HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1621 Early Learning Scholarship Program

SPONSOR(S): Early Learning & Elementary Education Subcommittee, Davis

TIED BILLS: None IDEN./SIM. BILLS: SB 1496

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Early Learning & Elementary Education Subcommittee	16 Y, 0 N, As CS	Guy	Brink
2) PreK-12 Appropriations Subcommittee			
3) Education & Employment Committee			

SUMMARY ANALYSIS

The bill expands scholarship opportunities for children in Florida by establishing a scholarship which provides payment of early learning program costs for a child whose sibling is medically complex and requires continuous care. The scholarship may pay costs for child care, at a provider that is approved to participate in either the Voluntary Prekindergarten or School Readiness program, from birth until the beginning of the school year for which a scholarship recipient is eligible to attend kindergarten at a public school.

An eligible child must have a sibling who is medically complex, which the bill defines as a medical condition such that he or she is technologically dependent upon medical equipment or procedures to sustain life and can expire without warning, unless continually under observation.

There are no parental income thresholds or cost-sharing requirements for the scholarship award, but the bill requires early learning coalitions to prioritize children who are not currently served by an early learning program or are on a waiting list for such a program. The bill requires direct payment of scholarship awards to an early learning provider and prohibits a scholarship disbursement that exceeds a provider's private pay rate.

The bill requires the Office of Early Learning to establish scholarship application evaluation criteria and timelines for the application process and requires early learning coalitions to facilitate disbursement to providers.

The bill has an indeterminate fiscal impact and is subject to an appropriation by the Legislature.

The bill provides an effective date of July 1, 2021.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives. STORAGE NAME: h1621.ELE

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Governance of Early Learning Programs

While the Department of Children and Families (DCF) administers the state's child care provider licensing program, including inspections of all child care providers for specified health and safety standards,¹ Florida's Office of Early Learning (OEL) within the Department of Education (DOE) is responsible for statewide implementation of the School Readiness and Voluntary Prekindergarten Education (VPK) programs.² In 2013, the Legislature established the OEL in the Office of Independent Education and Parental Choice at the DOE. The OEL is accountable to the commissioner but has authority to independently exercise all powers, duties, and functions prescribed by law and adopt rules to implement the School Readiness and VPK programs.³ It oversees local Early Learning Coalitions (ELCs) regarding child enrollment, attendance reporting, and reimbursement of program providers and monitors compliance with program requirements.⁴ It is administered by an executive director.⁵ The commissioner may appoint staff to carry out the duties and functions of the OEL as part of the DOE.⁶

The OEL also administers the statewide Child Care Resource and Referral (CCR&R) network, which provides families with information about state-funded early learning programs and a customized listing of child care providers. The CCR&R is used to document requests for services. For providers, the CCR&R provides technical assistance regarding initiating or expanding services and program and budget development.⁷

Local oversight of the School Readiness and VPK programs is provided by ELCs and school districts, with ELCs responsible for private providers and districts responsible for programs provided by public schools.⁸ There are currently 30 ELCs, based on counties or regions, although the law permits the establishment of up to 31 ELCs.⁹ Florida law provides governance requirements for ELCs including board of directors' composition and transaction transparency that includes a prohibition against a certain number of board members having a substantial interest in the design or delivery of the VPK or School Readiness programs.¹⁰

Every 2 years, each ELC must submit a School Readiness program plan for approval by the OEL before administering the program and before funds may be expended. The plan must include detailed descriptions of the ELCs procedures for implementing the School Readiness program, the ELC's quality activities and services, and a budget, among other things. If the OEL finds that an ELC has not substantially implemented its School Readiness plan, met performance standards adopted by the OEL, or effectively administered the School Readiness or VPK program, it may contract with a qualified entity

¹ See ss. 402.301-402.319, F.S.

² See ss. 20.15(3)(i)1. and 1001.213, F.S.

³ Section 1001.213(1)-(2), F.S.

⁴ Section 1002.75(2), F.S.

⁵ Section 20.15(3)(c)(i)1., F.S.

⁶ Section 1001.10(6)(a), F.S.

⁷ Sections 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 Feb. 26, 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 Feb. 26, 2021).

⁸ Sections 1002.55(1), 1002.61(1)(a)-(b), 1002.63(1), and 1002.82(1), F.S.

⁹ Section 1002.83(1), F.S.; Florida Office of Early Learning, *Early Learning Coalition Directory* (Feb 26, 2021), *available at* http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/ED%20ELAC/6.%20Coalition%20Directory.pdf
¹⁰ Section 1002.83(5), F.S.

¹¹ *Id*.

¹² *See* s. 1002.85(3), F.S. **STORAGE NAME**: h1621.ELE

to continue School Readiness and prekindergarten program services until it reestablishes the ELC with a new, approved plan.¹³

School Readiness Program

Overview

Established in 1999,¹⁴ 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, abandonment, or homelessness; children in the child welfare system; and children with disabilities.¹⁵ The School Readiness program offers financial assistance for child care to these families while supporting children in the development of skills for success in school. The state requires parental cost-sharing as a condition of participation in the program. Parents must pay a copayment which is determined on a sliding scale. Parents may also have out-of-pocket costs associated with costs above the provider reimbursement rate paid by the state.

The School Readiness program provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, Migrant Head Start, CCR&R and the VPK program. The School Readiness program is a state-federal partnership between the OEL and the Office of Child Care of the United States Department of Health and Human Services.

Federal regulations governing the Child Care and Development Fund (CCDF),¹⁹ the primary funding source for the School Readiness program, authorize states to use grant funds for child care services, if:

- the child is under 13 years of age, or at the state's option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- the child's family income does not exceed 85 percent of the state's median income for a family of the same size; and
- the child:
 - o resides with a parent or parents who work or attend job training or educational programs; 20 or
 - o receives, or needs to receive, protective services. 21

Within these broad federal eligibility categories, Florida law specifies students who receive priority for placement in the program to include students "at-risk" (e.g., are homeless or in foster care).²²

2021CCDFPlanFINAL FINAL 4.9.19.pdf. [hereinafter CCDF State Plan].

¹³ Section 1002.82(3), F.S.

¹⁴ Section 1, ch. 99-357, L.O.F.

¹⁵ Sections 1002.81 and 1002.87, F.S.

¹⁶ Florida Office of Early Learning, *School Readiness Program*, http://www.floridaearlylearning.com/family-resources/financial-assistance (last visited March 31, 2021).

¹⁷ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education. The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness Program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified at* s. 1001.213, F.S.

¹⁸ See U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, http://www.acf.hhs.gov/programs/occ/fact-sheet-occ (last visited Feb. 28, 2021).

¹⁹ 45 C.F.R. parts 98 and 99.

²⁰ A child who is ineligible due to a parent's job loss or cessation of education or job training will continue to receive School Readiness Program services for at least three months to enable the parent to obtain employment or resume education or job training. *See* s. 1002.87(6), F.S.

²¹ 45 C.F.R. s. 98.20(a). Florida does not provide school readiness funding for children 13-18 years of age who are physically or mentally incapable of self-care or under court supervision. *See* Florida's Office of Early Learning, *Florida Child Care Development Fund (CCDF) Plan with Conditional Approval Letter for FY 2019-2021*, at 53 (October 1, 2018), *available at* http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/CCDBG_FY2019-

Student enrollment in the School Readiness program for the 2019-2020 school year, the most recent vear measured, was 221.711.²³

Eligible providers in the School Readiness program include:

- A licensed child care facility;
- A licensed or registered family day care home (FCCH);
- A licensed large family day care home (LFCCH);
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- · A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.²⁴

School Readiness Providers by Classification 2019-2020 ²⁵		
Provider Classification	Participating Providers	
Licensed Child Care Facility	4,689	
Licensed FCCH	987	
Licensed LFCCH	291	
License-Exempt	211	
Public School	510	
Private School	168	
Registered FCCH	76	
Total Providers	6,932	

School Readiness Funding

There is a cost-sharing requirement for children participating in the School Readiness program. Parents are assessed a co-payment that each ELC determines on a sliding scale.²⁶ The co-payment must be set at an amount that maintains equitable access to child care and is capped at 10 percent of a family's income without regard to the number of children participating in the program.²⁷ The co-payment may not be equal to or greater than the provider's private pay rate.²⁸

School Readiness funding for participating providers comes primarily from reimbursements from the ELC and payments by participating families.²⁹ Each ELC reimburses participating providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.³⁰ The reimbursement and co-payment amounts are determined locally by ELCs, subject to approval by the OEL. Any additional amount a parent must pay is based on the difference between the provider's tuition rate and the sum of the reimbursement rate and required parent co-payment. Reimbursement amounts vary based on provider type and level of care, and co-payments are determined using a sliding fee scale.³¹

Federal regulation requires states to ensure equal access to child care through the CCDF by determining a fair market rate every 2 years using a statistically valid and reliable survey.³² The survey

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²³ Florida Office of Early Learning, 2019-20 OEL Annual Report (Nov. 2020) at 20, available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf.

²⁴ Section 1002.88(1)(a), F.S.

²⁵ *Supra*, note 23.

²⁶ Rule 6M-4.400(1), F.A.C.

²⁷ *Id*.

²⁸ Rule 6M-4.400(2)(d), F.A.C.

²⁹ See ss. 1002.84(8) and 1002.89, F.S.; Specific Appropriation 86, s. 2, ch. 2019-115, L.O.F.

³⁰ See rule 6M-4.500(1), F.A.C.; see also CCDF State Plan, note 21, supra.

³¹ See s. 1002.895, F.S.; rules 6M-4.400(2) and 6M-4.500(1), F.A.C.

³² See 45 C.F.R. § 98.45(a) and (c). Alternatively, states may set payment rates using an alternative methodology approved by the federal Administration for Children and Families.

must be completed at least 2 years before the market rates are calculated and take effect. The OEL establishes market rates for eligible provider types and specific levels of care for each county:33

The market rate calculation must also differentiate rates between full-time and part-time child care services, differentiate between Gold Seal status and non-Gold Seal provider status, and consider discounted rates for child care services for multiple children in a single family.³⁴ In addition, a provider may receive additional funding above the minimum reimbursement rate if it qualifies for certain qualitybased differentials.35

The Voluntary Prekindergarten Education Program

Overview

In 2004, the Legislature established the VPK program, a voluntary, free prekindergarten program offered to eligible four-year-old children in the year before admission to kindergarten.³⁶ A child must be a Florida resident and attain four years of age on or before September 1 of the program year to be eligible for the VPK program.³⁷ The child is eligible for the VPK program during that program year or the subsequent program year and remains eligible until enrollment in kindergarten or attaining six years of age by February 1 of any school year.³⁸ Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.³⁹ There are no parental costsharing requirements or income thresholds for participation in the VPK program; the program is free to eligible children.

Voluntary Prekindergarten Education Programs			
	School Year-Programs		Summer Program
Program Characteristics	Public School (s. 1002.63, F.S.)	Private Prekindergarten Provider (s. 1002.55, F.S.)	(s. 1002.61, F.S.)
Provider Type	Public school	Private prekindergarten provider	Public school or private prekindergarten provider
Minimum Program Length	540 instructional hours	540 instructional hours	300 instructional hours
Class Size	4 to 20 students	4 to 20 students	4 to 12 students
Prekindergarten Director Credential ⁴⁰	Not required	Required	Private prekindergarten provider only

³³ Section 1002.895(2)(a) and (b), F.S.

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³⁴ Section 1002.895(1) and (2)(a), (c), and (d), F.S.

³⁵ See s. 1002.82(2)(o), F.S.; rule 6M-4.500(9), (10), and (11), F.A.C.

³⁵ Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; see also Art. IX, s. 1(b)-(c), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year.

³⁷ Section 1002.53(2), F.S. Funds appropriated for the VPK program may not be used to enroll eligible students participating in the Gardiner Scholarship Program. See s. 1002.385(4)(a), F.S.

³⁸ Section 1002.53(2), F.S. Children who attain five years of age on or before September 1 of the academic year are eligible for admission to public kindergarten. Section 1003.21(1)(a)2., F.S.

³⁹ Section 1002.53(3), F.S.

⁴⁰ The Florida Department of Education establishes the minimum standards for a credential for directors of private prekindergarten providers delivering the VPK program. Section 1002.57(1), F.S.; see also rule 6M-8.610, F.A.C.

Voluntary Prekindergarten Education Programs			
	School Year-Programs		Summer Program
Program Characteristics	Public School (s. 1002.63, F.S.)	Private Prekindergarten Provider (s. 1002.55, F.S.)	(s. 1002.61, F.S.)
Minimum Required Instructor Credential	Child Development Associate (CDA) plus 2 trainings or equivalent	CDA plus 2 trainings or equivalent	Florida-certified teacher or bachelor's or higher degree in specified major
Second Instructor for Large Classes (credential not required)	For classes of 12 to 20 students	For classes of 12 to 20 students	Not allowed

Student enrollment in the VPK program for the 2019-2020 school year, the most recent year measured, was 171,199.41

Each ELC is the single point of entry for VPK program registration and enrollment in the ELC's county or multi-county service area.⁴² Each ELC must coordinate with each school district in its service area to develop procedures for enrolling children in public school VPK programs.⁴³

The VPK program may be offered by either a private prekindergarten provider or a public school. To offer the VPK program, a private prekindergarten provider must apply with the ELC using forms prescribed by the OEL and must be one of a specified provider type⁴⁴ and either: be accredited;⁴⁵ hold a current Gold Seal Quality Care designation;⁴⁶ or be licensed and demonstrate to the ELC that the provider meets the VPK program's statutory requirements.⁴⁷ The VPK program provider profiles may be found on the DCF website.⁴⁸.

VPK Providers by Classification 2019-2020 ⁴⁹		
Provider Classification	Participating Providers	
Licensed Child Care Facility	4,537	
Licensed FCCH	10	

⁴¹ Florida Office of Early Learning, 2019-20 OEL Annual Report (Nov. 2020) at 25, available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf.

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⁴² Section 1002.53(4)(a)-(b), F.S. There are currently 30 ELCs. Florida's Office of Early Learning, *Early Learning Coalitions*, http://www.floridaearlylearning.com/family-resources/find-quality-child-care/locate-your-early-learning-coalition (last visited Feb. 26, 2021).

⁴³ Section 1002.53(4)(c), F.S.

⁴⁴ Section 1002.55(3)(a) and (h), F.S.; *see also* rule 6M-8.300(3), F.A.C.; s. 402.305, F.S. (child care facilities licensing); s. 402.313, F.S. (family day care homes licensing); s. 402.3131, F.S. (large family child care homes licensing); s. 402.316, F.S. (faith-based provider exempt from licensure).

⁴⁵ Section 1002.55(3)(b)1., F.S.; see also National Council for Private School Accreditation, http://www.ncpsa.org (last visited Feb. 26, 2021); Southern Association of Colleges and Schools, http://www.sacs.org/ (last visited Feb. 26, 2021); Western Association of Colleges and Schools, http://www.msa-cess.org/ (last visited Feb. 26, 2021); Middle States Association of Colleges and Schools, http://www.msa-cess.org/ (last visited Feb. 26, 2021); New England Association of Colleges and Schools, http://www.msa-cess.org/ (last visited Feb. 26, 2021); New England Association of Colleges and Schools, http://www.msa-cess.org/ (last visited Feb. 26, 2021).

⁴⁶ Section 402.281, F.S.; rule 65C-22.009, F.A.C.; see also Florida Department of Children and Family Services, Gold Seal Quality Care, https://www.myflfamilies.com/service-programs/child-care/goldseal.shtml (last visited Feb. 26, 2021). The DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FCCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.

⁴⁷ Section 1002.55(3)(b), F.S.

⁴⁸ Sections 402.301-402.319, F.S.; *see also* Florida Department of Children and Family Services, *Provider Search*, https://cares.myflfamilies.com/PublicSearch (last visited Feb. 26, 2021).

⁴⁹ Florida Office of Early Learning, 2019-20 OEL Annual Report (Nov. 2020) at 25, available at http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/2019-20%20OEL%20Annual%20Report%20FINAL%2012-29-30-GA(1).pdf.

Licensed LFCCH	31
License-Exempt	118
Public School	1,305
Private School	450
Specialized Service Providers	50
Total Providers	6,501

Private prekindergarten providers must also sign and agree to the terms outlined in the approved statewide VPK provider contract, follow all applicable statutes and administrative rules, maintain general liability insurance and maintain any required workers' compensation insurance and reemployment assistance or unemployment compensation coverage.⁵⁰

Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must apply with the ELC.⁵¹ School districts must offer a summer VPK program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district's summer program.⁵²

VPK Provider Eligibility

A VPK provider's continued participation is conditioned, in part, upon their students achieving the minimum score indicating kindergarten readiness. Readiness is determined in part using a screening assessment administered to each kindergarten student within the first 30 days of each school year. ⁵³ Providers that do not meet the minimum readiness rate are placed on probation and required to take certain corrective actions. ⁵⁴ The OEL may grant a good cause exemption to extend a provider's probation under certain conditions. ⁵⁵

Each provider must also comply with VPK Program laws of which each ELC and district school board is responsible for verifying compliance of private and public providers, respectively.⁵⁶ If a provider refuses to comply with law or engages in misconduct, the OEL must require the ELC or district school board to remove the provider or public school from eligibility to deliver the VPK Program and receive VPK funds for a period of 5 years.⁵⁷ An ELC or school district must require a provider or public school that falls below the minimum kindergarten readiness rate to implement an improvement plan, among other things.

Effect of Proposed Changes

The bill establishes a scholarship which provides payment of early learning program costs for a child whose sibling is medically complex and requires continuous care. Scholarship awards are limited to those children not currently being served by a School Readiness or VPK program. A child may not participate in any other state scholarship program. A child may attend an early learning program paid for with scholarship funds until the beginning of the school year for which he or she is eligible to attend kindergarten at a public school.

An eligible child must have a sibling who is medically complex which the bill defines as a medical condition such that he or she is technologically dependent upon medical equipment or procedures to sustain life and can expire without warning, unless continually under observation.

There are no parental income thresholds or cost-sharing requirements for the scholarship award, but the bill requires early learning coalitions to prioritize children who are not already participating in an

⁵⁰ Section 1002.55(3)(i) - (1), F.S.

⁵¹ Sections 1002.61(3)(a) and (8) and 1002.63(3) and (8), F.S.

⁵² Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

⁵³ See s. 1002.69(1), F.S.

⁵⁴ Section 1002.67(4)(c)1., F.S.

⁵⁵ Section 1002.69(7)(a), F.S.

⁵⁶ Section 1002.67(4)(a), F.S.

⁵⁷ Section 1002.67(4)(b), F.S.

early learning program or on a waiting list for such a program. Scholarship funds may only be used for services at providers approved to participate in the VPK or School Readiness programs. An individual scholarship amount may not exceed a provider's private pay rate and scholarship funds may not be used by providers to supplant federal funding used for services currently provided to a scholarship recipient.

The bill requires the OEL to establish scholarship application evaluation criteria and timelines for the application process. The OEL must include scholarship program evaluation and specific data in its statutorily-required annual report. The bill requires ELCs to disburse scholarship awards as direct payments to providers on a schedule developed by the OEL.

The bill provides that the state is not liable for the award or use of scholarship funds.

B. SECTION DIRECTORY:

Creates s. 1002.935, F.S.; establishing the Early Learning Scholarship Program; Section 1: requires the program to be administered by the Office of Early Learning; provides the purpose of the program; specifies program eligibility criteria; requires program funds to be used for a specified purpose; provides for the administration of the program; requires the office to report on the program; specifies certain information be included in the

report; specifies provider eligibility criteria; exempts the state from liability; requires the

office to adopt rules.

Section 2: Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate fiscal impact and is subject to an appropriation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See Fiscal Impact on State Government section.

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III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rule-making authority to the Office of Early Learning within the Department of Education.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 1, 2021, the Early Learning & Elementary Education Subcommittee adopted a Proposed Committee Substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from HB 1621 in the following ways:

- Removes the purpose of the Early Learning Scholarship Program as a scholarship to close the
 opportunity gap by increasing access to high-quality early learning childhood programs and
 establishes the program as a scholarship which provides payment of early learning program costs
 for a child whose sibling is medically complex and requires continuous care.
- Authorizes scholarship funds to be used for part-time child care or early childhood education services.
- Revises child eligibility requirements to be a sibling of a medically complex child and defines medically complex.
- Removes the direct certification of certain children as an eligibility category.
- Removes the family or household income eligibility limitation.
- Prohibits a scholarship recipient from being currently enrolled in a School Readiness or Voluntary Prekindergarten program.

The bill analysis is drafted to the committee substitute adopted by the Early Learning & Elementary Education Subcommittee.

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