

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 5005 PCB PAC 09-01 Education Funding

SPONSOR(S): Full Appropriations Council on Education and Economic Development; PreK-12 Appropriations Committee; Flores

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	PreK-12 Appropriations Committee	6 Y, 3 N	Heflin	Heflin
1)	Full Appropriations Council on Education & Economic Development	14 Y, 8 N, As CS	Heflin	Martin
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill amends statutory provisions necessary to conform the statutes to appropriations made in the General Appropriations Act for the 2009-2010 fiscal year.

The bill amends statutes relating to the Florida Information Resource Network and school district internet and telecommunications services; salaries of district school board members and superintendents; Florida Virtual School funding; school district virtual instruction programs; attendance policies for the Voluntary Prekindergarten Education Program; minimum requirements for the number of instructional days in a school year; the implementation of class size reduction requirements; regional autism centers; school district price-setting methodologies for school food service programs; the definition of instructional materials and the use of instructional materials funds; the establishment of college-level communication and mathematics skills examination (CLAST) fees; the electronic transfer of school district funds; full-time equivalent membership eligibility for funding in the Florida Education Finance Program (FEFP); determination of the final taxable value for school purposes for the final calculation of the FEFP for each fiscal year; district flexibility to use FEFP categorical funds including safe schools, instructional materials, research-based reading instruction allocation, student transportation, and supplemental academic instruction; determination of the total allocation of state FEFP funds to each school district; authorized uses of school district capital improvement millage revenues; authorized school district capital improvement millage; the waiver of penalties for audit citations for misuse of school district capital improvement millage revenues; salaries of school district instructional personnel; the Equity in School-Level Funding Act; teacher certification exam fees; the Florida Teachers Lead Program; the Dale Hickam Excellent Teaching Program; participation requirements for the Public Education and Capital Outlay and Debt Service Trust Fund (PECO) special facility construction account; and incorporation by reference of the document entitled "Public School Funding – The Florida Education Finance Program," displaying the calculations used in making appropriations for the 2009-2010 fiscal year FEFP.

The bill substantially amends ss. 1001.20, 1001.28, 1001.395, 1001.42, 1001.451, 1001.47, 1001.50, 1002.37, 1002.45, 1002.71, 1003.02, 1003.03, 1004.55, 1006.06, 1006.28, 1006.40, 1008.29, 1008.41, 1010.11, 1011.18, 1011.60, 1011.61, 1011.62, 1011.69, 1011.71, 1011.73, 1012.33, 1012.59, 1012.71, 1012.72, 1013.62, and 1013.64, F.S. The bill also creates s. 1001.271, F.S. and repeals s. 9 of ch. 2008-142, L.O.F.

The bill conforms the statutes to the K-12 public schools budget. The bill provides school districts additional fiscal flexibility by giving priority to funding for the core mission of teaching and learning and less emphasis on funding noncore functions. In addition, the bill makes a series of adjustments and reductions to special allocations in the funding formula to maximize funding in the base allocation for all districts. The bill also provides fiscal efficiencies and limits unnecessary spending.

See FISCAL COMMENTS section.

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

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DATE: 4/8/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Florida Information Resource Network

The Florida Information Resource Network (FIRN) was established in the early 1980s to electronically link the state's public education entities to computing resources and transport administrative and student data from school districts to the Department of Education (DOE). Over the years, FIRN services have expanded to also provide electronic mail and connections to the Internet.

In 2003, the State Technology Office (now known as the Department of Management Services' Technology Program), on behalf of DOE, contracted with a vendor to provide bundled services, including Internet access and data reporting services, to school districts, public postsecondary institutions, and libraries.¹ For the school districts, FIRN services have been funded through state general revenue and E-rate funds from the Schools and Libraries Program of the federal Universal Service Fund (E-rate discounts). The DOE applies for E-rate discounts on behalf of the school districts that participate in FIRN; E-rate discounts account for approximately 71 percent of the total funding available for FIRN with the remaining balance (29 percent) funded from general revenue. Postsecondary institutions are not eligible to participate in the E-rate program. The 2008-2009 appropriation is \$6,937,882 in state funds and \$10,871,176 in trust fund authority for the federal discount.

The 2008-2009 General Appropriations Act included proviso that required the Commissioner of Education to prepare a report providing recommendations and options for the continuation of the FIRN services (the current FIRN contract expires at the end of fiscal year 2008-2009). For each recommended option, the report was required to address certain components (e.g. the total direct and indirect costs for providing the services) as identified in the proviso. The Commissioner of Education submitted the report to the Legislature and the Governor's Office by the September 15, 2008 required submission date.²

The report identified several options for the continuation of the FIRN services, including the continuation of the current approach that involves the execution of a statewide contract eligible for a statewide E-rate discount amount for the FIRN services. To continue this approach, both DOE and the Department of Management Services (DMS) collaborated on a new competitive procurement that resulted in the execution of a new statewide contract (number DMS-08/09-061) for the FIRN services

¹ On July 1, 2005, the information technology functions that were previously performed by the State Technology Office and were incorporated into the Department of Management Services' Enterprise Information Technology Services.

² Specific Appropriation 128, § 2, ch. 2008-152, L.O.F.

beginning in fiscal year 2009-2010. This contract provides for a significant decrease to the overall cost of the FIRN services and includes an agreed-upon approach for the calculation of DMS administrative services. FIRN costs to school districts under the new DMS contract are estimated at \$4.4 million including the E-rate discount of \$1.9 million.

The bill provides an additional duty to the Office of Technology and Information Services in the Office of the Commissioner as it relates to assisting school districts in securing Internet access and telecommunications services, including those eligible for funding under the Schools and Libraries Program of the federal Universal Service Fund.

The bill specifically authorizes the Commissioner of Education, upon requisition by school districts and other eligible users of FIRN, to purchase the nondiscounted portion of Internet access services. Each user must identify the source of funds from which the commissioner is to make payment. This requirement conforms to the funding approach for FIRN services beginning in the 2009-2010 fiscal year; this approach transfers the appropriate amount of the state general revenue from the special categorical to the associated program fund (base budget) of the FIRN users.

The bill also authorizes rather than requires the Commissioner of Education to employ FIRN to perform certain functions relating to workforce education.

School Board Member Salaries

Florida law provides a formula methodology for calculating school board member base salaries. The formula is based on county population. In addition, school board member base salaries are increased annually by a cumulative annual factor.³ The Legislative Committee on Intergovernmental Relations (LCIR) annually computes the salaries of county constitutional officers, including school board members. For fiscal year 2008-2009, LCIR-calculated school board member salaries range from \$23,116 to \$40,932. Many states do not pay local school board members a salary.

Notwithstanding the provisions of sections 1001.395 and 145.19, F.S., the bill authorizes district school board member salaries for the 2009-2010 fiscal year to be the lesser of the LCIR-calculated amount or the salary of members of the Legislature. For 2008-2009, the LCIR-calculated amount for school board salaries ranges from \$23,116 to \$40,932, while the salary of a member of the Legislature is \$30,336.⁴

School District Employment Contracts

Under current law, the district school board has responsibilities for personnel including appointment, compensation, promotion, suspension, and dismissal.⁵ The district school board may not enter into an employment contract that is funded from state funds that requires the district to pay an employee an amount in excess of 1 year of the employee's annual salary for termination, buy-out, or any other type of contract settlement.⁶

The bill clarifies that the limit on contract settlements paid from state funds does not apply to the payment of earned leave and benefits in accordance with the district's leave and benefits policies that were accrued by the employee before the contract terminates.

School District Superintendent Salary

Under current law, the district school board has responsibilities for personnel including appointment, compensation, promotion, suspension, and dismissal.⁷ District school superintendents are not subject to provisions of law, either general or special, relating to tenure of employment or contracts of other school personnel. In addition, the school board shall enter into an employment contract with the

³ Section 1001.395 & 145.19, F.S.

⁴ Section 11.13, F.S.

⁵ Section 1001.42(5)(a), F.S.

⁶ Section 2, ch. 2009-3, L.O.F.

⁷ *Supra* note 5.

superintendent.⁸ Currently, the school board may not enter into an employment contract that is funded from state funds and that requires the district to pay a superintendent more than 1 year's salary for termination, buy-out, or other contract settlement for school board employees.⁹

Current law provides a formula methodology for calculating elected school district superintendent base salaries. The formula is based on county population. In addition, elected superintendent base salaries are increased annually by a cumulative annual factor.¹⁰ The Legislative Committee on Intergovernmental Relations (LCIR) annually computes the salaries of county constitutional officers, including elected school district superintendents. Forty-four school districts have elected superintendents. For fiscal year 2008-2009, LCIR calculated elected school district superintendent salaries ranging from \$89,485 to \$137,144.

Pursuant to the Florida Constitution and Florida law, the school district superintendent shall be employed through contract with the district school board by a resolution of the school board and approved by the voters through local referendum.¹¹ Twenty-four school districts have appointed superintendents that are employed under contract with the district school board. In fiscal year 2007-2008, the salary range for appointed school district superintendents ranged from \$89,387 to \$325,000. In the same year, there were six district superintendents with compensation greater than \$225,000; Broward \$289,999, Collier \$240,000, Dade \$325,000, Duval \$274,999, Hillsborough \$252,898, and Orange \$280,699.¹²

The bill provides that salaries of elected school district superintendents shall be reduced by 5 percent for the 2009-2010 fiscal year. The bill also limits the amount to \$225,000 in remuneration and cash-equivalent compensation, excluding health insurance benefits and retirement benefits, which a school district can provide from state funds for a contract with an appointed district school superintendent for work performed.

Regional Consortium Service Organizations

Current law provides that each school district and each non-district member of a regional consortium service organization is eligible to receive an incentive grant of \$50,000; however, the grant may be less than \$50,000 for the 2008-2009 fiscal year. The 2008-2009 appropriation for this program is \$1,660,750.¹³

The bill allows that in any fiscal year if the appropriation is not sufficient to provide \$50,000 per participating school district, the amount may be less than \$50,000 and the appropriation shall be prorated equally among participating districts.

Florida Virtual School – Class Size Reduction

Florida law requires the reduction of class sizes in public school classrooms, beginning with the 2003-2004 school year.¹⁴ The Florida Virtual School has received classroom operating funds since the inception of the program in 2003-2004 through the present.¹⁵ Due to the nature of the delivery of online instruction, the Florida Virtual School is not required to comply with class size requirements. The physical location of a student taking a class is not usually in a classroom. The instruction may be at home, at a library, or anywhere a computer is available.

⁸ Section 1001.50(1) & (2), F.S.

⁹ Section 3, ch. 2009-3, L.O.F.

¹⁰ Section 1001.47 & 145.19, F.S.

¹¹ Section 5, Art. IX of the State Constitution; § 1001.50(2), F.S.

¹² Florida Department of Education, Florida District Staff Salaries of Selected Positions, Statistical Brief, <http://www.fldoe.org/eias/eiaspubs/default.asp> (last visited April 1, 2009).

¹³ Section 1001.451(2)(a) & (c), F.S.; Specific Appropriation 101, § 2, ch. 2008-152, L.O.F.

¹⁴ Section 1003.03, F.S.

¹⁵ Section 1002.37(3), F.S.

Florida Virtual School Funding History		
	<u>Total Funds</u>	<u>Class Size Reduction Funding</u>
2003-04	\$ 8,572,428	\$ 352,754
2004-05	\$ 14,493,007	\$ 1,204,362
2005-06	\$ 24,860,407	\$ 2,359,518
2006-07	\$ 43,257,056	\$ 5,264,442
2007-08	\$ 63,756,876	\$ 8,823,273
2008-09	\$ 93,312,046	\$ 13,814,560

The Florida Virtual School is projected to receive \$13,814,560 of class size reduction operating funds in the 2008-2009 fiscal year, which is 14.8 percent of the school's Florida Education Finance Program total funds of \$93,312,046.

The bill clarifies that the Florida Virtual School shall not receive funding through the FEFP for the purpose of meeting class size reduction requirements.

K-8 Virtual School Program

The 2008 Legislature authorized each school district in the 2008-2009 school year, and required in the 2009-2010 school year and thereafter, to offer a full-time K-8 Virtual School Program for students residing within the district. School districts were also required to offer a part-time or full-time virtual school program for students in grades 9-12. However, statutory language was unclear if the grades 9-12 program was required in addition to the K-8 program or in lieu of the K-8 program. Districts could administer their programs individually or through a regional consortium or multi-district contract. Contracted providers must be approved by the DOE and be accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Middle States Association of Colleges and Schools, the North-Central Association of Colleges and Schools, or the New England Association of Colleges and Schools. Students are reported in the educational program as provided in s. 1011.62(1)(c), F.S., and funding is provided through the Florida Education Finance Program.¹⁶

Any student residing within the district's attendance area is eligible to enroll in a district K-8 virtual school if, during the previous year, the student:

- Was enrolled in a Florida public school and was reported for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys;
- Was enrolled in a K-8 virtual school; or
- Is a dependent child of a military family that was transferred within the past 12 months to this state pursuant to a parent's permanent change of station orders.¹⁷

All school district K-8 virtual schools are required to participate in the statewide assessment program, i.e., the FCAT, and in the state's school accountability system.¹⁸ Each school must receive a school grade.¹⁹ If the school receives a grade of "D" or "F", it is required to file a school improvement plan with the DOE. The DOE must work in consultation with such a school to identify the causes of the school's poor performance and develop a plan for correcting it.²⁰

Prior to the establishment of school district virtual education programs, approximately 1,000 students were served and continue to be served through a pilot K-8 virtual program. The pilot is funded by a specific appropriation and not through the Florida Education Finance Program.²¹

¹⁶ Section 1002.45, F.S.

¹⁷ Section 1002.45(5), F.S.; see § 1002.415(5), F.S.

¹⁸ Section 1008.22 & 1008.31, F.S.

¹⁹ Section 1008.34, F.S.

²⁰ Section 1002.415(7)(b), F.S.

²¹ Section 1002.415, F.S.; Specific Appropriation 93, ch. 2008-152, L.O.F., as adjusted by Specific Appropriation 53, ch. 2009-

The bill changes the requirement to an authorization for school districts to make full-time virtual instruction available to kindergarten through grade 8 students beginning in the 2009-2010 fiscal year and clarifies that the school district program is separate from the Florida Virtual School. The bill clarifies that school districts that offer a virtual program must provide a full-time K-8 program and either part-time or full-time for students in grades 9-12. By not mandating that school districts offer a virtual program in the 2009-2010 school year, districts may avoid the costs of establishing this program in 2009-2010.

The bill establishes a definition of virtual instruction to be that which 80 percent of instruction is provided by a Florida certified teacher using some form of technology where the student and teacher are separated by space or time or both.

The bill requires that if a student was enrolled in the pilot K-8 Virtual School Program in the 2008-2009 school year, and if that student resides in a school district that does not offer a virtual instruction program, then that school district must provide that student access to the same virtual instruction program the student received in the 2008-2009 school year. The number of providers approved by the DOE is limited to two, and providers are required to use Florida certified teachers who have received background screenings to provide instruction to students. The bill also allows that school district virtual instruction programs are eligible to report FTE until August 31 of each year to allow students additional time to complete courses, but the FTE is capped at 1.0 per student per year.

The bill modifies the accountability requirements for K-8 virtual instruction programs to provide a grade to the provider rather than to the virtual program or "school" within a district. Students in the virtual instruction program are still required to participate in the statewide assessment program²², but the DOE is required to aggregate the scores of all students served by a particular contract provider at the state level so that each contract provider receives a statewide school grade.

The bill clarifies that the provider may be accredited by any of the current accrediting bodies, including the Southern Association of Colleges and Schools Council on Accreditation and School Improvement. In addition, the Northwest Association of Accredited Schools and the Western Association of Schools and Colleges are added to the list of approved accrediting bodies. The bill also deletes references to the pilot program for K-8 virtual instruction under s. 1002.415, F.S., as it is obsolete language dealing only with the program in the 2008-2009 fiscal year.

Voluntary Prekindergarten Attendance Policies

Current Florida law specifies the requirements for funding and for financial and attendance reporting for the Voluntary Prekindergarten Education Program.²³ In Special Session A (January 2009), the Legislature established minimum attendance policies for students in VPK programs in order for providers to receive funding for FTE students.²⁴

The bill clarifies that:

- A student who has not completed more than 70 percent of the authorized hours of a program can withdraw for good cause (as defined in rule) and re-enroll in another program but can only be reported for 1.0 FTE.
- A student's attendance may be reported on a prorated basis as a fraction of a FTE.
- A maximum of 20 percent of the total payment made to any provider on behalf of a student can be for hours the student is absent.
- A provider may not be paid for absences that occur before a student's first day of attendance or after a student's last day of attendance.

Minimum Requirements for the Number of Instructional Days in a School Year

²² Section 1008.31, F.S.

²³ Section 1002.71, F.S.

²⁴ Section 3, ch. 2009-3, L.O.F.

Florida law establishes the length of the school year as a term of at least 180 days or the equivalent on an hourly basis.²⁵ The required number of hours in a school year for a student in kindergarten through grade 3 is 720 hours and for a student in grade 4 through 12 is 900 hours.²⁶ Florida schools are typically operated 5 days per week for 36 weeks, not counting holidays, which is the equivalent of 180 days.

The bill revises the definition of the school year as 180 days or the equivalent on an hourly basis. The revision provides school districts flexibility in establishing the number of days in a school year so long as the schools deliver the required amount of instructional hours. School districts could operate the schools for fewer days in the school year, but with a longer school day. Such a schedule may save fuel, food, utilities, and salaries of some workers. Potential challenges would be collective bargaining, the unpopularity of reduced salaries for cafeteria workers and bus drivers, child care and supervision of students on the unscheduled day, teacher preparation for a change in schedule, and the need to run utilities during the unscheduled day.²⁷

Class Size Reduction

In November 2002, the Florida Constitution was amended to require the Legislature, beginning with the 2003-2004 fiscal year, to provide sufficient funds to reduce the average number of students per classroom by at least two students per year until the number of students per classroom does not exceed the maximum. By the beginning of the 2010 school year, the maximum number of students who may be assigned to each teacher who is teaching in a public school classroom may not exceed the following:

- 18 for prekindergarten through grade 3;
- 22 for grades 4 through 8; and
- 25 for grades 9 through 12.²⁸

The implementation schedule for reducing the number students per classroom by at least two students per year is as follows:²⁹

- 2003-2004 through 2005-2006³⁰ at the district level;
- 2006-2007 through 2008-2009³¹ at the school level; and
- 2009-2010 and thereafter, at the classroom level.

Beginning with the 2003-2004 General Appropriations Act, the Legislature has appropriated and allocated funds annually to school districts and charter schools to be used to reduce the average number of students per classroom by two students.

Class Size Reduction Funding History

Fiscal Year	Operating Appropriations	Fixed Capital Outlay Appropriations	Total Appropriations
2003-2004	468,198,634	600,000,000	1,068,198,634
2004-2005	972,191,216	100,000,000	1,072,191,216
2005-2006	1,507,199,696	83,400,000	1,590,599,696
2006-2007	2,108,529,344	1,100,000,000	3,208,529,344

²⁵ Section 1003.02(1)(g), F.S.

²⁶ Section 1011.61(1)(a)1., F.S.

²⁷ Southern Regional Education Board, *Focus on the School Calendar: The Four-Day School Week* available at http://www.sreb.org/scripts/Focus/Reports/Focus_School_Calendar.asp last visited on March 24, 2009

²⁸ Section 1(a), Art. IX of the State Constitution.

²⁹ Section 1003.03(2), F.S.

³⁰ Chapter 2003-391, L.O.F. established district level compliance for Fiscal Years 2003-2004 through 2005-2006. Chapter 2006-27, L.O.F. extended district level compliance to Fiscal Year 2006-2007.

³¹ Chapter 2003-391, L.O.F. established school level compliance for Fiscal Years 2006-2007 through 2007-2008. Chapter 2008-142, L.O.F. extended school level compliance to 2008-2009.

2007-2008	2,640,719,730	650,000,000	3,290,719,730
2008-2009	2,789,748,660	-	2,789,748,660
Total Year to Date Appropriations	10,486,587,280	2,533,400,000	13,019,987,280

Florida law provides the statutory framework for making adjustments to appropriations for school districts that fail to meet required class size reductions. From 2003-04 to 2005-06, compliance was measured at the district level. For fiscal years 2006-2007, 2007-2008, and 2008-2009, compliance has been measured at the school level. Any school district that has not reduced its average school class size as required by statute may have a portion of its class size reduction operating funds transferred to a fixed capital outlay account. The adjustment is calculated by the Department of Education and verified by the Florida Education Finance Program Allocation Conference. The amount of the funds actually transferred shall be the lesser of the amount calculated or the undistributed balance of the district's class size reduction operating categorical. However, the Commissioner of Education and the State Board of Education may make a recommendation to the Legislative Budget Commission for approval of an alternate amount of funds to transfer if a district has been unable to meet the class size reduction requirements despite appropriate effort to do so.³²

For the initial transfer calculation completed on January 13, 2009, the Florida Education Finance Program Allocation Conference found that 39 traditional schools in 17 school districts did not meet the current year class size reduction requirements on a school average basis, for a potential total transfer from the class size reduction operating categorical to fixed capital outlay in the amount of \$1,396,108. Following the initial transfer calculation, the Commissioner recommended an adjustment for unexpected student growth which reduced the transfer amount to \$1,022,812. Pursuant to Section 1003.03(4)(a), F.S., the State Board of Education met on January 21, 2009 and reviewed evidence presented by school districts for schools that were unable to meet class size reduction requirements, despite appropriate effort to do so. The Board determined that district data reporting errors were factors to be considered in the appeal process. After the appeals, the transfer amount was reduced to \$569,981. The Commissioner of Education subsequently requested, and the Legislative Budget Commission approved, a budget amendment that transferred no funds from district class size reduction allocations for operations to fixed capital outlay accounts.

The bill amends the class size implementation schedule in s. 1003.03 (2), F.S., to continue the school level average for compliance through the 2009-2010 school year. Compliance at the classroom level is maintained for the 2010-2011 school year and each year thereafter. Most districts and charter schools were in compliance at the school level average in the 2008-2009 school year. The effect of these changes is to provide school districts and charter schools an additional year to reduce the number of students in any classroom to the constitutional maximum and provides a more gradual approach to achieving compliance. In addition, the bill maintains the school level average for the accountability requirement for non-compliance in the 2009-2010 school year. If the district does not achieve class size compliance at the school level, class size reduction funds are to be transferred from operations to capital in proportion to the amount of class size reduction not achieved.

Regional Autism Centers

Current law establishes seven regional autism centers to provide nonresidential resource and training services for persons of all ages and levels of intellectual functioning who have autism. The Autism Center at Florida State University (FSU) is established within the Department of Communication Disorders at the university.³³

The bill changes the autism center at FSU to be established within the College of Medicine instead of the Department of Communication Disorders to align statute with current operating procedures at the university.

³² Section 1003.03(4)(a), F.S.

³³ Section 1004.55(1) & (1)(a), F.S.

School Food Service Programs

Florida law requires that school districts set prices for breakfast meals at rates that when combined with federal reimbursements for free- and reduced-price meals, are sufficient to defray costs of school breakfast programs without requiring allocations from the district's operating funds.³⁴

The bill corrects the statute to include "state allocations" to be combined with federal reimbursements for districts to consider when setting prices for breakfast meals. School districts received \$7,590,912 as a school breakfast supplement for the 2008-2009 school year.³⁵

Instructional Materials

Florida law currently requires the district school board to provide adequate instructional materials for all students. The term "adequate instructional materials" means a sufficient number of textbooks or sets of materials serving as a basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.³⁶

Current law authorizes the Department of Education to allocate and distribute to each district an amount as prescribed annually by the Legislature for instructional materials.³⁷ In the 2008-2009 fiscal year, \$253,945,129 was appropriated for instructional materials.³⁸ School districts are required to spend no less than fifty percent of the allocation to buy instructional materials that are on the adopted list. The remaining funds must be spent for instructional materials that are not on the adopted list, but may not be used to purchase electronic or computer hardware unless such hardware is bundled with software or other electronic media.³⁹

The bill defines "adequate instructional materials" to include materials that are available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction. The bill also authorizes the use of instructional materials funding to purchase materials, including computer hardware, if the hardware is bundled with other instructional materials that are on the state-adopted list.

College-level Communication and Mathematics Skills Examination (CLAST)

The CLAST exam is provided to postsecondary students to determine whether they have mastered the academic competencies prerequisite to upper-division undergraduate instruction. Currently a fee to take the exam is charged only to private postsecondary students. Since fee revenues are not sufficient to fund administration and development costs, general revenue funds must be appropriated to subsidize the exam costs.⁴⁰

The bill provides that fees established for the CLAST shall apply to "public" postsecondary students in addition to those currently required for students in private institutions. The fees shall be sufficient to cover the cost of developing and administering the examination.

Electronic Transfer of Funds

³⁴ Section 1006.06(5)(b), F.S.

³⁵ Specific Appropriation 110, ch. 2008-152, L.O.F.

³⁶ Section 1006.28(1), F.S.

³⁷ Section 1006.40(1), F.S.

³⁸ Specific Appropriation 82A, § 2, ch. 2008-152, L.O.F.

³⁹ Section 1006.40(3) & (4), F.S.

⁴⁰ Section 1008.29(7), F.S.

Current law requires school districts to adopt written policies prescribing accounting procedures under which funds shall be accounted for through electronic transactions.⁴¹ Section 1011.18, F.S., provides for procedures of drawing money from school district depositories.

The bill, based on recommendations of the Auditor General, adds “payments” as authorized types of electronic transactions and provides documentation requirements for electronic payments.

Definition of Full-Time-Equivalent Membership (FTE)

The Florida Education Finance Program provides the funding methodology to allocate to the public school districts the state appropriations for K-12 education programs in public schools. The methodology is based on the number of full-time equivalent students (FTE) who are enrolled in and attending school. School districts, the Florida Virtual School, and university lab schools report to the Department of Education the FTE enrollment in basic education, exceptional education, career technical education, and Limited English Proficient programs.⁴² Florida virtual school and grades 9-12 school district virtual instruction programs report FTE based on the number of courses each student completes. One full-time equivalent student is the result of six course completions by a student in virtual instruction. Student enrollment in study hall and on-the-job-training programs that are delivered off the school campus are currently eligible for FTE reporting and funding through the FEFP.

For the 2008-2009 FEFP, the Department of Education reported 32,861 weighted FTE for students in study hall. These weighted FTE earn approximately \$124 million for school districts. Many of these FTE have been reported as a placeholder for students in certain courses that do not have an appropriate course number for reporting purposes and some are data anomalies. Grades 9 to 12 basic program study hall weighted FTE may be the most accurately reported and the most reflective of the actual instructional situation for certain students. Grades 9 to 12 reported weighted FTE were 1,623.37 or roughly \$6.3 million.

For the 2008-2009 FEFP, the Department of Education reported 4,292 weighted FTE for students participating in on-the-job training delivered off of the school campus earning approximately \$16.7 million for school districts.

The bill prohibits school districts from reporting FTE for students in study hall and on-the-job training programs that are delivered outside of the classroom for funding through the FEFP. The bill also allows school districts that have franchises of the Florida Virtual School to report FTE based on six course completions to equal one full-time equivalent student and to report FTE until August 31 of each year to align the virtual franchise students with students participating in school district virtual instruction programs.

School District Flexibility to use Categorical Funds for other Classroom Instruction

Current law authorizes school districts that declare in a resolution adopted by the school board that funds received for student transportation, safe schools, or supplemental academic instruction are urgently needed to maintain academic classroom instruction to transfer the identified amount of the categorical fund to the appropriate account for expenditure.⁴³ In the 2008-2009 fiscal year school districts received \$460.9 million for student transportation, \$687.0 million for supplemental academic instruction, and \$72.0 million for safe schools.

In the 2008-2009 fiscal year, school districts received \$253.9 million for instructional materials and \$109.1 million for research-based reading. Chapter 2008-142, L.O.F., which was approved by the Governor on June 6, 2008, authorized school districts to use these funds for academic classroom instruction so long as the school board declared in a resolution at a regular school board meeting that expenditures for administration and for all functions not core to K-12 instruction have been reduced to the maximum possible and that the funds are needed to maintain school board specified academic

⁴¹ Section 1010.11, F.S.

⁴² Section 1011.62, F.S.

⁴³ Section 1011.62(6)(b), F.S.

classroom instruction. The department was required to provide to the Legislature a report that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were expended. If a district school board transfers funds from its research-based reading instruction allocation, the board must also submit to the Department of Education an amendment describing the changes that the district is making to its reading plan.

The bill extends, for the 2009-2010 fiscal year only, the flexibility to use funds provided for instructional materials and research-based reading instruction for other classroom instruction purposes.

Final Taxable Value for School Purposes

Florida law provides that the taxable value for school purposes as certified by the Department of Revenue (DOR) which is used in the fourth FEFP calculation with the annualized full-time student membership from the February student survey shall be the final taxable value used in the final FEFP calculation completed annually in October. However, the statute further clarifies that the final taxable values for school purposes shall be the taxable values on which the tax bills are computed, adjusted for final administrative actions of the value adjustment boards and judicial decisions pursuant to chapter 194, F.S., except that if a district has not submitted a revised tax roll reflecting final adjustment board actions and final judicial decisions, the DOR shall certify the most recent taxable value for school purposes.⁴⁴

The bill requires that if a district has not submitted a revised tax roll reflecting final adjustment board actions and final judicial decisions, the DOR shall certify the taxable value for school purposes on which the tax bills are computed, as adjusted by the average percentage difference in the taxable values for school purposes used to compute tax bills and the taxable values for school purposes as adjusted to reflect final administrative actions of value adjustment boards and judicial decisions.

Total Allocation of State Funds for Current Operation

Current Florida law establishes the basic amount for current operation for the FEFP as the base student allocation multiplied by district cost differential factor, plus the amounts provided for categorical components within the FEFP, plus the discretionary millage compression supplement, the sparsity supplement, the declining enrollment supplement, the research-based reading allocation, the DJJ supplemental allocation, and the minimum guarantee, minus the required local effort.⁴⁵

The bill includes the funds provided for student transportation, instructional materials, and the teachers lead program in the total allocation of state funds to each school district for current operations for purposes of calculating the required local effort.

School District Discretionary Non-voted Capital Improvement Millage

Florida law authorizes school districts to levy up to 1.75 mills against the taxable value for school purposes for capital improvement purposes for the school district. Authorized uses for the revenue generated by the levy are:

- New construction and remodeling projects as provided in s. 1013.64, F.S.;
- Maintenance, renovation, and repair of existing educational facilities;
- The purchase, lease-purchase, or lease of school buses;
- The purchase, lease-purchase, or lease of new and replacement equipment and enterprise software applications that are classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, having a useful life of at least 5 years, and are used to support district-wide administration or state-mandated reporting requirements;
- Payments for education facilities and sites due under lease-purchase agreements, which are capped at three-fourths the proceeds of the millage levied;

⁴⁴ Section 1011.62(4)(b), F.S.

⁴⁵ Section 1011.62(12)(a), F.S.

- Loan payments for the purchase of school buses, land, equipment, the building or renovation of educational facilities, the adjustment of insurance on educational property on a district's 5-year plan, or for the correction of a major emergency condition in an existing school facility that is needed to prevent further damage to the building or to eliminate a safety hazard for students and other occupants;
- Costs associated with state or federal environmental requirements for school facilities;
- Payment for renting or leasing educational facilities;
- Payment for the cost of school bus contracts with private entities to provide student transportation services; and
- Payment of the costs for the opening day collection for the library media center of a new school.⁴⁶

Subsection 4 of section 1011.71, F.S., further allows school districts for the 2008-2009 through 2009-2010 fiscal years to use up to \$100 per FTE of the revenues generated by the capital improvement millage levy for the purchase of driver's education and maintenance vehicles and the payment of property and casualty insurance premiums.

Violations of the capital millage expenditure provisions result in an equal dollar reduction in the district's FEFP funds for the fiscal year following the audit citation.⁴⁷ Chapter 2009-3, L.O.F., authorized the Commissioner of Education to waive the penalty for school districts that received audit citations for spending more than the cap per FTE for property and casualty insurance premiums between May 1 and December 31, 2007, as well as for those districts having audit citations for the 2006-2007 fiscal year related to the purchase of software.

The bill reduces the maximum allowable district discretionary capital outlay millage by 0.25 mills, from 1.75 to 1.50 mills. This provision, in conjunction with a 0.25 mill increase of discretionary millage for operations provided in the FEFP, from 0.498 mills to 0.748 mills, represents a transfer of discretionary millage authority from capital to operations. In addition, the FEFP provides an increase to the state funds for the Discretionary Millage Compression Supplement to ensure that no district will receive less than the state average funds per student produced by the 0.748 mill levy.

The bill provides school boards with the flexibility to choose not to levy some or all of the budgeted additional discretionary 0.25 mills for operations if the district needs those revenues to make payments for previously issued lease-purchase agreements or has some other critical fixed capital outlay need. The bill allows the district to levy up to 0.25 mills for fixed capital outlay in lieu of the increased discretionary levy for operations. For such an event, the bill provides that the millage compression supplement will be calculated on the standard millage levied for operations which is not eligible for transfer. The effect of this policy is that school boards will be provided the flexibility to levy 0.25 mills of currently authorized district discretionary capital outlay millage for operations or for capital outlay at the board's discretion. The 0.25 mills is currently authorized millage, not additional millage.

This policy provides districts with the discretion to use the revenue from 0.25 mills for district operations, such as teacher salaries and other student instruction costs in lieu of being restricted to using these funds only for fixed capital outlay expenditures.

The bill also waives the three-fourths limit from the proceeds of the capital improvement levy that can be used for lease-purchase agreements for the 2009-2010 fiscal year.

The bill repeals s. 1011.71(4), F.S., to remove the cap per student of \$100 per FTE for specific expenditures and adds paragraphs (k) and (l) to subsection (2) to add purchases, lease-purchases, or leases of driver's education vehicles, motor vehicles used for maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment and payments of property and casualty insurance premiums to the list of authorized expenditures from the 1.5 mill discretionary capital improvement revenue. The amendment to this section would allow that all

⁴⁶ Section 1011.71(2), F.S.

⁴⁷ Section 1011.71(5), F.S.

districts that currently levy a capital improvement levy would be allowed to use revenues generated by the levy for the purchase of driver's education and maintenance vehicles and the payment of property and casualty insurance premiums.

The bill allows the Commissioner of Education to waive the penalty for violations of the capital millage expenditure requirements relating to the purchase of software in the 2006-2007 or 2007-2008 fiscal year.

Professional Service Contracts

Current law indicates that each member of the school district instructional staff who completes certain requirements is to be issued a professional service contract. The requirements for the contract are to:

1. Hold a professional certificate,
2. Have completed 3 years of probationary service in the district during a period not exceeding 5 successive years, except for leave duly authorized and granted,
3. Have been recommended by the district superintendent for such contract and reappointed by the district school board based on successful performance of duties and demonstration of professional competence.⁴⁸

A professional service contract is to be renewed each year unless the district school superintendent charges the employee with unsatisfactory performance and notifies the employee of performance deficiencies. An employee notified of unsatisfactory performance is provided a series of options and opportunities to meet requirements that will enable the employee to retain his or her professional services contract.⁴⁹

For purposes of pay, a district school board must recognize and accept each year of full-time public school teaching service earned in the State of Florida or outside the state and for which the employee received a satisfactory performance evaluation except for instructional personnel who retire in Florida and participate in the Deferred Retirement Option Program (DROP).⁵⁰

The bill authorizes that school districts under extraordinary financial circumstances may offer an additional year of annual contract for teachers who have completed 3 years of service.

The bill also repeals the requirement that school districts must recognize and accept, for purposes of pay, full-time teaching service earned outside the state.

Equity in School-Level Funding

Florida law requires school districts to allocate to schools within the district an average of 90 percent of the funds generated by all schools and guarantee that each school receives at least 80 percent of FEFP funds generated by that school. Class size reduction funds are exempt from the requirement.⁵¹

The bill removes the exemption for class size reduction funds to be calculated as part of the 80% requirement for allocation of FEFP funds to schools within a district.

Teacher Certification Examination Fees

Current law authorizes the State Board of Education to establish by rule separate fees for applications, examinations, certification, certification renewal, late renewal, record making, and recordkeeping for teacher certification exams and the Florida Educational Leadership Examination (FELE) for school

⁴⁸ Section 1012.33(3)(a), F.S.

⁴⁹ Section 1012.33(3) (e) & (f), F.S.

⁵⁰ Section 1012.33(3)(g) & 121.091(9)(b)3., F.S.

⁵¹ Section 1011.69(2) & (3)(b), F.S.

principals.⁵² The current established fee is \$50 for each subject area examination and \$85 for the FELE exam. There is not currently a registration fee. The statute requires that each examination fee shall be sufficient to cover the actual cost of developing and administering the examination. The statute also caps the fee for an examination at \$100.

The bill removes the \$100 cap for an examination, which will allow the State Board of Education to establish the fees at a level sufficient to offset the cost of test development and administration.

Florida Teachers Lead Program

Section 1012.71, F.S., authorizes the Florida Teachers Lead Program to provide an appropriation in the FEFP for a direct payment to school teachers, including charter school and prekindergarten teachers, media specialists, and guidance counselors for classroom supplies. The 2008-2009 appropriation for this program is \$36,756,829, which is approximately \$200 per teacher.

For the 2009-2010 fiscal year, the bill authorizes a pilot of a centralized electronic system to coordinate and manage the Florida Teachers Lead Program. Teachers could purchase supplies on-line or from local vendors through an on-line account using funding provided for the Teachers Lead Program. The pilot program is voluntary for school district participation.

Dale Hickam Excellent Teaching Program

Section 1012.72, F.S., provides bonuses to teachers certified by the National Board of Professional Teaching Standards (NBPTS). Subsequent to annual appropriation in the General Appropriations Act, bonuses are provided in an amount equal to 10 percent of the previous year's statewide average teacher salary for each teacher who are NBPTS certified and for teachers who are NBPTS certified and provide the equivalent of 12 workdays of mentoring and related services to teachers who are not NBPTS certified. If in any fiscal year the funds provided are insufficient to fully fund both bonuses, the bonuses for holding NBPTS certification are provided first, and prorated to eligible teachers if necessary, and then remaining funds can be used to pay the bonuses for mentoring services. The total appropriation for the 2008-2009 fiscal year for the Excellent Teaching program was \$57,653,390, which provided bonuses to 11,357 NBPTS teachers in an amount of \$5,051 per teacher.⁵³

The bill requires that for teachers certified after July 1, 2009, in order to be eligible for a bonus they must teach in a low-performing school as determined in rule by the State Board of Education. The bill establishes rule-making authority for the DOE to establish definitions of low-performing schools and determine the eligibility of teachers for bonuses.

Charter School Capital Outlay

Section 1013.62, F.S., provides authority for the Commissioner of Education to allocate funds appropriated to charter schools for capital outlay purposes to charter schools and establishes authorized uses of capital outlay funds by charter schools as the following:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of 5 years or longer.

The bill adds the purchase, lease-purchases, or lease of new and replacement equipment, and enterprise software that is used for administration or state-mandated reporting requirements, the lease-purchases, or leases of driver's education vehicles, motor vehicles used for maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and

⁵² Section 1012.59, F.S.

⁵³ \$359 per teacher was provided to the school district for each eligible teacher to pay the cost of FICA.

equipment, and payments of property and casualty insurance premiums to the list of authorized expenditures from the capital outlay funds received by charter schools. Adding these provisions will align charter school authority for the use of capital funds with school districts' authority and provide charter schools with flexibility for funding in the classroom.

Special Facility Construction Account (PECO)

Section 1013.64, F.S., establishes the Special Facility Construction Account to be funded from available revenue in the Public Education Capital Outlay and Debt Service Trust Fund (PECO) and provide necessary construction funds to school districts which have urgent construction needs but lack sufficient resources and do not anticipate sufficient resources within the next three years. No district shall receive funding for more than one approved project in any three-year period. The participating school district must levy for a continuing three-year period the maximum millage for capital outlay purposes and is required to budget 1.5 mills per year to the project funded by the Special Facility Construction Account.

The bill allows that for currently participating school districts, the district can budget some amount less than the 1.5 mill requirement and extends the 3-year period to 4-years.

Florida Education Finance Program Calculation Workpapers

The bill incorporates the calculations of the Florida Education Finance Program for the 2009-2010 fiscal year public schools budget by reference, in order to display the calculations used by the Legislature, consistent with the requirements of the Florida Statutes in making appropriations for the Florida Education Finance Program.

B. SECTION DIRECTORY:

Section 1: Amends s. 1001.20, F.S., adding an additional duty to the Office of Technology and Information Services in the Office of the Commissioner as it relates to assisting school districts in securing Internet access and telecommunications services, including those eligible for funding under the Schools and Libraries Program of the federal Universal Service Fund.

Section 2: Creates s. 1001.271, F.S., authorizing the Commissioner, upon requisition by a school district and other eligible users of FIRN, to purchase the nondiscounted portion of Internet access services and to identify the source of funds from which the commissioner is to make payment.

Section 3: Amends s. 1001.28, F.S., clarifying the distance learning duties of the Department of Education to include coordinating the FIRN.

Section 4: Amends s. 1001.395, F.S., requiring that for the 2009-2010 school board member salaries shall be the lesser of the amount calculated pursuant to statutory methodologies or the salary of the members of the legislature.

Section 5: Amends s. 1001.42, F.S., clarifying that the limit on contract settlements paid from state funds does not apply to earned leave and benefits in accordance with the district's leave and benefits policies which are accrued before the employee's contract terminates.

Section 6: Amends s. 1001.451, F.S., authorizing that the amount paid to each eligible members of the Regional Consortium Service Organizations shall be prorated equally among all eligible members based on the amount provided in the General Appropriations Act.

Section 7: Amends s. 1001.47, F.S., providing that elected school district superintendents may reduce their salaries voluntarily, and requiring that elected superintendent salaries shall be reduced by 5 percent for the 2009-2010 fiscal year.

Section 8: Amends s. 1001.50, F.S., clarifying that the limit on contract settlements for district superintendents paid from state funds does not apply to earned leave and benefits in accordance with

the district's leave and benefits policies which are accrued before the superintendent's contract terminates; prohibiting school districts from entering into contracts for a school district superintendent salary paid from state funds that is in excess of \$225,000; defining remuneration and compensation; and encouraging school districts to review superintendents annual remuneration for the 2009-2010 fiscal year and mutually agree to a reduction of at least 5 percent.

Section 9: Amends s. 1002.43, F.S., conforming a cross reference to the minimum requirements for school operations.

Section 10: Amends s. 1002.37, F.S., clarifying that the Florida Virtual School shall not receive funding through the FEFP for the purpose of meeting class size reduction requirements.

Section 11: Amends s. 1002.45, F.S., authorizing school districts to implement school district virtual instruction programs; defining virtual instruction; providing that if a student was served in the K-8 Virtual Program under s. 1002.415, F.S., for the 2008-2009 school year and resides in a school district that does not offer a virtual instruction program, that district must provide access to a virtual instruction program; clarifying that a student in a school district virtual instruction program cannot receive more than 20 percent of instruction from a parent or instructional coach; modifying contract provider requirements; modifying the accountability requirements for school district virtual instruction programs and contract providers; clarifying the accreditation requirements for virtual instruction programs; and clarifying eligibility for funding of virtual instruction programs.

Section 12: Amends s. 1002.71, F.S., clarifying situations when a student in a Voluntary Prekindergarten Education Program can withdraw and re-enroll; providing that student attendance may be reported on a prorata basis as a fraction of a full-time equivalent student; clarifying the number of allowable paid absences; and clarifying that a VPK provider may not receive payment for absence's that occur before a student's first or after a student's last day of attendance.

Section 13: Amends s. 1003.02, F.S., providing flexibility for the number of days or the hourly equivalent of school operations.

Section 14: Amends s. 1003.03, F.S., extending the class size reduction compliance calculation and measurement at the school average to the 2009-2010 fiscal year.

Section 15: Amends s. 1004.55, F.S., revising the establishment of the regional autism center at Florida State University within the College of Medicine.

Section 16: Amends s. 1006.06, F.S., requiring that school districts include state allocations for school breakfast programs in the annual breakfast meal rates to offset the costs of school breakfast programs without requiring allocations from the district's operating funds.

Section 17: Amends s. 1006.28, F.S., allowing electronic media and computer courseware or software to be used as instructional materials.

Section 18: Amends s. 1006.40, F.S., allowing instructional materials funding to be used for computer hardware if the hardware is bundled with other instructional materials that are on the state adopted list of instructional materials.

Section 19: Amends s. 1008.29, F.S., providing that fees established for the College-level communication and mathematics skills examination (CLAST) shall apply to "public" postsecondary students in addition to those currently required for students in private institutions and requiring that the fees shall be sufficient to cover the cost of developing and administering the examination.

Section 20: Amends s. 1008.41, F.S., authorizing the Commissioner of Education to employ FIRN to perform certain functions relating to workforce education.

Section 21: Amends s. 1010.11, F.S., authorizing "payments" as appropriate types of electronic transactions.

Section 22: Amends s. 1011.18, F.S., providing documentation requirements for electronic payments.

Section 23: Amends s. 1011.60, F.S., providing flexibility for the number of days or the hourly equivalent of school operations for minimum requirements for participation in the FEFP.

Section 24: Amends s. 1011.61, F.S., clarifying definitions for full-time equivalent membership reporting for the FEFP.

Section 25: Amends s. 1011.62, F.S., prohibiting school districts from reporting full-time equivalent membership in study hall or on-the-job training programs for funding in the FEFP, clarifying the taxable value for school purposes to be used in the final FEFP calculation; extending school districts the flexibility to use the reading and instructional materials categoricals for other classroom instruction for the 2009-2010 school year, and clarifying the funds included in the total allocation of state funds to each district for current operation when calculating the required local effort.

Section 26: Repeals paragraph (b) of subsection (4) of s. 1011.69, F.S., requiring class size reduction funds to be included in the calculation of funds provided to schools within a district.

Section 27: Amends s. 1011.71, F.S., reducing the authorized capital improvement millage levy from 1.75 to 1.5 mills; waiving the three-fourths limit on use of proceeds from the capital improvement millage levy for lease-purchase agreements entered into before June 30, 2009 for the 2009-2010 fiscal year; authorizing school districts to pay property and casualty insurance premiums and purchase or lease driver's education and maintenance vehicles from the revenue generated by the discretionary capital improvement levy of property taxes; authorizing the Commissioner of Education to waive penalties associated with the audit citations for districts using capital funds to purchases of software in the 2006-2007 or 2007-2008 fiscal year; and authorizing school districts to levy an additional 0.25 mills for capital improvement needs in lieu of an equivalent amount of the discretionary mills for operations as provided in the General Appropriations Act for 2009-2010.

Section 28: Amends s. 1011.73, F.S., conforming a cross-reference.

Section 29: Amends s. 1012.33, F.S., authorizing that school districts under extraordinary financial circumstances may offer an additional year of annual contract for teachers who have completed 3 years of service.

Section 30: Amends s. 1012.59, F.S., removing the \$100 cap for an examination, which will allow the State Board of Education to establish the fees at a level sufficient to offset the cost of test development and administration.

Section 31: Amends s. 1012.71, F.S., authorizing the Department of Education to establish a pilot program to manage the Florida Teachers Lead Program through a centralized electronic system.

Section 32: Amends s. 1012.72, F.S., requiring that teachers who obtains NBPTS certification after July 1, 2009, to teach in low-performing schools in order to be eligible for the excellent teaching program bonus and authorizing the State Board of Education to adopt rules to administer the provision for payment of the bonuses, establish definitions of low-performing schools, and determine eligibility of teachers.

Section 33: Amends s. 1013.62, F.S., authorizing charter schools to pay property and casualty insurance premiums, purchase or lease equipment or enterprise resource software applications, and purchase or lease driver's education and maintenance vehicles from capital outlay funds.

Section 34: Amends s. 1013.64, F.S., conforming a cross-reference and modifying the capital millage levy requirements for school districts currently participating in the Special Facility Construction Account.

Section 35: Repeals s. 9 of ch. 2008-142, L.O.F.

Section 36: Incorporates by reference the document entitled "Public School Funding – The Florida Education Finance Program,": dated April X, 2009, and filed with the Clerk of the House of Representatives for the purpose of displaying the calculations used by the Legislature in making appropriations and reductions in appropriations for the Florida Education Finance Program.

Section 37: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill amends s. 1008.29, F.S., to provide that fees established for the CLAST shall apply to "public" postsecondary students in addition to those currently required for students in private institutions. The fees shall be sufficient to cover the cost of developing and administering the examination.

The bill amends s. 1012.59, F.S., removing the \$100 cap for an examination, which will allow the State Board of Education to establish the fees at a level sufficient to offset the cost of test development and administration.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a direct fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill conforms the statutes to the K-12 public schools budget. The bill provides school districts additional fiscal flexibility by giving priority to funding for the core mission of teaching and learning and less emphasis on funding noncore functions. In addition, the bill makes a series of adjustments and reductions to special allocations in the funding formula to maximize funding in the base allocation for all districts. The bill also provides fiscal efficiencies and limits unnecessary spending.

By maintaining class size reduction compliance at the school level for the 2009-2010 fiscal year, the fiscal impact on school districts will be mitigated. In the 2008-2009 fiscal year, when compliance was calculated at the school level, noncompliant districts had a total statewide calculated transfer of class size reduction allocation funds from operations to capital after all appeals of \$569,981. However the Legislative Budget Commission approved the Commissioner of Education's recommendation to not transfer these funds. By delaying the classroom compliance for the 2009-2010 fiscal year, the transfer of funds at the school level should be kept at a low level. In addition, by maintaining compliance at the school level and progressing at the classroom level to the 2010-2011 constitutional maximums, school districts gain additional fiscal flexibility in meeting the implementation schedule.

The bill revises the definition of the school year as 180 days or the equivalent on an hourly basis. The revision provides school districts flexibility in establishing the number of days in a school year so long as the schools deliver the required amount of instructional hours. School districts could operate the schools for fewer days in the school year, but with a longer school day. Such a schedule may save fuel, food, utilities, and salaries of some workers. Potential challenges would be collective bargaining, the unpopularity of reduced salaries for cafeteria workers and bus drivers, child care and supervision of students on the unscheduled day, teacher preparation for a change in schedule, and the need to run utilities during the unscheduled day.⁵⁴

The bill changes the requirement to an authorization for school districts to make full-time virtual instruction available to kindergarten through grade 8 students beginning in the 2009-2010 fiscal year. The bill clarifies that school districts that offer a virtual program must provide a full-time K-8 program and either part-time or full-time for students in grades 9-12. By not mandating that school districts offer a virtual program in the 2009-2010 school year, districts may avoid the costs of establishing this program in 2009-2010.

The bill provides school districts with additional fiscal flexibility by allowing certain categorical program funds, namely the reading instruction allocation and instructional materials, to be spent for classroom instruction. In addition, the bill makes a series of adjustments to special allocations in the funding formula to maximize funding in the base student allocation for all districts. The bill provides a shift of 0.25 mills from the 1.75 mill capital outlay discretionary levy to the discretionary millage for operating purposes in the FEFP which will provide roughly an additional \$380.1 million for public school operations.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Education rule making authority to establish definitions of low-performing schools and to determine eligibility for bonuses under the Excellent Teaching program for National Board certified teachers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 2, 2009, the PreK-12 Appropriations Committee adopted two amendments and reported the PCB favorably. The amendments:

- Added a section to provide charter schools with the authority to spend capital outlay funds for:
 - Equipment and enterprise resource software applications;

⁵⁴ Southern Regional Education Board, *Focus on the School Calendar: The Four-Day School Week* available at http://www.sreb.org/scripts/Focus/Reports/Focus_School_Calendar.asp last visited on March 24, 2009

- Property and casualty insurance premiums; and
- Driver's education vehicles and maintenance vehicles.
- Changed the millage requirements for eligibility to participate in the Special Facility Construction Account program (PECO).

On April 7, 2009, the Full Appropriations Council on Education & Economic Development adopted three amendments and reported the bill favorably as a CS. The amendments:

- Clarified that a school district virtual instruction program is separate from the Florida Virtual School;
- Defined virtual instruction to be that which at least 80 percent of instruction is provided by a Florida certified teacher using some form of technology where the student and teacher are separated by space or time or both;
- Clarified that if a student was served by one of the two providers funded under the K-8 Virtual program line item in the 2008-2009 fiscal year, and they reside in a district that does not offer a K-8 school district virtual instruction program, then the school district must provide them access to the same provider that they received service from in the 2008-2009 fiscal year;
- Limited approved providers to no more than two;
- Required providers to use Florida Certified Teachers and have background screenings;
- Required all school districts that have a district virtual instruction program to participate in the statewide assessment program and the department to aggregate the scores of all students participating in school district virtual instruction programs at the state level so each contract provider receives a statewide school grade;
- Required that if a school district purchases instructional materials that are bundled with hardware then those materials must be on the state adopted list of instructional materials; and
- Required that students in Florida Virtual School franchises are reported for funding in the same manner as Florida Virtual School students and school district virtual instruction program students and allows that Florida Virtual School franchise FTE can be reported through August 31st of each year.