekindergarten provider meets the minimum composite  
 1945 score for contracting.

1946 (b) If a private prekindergarten provider's or public  
 1947 school's performance metric or designation falls below the  
 1948 minimum performance metric or designation, the early learning  
 1949 coalition shall:

1950 1. Require the provider or school to submit for approval to  
 1951 the early learning coalition an improvement plan and implement  
 1952 the plan.

1953 2. Place the provider or school on probation.

1954 3. Require the provider or school to take certain  
 1955 corrective actions, including the use of a curriculum approved  
 1956 by the department under s. 1002.67(2)(c) and a staff development  
 1957 plan approved by the department to strengthen instructional  
 1958 practices in emotional support, classroom organization,  
 1959 instructional support, language development, phonological  
 1960 awareness, alphabet knowledge, and mathematical thinking.

1961 (c) A private prekindergarten provider or public school  
 1962 placed on probation must continue the corrective actions  
 1963 required under paragraph (b) until the provider or school meets  
 1964 the minimum performance metric or designation adopted by the  
 1965 department. Failure to meet the requirements of subparagraphs  
 1966 (b)1. and 3. shall result in the termination of the provider's  
 1967 or school's contract to deliver the Voluntary Prekindergarten  
 1968 Education Program for a period of at least 2 years but no more  
 1969 than 5 years.

1970 (d) If a private prekindergarten provider or public school  
 1971 remains on probation for 2 consecutive years and fails to meet  
 1972 the minimum performance metric or designation, or is not granted

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1973 a good cause exemption by the department, the department shall  
 1974 require the early learning coalition to revoke the provider's or  
 1975 school's eligibility to deliver the Voluntary Prekindergarten  
 1976 Education Program and receive state funds for the program for a  
 1977 period of at least 2 years but no more than 5 years.

1978 (6) (a) The department, upon the request of a private  
 1979 prekindergarten provider or public school that remains on  
 1980 probation for at least 2 consecutive years and subsequently  
 1981 fails to meet the minimum performance metric or designation, and  
 1982 for good cause shown, may grant to the provider or school an  
 1983 exemption from being determined ineligible to deliver the  
 1984 Voluntary Prekindergarten Education Program and receive state  
 1985 funds for the program. Such exemption is valid for 1 year and,  
 1986 upon the request of the private prekindergarten provider or  
 1987 public school and for good cause shown, may be renewed.

1988 (b) A private prekindergarten provider's or public school's  
 1989 request for a good cause exemption, or renewal of such an  
 1990 exemption, must be submitted to the department in the manner and  
 1991 within the timeframes prescribed by the department and must  
 1992 include the following:

1993 1. Data from the private prekindergarten provider or public  
 1994 school which documents the achievement and progress of the  
 1995 children served, as measured by any required screenings or  
 1996 assessments.

1997 2. Data from the program assessment required under  
 1998 subsection (2) which demonstrates effective teaching practices  
 1999 as recognized by the tool developer.

2000 3. Data from the early learning coalition or district  
 2001 school board, as applicable, the Department of Children and

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2002 Families, the local licensing authority, or an accrediting  
 2003 association, as applicable, relating to the private  
 2004 prekindergarten provider's or public school's compliance with  
 2005 state and local health and safety standards.

2006 (c) The department shall adopt criteria for granting good  
 2007 cause exemptions. Such criteria must include, but are not  
 2008 limited to, all of the following:

2009 1. Child demographic data that evidences a private  
 2010 prekindergarten provider or public school serves a statistically  
 2011 significant population of children with special needs who have  
 2012 individual education plans and can demonstrate progress toward  
 2013 meeting the goals outlined in the students' individual education  
 2014 plans.

2015 2. Learning gains of children served in the Voluntary  
 2016 Prekindergarten Education Program by the private prekindergarten  
 2017 provider or public school on an alternative measure that has  
 2018 comparable validity and reliability of the coordinated screening  
 2019 and progress monitoring program in accordance with s. 1008.2125.

2020 3. Program assessment data under subsection (2) which  
 2021 demonstrates effective teaching practices as recognized by the  
 2022 tool developer.

2023 4. Verification that local and state health and safety  
 2024 requirements are met.

2025 (d) A good cause exemption may not be granted to any  
 2026 private prekindergarten provider or public school that has any  
 2027 class I violations or two or more class II violations, as  
 2028 defined by rule of the Department of Children and Families,  
 2029 within the 2 years preceding the provider's or school's request  
 2030 for the exemption.

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2031 (e) A private prekindergarten provider or public school  
 2032 granted a good cause exemption shall continue to implement its  
 2033 improvement plan and continue the corrective actions required  
 2034 under subsection (5) (b) until the provider or school meets the  
 2035 minimum performance metric.

2036 (f) If a good cause exemption is granted to a private  
 2037 prekindergarten provider or public school that remains on  
 2038 probation for 2 consecutive years and if the provider meets all  
 2039 other applicable requirements of this part, the department shall  
 2040 notify the early learning coalition of the good cause exemption  
 2041 and direct that the early learning coalition not remove the  
 2042 provider from eligibility to deliver the Voluntary  
 2043 Prekindergarten Education Program or to receive state funds for  
 2044 the program.

2045 (g) The department shall report the number of private  
 2046 prekindergarten providers or public schools that have received a  
 2047 good cause exemption and the reasons for the exemptions as part  
 2048 of its annual reporting requirements under s. 1002.82(7).

2049 (7) Representatives from each school district and  
 2050 corresponding early learning coalitions must meet annually to  
 2051 develop strategies to transition students from the Voluntary  
 2052 Prekindergarten Education Program to kindergarten.

2053 Section 42. Section 1002.69, Florida Statutes, is repealed.

2054 Section 43. Paragraph (c) of subsection (3), subsection  
 2055 (4), paragraph (b) of subsection (5), paragraphs (b) and (d) of  
 2056 subsection (6), and subsection (7) of section 1002.71, Florida  
 2057 Statutes, are amended to read:

2058 1002.71 Funding; financial and attendance reporting.—

2059 (3)

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2060 (c) The initial allocation shall be based on estimated  
 2061 student enrollment in each coalition service area. The  
 2062 ~~department Office of Early Learning~~ shall reallocate funds among  
 2063 the coalitions based on actual full-time equivalent student  
 2064 enrollment in each coalition service area. Each coalition shall  
 2065 report student enrollment pursuant to subsection (2) on a  
 2066 monthly basis. A student enrollment count for the prior fiscal  
 2067 year may not be amended after September 30 of the subsequent  
 2068 fiscal year.

2069 (4) Notwithstanding s. 1002.53(3) and subsection (2):

2070 (a) A child who, for any of the prekindergarten programs  
 2071 listed in s. 1002.53(3), has not completed more than 70 percent  
 2072 of the hours authorized to be reported for funding under  
 2073 subsection (2), or has not expended more than 70 percent of the  
 2074 funds authorized for the child under s. 1002.66, may withdraw  
 2075 from the program for good cause and reenroll in one of the  
 2076 programs. The total funding for a child who reenrolls in one of  
 2077 the programs for good cause may not exceed one full-time  
 2078 equivalent student. Funding for a child who withdraws and  
 2079 reenrolls in one of the programs for good cause shall be issued  
 2080 in accordance with the ~~department's Office of Early Learning's~~  
 2081 uniform attendance policy adopted pursuant to paragraph (6) (d).

2082 (b) A child who has not substantially completed any of the  
 2083 prekindergarten programs listed in s. 1002.53(3) may withdraw  
 2084 from the program due to an extreme hardship that is beyond the  
 2085 child's or parent's control, reenroll in one of the summer  
 2086 programs, and be reported for funding purposes as a full-time  
 2087 equivalent student in the summer program for which the child is  
 2088 reenrolled.

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2089

2090 A child may reenroll only once in a prekindergarten program  
 2091 under this section. A child who reenrolls in a prekindergarten  
 2092 program under this subsection may not subsequently withdraw from  
 2093 the program and reenroll, unless the child is granted a good  
 2094 cause exemption under this subsection. The department Office of  
 2095 ~~Early Learning~~ shall establish criteria specifying whether a  
 2096 good cause exists for a child to withdraw from a program under  
 2097 paragraph (a), whether a child has substantially completed a  
 2098 program under paragraph (b), and whether an extreme hardship  
 2099 exists which is beyond the child's or parent's control under  
 2100 paragraph (b).

2101 (5)

2102 (b) The department Office of Early Learning shall adopt  
 2103 procedures for the payment of private prekindergarten providers  
 2104 and public schools delivering the Voluntary Prekindergarten  
 2105 Education Program. The procedures shall provide for the advance  
 2106 payment of providers and schools based upon student enrollment  
 2107 in the program, the certification of student attendance, and the  
 2108 reconciliation of advance payments in accordance with the  
 2109 uniform attendance policy adopted under paragraph (6) (d). The  
 2110 procedures shall provide for the monthly distribution of funds  
 2111 by the department Office of Early Learning to the early learning  
 2112 coalitions for payment by the coalitions to private  
 2113 prekindergarten providers and public schools.

2114 (6)

2115 (b)1. Each private prekindergarten provider's and district  
 2116 school board's attendance policy must require the parent of each  
 2117 student in the Voluntary Prekindergarten Education Program to

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2119 verify, each month, the student's attendance on the prior  
 2120 month's certified student attendance.

2121 2. The parent must submit the verification of the student's  
 2122 attendance to the private prekindergarten provider or public  
 2123 school on forms prescribed by the department Office of Early  
 2124 ~~Learning~~. The forms must include, in addition to the  
 2125 verification of the student's attendance, a certification, in  
 2126 substantially the following form, that the parent continues to  
 2127 choose the private prekindergarten provider or public school in  
 2128 accordance with s. 1002.53 and directs that payments for the  
 2129 program be made to the provider or school:

2129

2130 VERIFICATION OF STUDENT'S ATTENDANCE

2131 AND CERTIFICATION OF PARENTAL CHOICE

2132 I, ...(Name of Parent)..., swear (or affirm) that my child,  
 2133 ...(Name of Student)..., attended the Voluntary Prekindergarten  
 2134 Education Program on the days listed above and certify that I  
 2135 continue to choose ...(Name of Provider or School)... to deliver  
 2136 the program for my child and direct that program funds be paid  
 2137 to the provider or school for my child.

2138

...(Signature of Parent)...

2139

...(Date)...

2140

2141 3. The private prekindergarten provider or public school  
 2142 must keep each original signed form for at least 2 years. Each  
 2143 private prekindergarten provider must permit the early learning  
 2144 coalition, and each public school must permit the school  
 2145 district, to inspect the original signed forms during normal  
 2146 business hours. The department Office of Early Learning shall  
 adopt procedures for early learning coalitions and school

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2147 districts to review the original signed forms against the  
 2148 certified student attendance. The review procedures shall  
 2149 provide for the use of selective inspection techniques,  
 2150 including, but not limited to, random sampling. Each early  
 2151 learning coalition and the school districts must comply with the  
 2152 review procedures.

2153 (d) The department ~~Office of Early Learning~~ shall adopt,  
 2154 for funding purposes, a uniform attendance policy for the  
 2155 Voluntary Prekindergarten Education Program. The attendance  
 2156 policy must apply statewide and apply equally to all private  
 2157 prekindergarten providers and public schools. The attendance  
 2158 policy must include at least the following provisions:

2159 1. A student's attendance may be reported on a pro rata  
 2160 basis as a fractional part of a full-time equivalent student.

2161 2. At a maximum, 20 percent of the total payment made on  
 2162 behalf of a student to a private prekindergarten provider or a  
 2163 public school may be for hours a student is absent.

2164 3. A private prekindergarten provider or public school may  
 2165 not receive payment for absences that occur before a student's  
 2166 first day of attendance or after a student's last day of  
 2167 attendance.

2168  
 2169 The uniform attendance policy shall be used only for funding  
 2170 purposes and does not prohibit a private prekindergarten  
 2171 provider or public school from adopting and enforcing its  
 2172 attendance policy under paragraphs (a) and (c).

2173 (7) The department ~~Office of Early Learning~~ shall require  
 2174 that administrative expenditures be kept to the minimum  
 2175 necessary for efficient and effective administration of the

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2176 Voluntary Prekindergarten Education Program. Administrative  
 2177 policies and procedures shall be revised, to the maximum extent  
 2178 practicable, to incorporate the use of automation and electronic  
 2179 submission of forms, including those required for child  
 2180 eligibility and enrollment, provider and class registration, and  
 2181 monthly certification of attendance for payment. A school  
 2182 district may use its automated daily attendance reporting system  
 2183 for the purpose of transmitting attendance records to the early  
 2184 learning coalition in a mutually agreed-upon format. In  
 2185 addition, actions shall be taken to reduce paperwork, eliminate  
 2186 the duplication of reports, and eliminate other duplicative  
 2187 activities. Each early learning coalition may retain and expend  
 2188 no more than 4.0 percent of the funds paid by the coalition to  
 2189 private prekindergarten providers and public schools under  
 2190 paragraph (5) (b). Funds retained by an early learning coalition  
 2191 under this subsection may be used only for administering the  
 2192 Voluntary Prekindergarten Education Program and may not be used  
 2193 for the school readiness program or other programs.

2194 Section 44. Subsection (1) of section 1002.72, Florida  
 2195 Statutes, is amended to read:

2196 1002.72 Records of children in the Voluntary  
 2197 Prekindergarten Education Program.—

2198 (1) (a) The records of a child enrolled in the Voluntary  
 2199 Prekindergarten Education Program held by an early learning  
 2200 coalition, the department ~~Office of Early Learning~~, or a  
 2201 Voluntary Prekindergarten Education Program provider are  
 2202 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 2203 of the State Constitution. For purposes of this section, such  
 2204 records include assessment data, health data, records of teacher



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2205 observations, and personal identifying information of an  
 2206 enrolled child and his or her parent.  
 2207 (b) This exemption applies to the records of a child  
 2208 enrolled in the Voluntary Prekindergarten Education Program held  
 2209 by an early learning coalition, the ~~department Office of Early~~  
 2210 ~~Learning~~, or a Voluntary Prekindergarten Education Program  
 2211 provider before, on, or after the effective date of this  
 2212 exemption.  
 2213 Section 45. Section 1002.73, Florida Statutes, is amended  
 2214 to read:  
 2215 1002.73 Department of Education; powers and duties;  
 2216 accountability requirements.—  
 2217 (1) The department shall adopt by rule a standard statewide  
 2218 provider contract to be used with each Voluntary Prekindergarten  
 2219 Education Program provider, with standardized attachments by  
 2220 provider type. The department shall publish a copy of the  
 2221 standard statewide provider contract on its website. The  
 2222 standard statewide provider contract shall include, at a  
 2223 minimum, provisions for provider probation, termination for  
 2224 cause, and emergency termination for actions or inactions of a  
 2225 provider which pose an immediate and serious danger to the  
 2226 health, safety, or welfare of children. The standard statewide  
 2227 provider contract shall also include appropriate due process  
 2228 procedures. During the pendency of an appeal of a termination,  
 2229 the provider may not continue to offer its services. Any  
 2230 provision imposed upon a provider which is inconsistent with, or  
 2231 prohibited by, law is void and unenforceable ~~administer the~~  
 2232 ~~accountability requirements of the Voluntary Prekindergarten~~  
 2233 ~~Education Program at the state level.~~

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2234 (2) The department shall adopt procedures for ~~its~~:  
 2235 (a) The approval of prekindergarten director credentials  
 2236 under ss. 1002.55 and 1002.57.  
 2237 (b) The approval of emergent literacy and early mathematics  
 2238 skills training courses under ss. 1002.55 and 1002.59.  
 2239 (c) Annually notifying private prekindergarten providers  
 2240 and public schools placed on probation for not meeting the  
 2241 minimum performance metric or designation as required by s.  
 2242 1002.68 of the high-quality professional development  
 2243 opportunities developed or supported by the department.  
 2244 (d) The administration of the Voluntary Prekindergarten  
 2245 Education Program by the early learning coalitions, including,  
 2246 but not limited to, procedures for:  
 2247 1. Enrolling students in and determining the eligibility of  
 2248 children for the Voluntary Prekindergarten Education Program  
 2249 under s. 1002.53, which shall include the enrollment of children  
 2250 by public schools and private providers that meet specified  
 2251 requirements.  
 2252 2. Providing parents with profiles of private  
 2253 prekindergarten providers and public schools under s. 1002.53.  
 2254 3. Registering private prekindergarten providers and public  
 2255 schools to deliver the program under ss. 1002.55, 1002.61, and  
 2256 1002.63.  
 2257 4. Determining the eligibility of private prekindergarten  
 2258 providers to deliver the program under ss. 1002.55 and 1002.61  
 2259 and streamlining the process of determining provider eligibility  
 2260 whenever possible.  
 2261 5. Verifying the compliance of private prekindergarten  
 2262 providers and public schools and removing providers or schools

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2263 from eligibility to deliver the program due to noncompliance or  
 2264 misconduct as provided in s. 1002.67.

2265 6. Paying private prekindergarten providers and public  
 2266 schools under s. 1002.71.

2267 7. Documenting and certifying student enrollment and  
 2268 student attendance under s. 1002.71.

2269 8. Reconciling advance payments in accordance with the  
 2270 uniform attendance policy under s. 1002.71.

2271 9. Reenrolling students dismissed by a private  
 2272 prekindergarten provider or public school for noncompliance with  
 2273 the provider's or school district's attendance policy under s.  
 2274 1002.71.

2275 (3) The department shall administer the accountability  
 2276 requirements of the Voluntary Prekindergarten Education Program  
 2277 at the state level.

2278 (4) The department shall adopt procedures governing the  
 2279 administration of the Voluntary Prekindergarten Education  
 2280 Program by the early learning coalitions for:

2281 (a) Approving improvement plans of private prekindergarten  
 2282 providers and public schools under s. 1002.68.

2283 (b) Placing private prekindergarten providers and public  
 2284 schools on probation and requiring corrective actions under s.  
 2285 1002.68.

2286 (c) Removing a private prekindergarten provider or public  
 2287 school from eligibility to deliver the program due to the  
 2288 provider's or school's remaining on probation beyond the time  
 2289 permitted under s. 1002.68. Notwithstanding any other law, if a  
 2290 private prekindergarten provider has been cited for a class I  
 2291 violation, as defined by rule of the Child Care Services Program

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2292 Office of the Department of Children and Families, the coalition  
 2293 may refuse to contract with the provider or revoke the  
 2294 provider's eligibility to deliver the Voluntary Prekindergarten  
 2295 Education Program.

2296 (d) Enrolling children in and determining the eligibility  
 2297 of children for the Voluntary Prekindergarten Education Program  
 2298 under s. 1002.66.

2299 (e) Paying specialized instructional services providers  
 2300 under s. 1002.66.

2301 ~~(e) Administration of the statewide kindergarten screening~~  
 2302 ~~and calculation of kindergarten readiness rates under s.~~  
 2303 ~~1002.69.~~

2304 ~~(d) Implementation of, and determination of costs~~  
 2305 ~~associated with, the state-approved prekindergarten enrollment~~  
 2306 ~~screening and the standardized postassessment approved by the~~  
 2307 ~~department, and determination of the learning gains of students~~  
 2308 ~~who complete the state-approved prekindergarten enrollment~~  
 2309 ~~screening and the standardized postassessment approved by the~~  
 2310 ~~department.~~

2311 (f)(e) Approving Approval of specialized instructional  
 2312 services providers under s. 1002.66.

2313 ~~(f) Annual reporting of the percentage of kindergarten~~  
 2314 ~~students who meet all state readiness measures.~~

2315 (g) Granting of a private prekindergarten provider's or  
 2316 public school's request for a good cause exemption under s.  
 2317 1002.68 s. 1002.69(7).

2318 (5) The department shall adopt procedures for the  
 2319 distribution of funds to early learning coalitions under s.  
 2320 1002.71.

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2321 ~~(6)(3)~~ Except as provided by law, the department may not  
 2322 impose requirements on a private prekindergarten provider or  
 2323 public school that does not deliver the Voluntary  
 2324 Prekindergarten Education Program or receive state funds under  
 2325 this part.

2326 Section 46. Sections 1002.75, Florida Statutes, is  
 2327 repealed.

2328 Section 47. Section 1002.79, Florida Statutes, is amended  
 2329 to read:

2330 1002.79 Rulemaking authority.—The State Board of Education  
 2331 ~~Office of Early Learning~~ shall adopt rules under ss. 120.536(1)  
 2332 and 120.54 to administer the provisions of this part conferring  
 2333 duties upon the department office.

2334 Section 48. Section 1002.81, Florida Statutes, is amended  
 2335 to read:

2336 1002.81 Definitions.—Consistent with the requirements of 45  
 2337 C.F.R. parts 98 and 99 and as used in this part, the term:

2338 (1) "At-risk child" means:

2339 (a) A child from a family under investigation by the  
 2340 Department of Children and Families or a designated sheriff's  
 2341 office for child abuse, neglect, abandonment, or exploitation.

2342 (b) A child who is in a diversion program provided by the  
 2343 Department of Children and Families or its contracted provider  
 2344 and who is from a family that is actively participating and  
 2345 complying in department-prescribed activities, including  
 2346 education, health services, or work.

2347 (c) A child from a family that is under supervision by the  
 2348 Department of Children and Families or a contracted service  
 2349 provider for abuse, neglect, abandonment, or exploitation.

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2350 (d) A child placed in court-ordered, long-term custody or  
 2351 under the guardianship of a relative or nonrelative after  
 2352 termination of supervision by the Department of Children and  
 2353 Families or its contracted provider.

2354 (e) A child in the custody of a parent who is considered a  
 2355 victim of domestic violence and is receiving services through a  
 2356 certified domestic violence center.

2357 (f) A child in the custody of a parent who is considered  
 2358 homeless as verified by a Department of Children and Families  
 2359 certified homeless shelter.

2360 (2) "Authorized hours of care" means the hours of care that  
 2361 are necessary to provide protection, maintain employment, or  
 2362 complete work activities or eligible educational activities,  
 2363 including reasonable travel time.

2364 ~~(12)(3)~~ "Prevailing Average market rate" means the  
 2365 biennially determined 75th percentile of a reasonable frequency  
 2366 distribution average of the market rate by program care level  
 2367 and provider type in a predetermined geographic market at which  
 2368 child care providers charge a person for child care services.

2369 ~~(3)(4)~~ "Direct enhancement services" means services for  
 2370 families and children that are in addition to payments for the  
 2371 placement of children in the school readiness program. Direct  
 2372 enhancement services for families and children may include  
 2373 supports for providers, parent training and involvement  
 2374 activities, and strategies to meet the needs of unique  
 2375 populations and local eligibility priorities. Direct enhancement  
 2376 services offered by an early learning coalition shall be  
 2377 consistent with the activities prescribed in s. 1002.89(5)(b) ~~or~~  
 2378 ~~1002.89(6)(b)~~.

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2379 (4)~~(5)~~ "Disenrollment" means the removal, either temporary  
 2380 or permanent, of a child from participation in the school  
 2381 readiness program. Removal of a child from the school readiness  
 2382 program may be based on the following events: a reduction in  
 2383 available school readiness program funding, participant's  
 2384 failure to meet eligibility or program participation  
 2385 requirements, fraud, or a change in local service priorities.  
 2386 (5)~~(6)~~ "Earned income" means gross remuneration derived  
 2387 from work, professional service, or self-employment. The term  
 2388 includes commissions, bonuses, back pay awards, and the cash  
 2389 value of all remuneration paid in a medium other than cash.  
 2390 (6)~~(7)~~ "Economically disadvantaged" means having a family  
 2391 income that does not exceed 150 percent of the federal poverty  
 2392 level and includes being a child of a working migratory family  
 2393 as defined by 34 C.F.R. s. 200.81(d) or (f) or an agricultural  
 2394 worker who is employed by more than one agricultural employer  
 2395 during the course of a year, and whose income varies according  
 2396 to weather conditions and market stability.  
 2397 (7)~~(8)~~ "Family income" means the combined gross income,  
 2398 whether earned or unearned, that is derived from any source by  
 2399 all family or household members who are 18 years of age or older  
 2400 who are currently residing together in the same dwelling unit.  
 2401 The term does not include income earned by a currently enrolled  
 2402 high school student who, since attaining the age of 18 years, or  
 2403 a student with a disability who, since attaining the age of 22  
 2404 years, has not terminated school enrollment or received a high  
 2405 school diploma, high school equivalency diploma, special  
 2406 diploma, or certificate of high school completion. The term also  
 2407 does not include food stamp benefits or federal housing

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2408 assistance payments issued directly to a landlord or the  
 2409 associated utilities expenses.  
 2410 (8)~~(9)~~ "Family or household members" means spouses, former  
 2411 spouses, persons related by blood or marriage, persons who are  
 2412 parents of a child in common regardless of whether they have  
 2413 been married, and other persons who are currently residing  
 2414 together in the same dwelling unit as if a family.  
 2415 (9)~~(10)~~ "Full-time care" means at least 6 hours, but not  
 2416 more than 11 hours, of child care or early childhood education  
 2417 services within a 24-hour period.  
 2418 (10)~~(11)~~ "Market rate" means the price that a child care or  
 2419 early childhood education provider charges for full-time or  
 2420 part-time daily, weekly, or monthly child care or early  
 2421 childhood education services.  
 2422 ~~(12) "Office" means the Office of Early Learning of the~~  
 2423 ~~Department of Education.~~  
 2424 (11)~~(13)~~ "Part-time care" means less than 6 hours of child  
 2425 care or early childhood education services within a 24-hour  
 2426 period.  
 2427 (13)~~(14)~~ "Single point of entry" means an integrated  
 2428 information system that allows a parent to enroll his or her  
 2429 child in the school readiness program or the Voluntary  
 2430 Prekindergarten Education Program at various locations  
 2431 throughout a county, that may allow a parent to enroll his or  
 2432 her child by telephone or through a website, and that uses a  
 2433 uniform waiting list to track eligible children waiting for  
 2434 enrollment in the school readiness program.  
 2435 (14)~~(15)~~ "Unearned income" means income other than earned  
 2436 income. The term includes, but is not limited to:

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2437 (a) Documented alimony and child support received.  
 2438 (b) Social security benefits.  
 2439 (c) Supplemental security income benefits.  
 2440 (d) Workers' compensation benefits.  
 2441 (e) Reemployment assistance or unemployment compensation  
 2442 benefits.  
 2443 (f) Veterans' benefits.  
 2444 (g) Retirement benefits.  
 2445 (h) Temporary cash assistance under chapter 414.  
 2446 (15)~~(16)~~ "Working family" means:  
 2447 (a) A single-parent family in which the parent with whom  
 2448 the child resides is employed or engaged in eligible work or  
 2449 education activities for at least 20 hours per week;  
 2450 (b) A two-parent family in which both parents with whom the  
 2451 child resides are employed or engaged in eligible work or  
 2452 education activities for a combined total of at least 40 hours  
 2453 per week; or  
 2454 (c) A two-parent family in which one of the parents with  
 2455 whom the child resides is exempt from work requirements due to  
 2456 age or disability, as determined and documented by a physician  
 2457 licensed under chapter 458 or chapter 459, and one parent is  
 2458 employed or engaged in eligible work or education activities at  
 2459 least 20 hours per week.  
 2460 Section 49. Section 1002.82, Florida Statutes, is amended  
 2461 to read:  
 2462 1002.82 Department of Education Office of Early Learning;  
 2463 powers and duties.-  
 2464 (1) For purposes of administration of the Child Care and  
 2465 Development Block Grant Trust Fund, pursuant to 45 C.F.R. parts

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2466 98 and 99, the Department of Education Office of Early Learning  
 2467 is designated as the lead agency and must comply with lead  
 2468 agency responsibilities pursuant to federal law. The department  
 2469 ~~office~~ may apply to the Governor and Cabinet for a waiver of,  
 2470 and the Governor and Cabinet may waive, any provision of ss.  
 2471 411.223 and 1003.54 if the waiver is necessary for  
 2472 implementation of the school readiness program. Section  
 2473 125.901(2)(a)3. does not apply to the school readiness program.  
 2474 (2) The department ~~office~~ shall:  
 2475 (a) Focus on improving the educational quality delivered by  
 2476 all providers participating in the school readiness program.  
 2477 (b) Preserve parental choice by permitting parents to  
 2478 choose from a variety of child care categories, including  
 2479 center-based care, family child care, and informal child care to  
 2480 the extent authorized in the state's Child Care and Development  
 2481 Fund Plan as approved by the United States Department of Health  
 2482 and Human Services pursuant to 45 C.F.R. s. 98.18. Care and  
 2483 curriculum by a faith-based provider may not be limited or  
 2484 excluded in any of these categories.  
 2485 (c) Be responsible for the prudent use of all public and  
 2486 private funds in accordance with all legal and contractual  
 2487 requirements, safeguarding the effective use of federal, state,  
 2488 and local resources to achieve the highest practicable level of  
 2489 school readiness for the children described in s. 1002.87,  
 2490 including:  
 2491 1. The adoption of a uniform chart of accounts for  
 2492 budgeting and financial reporting purposes that provides  
 2493 standardized definitions for expenditures and reporting,  
 2494 consistent with the requirements of 45 C.F.R. part 98 and s.

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2495 1002.89 for each of the following categories of expenditure:

2496 a. Direct services to children.

2497 b. Administrative costs.

2498 c. Quality activities.

2499 d. Nondirect services.

2500 2. Coordination with other state and federal agencies to

2501 perform data matches on children participating in the school

2502 readiness program and their families in order to verify the

2503 children's eligibility pursuant to s. 1002.87.

2504 (d) Establish procedures for the biennial calculation of

2505 the prevailing average market rate.

2506 (e) Review each early learning coalition's school readiness

2507 program plan every 2 years and provide final approval of the

2508 plan and any amendments submitted.

2509 (f) Establish a unified approach to the state's efforts to

2510 coordinate a comprehensive early learning program. In support of

2511 this effort, the department office:

2512 1. Shall adopt specific program support services that

2513 address the state's school readiness program, including:

2514 a. Statewide data information program requirements that

2515 include:

2516 (I) Eligibility requirements.

2517 (II) Financial reports.

2518 (III) Program accountability measures.

2519 (IV) Child progress reports.

2520 b. Child care resource and referral services.

2521 c. A single point of entry and uniform waiting list.

2522 2. May provide technical assistance and guidance on

2523 additional support services to complement the school readiness

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2524 program, including:

2525 ~~a. Rating and improvement systems.~~

2526 ~~a.b. Warm-Line services.~~

2527 ~~b.e. Anti-fraud plans.~~

2528 ~~d. School readiness program standards.~~

2529 ~~e. Child screening and assessments.~~

2530 ~~c.f. Training and support for parental involvement in~~

2531 children's early education.

2532 ~~d.g. Family literacy activities and services.~~

2533 (g) Provide technical assistance to early learning

2534 coalitions.

2535 (h) In cooperation with the early learning coalitions,

2536 coordinate with the Child Care Services Program Office of the

2537 Department of Children and Families to reduce paperwork and to

2538 avoid duplicating interagency activities, health and safety

2539 monitoring, and acquiring and composing data pertaining to child

2540 care training and credentialing.

2541 (i) Enter into a memorandum of understanding with local

2542 licensing agencies and the Child Care Services Program Office of

2543 the Department of Children and Families for inspections of

2544 school readiness program providers to monitor and verify

2545 compliance with s. 1002.88 and the health and safety checklist

2546 adopted by the department office. The provider contract of a

2547 school readiness program provider that refuses permission for

2548 entry or inspection shall be terminated. The health and safety

2549 checklist may not exceed the requirements of s. 402.305 and the

2550 Child Care and Development Fund pursuant to 45 C.F.R. part 98. A

2551 child development program that is accredited by a national

2552 accrediting body and operates on a military installation that is

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2553 certified by the United States Department of Defense is exempted  
 2554 from the inspection requirements under s. 1002.88.

2555 (j) Monitor the alignment and consistency of the Develop  
 2556 and adopt standards and benchmarks developed and adopted by the  
 2557 department that address the age-appropriate progress of children  
 2558 in the development of school readiness skills. The standards for  
 2559 children from birth to kindergarten entry 5 years of age in the  
 2560 school readiness program must be aligned with the performance  
 2561 standards adopted for children in the Voluntary Prekindergarten  
 2562 Education Program and must address the following domains:

- 2563 1. Approaches to learning.
- 2564 2. Cognitive development and general knowledge.
- 2565 3. Numeracy, language, and communication.
- 2566 4. Physical development.
- 2567 5. Self-regulation.

2568 (k) Identify observation-based child assessments that are  
 2569 valid, reliable, and developmentally appropriate for use at  
 2570 least three times a year. The assessments must:

- 2571 1. Provide interval level and norm-referenced criterion-  
 2572 referenced data that measures equivalent levels of growth across  
 2573 the core domains of early childhood development and that can be  
 2574 used for determining developmentally appropriate learning gains.
- 2575 2. Measure progress in the performance standards adopted  
 2576 pursuant to paragraph (j).
- 2577 3. Provide for appropriate accommodations for children with  
 2578 disabilities and English language learners and be administered  
 2579 by qualified individuals, consistent with the developer's  
 2580 instructions.
- 2581 4. Coordinate with the performance standards adopted by the

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2582 department under s. 1002.67(1) for the Voluntary Prekindergarten  
 2583 Education Program.

2584 5. Provide data in a format for use in the single statewide  
 2585 information system to meet the requirements of paragraph (g)  
 2586 ~~(p)~~.

2587 (l) Adopt a list of approved curricula that meet the  
 2588 performance standards for the school readiness program and  
 2589 establish a process for the review and approval of a provider's  
 2590 curriculum that meets the performance standards.

2591 (m) Provide technical support to an early learning  
 2592 coalition to facilitate the use of Adopt by rule a standard  
 2593 statewide provider contract adopted by the department to be used  
 2594 with each school readiness program provider, with standardized  
 2595 attachments by provider type. The department office shall  
 2596 publish a copy of the standard statewide provider contract on  
 2597 its website. The standard statewide contract shall include, at a  
 2598 minimum, contracted slots, if applicable, in accordance with the  
 2599 Child Care and Development Block Grant Act of 2014, 45 C.F.R.  
 2600 parts 98 and 99; quality improvement strategies, if applicable;  
 2601 program assessment requirements; and provisions for provider  
 2602 probation, termination for cause, and emergency termination for  
 2603 those actions or inactions of a provider that pose an immediate  
 2604 and serious danger to the health, safety, or welfare of the  
 2605 children. The standard statewide provider contract shall also  
 2606 include appropriate due process procedures. During the pendency  
 2607 of an appeal of a termination, the provider may not continue to  
 2608 offer its services. Any provision imposed upon a provider that  
 2609 is inconsistent with, or prohibited by, law is void and  
 2610 unenforceable. Provisions for termination for cause must also

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2611 include failure to meet the minimum quality measures established  
 2612 under paragraph (n) for a period of up to 5 years, unless the  
 2613 coalition determines that the provider is essential to meeting  
 2614 capacity needs based on the assessment under s. 1002.85(2)(j)  
 2615 and the provider has an active improvement plan pursuant to  
 2616 paragraph (n).

2617 (n) Adopt a program assessment for school readiness program  
 2618 providers that measures the quality of teacher-child  
 2619 interactions, including emotional and behavioral support,  
 2620 engaged support for learning, classroom organization, and  
 2621 instructional support for children ages birth to 5 years. The  
 2622 implementation of the program assessment must also include the  
 2623 following components adopted by rule of the State Board of  
 2624 Education:

2625 1. Quality measures, including a minimum program assessment  
 2626 composite score threshold for contracting purposes and program  
 2627 improvement through an improvement plan. The minimum program  
 2628 assessment composite score required for the Voluntary  
 2629 Prekindergarten Education Program contracting threshold must be  
 2630 the same as the minimum program assessment composite score  
 2631 required for contracting for the school readiness program. The  
 2632 methodology for the calculation of the minimum program  
 2633 assessment composite score shall be reviewed by the independent  
 2634 expert identified in s. 1002.68(4)(d).

2635 2. Requirements for program participation, frequency of  
 2636 program assessment, and exemptions.

2637 (o) No later than July 1, 2019, develop a differential  
 2638 payment program based on the quality measures adopted by the  
 2639 department office under paragraph (n). The differential payment

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2640 may not exceed a total of 15 percent for each care level and  
 2641 unit of child care for a child care provider. No more than 5  
 2642 percent of the 15 percent total differential may be provided to  
 2643 providers who submit valid and reliable data to the statewide  
 2644 information system in the domains of language and executive  
 2645 functioning using a child assessment identified pursuant to  
 2646 paragraph (k). Providers below the minimum program assessment  
 2647 score adopted threshold for contracting purposes are ineligible  
 2648 for such payment.

2649 (p) No later than July 1, 2022, develop and adopt  
 2650 requirements for the implementation of a program designed to  
 2651 make available contracted slots to serve children at the  
 2652 greatest risk of school failure as determined by such children  
 2653 being located in an area that has been designated as a poverty  
 2654 area tract according to the latest census data. The contracted  
 2655 slot program may also be used to increase the availability of  
 2656 child care capacity based on the assessment under s.  
 2657 1002.85(2)(j).

2658 (q) ~~(p)~~ Establish a single statewide information system that  
 2659 each coalition must use for the purposes of managing the single  
 2660 point of entry, tracking children's progress, coordinating  
 2661 services among stakeholders, determining eligibility of  
 2662 children, tracking child attendance, and streamlining  
 2663 administrative processes for providers and early learning  
 2664 coalitions. By July 1, 2019, the system, subject to ss. 1002.72  
 2665 and 1002.97, shall:

2666 1. Allow a parent to monitor the development of his or her  
 2667 child as the child moves among programs within the state.

2668 2. Enable analysis at the state, regional, and local level

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2669 to measure child growth over time, program impact, and quality  
 2670 improvement and investment decisions.

2671 ~~(r)(q)~~ Provide technical support to coalitions to  
 2672 facilitate the use of ~~Adopt by rule~~ standardized procedures  
 2673 adopted in state board rule for early learning coalitions to use  
 2674 when monitoring the compliance of school readiness program  
 2675 providers with the terms of the standard statewide provider  
 2676 contract.

2677 ~~(s)(r)~~ At least biennially provide fiscal and programmatic  
 2678 monitoring to ~~Monitor and~~ evaluate the performance of each early  
 2679 learning coalition in administering the school readiness  
 2680 program, ensuring proper payments for school readiness program  
 2681 services, implementing the coalition's school readiness program  
 2682 plan, and administering the Voluntary Prekindergarten Education  
 2683 Program. These monitoring and performance evaluations must  
 2684 include, at a minimum, onsite monitoring of each coalition's  
 2685 finances, management, operations, and programs.

2686 ~~(t)(s)~~ Work in conjunction with the Bureau of Federal  
 2687 Education Programs within the Department of Education to  
 2688 coordinate readiness and voluntary prekindergarten services to  
 2689 the populations served by the bureau.

2690 ~~(u)(t)~~ Administer a statewide toll-free Warm-Line to  
 2691 provide assistance and consultation to child care facilities and  
 2692 family day care homes regarding health, developmental,  
 2693 disability, and special needs issues of the children they are  
 2694 servicing, particularly children with disabilities and other  
 2695 special needs. The ~~department office~~ shall:

2696 1. Annually inform child care facilities and family day  
 2697 care homes of the availability of this service through the child

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2698 care resource and referral network under s. 1002.92.

2699 2. Expand or contract for the expansion of the Warm-Line to  
 2700 maintain at least one Warm-Line in each early learning coalition  
 2701 service area.

2702 ~~(v)(u)~~ Develop and implement strategies to increase the  
 2703 supply and improve the quality of child care services for  
 2704 infants and toddlers, children with disabilities, children who  
 2705 receive care during nontraditional hours, children in  
 2706 underserved areas, and children in areas that have significant  
 2707 concentrations of poverty and unemployment.

2708 ~~(w)(r)~~ Establish preservice and inservice training  
 2709 requirements that address, at a minimum, school readiness child  
 2710 development standards, health and safety requirements, and  
 2711 social-emotional behavior intervention models, which may include  
 2712 positive behavior intervention and support models, including the  
 2713 integration of early learning professional development pathways  
 2714 established in s. 1002.995.

2715 ~~(x)(w)~~ Establish standards for emergency preparedness plans  
 2716 for school readiness program providers.

2717 ~~(y)(r)~~ Establish group sizes.

2718 ~~(z)(y)~~ Establish staff-to-children ratios that do not  
 2719 exceed the requirements of s. 402.302(8) or (11) or s.  
 2720 402.305(4), as applicable, for school readiness program  
 2721 providers.

2722 ~~(aa)(z)~~ Establish eligibility criteria, including  
 2723 limitations based on income and family assets, in accordance  
 2724 with s. 1002.87 and federal law.

2725 (3) (a) The department shall adopt performance standards and  
 2726 outcome measures for early learning coalitions that, at a

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2727 minimum, include the development of objective customer service  
 2728 surveys that shall be deployed beginning in fiscal year 2022-  
 2729 2023 and be distributed to:

2730 1. Customers who use the services in s. 1002.92 upon the  
 2731 completion of a referral inquiry.

2732 2. Parents, annually, at the time of eligibility  
 2733 determination.

2734 3. Child care providers that participate in the school  
 2735 readiness program or the Voluntary Prekindergarten Education  
 2736 Program at the time of execution of the statewide provider  
 2737 contract.

2738 4. Board members required under s. 1002.83.

2739 (b) Results of the survey shall be based on a statistically  
 2740 significant sample size and calculated annually for each early  
 2741 learning coalition and included in the department's annual  
 2742 report under subsection (7). If an early learning coalition's  
 2743 customer satisfaction survey results are below 60 percent, the  
 2744 coalition shall be placed on a 1-year corrective action plan.  
 2745 If, after being placed on corrective action, an early learning  
 2746 coalition's customer satisfaction survey results do not improve  
 2747 above the 60 percent threshold, the department may contract out  
 2748 or merge the coalition.

2749 (4)(3) If the department office determines during the  
 2750 review of school readiness program plans, or through monitoring  
 2751 and performance evaluations conducted under s. 1002.85, that an  
 2752 early learning coalition has not substantially implemented its  
 2753 plan, has not substantially met the performance standards and  
 2754 outcome measures adopted by the department office, or has not  
 2755 effectively administered the school readiness program or

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2756 Voluntary Prekindergarten Education Program, the department  
 2757 office may remove the coalition from eligibility to administer  
 2758 early learning programs and temporarily contract with a  
 2759 qualified entity to continue school readiness program and  
 2760 prekindergarten services in the coalition's county or  
 2761 multicounty region until the department office reestablishes or  
 2762 merges the coalition and a new school readiness program plan is  
 2763 approved in accordance with the rules adopted by the state board  
 2764 office.

2765 (5) The department shall adopt procedures for merging early  
 2766 learning coalitions for failure to meet the requirements of  
 2767 subsection (3) or subsection (4), including procedures for the  
 2768 consolidation of merging coalitions that minimize duplication of  
 2769 programs and services due to the merger, and for the early  
 2770 termination of the terms of the coalition members which are  
 2771 necessary to accomplish the mergers.

2772 (6)(4) The department office may request the Governor to  
 2773 apply for a waiver to allow a coalition to administer the Head  
 2774 Start Program to accomplish the purposes of the school readiness  
 2775 program.

2776 (7)(5) By January 1 of each year, the department office  
 2777 shall annually publish on its website a report of its activities  
 2778 conducted under this section. The report must include a summary  
 2779 of the coalitions' annual reports, a statewide summary, and the  
 2780 following:

2781 (a) An analysis of early learning activities throughout the  
 2782 state, including the school readiness program and the Voluntary  
 2783 Prekindergarten Education Program.

2784 1. The total and average number of children served in the

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2785 school readiness program, enumerated by age, eligibility  
 2786 priority category, and coalition, and the total number of  
 2787 children served in the Voluntary Prekindergarten Education  
 2788 Program.

2789 2. A summary of expenditures by coalition, by fund source,  
 2790 including a breakdown by coalition of the percentage of  
 2791 expenditures for administrative activities, quality activities,  
 2792 nondirect services, and direct services for children.

2793 3. A description of the department's office's and each  
 2794 coalition's expenditures by fund source for the quality and  
 2795 enhancement activities described in s. 1002.89(5)(b) ~~s.~~  
 2796 ~~1002.89(6)(b)~~.

2797 4. A summary of annual findings and collections related to  
 2798 provider fraud and parent fraud.

2799 5. Data regarding the coalitions' delivery of early  
 2800 learning programs.

2801 6. The total number of children disenrolled statewide and  
 2802 the reason for disenrollment.

2803 7. The total number of providers by provider type.

2804 8. The number of school readiness program providers who  
 2805 have completed the program assessment required under paragraph  
 2806 (2)(n); the number of providers who have not met the minimum  
 2807 program assessment composite score threshold for contracting  
 2808 established under paragraph (2)(n); and the number of providers  
 2809 that have an active improvement plan based on the results of the  
 2810 program assessment under paragraph (2)(n).

2811 9. The total number of provider contracts revoked and the  
 2812 reasons for revocation.

2813 (b) A detailed summary of the analysis compiled using the

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2814 single statewide information system established in subsection  
 2815 (2) ~~activities and detailed expenditures related to the Child~~  
 2816 ~~Care Executive Partnership Program.~~

2817 ~~(8)(a)(6)(a)~~ Parental choice of child care providers,  
 2818 including private and faith-based providers, shall be  
 2819 established to the maximum extent practicable in accordance with  
 2820 45 C.F.R. s. 98.30.

2821 (b) As used in this subsection, the term "payment  
 2822 certificate" means a child care certificate as defined in 45  
 2823 C.F.R. s. 98.2.

2824 (c) The school readiness program shall, in accordance with  
 2825 45 C.F.R. s. 98.30, provide parental choice through a payment  
 2826 certificate that provides, to the maximum extent possible,  
 2827 flexibility in the school readiness program and payment  
 2828 arrangements. The payment certificate must bear the names of the  
 2829 beneficiary and the program provider and, when redeemed, must  
 2830 bear the signatures of both the beneficiary and an authorized  
 2831 representative of the provider.

2832 (d) If it is determined that a provider has given any cash  
 2833 or other consideration to the beneficiary in return for  
 2834 receiving a payment certificate, the early learning coalition or  
 2835 its fiscal agent shall refer the matter to the Department of  
 2836 Financial Services pursuant to s. 414.411 for investigation.

2837 ~~(9)(7)~~ Participation in the school readiness program does  
 2838 not expand the regulatory authority of the state, its officers,  
 2839 or an early learning coalition to impose any additional  
 2840 regulation on providers beyond those necessary to enforce the  
 2841 requirements set forth in this part and part V of this chapter.

2842 Section 50. Present subsections (5) through (14) of section

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2843 1002.83, Florida Statutes, are redesignated as subsections (6)  
 2844 through (15), respectively, a new subsection (5) is added to  
 2845 that section, and subsections (1) and (3), paragraphs (e), (f),  
 2846 and (m) of subsection (4), and present subsections (5), (11),  
 2847 and (13) of that section are amended, to read:

2848 1002.83 Early learning coalitions.—

2849 (1) ~~Thirty~~ ~~Thirty-one~~ or fewer early learning coalitions  
 2850 are established and shall maintain direct enhancement services  
 2851 at the local level and provide access to such services in all 67  
 2852 counties. Two or more early learning coalitions may join for  
 2853 purposes of planning and implementing a school readiness program  
 2854 and the Voluntary Prekindergarten Education Program.

2855 (3) The Governor shall appoint the chair and two other  
 2856 members of each early learning coalition, who must each meet the  
 2857 ~~same~~ qualifications of a private sector business member  
 2858 ~~members appointed by the coalition~~ under subsection (6) ~~(5)~~. In  
 2859 the absence of a governor-appointed chair, the Commissioner of  
 2860 Education may appoint an interim chair from the current early  
 2861 learning coalition board membership.

2862 (4) Each early learning coalition must include the  
 2863 following member positions; however, in a multicounty coalition,  
 2864 each ex officio member position may be filled by multiple  
 2865 nonvoting members but no more than one voting member shall be  
 2866 seated per member position. If an early learning coalition has  
 2867 more than one member representing the same entity, only one of  
 2868 such members may serve as a voting member:

2869 (e) A children's services council or juvenile welfare board  
 2870 chair or executive director from each county, if applicable.

2871 (f) A Department of Children and Families child care

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2872 regulation representative or an agency head of a local licensing  
 2873 agency as defined in s. 402.302, where applicable.

2874 ~~(m) A central agency administrator, where applicable.~~

2875 (5) If members of the board are found to be  
 2876 nonparticipating according to the early learning coalition  
 2877 bylaws, the early learning coalition may request an alternate  
 2878 designee who meets the same qualifications or membership  
 2879 requirements of the nonparticipating member.

2880 ~~(6)(5)~~ The early learning coalition may appoint additional  
 2881 including the members who appointed by the Governor under  
 2882 subsection (3), more than one-third of the members of each early  
 2883 learning coalition must be private sector business members,  
 2884 either for-profit or nonprofit, who do not have, and none of  
 2885 whose relatives as defined in s. 112.3143 has, a substantial  
 2886 financial interest in the design or delivery of the Voluntary  
 2887 Prekindergarten Education Program created under part V of this  
 2888 chapter or the school readiness program. To meet this  
 2889 requirement, an early learning coalition must appoint additional  
 2890 members. The department office shall establish criteria for  
 2891 appointing private sector business members. These criteria must  
 2892 include standards for determining whether a member or relative  
 2893 has a substantial financial interest in the design or delivery  
 2894 of the Voluntary Prekindergarten Education Program or the school  
 2895 readiness program.

2896 ~~(12)(11)~~ Each early learning coalition shall establish  
 2897 terms for all appointed members of the coalition. The terms must  
 2898 be staggered and must be a uniform length that does not exceed 4  
 2899 years per term. ~~Coalition chairs shall be appointed for 4 years~~  
 2900 ~~pursuant to s. 20.052.~~ Appointed members may serve a maximum of

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2901 two consecutive terms. When a vacancy occurs in an appointed  
2902 position, the coalition must advertise the vacancy.

2903 ~~(14)(13)~~ Each early learning coalition shall complete an  
2904 annual evaluation of the early learning coalition's executive  
2905 director or chief executive officer on forms adopted by the  
2906 department. The annual evaluation must be submitted to the  
2907 commissioner by June 30 of each year use a coordinated  
2908 professional development system that supports the achievement  
2909 and maintenance of core competencies by school readiness program  
2910 teachers in helping children attain the performance standards  
2911 adopted by the office.

2912 Section 51. Present subsections (7) through (20) of section  
2913 1002.84, Florida Statutes, are redesignated as subsections (8)  
2914 through (21), respectively, a new subsection (7) is added to  
2915 that section, and subsections (1), (2), and (4) and present  
2916 subsections (7), (8), (15), (16), (17), (18), and (20) of that  
2917 section are amended, to read:

2918 1002.84 Early learning coalitions; school readiness powers  
2919 and duties.—Each early learning coalition shall:

2920 (1) Administer and implement a local comprehensive program  
2921 of school readiness program services in accordance with this  
2922 part and the rules adopted by the department office, which  
2923 enhances the cognitive, social, and physical development of  
2924 children to achieve the performance standards.

2925 (2) Establish a uniform waiting list to track eligible  
2926 children waiting for enrollment in the school readiness program  
2927 in accordance with rules adopted by the State Board of Education  
2928 office.

2929 (4) Establish a regional Warm-Line as directed by the

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2930 ~~department office~~ pursuant to s. 1002.82(2)(u) ~~s. 1002.82(2)(t)~~.  
2931 Regional Warm-Line staff shall provide onsite technical  
2932 assistance, when requested, to assist child care facilities and  
2933 family day care homes with inquiries relating to the strategies,  
2934 curriculum, and environmental adaptations the child care  
2935 facilities and family day care homes may need as they serve  
2936 children with disabilities and other special needs.

2937 (7) Use a coordinated professional development system that  
2938 supports the achievement and maintenance of core competencies by  
2939 school readiness program teachers in helping children attain the  
2940 performance standards adopted by the department.

2941 ~~(8)(7)~~ Determine child eligibility pursuant to s. 1002.87  
2942 and provider eligibility pursuant to s. 1002.88. Child  
2943 eligibility must be redetermined annually. A coalition must  
2944 document the reason a child is no longer eligible for the school  
2945 readiness program according to the standard codes prescribed by  
2946 the department office.

2947 ~~(9)(8)~~ Establish a parent sliding fee scale that provides  
2948 for a parent copayment that is not a barrier to families  
2949 receiving school readiness program services. ~~Providers are~~  
2950 ~~required to collect the parent's copayment.~~ A coalition may, ~~on~~  
2951 ~~a case-by-case basis~~, waive the copayment for an at-risk child  
2952 or temporarily waive the copayment for a child whose family's  
2953 income is at or below the federal poverty level or ~~and~~ whose  
2954 family experiences a natural disaster or an event that limits  
2955 the parent's ability to pay, such as incarceration, placement in  
2956 residential treatment, or becoming homeless, or an emergency  
2957 situation such as a household fire or burglary, or while the  
2958 parent is participating in parenting classes or participating in

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2959 an Early Head Start program or Head Start Program. A parent may  
 2960 not transfer school readiness program services to another school  
 2961 readiness program provider until the parent has submitted  
 2962 documentation from the current school readiness program provider  
 2963 to the early learning coalition stating that the parent has  
 2964 satisfactorily fulfilled the copayment obligation.

2965 (16)~~(15)~~ Monitor school readiness program providers in  
 2966 accordance with its plan, or in response to a parental  
 2967 complaint, to verify that the standards prescribed in ss.  
 2968 1002.82 and 1002.88 are being met using a standard monitoring  
 2969 tool adopted by the department office. Providers determined to  
 2970 be high-risk by the coalition, as demonstrated by substantial  
 2971 findings of violations of federal law or the general or local  
 2972 laws of the state, shall be monitored more frequently. Providers  
 2973 with 3 consecutive years of compliance may be monitored  
 2974 biennially.

2975 (17)~~(16)~~ Adopt a payment schedule that encompasses all  
 2976 programs funded under this part and part V of this chapter. The  
 2977 payment schedule must take into consideration the prevailing  
 2978 ~~average~~ market rate, include the projected number of children to  
 2979 be served, and be submitted for approval by the department  
 2980 office. Informal child care arrangements shall be reimbursed at  
 2981 not more than 50 percent of the rate adopted for a family day  
 2982 care home.

2983 (18)~~(17)~~ Implement an anti-fraud plan addressing the  
 2984 detection, reporting, and prevention of overpayments, abuse, and  
 2985 fraud relating to the provision of and payment for school  
 2986 readiness program and Voluntary Prekindergarten Education  
 2987 Program services and submit the plan to the department office

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2988 for approval, as required by s. 1002.91.

2989 (19)~~(18)~~ By October 1 of each year, submit an annual report  
 2990 to the department office. The report shall conform to the format  
 2991 adopted by the department office and must include:

2992 (a) Segregation of school readiness program funds,  
 2993 Voluntary Prekindergarten Education Program funds, ~~Child Care~~  
 2994 ~~Executive Partnership Program funds~~, and other local revenues  
 2995 available to the coalition.

2996 (b) Details of expenditures by fund source, including total  
 2997 expenditures for administrative activities, quality activities,  
 2998 nondirect services, and direct services for children.

2999 (c) The total number of coalition staff and the related  
 3000 expenditures for salaries and benefits. For any subcontracts,  
 3001 the total number of contracted staff and the related  
 3002 expenditures for salaries and benefits must be included.

3003 (d) The number of children served in the school readiness  
 3004 program, by provider type, enumerated by age and eligibility  
 3005 priority category, reported as the number of children served  
 3006 during the month, the average participation throughout the  
 3007 month, and the number of children served during the month.

3008 (e) The total number of children disenrolled during the  
 3009 year and the reasons for disenrollment.

3010 (f) The total number of providers by provider type.

3011 (g) A listing of any school readiness program provider, by  
 3012 type, whose eligibility to deliver the school readiness program  
 3013 is revoked, including a brief description of the state or  
 3014 federal violation that resulted in the revocation.

3015 (h) An evaluation of its direct enhancement services.

3016 (i) The total number of children served in each provider

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3017 facility.

3018 (21) (a) (20) To increase transparency and accountability,  
 3019 comply with the requirements of this section before contracting  
 3020 with one or more of the following persons or business entities  
 3021 which employs, has a contractual relationship with, or is owned  
 3022 by the following persons:

3023 1. A member of the coalition appointed pursuant to s.  
 3024 1002.83(3);

3025 2. A board member of any other early learning subrecipient  
 3026 entity;

3027 3. A coalition employee; or

3028 4. A relative, as defined in s. 112.3143(1)(c), of any  
 3029 person listed in subparagraphs 1.-3 a coalition member or of an  
 3030 employee of the coalition.

3031 (b) Such contracts may not be executed without the approval  
 3032 of the department office. Such contracts, as well as  
 3033 documentation demonstrating adherence to this section by the  
 3034 coalition, must be approved by a two-thirds vote of the  
 3035 coalition, a quorum having been established; all conflicts of  
 3036 interest must be disclosed before the vote; and any member who  
 3037 may benefit from the contract, or whose relative may benefit  
 3038 from the contract, must abstain from the vote. A contract under  
 3039 \$25,000 ~~between an early learning coalition and a member of that~~  
 3040 ~~coalition or between a relative, as defined in s.~~  
 3041 ~~112.3143(1)(c), of a coalition member or of an employee of the~~  
 3042 ~~coalition~~ is not required to have the prior approval of the  
 3043 department office but must be approved by a two-thirds vote of  
 3044 the coalition, a quorum having been established, and must be  
 3045 reported to the department office within 30 days after approval.

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3046 If a contract cannot be approved by the department office, a  
 3047 review of the decision to disapprove the contract may be  
 3048 requested by the early learning coalition or other parties to  
 3049 the disapproved contract.

3050 Section 52. Section 1002.85, Florida Statutes, is amended  
 3051 to read:

3052 1002.85 Early learning coalition plans.—

3053 (1) The department office shall adopt rules prescribing the  
 3054 standardized format and required content of school readiness  
 3055 program plans as necessary for a coalition or other qualified  
 3056 entity to administer the school readiness program as provided in  
 3057 this part.

3058 (2) Each early learning coalition must biennially submit a  
 3059 school readiness program plan to the department office before  
 3060 the expenditure of funds. A coalition may not implement its  
 3061 school readiness program plan until it receives approval from  
 3062 the department office. A coalition may not implement any  
 3063 revision to its school readiness program plan until the  
 3064 coalition submits the revised plan to and receives approval from  
 3065 the department office. If the department office rejects a plan  
 3066 or revision, the coalition must continue to operate under its  
 3067 previously approved plan. The plan must include, but is not  
 3068 limited to:

3069 (a) The coalition's operations, including its membership  
 3070 and business organization, and the coalition's articles of  
 3071 incorporation and bylaws if the coalition is organized as a  
 3072 corporation. If the coalition is not organized as a corporation  
 3073 or other business entity, the plan must include the contract  
 3074 with a fiscal agent.

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3075 (b) The minimum number of children to be served by care  
3076 level.

3077 (c) The coalition's procedures for implementing the  
3078 requirements of this part, including:

3079 1. Single point of entry.  
3080 2. Uniform waiting list.  
3081 3. Eligibility and enrollment processes and local  
3082 eligibility priorities for children pursuant to s. 1002.87.  
3083 4. Parent access and choice.  
3084 5. Sliding fee scale and policies on applying the waiver or  
3085 reduction of fees in accordance with s. 1002.84(9) ~~or~~  
3086 ~~1002.84(8)~~.

3087 6. Use of preassessments and postassessments, as  
3088 applicable.

3089 7. Payment rate schedule.  
3090 8. Use of contracted slots, as applicable, based on the  
3091 results of the assessment required under paragraph (j).

3092 (d) A detailed description of the coalition's quality  
3093 activities and services, including, but not limited to:

3094 1. Resource and referral and school-age child care.  
3095 2. Infant and toddler early learning.  
3096 3. Inclusive early learning programs.  
3097 4. Quality improvement strategies that strengthen teaching  
3098 practices and increase child outcomes.

3099 (e) A detailed budget that outlines estimated expenditures  
3100 for state, federal, and local matching funds at the lowest level  
3101 of detail available by other-cost-accumulator code number; all  
3102 estimated sources of revenue with identifiable descriptions; a  
3103 listing of full-time equivalent positions; contracted

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3104 subcontractor costs with related annual compensation amount or  
3105 hourly rate of compensation; and a capital improvements plan  
3106 outlining existing fixed capital outlay projects and proposed  
3107 capital outlay projects that will begin during the budget year.

3108 (f) A detailed accounting, in the format prescribed by the  
3109 department office, of all revenues and expenditures during the  
3110 previous state fiscal year. Revenue sources should be  
3111 identifiable, and expenditures should be reported by two three  
3112 categories: state and federal funds and, local matching funds,  
3113 and Child Care Executive Partnership Program funds.

3114 (g) Updated policies and procedures, including those  
3115 governing procurement, maintenance of tangible personal  
3116 property, maintenance of records, information technology  
3117 security, and disbursement controls.

3118 (h) A description of the procedures for monitoring school  
3119 readiness program providers, including in response to a parental  
3120 complaint, to determine that the standards prescribed in ss.  
3121 1002.82 and 1002.88 are met using a standard monitoring tool  
3122 adopted by the department office. Providers determined to be  
3123 high risk by the coalition as demonstrated by substantial  
3124 findings of violations of law shall be monitored more  
3125 frequently.

3126 (i) Documentation that the coalition has solicited and  
3127 considered comments regarding the proposed school readiness  
3128 program plan from the local community.

3129 (j) An assessment of local priorities within the county or  
3130 multicounty region based on the needs of families and provider  
3131 capacity using available community data.

3132 (3) The coalition may periodically amend its plan as



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3133 necessary. An amended plan must be submitted to and approved by  
3134 the ~~department office~~ before any expenditures are incurred on  
3135 the new activities proposed in the amendment.

3136 (4) The ~~department office~~ shall publish a copy of the  
3137 standardized format and required content of school readiness  
3138 program plans on its website.

3139 (5) The ~~department office~~ shall collect and report data on  
3140 coalition delivery of early learning programs. Elements shall  
3141 include, but are not limited to, measures related to progress  
3142 towards reducing the number of children on the waiting list, the  
3143 percentage of children served by the program as compared to the  
3144 number of administrative staff and overhead, the percentage of  
3145 children served compared to total number of children under the  
3146 age of 5 years below 150 percent of the federal poverty level,  
3147 provider payment processes, fraud intervention, child attendance  
3148 and stability, use of child care resource and referral, and  
3149 kindergarten readiness outcomes for children in the Voluntary  
3150 Prekindergarten Education Program or the school readiness  
3151 program upon entry into kindergarten. The ~~department office~~  
3152 shall request input from the coalitions and school readiness  
3153 program providers before finalizing the format and data to be  
3154 used. The report shall be implemented beginning July 1, 2014,  
3155 and results of the report must be included in the annual report  
3156 under s. 1002.82.

3157 Section 53. Paragraphs (a), (b), (c), (e), (f), (m), (n),  
3158 (p), and (q) of subsection (1) and subsection (3) of section  
3159 1002.88, Florida Statutes, are amended, and paragraph (s) is  
3160 added to subsection (1) of that section, to read:

3161 1002.88 School readiness program provider standards;

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3162 eligibility to deliver the school readiness program.-

3163 (1) To be eligible to deliver the school readiness program,  
3164 a school readiness program provider must:

3165 (a) Be a child care facility licensed under s. 402.305, a  
3166 family day care home licensed or registered under s. 402.313, a  
3167 large family child care home licensed under s. 402.3131, a  
3168 public school or nonpublic school exempt from licensure under s.  
3169 402.3025, a faith-based child care provider exempt from  
3170 licensure under s. 402.316, a before-school or after-school  
3171 program described in s. 402.305(1)(c), a child development  
3172 program that is accredited by a national accrediting body and  
3173 operates on a military installation that is certified by the  
3174 United States Department of Defense, ~~or~~ an informal child care  
3175 provider to the extent authorized in the state's Child Care and  
3176 Development Fund Plan as approved by the United States  
3177 Department of Health and Human Services pursuant to 45 C.F.R. s.  
3178 98.18, or a provider who has been issued a provisional license  
3179 pursuant to s. 402.309. A provider may not deliver the program  
3180 while holding a probation-status license under s. 402.310.

3181 (b) Provide instruction and activities to enhance the age-  
3182 appropriate progress of each child in attaining the child  
3183 development standards adopted by the ~~department office~~ pursuant  
3184 to s. 1002.82(2)(j). A provider should include activities to  
3185 foster brain development in infants and toddlers; provide an  
3186 environment that is rich in language and music and filled with  
3187 objects of various colors, shapes, textures, and sizes to  
3188 stimulate visual, tactile, auditory, and linguistic senses; and  
3189 include 30 minutes of reading to children each day.

3190 (c) Provide basic health and safety of its premises and

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3191 facilities and compliance with requirements for age-appropriate  
 3192 immunizations of children enrolled in the school readiness  
 3193 program.

3194 1. For a provider that is licensed, compliance with s.  
 3195 402.305, s. 402.3131, or s. 402.313 and this subsection, as  
 3196 verified pursuant to s. 402.311, satisfies this requirement.

3197 2. For a provider that is a registered family day care home  
 3198 or is not subject to licensure or registration by the Department  
 3199 of Children and Families, compliance with this subsection, as  
 3200 verified pursuant to s. 402.311, satisfies this requirement.  
 3201 Upon verification pursuant to s. 402.311, the provider shall  
 3202 annually post the health and safety checklist adopted by the  
 3203 department office prominently on its premises in plain sight for  
 3204 visitors and parents and shall annually submit the checklist to  
 3205 its local early learning coalition.

3206 3. For a child development program that is accredited by a  
 3207 national accrediting body and operates on a military  
 3208 installation that is certified by the United States Department  
 3209 of Defense, the submission and verification of annual  
 3210 inspections pursuant to United States Department of Defense  
 3211 Instructions 6060.2 and 1402.05 satisfies this requirement.

3212 (e) Employ child care personnel, as defined in s.  
 3213 402.302(3), who have satisfied the screening requirements of  
 3214 chapter 402 and fulfilled the training requirements of the  
 3215 department office.

3216 (f) Implement one of the curricula approved by the  
 3217 department office that meets the child development standards.

3218 (m) For a provider that is not an informal provider,  
 3219 maintain general liability insurance and provide the coalition

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3220 with written evidence of general liability insurance coverage,  
 3221 including coverage for transportation of children if school  
 3222 readiness program children are transported by the provider. A  
 3223 provider must obtain and retain an insurance policy that  
 3224 provides a minimum of \$100,000 of coverage per occurrence and a  
 3225 minimum of \$300,000 general aggregate coverage. The department  
 3226 office may authorize lower limits upon request, as appropriate.  
 3227 A provider must add the coalition as a named certificateholder  
 3228 and as an additional insured. A provider must provide the  
 3229 coalition with a minimum of 10 calendar days' advance written  
 3230 notice of cancellation of or changes to coverage. The general  
 3231 liability insurance required by this paragraph must remain in  
 3232 full force and effect for the entire period of the provider  
 3233 contract with the coalition.

3234 (n) For a provider that is an informal provider, comply  
 3235 with the provisions of paragraph (m) or maintain homeowner's  
 3236 liability insurance and, if applicable, a business rider. If an  
 3237 informal provider chooses to maintain a homeowner's policy, the  
 3238 provider must obtain and retain a homeowner's insurance policy  
 3239 that provides a minimum of \$100,000 of coverage per occurrence  
 3240 and a minimum of \$300,000 general aggregate coverage. The  
 3241 department office may authorize lower limits upon request, as  
 3242 appropriate. An informal provider must add the coalition as a  
 3243 named certificateholder and as an additional insured. An  
 3244 informal provider must provide the coalition with a minimum of  
 3245 10 calendar days' advance written notice of cancellation of or  
 3246 changes to coverage. The general liability insurance required by  
 3247 this paragraph must remain in full force and effect for the  
 3248 entire period of the provider's contract with the coalition.

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3249 (p) Notwithstanding paragraph (m), for a provider that is a  
 3250 state agency or a subdivision thereof, as defined in s.  
 3251 768.28(2), agree to notify the coalition of any additional  
 3252 liability coverage maintained by the provider in addition to  
 3253 that otherwise established under s. 768.28. The provider shall  
 3254 indemnify the coalition to the extent permitted by s. 768.28.  
 3255 Notwithstanding paragraph (m), for a child development program  
 3256 that is accredited by a national accrediting body and operates  
 3257 on a military installation that is certified by the United  
 3258 States Department of Defense, the provider may demonstrate  
 3259 liability coverage by affirming that it is subject to the  
 3260 Federal Tort Claims Act, 28 U.S.C. ss. 2671 et seq.

3261 (q) Execute the standard statewide provider contract  
 3262 adopted by the department office.

3263 (s) Collect all parent copayment fees unless a waiver has  
 3264 been granted under s. 1002.84(9).

3265 (3) The department office and the coalitions may not:  
 3266 (a) Impose any requirement on a child care provider or  
 3267 early childhood education provider that does not deliver  
 3268 services under the school readiness program or receive state or  
 3269 federal funds under this part;  
 3270 (b) Impose any requirement on a school readiness program  
 3271 provider that exceeds the authority provided under this part or  
 3272 part V of this chapter or rules adopted pursuant to this part or  
 3273 part V of this chapter; or  
 3274 (c) Require a provider to administer a preassessment or  
 3275 postassessment.

3276 Section 54. Subsections (2), (3), and (6) of section  
 3277 1002.89, Florida Statutes, are amended to read:

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3278 1002.89 School readiness program; funding.-  
 3279 ~~(2) The office shall administer school readiness program~~  
 3280 ~~funds and prepare and submit a unified budget request for the~~  
 3281 ~~school readiness program in accordance with chapter 216.~~  
 3282 ~~(2)(3)~~ All instructions to early learning coalitions for  
 3283 administering this section shall emanate from the department  
 3284 office in accordance with the policies of the Legislature.

3285 ~~(5)(6)~~ Costs shall be kept to the minimum necessary for the  
 3286 efficient and effective administration of the school readiness  
 3287 program with the highest priority of expenditure being direct  
 3288 services for eligible children. However, no more than 5 percent  
 3289 of the funds described in subsection (4) ~~subsection (5)~~ may be  
 3290 used for administrative costs and no more than 22 percent of the  
 3291 funds described in subsection (4) ~~subsection (5)~~ may be used in  
 3292 any fiscal year for any combination of administrative costs,  
 3293 quality activities, and nondirect services as follows:

3294 (a) Administrative costs as described in 45 C.F.R. s. 98.54  
 3295 ~~45 C.F.R. s. 98.52~~, which shall include monitoring providers  
 3296 using the standard methodology adopted under s. 1002.82 to  
 3297 improve compliance with state and federal regulations and law  
 3298 pursuant to the requirements of the statewide provider contract  
 3299 adopted under s. 1002.82(2)(m).

3300 (b) Activities to improve the quality of child care as  
 3301 described in 45 C.F.R. s. 98.53 ~~45 C.F.R. s. 98.51~~, which shall  
 3302 be limited to the following:

3303 1. Developing, establishing, expanding, operating, and  
 3304 coordinating resource and referral programs specifically related  
 3305 to the provision of comprehensive consumer education to parents  
 3306 and the public to promote informed child care choices specified

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3307 in 45 C.F.R. s. 98.33.

3308 2. Awarding grants and providing financial support to

3309 school readiness program providers and their staff to assist

3310 them in meeting applicable state requirements for the program

3311 assessment required under s. 1002.82(2)(n), child care

3312 performance standards, implementing developmentally appropriate

3313 curricula and related classroom resources that support

3314 curricula, providing literacy supports, and providing continued

3315 professional development and training. Any grants awarded

3316 pursuant to this subparagraph shall comply with ss. 215.971 and

3317 287.058.

3318 3. Providing training, technical assistance, and financial

3319 support to school readiness program providers, staff, and

3320 parents on standards, child screenings, child assessments, child

3321 development research and best practices, developmentally

3322 appropriate curricula, character development, teacher-child

3323 interactions, age-appropriate discipline practices, health and

3324 safety, nutrition, first aid, cardiopulmonary resuscitation, the

3325 recognition of communicable diseases, and child abuse detection,

3326 prevention, and reporting.

3327 4. Providing, from among the funds provided for the

3328 activities described in subparagraphs 1.-3., adequate funding

3329 for infants and toddlers as necessary to meet federal

3330 requirements related to expenditures for quality activities for

3331 infant and toddler care.

3332 5. Improving the monitoring of compliance with, and

3333 enforcement of, applicable state and local requirements as

3334 described in and limited by 45 C.F.R. s. 98.40.

3335 6. Responding to Warm-Line requests by providers and

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3336 parents, including providing developmental and health screenings

3337 to school readiness program children.

3338 (c) Nondirect services as described in applicable Office of

3339 Management and Budget instructions are those services not

3340 defined as administrative, direct, or quality services that are

3341 required to administer the school readiness program. Such

3342 services include, but are not limited to:

3343 1. Assisting families to complete the required application

3344 and eligibility documentation.

3345 2. Determining child and family eligibility.

3346 3. Recruiting eligible child care providers.

3347 4. Processing and tracking attendance records.

3348 5. Developing and maintaining a statewide child care

3349 information system.

3350

3351 As used in this paragraph, the term "nondirect services" does

3352 not include payments to school readiness program providers for

3353 direct services provided to children who are eligible under s.

3354 1002.87, administrative costs as described in paragraph (a), or

3355 quality activities as described in paragraph (b).

3356 Section 55. Subsection (1), paragraph (a) of subsection

3357 (2), and subsections (4), (5), and (6) of section 1002.895,

3358 Florida Statutes, are amended to read:

3359 1002.895 Market rate schedule.—The school readiness program

3360 market rate schedule shall be implemented as follows:

3361 (1) The department ~~office~~ shall establish procedures for

3362 the adoption of a market rate schedule. The schedule must

3363 include, at a minimum, county-by-county rates:

3364 (a) The market rate, including the minimum and the maximum

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3365 rates for child care providers that hold a Gold Seal Quality  
 3366 Care designation under s. 1002.945 and adhere to its accrediting  
 3367 association's teacher-to-child ratios and group size  
 3368 requirements ~~s. 402.281~~.

3369 (b) The market rate for child care providers that do not  
 3370 hold a Gold Seal Quality Care designation.

3371 (2) The market rate schedule, at a minimum, must:

3372 (a) Differentiate rates by type, including, but not limited  
 3373 to, a child care provider that holds a Gold Seal Quality Care  
 3374 designation under s. 1002.945 and adheres to its accrediting  
 3375 association's teacher-to-child ratios and group size  
 3376 requirements ~~s. 402.281~~, a child care facility licensed under s.  
 3377 402.305, a public or nonpublic school exempt from licensure  
 3378 under s. 402.3025, a faith-based child care facility exempt from  
 3379 licensure under s. 402.316 that does not hold a Gold Seal  
 3380 Quality Care designation, a large family child care home  
 3381 licensed under s. 402.3131, or a family day care home licensed  
 3382 or registered under s. 402.313.

3383 (4) The market rate schedule shall be considered by an  
 3384 early learning coalition in the adoption of a payment schedule.  
 3385 The payment schedule must take into consideration the prevailing  
 3386 average market rate ~~and~~, include the projected number of  
 3387 children to be served by each county, and be submitted for  
 3388 approval by the department office. Informal child care  
 3389 arrangements shall be reimbursed at not more than 50 percent of  
 3390 the rate adopted for a family day care home.

3391 (5) The department office may contract with one or more  
 3392 qualified entities to administer this section and provide  
 3393 support and technical assistance for child care providers.

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3394 (6) The department office may adopt rules for establishing  
 3395 procedures for the collection of child care providers' market  
 3396 rate, the calculation of the prevailing average market rate by  
 3397 program care level and provider type in a predetermined  
 3398 geographic market, and the publication of the market rate  
 3399 schedule.

3400 Section 56. Section 1002.91, Florida Statutes, is amended  
 3401 to read:

3402 1002.91 Investigations of fraud or overpayment; penalties.—

3403 (1) As used in this subsection, the term "fraud" means an  
 3404 intentional deception, omission, or misrepresentation made by a  
 3405 person with knowledge that the deception, omission, or  
 3406 misrepresentation may result in unauthorized benefit to that  
 3407 person or another person, or any aiding and abetting of the  
 3408 commission of such an act. The term includes any act that  
 3409 constitutes fraud under applicable federal or state law.

3410 (2) To recover state, federal, and local matching funds,  
 3411 the department office shall investigate early learning  
 3412 coalitions, recipients, and providers of the school readiness  
 3413 program and the Voluntary Prekindergarten Education Program to  
 3414 determine possible fraud or overpayment. If by its own  
 3415 inquiries, or as a result of a complaint, the department office  
 3416 has reason to believe that a person, coalition, or provider has  
 3417 engaged in, or is engaging in, a fraudulent act, it shall  
 3418 investigate and determine whether any overpayment has occurred  
 3419 due to the fraudulent act. During the investigation, the  
 3420 department office may examine all records, including electronic  
 3421 benefits transfer records, and make inquiry of all persons who  
 3422 may have knowledge as to any irregularity incidental to the

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3423 disbursement of public moneys or other items or benefits  
3424 authorizations to recipients.

3425 (3) Based on the results of the investigation, the  
3426 ~~department office~~ may, in its discretion, refer the  
3427 investigation to the Department of Financial Services for  
3428 criminal investigation or refer the matter to the applicable  
3429 coalition. Any suspected criminal violation identified by the  
3430 ~~department office~~ must be referred to the Department of  
3431 Financial Services for criminal investigation.

3432 (4) An early learning coalition may suspend or terminate a  
3433 provider from participation in the school readiness program or  
3434 the Voluntary Prekindergarten Education Program when it has  
3435 reasonable cause to believe that the provider has committed  
3436 fraud. The ~~department office~~ shall adopt by rule appropriate due  
3437 process procedures that the early learning coalition shall apply  
3438 in suspending or terminating any provider, including the  
3439 suspension or termination of payment. If suspended, the provider  
3440 shall remain suspended until the completion of any investigation  
3441 by the ~~department office~~, the Department of Financial Services,  
3442 or any other state or federal agency, and any subsequent  
3443 prosecution or other legal proceeding.

3444 (5) If a school readiness program provider or a Voluntary  
3445 Prekindergarten Education Program provider, or an owner,  
3446 officer, or director thereof, is convicted of, found guilty of,  
3447 or pleads guilty or nolo contendere to, regardless of  
3448 adjudication, public assistance fraud pursuant to s. 414.39, or  
3449 is acting as the beneficial owner for someone who has been  
3450 convicted of, found guilty of, or pleads guilty or nolo  
3451 contendere to, regardless of adjudication, public assistance

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3452 fraud pursuant to s. 414.39, the early learning coalition shall  
3453 refrain from contracting with, or using the services of, that  
3454 provider for a period of 5 years. In addition, the coalition  
3455 shall refrain from contracting with, or using the services of,  
3456 any provider that shares an officer or director with a provider  
3457 that is convicted of, found guilty of, or pleads guilty or nolo  
3458 contendere to, regardless of adjudication, public assistance  
3459 fraud pursuant to s. 414.39 for a period of 5 years.

3460 (6) If the investigation is not confidential or otherwise  
3461 exempt from disclosure by law, the results of the investigation  
3462 may be reported by the ~~department office~~ to the appropriate  
3463 legislative committees, the Department of Children and Families,  
3464 and such other persons as the ~~department office~~ deems  
3465 appropriate.

3466 (7) The early learning coalition may not contract with a  
3467 school readiness program provider or a Voluntary Prekindergarten  
3468 Education Program provider who is on the United States  
3469 Department of Agriculture National Disqualified List. In  
3470 addition, the coalition may not contract with any provider that  
3471 shares an officer or director with a provider that is on the  
3472 United States Department of Agriculture National Disqualified  
3473 List.

3474 (8) Each early learning coalition shall adopt an anti-fraud  
3475 plan addressing the detection and prevention of overpayments,  
3476 abuse, and fraud relating to the provision of and payment for  
3477 school readiness program and Voluntary Prekindergarten Education  
3478 Program services and submit the plan to the ~~department office~~  
3479 for approval. The ~~department office~~ shall adopt rules  
3480 establishing criteria for the anti-fraud plan, including

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3481 appropriate due process provisions. The anti-fraud plan must  
3482 include, at a minimum:

3483 (a) A written description or chart outlining the  
3484 organizational structure of the plan's personnel who are  
3485 responsible for the investigation and reporting of possible  
3486 overpayment, abuse, or fraud.

3487 (b) A description of the plan's procedures for detecting  
3488 and investigating possible acts of fraud, abuse, or overpayment.

3489 (c) A description of the plan's procedures for the  
3490 mandatory reporting of possible overpayment, abuse, or fraud to  
3491 the Office of Inspector General within the department office.

3492 (d) A description of the plan's program and procedures for  
3493 educating and training personnel on how to detect and prevent  
3494 fraud, abuse, and overpayment.

3495 (e) A description of the plan's procedures, including the  
3496 appropriate due process provisions adopted by the department  
3497 office for suspending or terminating from the school readiness  
3498 program or the Voluntary Prekindergarten Education Program a  
3499 recipient or provider who the early learning coalition believes  
3500 has committed fraud.

3501 (9) A person who commits an act of fraud as defined in this  
3502 section is subject to the penalties provided in s. 414.39(5) (a)  
3503 and (b).

3504 Section 57. Subsections (1) and (2) and paragraphs (a),  
3505 (c), and (d) of subsection (3) of section 1002.92, Florida  
3506 Statutes, are amended to read:

3507 1002.92 Child care and early childhood resource and  
3508 referral.—

3509 (1) As a part of the school readiness program, the

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3510 department office shall establish a statewide child care  
3511 resource and referral network that is unbiased and provides  
3512 referrals to families for child care and information on  
3513 available community resources. Preference shall be given to  
3514 using early learning coalitions as the child care resource and  
3515 referral agencies. If an early learning coalition cannot comply  
3516 with the requirements to offer the resource information  
3517 component or does not want to offer that service, the early  
3518 learning coalition shall select the resource and referral agency  
3519 for its county or multicounty region based upon the procurement  
3520 requirements of s. 1002.84(13) ~~s. 1002.84(12)~~.

3521 (2) At least one child care resource and referral agency  
3522 must be established in each early learning coalition's county or  
3523 multicounty region. The department office shall adopt rules  
3524 regarding accessibility of child care resource and referral  
3525 services offered through child care resource and referral  
3526 agencies in each county or multicounty region which include, at  
3527 a minimum, required hours of operation, methods by which parents  
3528 may request services, and child care resource and referral staff  
3529 training requirements.

3530 (3) Child care resource and referral agencies shall provide  
3531 the following services:

3532 (a) Identification of existing public and private child  
3533 care and early childhood education services, including child  
3534 care services by public and private employers, and the  
3535 development of an early learning provider performance profile ~~a~~  
3536 ~~resource file~~ of those services through the single statewide  
3537 information system developed by the department office under s.  
3538 1002.82(2)(g) ~~s. 1002.82(2)(p)~~. These services may include

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3539 family day care, public and private child care programs, the  
 3540 Voluntary Prekindergarten Education Program, Head Start, the  
 3541 school readiness program, special education programs for  
 3542 prekindergarten children with disabilities, services for  
 3543 children with developmental disabilities, full-time and part-  
 3544 time programs, before-school and after-school programs, and  
 3545 ~~vacation care programs, parent education, the temporary cash~~  
 3546 ~~assistance program, and related family support services.~~ The  
 3547 early learning provider performance profile resource file shall  
 3548 include, but not be limited to:

- 3549 1. Type of program.
- 3550 2. Hours of service.
- 3551 3. Ages of children served.
- 3552 4. Number of children served.
- 3553 5. Program information.
- 3554 6. Fees and eligibility for services.
- 3555 7. Availability of transportation.
- 3556 8. Participation in the Child Care Food Program, if  
 3557 applicable.
- 3558 9. A link to licensing inspection reports, if applicable.
- 3559 10. The components of the Voluntary Prekindergarten  
 3560 Education Program performance metric calculated under s. 1002.68  
 3561 which must consist of the program assessment composite score,  
 3562 learning gains score, achievement score, and its designations,  
 3563 if applicable.
- 3564 11. The school readiness program assessment composite score  
 3565 and program assessment care level composite score results  
 3566 delineated by infant classrooms, toddler classrooms, and  
 3567 preschool classrooms results under s. 1002.82, if applicable.

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3568 12. Gold Seal Quality Care designation under s. 1002.945,  
 3569 if applicable.

3570 13. Indication of whether the provider implements a  
 3571 curriculum approved by the department and the name of the  
 3572 curriculum, if applicable.

3573 14. Participation in the school readiness child assessment  
 3574 under s. 1002.82.

3575 (c) Maintenance of ongoing documentation of requests for  
 3576 service tabulated through the internal referral process through  
 3577 the single statewide information system. The following  
 3578 documentation of requests for service shall be maintained by the  
 3579 child care resource and referral network:

- 3580 1. Number of calls and contacts to the child care resource  
 3581 information and referral network component by type of service  
 3582 requested.
- 3583 2. Ages of children for whom service was requested.
- 3584 3. Time category of child care requests for each child.
- 3585 4. Special time category, such as nights, weekends, and  
 3586 swing shift.
- 3587 5. Reason that the child care is needed.
- 3588 6. Customer service survey data required under s.  
 3589 1002.82(3) ~~Name of the employer and primary focus of the~~  
 3590 ~~business for an employer-based child care program.~~
- 3591 (d) Assistance to families that connects them to parent  
 3592 education opportunities, the temporary cash assistance program,  
 3593 or social services programs that support families with children,  
 3594 and related child development support services ~~Provision of~~  
 3595 ~~technical assistance to existing and potential providers of~~  
 3596 ~~child care services. This assistance may include:~~



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3597 ~~1. Information on initiating new child care services,~~  
 3598 ~~zoning, and program and budget development and assistance in~~  
 3599 ~~finding such information from other sources.~~

3600 ~~2. Information and resources which help existing child care~~  
 3601 ~~services providers to maximize their ability to serve children~~  
 3602 ~~and parents in their community.~~

3603 ~~3. Information and incentives that may help existing or~~  
 3604 ~~planned child care services offered by public or private~~  
 3605 ~~employers seeking to maximize their ability to serve the~~  
 3606 ~~children of their working parent employees in their community,~~  
 3607 ~~through contractual or other funding arrangements with~~  
 3608 ~~businesses.~~

3609 Section 58. Subsection (1) of section 1002.93, Florida  
 3610 Statutes, is amended to read:

3611 1002.93 School readiness program transportation services.—

3612 (1) The department office may authorize an early learning  
 3613 coalition to establish school readiness program transportation  
 3614 services for children at risk of abuse or neglect who are  
 3615 participating in the school readiness program, pursuant to  
 3616 chapter 427. The early learning coalitions may contract for the  
 3617 provision of transportation services as required by this  
 3618 section.

3619 Section 59. Section 1002.94, Florida Statutes, is repealed.

3620 Section 60. Section 1002.95, Florida Statutes, is amended  
 3621 to read:

3622 1002.95 Teacher Education and Compensation Helps (TEACH)  
 3623 scholarship program.—

3624 (1) The department office may contract for the  
 3625 administration of the Teacher Education and Compensation Helps

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3626 (TEACH) scholarship program, which provides educational  
 3627 scholarships to caregivers and administrators of early childhood  
 3628 programs, family day care homes, and large family child care  
 3629 homes. The goal of the program is to increase the education and  
 3630 training for caregivers, increase the compensation for child  
 3631 caregivers who complete the program requirements, and reduce the  
 3632 rate of participant turnover in the field of early childhood  
 3633 education.

3634 (2) The State Board of Education office shall adopt rules  
 3635 as necessary to administer this section.

3636 Section 61. Subsections (1) and (3) of section 1002.96,  
 3637 Florida Statutes, are amended to read:

3638 1002.96 Early Head Start collaboration grants.—

3639 (1) Contingent upon specific appropriation, the department  
 3640 office shall establish a program to award collaboration grants  
 3641 to assist local agencies in securing Early Head Start programs  
 3642 through Early Head Start program federal grants. The  
 3643 collaboration grants shall provide the required matching funds  
 3644 for public and private nonprofit agencies that have been  
 3645 approved for Early Head Start program federal grants.

3646 (3) The department office may adopt rules as necessary for  
 3647 the award of collaboration grants to competing agencies and the  
 3648 administration of the collaboration grants program under this  
 3649 section.

3650 Section 62. Subsection (1) and paragraph (g) of subsection  
 3651 (3) of section 1002.97, Florida Statutes, are amended to read:

3652 1002.97 Records of children in the school readiness  
 3653 program.—

3654 (1) The individual records of children enrolled in the

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3655 school readiness program provided under this part, held by an  
 3656 early learning coalition or the department office, are  
 3657 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 3658 of the State Constitution. For purposes of this section, records  
 3659 include assessment data, health data, records of teacher  
 3660 observations, and personal identifying information.

3661 (3) School readiness program records may be released to:

3662 (g) Parties to an interagency agreement among early  
 3663 learning coalitions, local governmental agencies, providers of  
 3664 the school readiness program, state agencies, and the department  
 3665 office for the purpose of implementing the school readiness  
 3666 program.

3667

3668 Agencies, organizations, or individuals that receive school  
 3669 readiness program records in order to carry out their official  
 3670 functions must protect the data in a manner that does not permit  
 3671 the personal identification of a child enrolled in a school  
 3672 readiness program and his or her parent by persons other than  
 3673 those authorized to receive the records.

3674 Section 63. Subsections (1) and (3) of section 1002.995,  
 3675 Florida Statutes, are amended to read:

3676 1002.995 Early learning professional development standards  
 3677 and career pathways.—

3678 (1) The department office shall:

3679 (a) Develop early learning professional development  
 3680 training and course standards to be utilized for school  
 3681 readiness program providers.

3682 (b) Identify both formal and informal early learning career  
 3683 pathways with stackable credentials and certifications that

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3684 allow early childhood teachers to access specialized  
 3685 professional development that:

3686 1. Strengthens knowledge and teaching practices.  
 3687 2. Aligns to established professional standards and core  
 3688 competencies.  
 3689 3. Provides a progression of attainable, competency-based  
 3690 stackable credentials and certifications.  
 3691 4. Improves outcomes for children to increase kindergarten  
 3692 readiness and early grade success.

3693 (3) The State Board of Education office shall adopt rules  
 3694 to administer this section.

3695 Section 64. Section 1007.01, Florida Statutes, is amended  
 3696 to read:

3697 1007.01 Articulation; legislative intent; purpose; role of  
 3698 the State Board of Education and the Board of Governors;  
 3699 Articulation Coordinating Committee.—

3700 (1) It is the intent of the Legislature to facilitate  
 3701 articulation and seamless integration of the Early Learning-20  
 3702 ~~K-20~~ education system by building, sustaining, and strengthening  
 3703 relationships among Early Learning-20 ~~K-20~~ public organizations,  
 3704 between public and private organizations, and between the  
 3705 education system as a whole and Florida's communities. The  
 3706 purpose of building, sustaining, and strengthening these  
 3707 relationships is to provide for the efficient and effective  
 3708 progression and transfer of students within the education system  
 3709 and to allow students to proceed toward their educational  
 3710 objectives as rapidly as their circumstances permit. The  
 3711 Legislature further intends that articulation policies and  
 3712 budget actions be implemented consistently in the practices of

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3713 the Department of Education and postsecondary educational  
 3714 institutions and expressed in the collaborative policy efforts  
 3715 of the State Board of Education and the Board of Governors.

3716 (2) To improve and facilitate articulation systemwide, the  
 3717 State Board of Education and the Board of Governors shall  
 3718 collaboratively establish and adopt policies with input from  
 3719 statewide K-20 advisory groups established by the Commissioner  
 3720 of Education and the Chancellor of the State University System  
 3721 and shall recommend the policies to the Legislature. The  
 3722 policies shall relate to:

3723 (a) The alignment between the exit requirements of one  
 3724 education system and the admissions requirements of another  
 3725 education system into which students typically transfer.

3726 (b) The identification of common courses, the level of  
 3727 courses, institutional participation in a statewide course  
 3728 numbering system, and the transferability of credits among such  
 3729 institutions.

3730 (c) Identification of courses that meet general education  
 3731 or common degree program prerequisite requirements at public  
 3732 postsecondary educational institutions.

3733 (d) Dual enrollment course equivalencies.

3734 (e) Articulation agreements.

3735 (3) The Commissioner of Education, in consultation with the  
 3736 Chancellor of the State University System, shall establish the  
 3737 Articulation Coordinating Committee, which shall make  
 3738 recommendations related to statewide articulation policies and  
 3739 issues regarding access, quality, and reporting of data  
 3740 maintained by the educational ~~K-20~~ data warehouse, established  
 3741 pursuant to ss. 1001.10 and 1008.31, to the Higher Education

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3742 Coordination Council, the State Board of Education, and the  
 3743 Board of Governors. The committee shall consist of two members  
 3744 each representing the State University System, the Florida  
 3745 College System, public career and technical education, K-12  
 3746 education, and nonpublic postsecondary education and one member  
 3747 representing students. The chair shall be elected from the  
 3748 membership. The Office of K-20 Articulation shall provide  
 3749 administrative support for the committee. The committee shall:

3750 (a) Monitor the alignment between the exit requirements of  
 3751 one education system and the admissions requirements of another  
 3752 education system into which students typically transfer and make  
 3753 recommendations for improvement.

3754 (b) Propose guidelines for interinstitutional agreements  
 3755 between and among public schools, career and technical education  
 3756 centers, Florida College System institutions, state  
 3757 universities, and nonpublic postsecondary institutions.

3758 (c) Annually recommend dual enrollment course and high  
 3759 school subject area equivalencies for approval by the State  
 3760 Board of Education and the Board of Governors.

3761 (d) Annually review the statewide articulation agreement  
 3762 pursuant to s. 1007.23 and make recommendations for revisions.

3763 (e) Annually review the statewide course numbering system,  
 3764 the levels of courses, and the application of transfer credit  
 3765 requirements among public and nonpublic institutions  
 3766 participating in the statewide course numbering system and  
 3767 identify instances of student transfer and admissions  
 3768 difficulties.

3769 (f) Annually publish a list of courses that meet common  
 3770 general education and common degree program prerequisite

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3771 requirements at public postsecondary institutions identified  
3772 pursuant to s. 1007.25.

3773 (g) Foster timely collection and reporting of statewide  
3774 education data to improve the Early Learning-20 K-20 education  
3775 performance accountability system pursuant to ss. 1001.10 and  
3776 1008.31, including, but not limited to, data quality,  
3777 accessibility, and protection of student records.

3778 (h) Recommend roles and responsibilities of public  
3779 education entities in interfacing with the single, statewide  
3780 computer-assisted student advising system established pursuant  
3781 to s. 1006.735.

3782 Section 65. Section 1008.2125, Florida Statutes, is created  
3783 to read:

3784 1008.2125 Coordinated screening and progress monitoring  
3785 program for students in the Voluntary Prekindergarten Education  
3786 Program through grade 3.—

3787 (1) The primary purpose of the coordinated screening and  
3788 progress monitoring program for students in the Voluntary  
3789 Prekindergarten Education Program through grade 3 is to provide  
3790 information on students' progress in mastering the appropriate  
3791 grade-level standards and to provide information on their  
3792 progress to parents, teachers, and school and program  
3793 administrators. Data shall be used by Voluntary Prekindergarten  
3794 Education Program providers and school districts to improve  
3795 instruction, by parents and teachers to guide learning  
3796 objectives and provide timely and appropriate supports and  
3797 interventions to students not meeting grade level expectations,  
3798 and by the public to assess the cost benefit of the expenditure  
3799 of taxpayer dollars. The coordinated screening and progress

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3800 monitoring program must:

3801 (a) Assess the progress of students in the Voluntary  
3802 Prekindergarten Education Program through grade 3 in meeting the  
3803 appropriate expectations in emergent literacy and math skills  
3804 and in English Language Arts and mathematics, as required by ss.  
3805 1002.67(1) (a) and 1003.41.

3806 (b) Provide data for accountability of the Voluntary  
3807 Prekindergarten Education Program, as required by s. 1002.68.

3808 (c) Provide baseline data to the department of each  
3809 student's readiness for kindergarten, which must be based on  
3810 each kindergarten student's progress monitoring results within  
3811 the first 30 days of enrollment in accordance with paragraph  
3812 (2) (a). The methodology for determining a student's readiness  
3813 for kindergarten shall be developed by the same independent  
3814 expert identified in s. 1002.68(4) (d).

3815 (d) Identify the educational strengths and needs of  
3816 students in the Voluntary Prekindergarten Education Program  
3817 through grade 3.

3818 (e) Provide teachers with progress monitoring data to  
3819 provide timely interventions and supports pursuant to s.  
3820 1008.25(4).

3821 (f) Assess how well educational goals and curricular  
3822 standards are met at the provider, school, district, and state  
3823 levels.

3824 (g) Provide information to aid in the evaluation and  
3825 development of educational programs and policies.

3826 (2) The Commissioner of Education shall design a statewide,  
3827 standardized coordinated screening and progress monitoring  
3828 program to assess early literacy and mathematics skills and the

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3829 English Language Arts and mathematics standards established in  
 3830 ss. 1002.67(1)(a) and 1003.41, respectively. The coordinated  
 3831 screening and progress monitoring program must provide interval  
 3832 level and norm-referenced data that measures equivalent levels  
 3833 of growth; be a developmentally appropriate, valid, and reliable  
 3834 direct assessment; be able to capture data on students who may  
 3835 be performing below grade or developmental level and which may  
 3836 enable the identification of early indicators of dyslexia or  
 3837 other developmental delays; accurately measure the core content  
 3838 in the applicable grade level standards; document learning gains  
 3839 for the achievement of these standards; and provide teachers  
 3840 with progress monitoring supports and materials that enhance  
 3841 differentiated instruction and parent communication.  
 3842 Participation in the coordinated screening and progress  
 3843 monitoring program is mandatory for all students in the  
 3844 Voluntary Prekindergarten Education Program and enrolled in a  
 3845 public school in kindergarten through grade 3. The coordinated  
 3846 screening and progress monitoring program shall be implemented  
 3847 beginning in the 2022-2023 school year for students in the  
 3848 Voluntary Prekindergarten Education Program and kindergarten  
 3849 students, as follows:  
 3850 (a) The coordinated screening and progress monitoring  
 3851 program shall be administered within the first 30 days after  
 3852 enrollment, midyear, and within the last 30 days of the program  
 3853 or school year, in accordance with the rules adopted by the  
 3854 State Board of Education. The state board may adopt alternate  
 3855 timeframes to address nontraditional school year calendars or  
 3856 summer programs to ensure that the coordinated screening and  
 3857 progress monitoring program is administered a minimum of 3 times

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3858 within a year or program.  
 3859 (b) The results of the coordinated screening and progress  
 3860 monitoring program shall be reported to the department, in  
 3861 accordance with the rules adopted by the state board, and  
 3862 maintained in the department's educational data warehouse.  
 3863 (3) The Commissioner of Education shall:  
 3864 (a) Develop a plan, in coordination with the Council for  
 3865 Early Grade Success, for implementing the coordinated screening  
 3866 and progress monitoring program in consideration of timelines  
 3867 for implementing new early literacy and mathematics skills and  
 3868 the English Language Arts and mathematics standards established  
 3869 in ss. 1002.67(1)(a) and 1003.41, as appropriate.  
 3870 (b) Provide data, reports, and information as requested to  
 3871 the Council for Early Grade Success.  
 3872 (4) The Council for Early Grade Success, a council defined  
 3873 in s. 20.03(7), is created within the Department of Education to  
 3874 oversee the coordinated screening and progress monitoring  
 3875 program and, except as otherwise provided in this section, shall  
 3876 operate consistent with s. 20.052.  
 3877 (a) The council shall be responsible for reviewing the  
 3878 implementation of, training for, administration of, and outcomes  
 3879 from the coordinated screening and progress monitoring program  
 3880 to provide recommendations to the department that supports grade  
 3881 3 students reading at or above grade level. The council, at a  
 3882 minimum, shall:  
 3883 1. Provide recommendations on the implementation of the  
 3884 coordinated screening and progress monitoring program, including  
 3885 reviewing any procurement solicitation documents and criteria  
 3886 before being published.

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3887 2. Develop training plans and timelines for such training.  
 3888 3. Identify appropriate personnel, processes, and  
 3889 procedures required for the administration of the coordinated  
 3890 screening and progress monitoring program.  
 3891 4. Provide input on the methodology for calculating a  
 3892 provider's or school's performance metric and designations under  
 3893 s. 1002.68.  
 3894 5. Work with the department's independent expert under s.  
 3895 1002.68(4)(d) to review the methodology for determining a  
 3896 child's kindergarten readiness.  
 3897 6. Review data on age-appropriate learning gains by grade  
 3898 level that a student would need to attain in order to  
 3899 demonstrate proficiency in reading by grade 3.  
 3900 7. Continually review anonymized data from the results of  
 3901 the coordinated screening and progress monitoring program for  
 3902 students in the Voluntary Prekindergarten Education Program  
 3903 through grade 3 to help inform recommendations to the department  
 3904 that support practices that will enable grade 3 students to read  
 3905 at or above grade level.  
 3906 (b) The council shall be composed of 15 members who are  
 3907 residents of this state and appointed, notwithstanding any other  
 3908 provision of law, as follows:  
 3909 1. Two members appointed by the Governor, as follows:  
 3910 a. One representative from the Department of Education.  
 3911 b. One parent of a child who is 4 to 9 years of age.  
 3912 2. Thirteen members appointed jointly by the President of  
 3913 the Senate and Speaker of the House of Representatives, as  
 3914 follows:  
 3915 a. One representative of an urban school district.

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3916 b. One representative of a rural school district.  
 3917 c. One representative of an urban early learning coalition.  
 3918 d. One representative of a rural early learning coalition.  
 3919 e. One representative of an early learning provider.  
 3920 f. One representative of a faith-based early learning  
 3921 provider.  
 3922 g. One representative who is a kindergarten teacher who has  
 3923 at least 5 years of teaching experience.  
 3924 h. One representative who is a second grade teacher who has  
 3925 at least 5 years of teaching experience.  
 3926 i. One representative who is a school principal.  
 3927 j. Four representatives with subject matter expertise in  
 3928 early learning, early grade success, or child assessments. The  
 3929 four representatives with subject matter expertise may not be  
 3930 direct stakeholders within the early learning or public school  
 3931 systems or potential recipients of a contract resulting from the  
 3932 committee's recommendations.  
 3933 (5) The council shall elect a chair and a vice chair, one  
 3934 of whom must be a member who has subject matter expertise in  
 3935 early learning, early grade success, or child assessments. The  
 3936 vice chair must be a member appointed by the President of the  
 3937 Senate and the Speaker of the House of Representatives who is  
 3938 not one of the four members with subject matter expertise in  
 3939 early learning, early grade success, or child assessments  
 3940 appointed pursuant to sub-subparagraph (b)2.j. Members of the  
 3941 council shall serve without compensation but are entitled to  
 3942 reimbursement for per diem and travel expenses pursuant to s.  
 3943 112.061.  
 3944 (6) The council must meet at least biannually and may meet

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3945 by teleconference or other electronic means, if possible, to  
 3946 reduce costs.

3947 (7) A majority of the members constitutes a quorum.

3948 Section 66. Present paragraphs (b) and (c) of subsection  
 3949 (5) of section 1008.25, Florida Statutes, are redesignated as  
 3950 paragraphs (c) and (d), respectively, a new paragraph (b) is  
 3951 added to that subsection, and paragraph (b) of subsection (6),  
 3952 subsection (7), and paragraph (a) of subsection (8) are amended,  
 3953 to read:

3954 1008.25 Public school student progression; student support;  
 3955 reporting requirements.—

3956 (5) READING DEFICIENCY AND PARENTAL NOTIFICATION.—

3957 (b) A Voluntary Prekindergarten Education Program student  
 3958 who exhibits a substantial deficiency in early literacy skills  
 3959 in accordance with the standards under s. 1002.67(1)(a) and  
 3960 based upon the results of the administration of the final  
 3961 coordinated screening and progress monitoring under s. 1008.2125  
 3962 shall be referred to the local school district and may be  
 3963 eligible to receive intensive reading interventions before  
 3964 participating in kindergarten. Such intensive reading  
 3965 interventions shall be paid for using funds from the district's  
 3966 research-based reading instruction allocation in accordance with  
 3967 s. 1011.62(9).

3968 (6) ELIMINATION OF SOCIAL PROMOTION.—

3969 (b) The district school board may only exempt students from  
 3970 mandatory retention, as provided in paragraph (5)(c) ~~(5)(b)~~, for  
 3971 good cause. A student who is promoted to grade 4 with a good  
 3972 cause exemption shall be provided intensive reading instruction  
 3973 and intervention that include specialized diagnostic information

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3974 and specific reading strategies to meet the needs of each  
 3975 student so promoted. The school district shall assist schools  
 3976 and teachers with the implementation of explicit, systematic,  
 3977 and multisensory reading instruction and intervention strategies  
 3978 for students promoted with a good cause exemption which research  
 3979 has shown to be successful in improving reading among students  
 3980 who have reading difficulties. Good cause exemptions are limited  
 3981 to the following:

3982 1. Limited English proficient students who have had less  
 3983 than 2 years of instruction in an English for Speakers of Other  
 3984 Languages program based on the initial date of entry into a  
 3985 school in the United States.

3986 2. Students with disabilities whose individual education  
 3987 plan indicates that participation in the statewide assessment  
 3988 program is not appropriate, consistent with the requirements of  
 3989 s. 1008.212.

3990 3. Students who demonstrate an acceptable level of  
 3991 performance on an alternative standardized reading or English  
 3992 Language Arts assessment approved by the State Board of  
 3993 Education.

3994 4. A student who demonstrates through a student portfolio  
 3995 that he or she is performing at least at Level 2 on the  
 3996 statewide, standardized English Language Arts assessment.

3997 5. Students with disabilities who take the statewide,  
 3998 standardized English Language Arts assessment and who have an  
 3999 individual education plan or a Section 504 plan that reflects  
 4000 that the student has received intensive instruction in reading  
 4001 or English Language Arts for more than 2 years but still  
 4002 demonstrates a deficiency and was previously retained in

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4003 kindergarten, grade 1, grade 2, or grade 3.

4004 6. Students who have received intensive reading

4005 intervention for 2 or more years but still demonstrate a

4006 deficiency in reading and who were previously retained in

4007 kindergarten, grade 1, grade 2, or grade 3 for a total of 2

4008 years. A student may not be retained more than once in grade 3.

4009 (7) SUCCESSFUL PROGRESSION FOR RETAINED THIRD GRADE

4010 STUDENTS.—

4011 (a) Students retained under paragraph (5)(c) ~~(5)(b)~~ must be

4012 provided intensive interventions in reading to ameliorate the

4013 student's specific reading deficiency and prepare the student

4014 for promotion to the next grade. These interventions must

4015 include:

4016 1. Evidence-based, explicit, systematic, and multisensory

4017 reading instruction in phonemic awareness, phonics, fluency,

4018 vocabulary, and comprehension and other strategies prescribed by

4019 the school district.

4020 2. Participation in the school district's summer reading

4021 camp, which must incorporate the instructional and intervention

4022 strategies under subparagraph 1.

4023 3. A minimum of 90 minutes of daily, uninterrupted reading

4024 instruction incorporating the instructional and intervention

4025 strategies under subparagraph 1. This instruction may include:

4026 a. Integration of content-rich texts in science and social

4027 studies within the 90-minute block.

4028 b. Small group instruction.

4029 c. Reduced teacher-student ratios.

4030 d. More frequent progress monitoring.

4031 e. Tutoring or mentoring.

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4032 f. Transition classes containing 3rd and 4th grade

4033 students.

4034 g. Extended school day, week, or year.

4035 (b) Each school district shall:

4036 1. Provide written notification to the parent of a student

4037 who is retained under paragraph (5)(c) ~~(5)(b)~~ that his or her

4038 child has not met the proficiency level required for promotion

4039 and the reasons the child is not eligible for a good cause

4040 exemption as provided in paragraph (6)(b). The notification must

4041 comply with paragraph (5)(d) ~~(5)(e)~~ and must include a

4042 description of proposed interventions and supports that will be

4043 provided to the child to remediate the identified areas of

4044 reading deficiency.

4045 2. Implement a policy for the midyear promotion of a

4046 student retained under paragraph (5)(c) ~~(5)(b)~~ who can

4047 demonstrate that he or she is a successful and independent

4048 reader and performing at or above grade level in reading or,

4049 upon implementation of English Language Arts assessments,

4050 performing at or above grade level in English Language Arts.

4051 Tools that school districts may use in reevaluating a student

4052 retained may include subsequent assessments, alternative

4053 assessments, and portfolio reviews, in accordance with rules of

4054 the State Board of Education. Students promoted during the

4055 school year after November 1 must demonstrate proficiency levels

4056 in reading equivalent to the level necessary for the beginning

4057 of grade 4. The rules adopted by the State Board of Education

4058 must include standards that provide a reasonable expectation

4059 that the student's progress is sufficient to master appropriate

4060 grade 4 level reading skills.



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4061 3. Provide students who are retained under paragraph (5) (c)  
 4062 ~~(5) (b)~~, including students participating in the school  
 4063 district's summer reading camp under subparagraph (a)2., with a  
 4064 highly effective teacher as determined by the teacher's  
 4065 performance evaluation under s. 1012.34, and, beginning July 1,  
 4066 2020, the teacher must also be certified or endorsed in reading.  
 4067 4. Establish at each school, when applicable, an intensive  
 4068 reading acceleration course for any student retained in grade 3  
 4069 who was previously retained in kindergarten, grade 1, or grade  
 4070 2. The intensive reading acceleration course must provide the  
 4071 following:  
 4072 a. Uninterrupted reading instruction for the majority of  
 4073 student contact time each day and opportunities to master the  
 4074 grade 4 Next Generation Sunshine State Standards in other core  
 4075 subject areas through content-rich texts.  
 4076 b. Small group instruction.  
 4077 c. Reduced teacher-student ratios.  
 4078 d. The use of explicit, systematic, and multisensory  
 4079 reading interventions, including intensive language, phonics,  
 4080 and vocabulary instruction, and use of a speech-language  
 4081 therapist if necessary, that have proven results in accelerating  
 4082 student reading achievement within the same school year.  
 4083 e. A read-at-home plan.  
 4084 (8) ANNUAL REPORT.—  
 4085 (a) In addition to the requirements in paragraph (5) (c)  
 4086 ~~(5) (b)~~, each district school board must annually report to the  
 4087 parent of each student the progress of the student toward  
 4088 achieving state and district expectations for proficiency in  
 4089 English Language Arts, science, social studies, and mathematics.

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4090 The district school board must report to the parent the  
 4091 student's results on each statewide, standardized assessment.  
 4092 The evaluation of each student's progress must be based upon the  
 4093 student's classroom work, observations, tests, district and  
 4094 state assessments, response to intensive interventions provided  
 4095 under paragraph (5) (a), and other relevant information. Progress  
 4096 reporting must be provided to the parent in writing in a format  
 4097 adopted by the district school board.  
 4098 Section 67. Section 1008.31, Florida Statutes, is amended  
 4099 to read:  
 4100 1008.31 Florida's Early Learning-20 ~~K-20~~ education  
 4101 performance accountability system; legislative intent; mission,  
 4102 goals, and systemwide measures; data quality improvements.—  
 4103 (1) LEGISLATIVE INTENT.—It is the intent of the Legislature  
 4104 that:  
 4105 (a) The performance accountability system implemented to  
 4106 assess the effectiveness of Florida's seamless Early Learning-20  
 4107 ~~K-20~~ education delivery system provide answers to the following  
 4108 questions in relation to its mission and goals:  
 4109 1. What is the public receiving in return for funds it  
 4110 invests in education?  
 4111 2. How effectively is Florida's Early Learning-20 ~~K-20~~  
 4112 education system educating its students?  
 4113 3. How effectively are the major delivery sectors promoting  
 4114 student achievement?  
 4115 4. How are individual schools and postsecondary education  
 4116 institutions performing their responsibility to educate their  
 4117 students as measured by how students are performing and how much  
 4118 they are learning?

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4119 (b) The Early Learning-20 ~~K-20~~ education performance  
4120 accountability system be established as a single, unified  
4121 accountability system with multiple components, including, but  
4122 not limited to, student performance in public schools and school  
4123 and district grades.

4124 (c) The K-20 education performance accountability system  
4125 comply with the requirements of the "No Child Left Behind Act of  
4126 2001," Pub. L. No. 107-110, and the Individuals with  
4127 Disabilities Education Act (IDEA).

4128 (d) The early learning accountability system comply with  
4129 the requirements of part V and part VI of chapter 1002 and the  
4130 requirements of the Child Care and Development Block Grant Trust  
4131 Fund, pursuant to 45 C.F.R. parts 98 and 99.

4132 ~~(e)~~ (d) The State Board of Education and the Board of  
4133 Governors of the State University System recommend to the  
4134 Legislature systemwide performance standards; the Legislature  
4135 establish systemwide performance measures and standards; and the  
4136 systemwide measures and standards provide Floridians with  
4137 information on what the public is receiving in return for the  
4138 funds it invests in education and how well the Early Learning-20  
4139 ~~K-20~~ system educates its students.

4140 ~~(f) 1. (e) 1.~~ The State Board of Education establish  
4141 performance measures and set performance standards for  
4142 individual public schools and Florida College System  
4143 institutions, with measures and standards based primarily on  
4144 student achievement.

4145 2. The Board of Governors of the State University System  
4146 establish performance measures and set performance standards for  
4147 individual state universities, including actual completion

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4148 rates.

4149 (2) MISSION, GOALS, AND SYSTEMWIDE MEASURES.—

4150 (a) The mission of Florida's Early Learning-20 ~~K-20~~  
4151 education system shall be to increase the proficiency of all  
4152 students within one seamless, efficient system, by allowing them  
4153 the opportunity to expand their knowledge and skills through  
4154 learning opportunities and research valued by students, parents,  
4155 and communities.

4156 (b) The process for establishing state and sector-specific  
4157 standards and measures must be:

- 4158 1. Focused on student success.
- 4159 2. Addressable through policy and program changes.
- 4160 3. Efficient and of high quality.
- 4161 4. Measurable over time.
- 4162 5. Simple to explain and display to the public.
- 4163 6. Aligned with other measures and other sectors to support  
4164 a coordinated Early Learning-20 ~~K-20~~ education system.

4165 (c) The Department of Education shall maintain an  
4166 accountability system that measures student progress toward the  
4167 following goals:

- 4168 1. Highest student achievement, as indicated by evidence of  
4169 student learning gains at all levels.
- 4170 2. Seamless articulation and maximum access, as measured by  
4171 evidence of progression, readiness, and access by targeted  
4172 groups of students identified by the Commissioner of Education.
- 4173 3. Skilled workforce and economic development, as measured  
4174 by evidence of employment and earnings.
- 4175 4. Quality efficient services, as measured by evidence of  
4176 return on investment.

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4177 5. Other goals as identified by law or rule.

4178 (3) ~~K-20~~ EDUCATION DATA QUALITY IMPROVEMENTS.—To provide

4179 data required to implement education performance accountability

4180 measures in state and federal law, the Commissioner of Education

4181 shall initiate and maintain strategies to improve data quality

4182 and timeliness. The Board of Governors shall make available to

4183 the department all data within the State University Database

4184 System to be integrated into the educational ~~K-20~~ data

4185 warehouse. The commissioner shall have unlimited access to such

4186 data for the purposes of conducting studies, reporting annual

4187 and longitudinal student outcomes, and improving college

4188 readiness and articulation. All public educational institutions

4189 shall annually provide data from the prior year to the

4190 educational ~~K-20~~ data warehouse in a format based on data

4191 elements identified by the commissioner.

4192 (a) School districts and public postsecondary educational

4193 institutions shall maintain information systems that will

4194 provide the State Board of Education, the Board of Governors of

4195 the State University System, and the Legislature with

4196 information and reports necessary to address the specifications

4197 of the accountability system. The level of comprehensiveness and

4198 quality must be no less than that which was available as of June

4199 30, 2001.

4200 (b) Colleges and universities eligible to participate in

4201 the William L. Boyd, IV, Effective Access to Student Education

4202 Grant Program shall annually report student-level data from the

4203 prior year for each student who receives state funds in a format

4204 prescribed by the Department of Education. At a minimum, data

4205 from the prior year must include retention rates, transfer

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4206 rates, completion rates, graduation rates, employment and

4207 placement rates, and earnings of graduates. By October 1 of each

4208 year, the colleges and universities described in this paragraph

4209 shall report the data to the department.

4210 (c) The Commissioner of Education shall determine the

4211 standards for the required data, monitor data quality, and

4212 measure improvements. The commissioner shall report annually to

4213 the State Board of Education, the Board of Governors of the

4214 State University System, the President of the Senate, and the

4215 Speaker of the House of Representatives data quality indicators

4216 and ratings for all school districts and public postsecondary

4217 educational institutions.

4218 (d) Before establishing any new reporting or data

4219 collection requirements, the commissioner shall use existing

4220 data being collected to reduce duplication and minimize

4221 paperwork.

4222 (4) RULES.—The State Board of Education shall adopt rules

4223 pursuant to ss. 120.536(1) and 120.54 to implement the

4224 provisions of this section relating to the educational ~~K-20~~ data

4225 warehouse.

4226 Section 68. Section 1008.32, Florida Statutes, is amended

4227 to read:

4228 1008.32 State Board of Education oversight enforcement

4229 authority.—The State Board of Education shall oversee the

4230 performance of early learning coalitions, district school

4231 boards, and Florida College System institution boards of

4232 trustees in enforcement of all laws and rules. District school

4233 boards and Florida College System institution boards of trustees

4234 shall be primarily responsible for compliance with law and state

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4235 board rule.

4236 (1) In order to ensure compliance with law or state board  
4237 rule, the State Board of Education shall have the authority to  
4238 request and receive information, data, and reports from early  
4239 learning coalitions, school districts, and Florida College  
4240 System institutions. Early learning coalition chief executive  
4241 officers or executive directors, district school  
4242 superintendents, and Florida College System institution  
4243 presidents are responsible for the accuracy of the information  
4244 and data reported to the state board.

4245 (2) (a) The Commissioner of Education may investigate  
4246 allegations of noncompliance with law or state board rule and  
4247 determine probable cause. The commissioner shall report  
4248 determinations of probable cause to the State Board of Education  
4249 which shall require the early learning coalition, district  
4250 school board, or Florida College System institution board of  
4251 trustees to document compliance with law or state board rule.

4252 (b) The Commissioner of Education shall report to the State  
4253 Board of Education any findings by the Auditor General that an  
4254 early learning coalition, a district school board, or Florida  
4255 College System institution is acting without statutory authority  
4256 or contrary to general law. The State Board of Education shall  
4257 require the early learning coalition, district school board, or  
4258 Florida College System institution board of trustees to document  
4259 compliance with such law.

4260 (3) If the early learning coalition, district school board,  
4261 or Florida College System institution board of trustees cannot  
4262 satisfactorily document compliance, the State Board of Education  
4263 may order compliance within a specified timeframe.

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4264 (4) If the State Board of Education determines that an  
4265 early learning coalition, a district school board, or Florida  
4266 College System institution board of trustees is unwilling or  
4267 unable to comply with law or state board rule within the  
4268 specified time, the state board shall have the authority to  
4269 initiate any of the following actions:

4270 (a) Report to the Legislature that the early learning  
4271 coalition, school district, or Florida College System  
4272 institution is unwilling or unable to comply with law or state  
4273 board rule and recommend action to be taken by the Legislature.

4274 (b) Withhold the transfer of state funds, discretionary  
4275 grant funds, discretionary lottery funds, or any other funds  
4276 specified as eligible for this purpose by the Legislature until  
4277 the early learning coalition, school district, or Florida  
4278 College System institution complies with the law or state board  
4279 rule.

4280 (c) Declare the early learning coalition, school district,  
4281 or Florida College System institution ineligible for competitive  
4282 grants.

4283 (d) Require monthly or periodic reporting on the situation  
4284 related to noncompliance until it is remedied.

4285 (5) Nothing in this section shall be construed to create a  
4286 private cause of action or create any rights for individuals or  
4287 entities in addition to those provided elsewhere in law or rule.

4288 Section 69. Paragraph (a) of subsection (3) of section  
4289 1008.33, Florida Statutes, is amended to read:

4290 1008.33 Authority to enforce public school improvement.—

4291 (3) (a) The academic performance of all students has a  
4292 significant effect on the state school system. Pursuant to Art.

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 4293 IX of the State Constitution, which prescribes the duty of the  
 4294 State Board of Education to supervise Florida's public school  
 4295 system, the state board shall equitably enforce the  
 4296 accountability requirements of the state school system and may  
 4297 impose state requirements on school districts in order to  
 4298 improve the academic performance of all districts, schools, and  
 4299 students based upon the provisions of the Florida Early  
 4300 Learning-20 K-20 Education Code, chapters 1000-1013; the federal  
 4301 ESEA and its implementing regulations; and the ESEA flexibility  
 4302 waiver approved for Florida by the United States Secretary of  
 4303 Education.

4304 Section 70. Subsection (9) of section 1011.62, Florida  
 4305 Statutes, is amended to read:

4306 1011.62 Funds for operation of schools.—If the annual  
 4307 allocation from the Florida Education Finance Program to each  
 4308 district for operation of schools is not determined in the  
 4309 annual appropriations act or the substantive bill implementing  
 4310 the annual appropriations act, it shall be determined as  
 4311 follows:

4312 (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

4313 (a) The research-based reading instruction allocation is  
 4314 created to provide comprehensive reading instruction to students  
 4315 in kindergarten through grade 12, including certain students who  
 4316 exhibit a substantial deficiency in early literacy and completed  
 4317 the Voluntary Prekindergarten Education Program under s.  
 4318 1008.25(5)(b). Each school district that has one or more of the  
 4319 300 lowest-performing elementary schools based on a 3-year  
 4320 average of the state reading assessment data must use the  
 4321 school's portion of the allocation to provide an additional hour

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 4322 per day of intensive reading instruction for the students in  
 4323 each school. The additional hour may be provided within the  
 4324 school day. Students enrolled in these schools who earned a  
 4325 level 4 or level 5 score on the statewide, standardized English  
 4326 Language Arts assessment for the previous school year may  
 4327 participate in the additional hour of instruction. Exceptional  
 4328 student education centers may not be included in the 300  
 4329 schools. The intensive reading instruction delivered in this  
 4330 additional hour shall include: research-based reading  
 4331 instruction that has been proven to accelerate progress of  
 4332 students exhibiting a reading deficiency; differentiated  
 4333 instruction based on screening, diagnostic, progress monitoring,  
 4334 or student assessment data to meet students' specific reading  
 4335 needs; explicit and systematic reading strategies to develop  
 4336 phonemic awareness, phonics, fluency, vocabulary, and  
 4337 comprehension, with more extensive opportunities for guided  
 4338 practice, error correction, and feedback; and the integration of  
 4339 social studies, science, and mathematics-text reading, text  
 4340 discussion, and writing in response to reading.

4341 (b) Funds for comprehensive, research-based reading  
 4342 instruction shall be allocated annually to each school district  
 4343 in the amount provided in the General Appropriations Act. Each  
 4344 eligible school district shall receive the same minimum amount  
 4345 as specified in the General Appropriations Act, and any  
 4346 remaining funds shall be distributed to eligible school  
 4347 districts based on each school district's proportionate share of  
 4348 K-12 base funding.

4349 (c) Funds allocated under this subsection must be used to  
 4350 provide a system of comprehensive reading instruction to

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4351 students enrolled in the K-12 programs and certain students who  
 4352 exhibit a substantial deficiency in early literacy and completed  
 4353 the Voluntary Prekindergarten Education Program pursuant to s.  
 4354 1008.25(5)(b), which may include the following:

- 4355 1. An additional hour per day of evidence-based intensive  
 4356 reading instruction to students in the 300 lowest-performing  
 4357 elementary schools by teachers and reading specialists who have  
 4358 demonstrated effectiveness in teaching reading as required in  
 4359 paragraph (a).
- 4360 2. Kindergarten through grade 5 evidence-based ~~reading~~  
 4361 ~~intervention teachers to provide~~ intensive reading interventions  
 4362 provided by reading intervention teachers ~~intervention~~ during  
 4363 the school day and in the required extra hour for students  
 4364 identified as having a reading deficiency.
- 4365 3. Highly qualified reading coaches to specifically support  
 4366 teachers in making instructional decisions based on student  
 4367 data, and improve teacher delivery of effective reading  
 4368 instruction, intervention, and reading in the content areas  
 4369 based on student need.
- 4370 4. Professional development for school district teachers in  
 4371 scientifically based reading instruction, including strategies  
 4372 to teach reading in content areas and with an emphasis on  
 4373 technical and informational text, to help school district  
 4374 teachers earn a certification or an endorsement in reading.
- 4375 5. Summer reading camps, using only teachers or other  
 4376 district personnel who are certified or endorsed in reading  
 4377 consistent with s. 1008.25(7)(b)3., for all students in  
 4378 kindergarten through grade 2 who demonstrate a reading  
 4379 deficiency as determined by district and state assessments, and

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4380 students in grades 3 through 5 who score at Level 1 on the  
 4381 statewide, standardized English Language Arts assessment, and  
 4382 certain students who exhibit a substantial deficiency in early  
 4383 literacy and completed the Voluntary Prekindergarten Education  
 4384 Program under s. 1008.25(5)(b).

4385 6. Scientifically researched and evidence-based  
 4386 supplemental instructional materials ~~that are grounded in~~  
 4387 ~~scientifically based reading research~~ as identified by the Just  
 4388 Read, Florida! Office pursuant to s. 1001.215(8).

4389 7. Evidence-based intensive interventions for students in  
 4390 kindergarten through grade 12 who have been identified as having  
 4391 a reading deficiency or who are reading below grade level as  
 4392 determined by the statewide, standardized English Language Arts  
 4393 assessment or for certain students who exhibit a substantial  
 4394 deficiency in early literacy and completed the Voluntary  
 4395 Prekindergarten Education Program under s. 1008.25(5)(b).

4396 (d)1. Annually, by a date determined by the Department of  
 4397 Education but before May 1, school districts shall submit a ~~K-12~~  
 4398 comprehensive reading plan for the specific use of the research-  
 4399 based reading instruction allocation in the format prescribed by  
 4400 the department for review and approval by the Just Read,  
 4401 Florida! Office created pursuant to s. 1001.215. The plan  
 4402 annually submitted by school districts shall be deemed approved  
 4403 unless the department rejects the plan on or before June 1. If a  
 4404 school district and the Just Read, Florida! Office cannot reach  
 4405 agreement on the contents of the plan, the school district may  
 4406 appeal to the State Board of Education for resolution. School  
 4407 districts shall be allowed reasonable flexibility in designing  
 4408 their plans and shall be encouraged to offer reading

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4409 intervention through innovative methods, including career  
 4410 academies. The plan format shall be developed with input from  
 4411 school district personnel, including teachers and principals,  
 4412 and shall provide for intensive reading interventions through  
 4413 integrated curricula, provided that, beginning with the 2020-  
 4414 2021 school year, the interventions are delivered by a teacher  
 4415 who is certified or endorsed in reading. Such interventions must  
 4416 incorporate evidence-based strategies identified by the Just  
 4417 Read, Florida! Office pursuant to s. 1001.215(8). No later than  
 4418 July 1 annually, the department shall release the school  
 4419 district's allocation of appropriated funds to those districts  
 4420 having approved plans. A school district that spends 100 percent  
 4421 of this allocation on its approved plan shall be deemed to have  
 4422 been in compliance with the plan. The department may withhold  
 4423 funds upon a determination that reading instruction allocation  
 4424 funds are not being used to implement the approved plan. The  
 4425 department shall monitor and track the implementation of each  
 4426 district plan, including conducting site visits and collecting  
 4427 specific data on expenditures and reading improvement results.  
 4428 By February 1 of each year, the department shall report its  
 4429 findings to the Legislature.

4430 2. Each school district that has a school designated as one  
 4431 of the 300 lowest-performing elementary schools as specified in  
 4432 paragraph (a) shall specifically delineate in the comprehensive  
 4433 reading plan, or in an addendum to the comprehensive reading  
 4434 plan, the implementation design and reading intervention  
 4435 strategies that will be used for the required additional hour of  
 4436 reading instruction. The term "reading intervention" includes  
 4437 evidence-based strategies frequently used to remediate reading

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4438 deficiencies and also includes individual instruction, tutoring,  
 4439 mentoring, or the use of technology that targets specific  
 4440 reading skills and abilities.  
 4441

4442 For purposes of this subsection, the term "evidence-based" means  
 4443 demonstrating a statistically significant effect on improving  
 4444 student outcomes or other relevant outcomes.

4445 Section 71. For the 2022-2023 fiscal year, the sum of  
 4446 \$3,088,000 in recurring funds is appropriated from the General  
 4447 Revenue Fund to the Department of Education to implement the  
 4448 coordinated screening and progress monitoring program required  
 4449 by s. 1008.2125, Florida Statutes. Of these funds, \$3 million  
 4450 shall be placed in reserve. The department is authorized to  
 4451 submit budget amendments requesting the release of funds  
 4452 pursuant to chapter 216, Florida Statutes. The budget amendment  
 4453 shall include a detailed operational work plan and spending  
 4454 plan. The department shall submit quarterly updates to the plans  
 4455 and quarterly project status reports to the Office of Policy and  
 4456 Budget in the Executive Office of the Governor and the chairs of  
 4457 the Senate Committee on Appropriations and the House of  
 4458 Representatives Appropriations Committee. Each status report  
 4459 must include progress made to date for each project activity,  
 4460 planned and actual tasks and deliverable completion dates,  
 4461 planned and actual costs incurred, and any current issues and  
 4462 risks.

4463 Section 72. For the 2021-2022 fiscal year, the sum of  
 4464 \$100,000 in nonrecurring funds is appropriated from the General  
 4465 Revenue Fund to the Department of Education to issue a  
 4466 competitive solicitation to contract with an independent third

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4467 party consulting firm to conduct a review of the school  
4468 readiness payment rates by county, provider type, and care  
4469 level. The review shall include an evaluation of the current  
4470 methodology for establishing the market rate schedule pursuant  
4471 to s. 1002.895, Florida Statutes, the current school readiness  
4472 payment rates, and the impact of the approved pay differentials  
4473 authorized under part VI of chapter 1002, Florida Statutes, on  
4474 the payment rates. The review shall include recommendations on a  
4475 methodology for setting the payment rates by county, by provider  
4476 type, and by care level that takes into consideration the impact  
4477 that local ordinances may have on the market rate if such  
4478 ordinances require more stringent staff-to-child ratios than  
4479 required in s. 402.305(4), Florida Statutes, but may not  
4480 consider school readiness wait lists as a factor. The department  
4481 shall submit the results of the review and the recommendations  
4482 to the Governor's Office of Policy and Budget and the chairs of  
4483 the Senate Committee on Appropriations and the House of  
4484 Representatives Appropriations Committee by January 1, 2022.  
4485 Section 73. For the 2021-2022 fiscal year, the sum of  
4486 \$677,759 in recurring funds is appropriated from the General  
4487 Revenue Fund to the Department of Education to assist in the  
4488 implementation of s. 1002.68(2), Florida Statutes.  
4489 Section 74. This act shall take effect upon becoming a law.