

By Senator Brandes

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1 A bill to be entitled
2 An act relating to virtual learning; amending s.
3 1002.37, F.S.; revising the purpose of the Florida
4 Virtual School to provide for the development and
5 delivery of blended learning; requiring the Florida
6 Virtual School to give priority to students enrolled
7 in certain Department of Corrections education
8 programs; conforming a reporting requirement to
9 changes made by the act; revising the calculation of
10 funding for the Florida Virtual School; requiring
11 full-time equivalent students enrolled in a certain
12 blended learning program to be reported to the
13 Department of Education in a specified manner;
14 specifying conditions under which the Florida Virtual
15 School may be funded through the Florida Education
16 Finance Program; revising the requirements of a report
17 that the board of trustees of the Florida Virtual
18 School must annually submit to certain entities,
19 beginning with a specified school year; requiring
20 students enrolled in the Florida Virtual School
21 Justice Education Program to take specified
22 examinations and assessments at institutions or
23 facilities operated by, or under the supervision of,
24 the Department of Corrections; providing for the
25 determination of Florida Virtual School performance
26 related to the Justice Education Program; creating s.
27 1002.371, F.S.; requiring the Florida Virtual School
28 to establish the Florida Virtual School Justice
29 Education Program, beginning with a specified school

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30 year; providing the purpose of the program; specifying
31 criteria for course delivery; requiring the Florida
32 Virtual School to report program students separately
33 from other students for funding purposes; providing
34 for funding of students enrolled in the program;
35 authorizing students who turn 22 years of age while
36 enrolled in the program to remain enrolled under
37 certain circumstances; prohibiting funding for such a
38 student from being reported through the Florida
39 Education Finance Program; requiring the Department of
40 Education, with assistance from specified entities, to
41 select a common student assessment instrument and
42 protocol for measuring student learning gains and
43 progression; requiring specified entities to jointly
44 review such assessment instrument and protocol and
45 implement changes as necessary; authorizing students
46 to appeal removal from the Florida Virtual School
47 Justice Education Program, subject to a final
48 determination on the appeal by the Commissioner of
49 Education; requiring the Florida Virtual School to
50 negotiate by a specified date and annually thereafter
51 a cooperative agreement with the Department of
52 Corrections to implement the Florida Virtual School
53 Justice Education Program for the delivery of
54 educational services to students under the
55 jurisdiction of the Department of Corrections;
56 providing requirements for such agreement; providing
57 construction; requiring the state board and the
58 Department of Corrections to adopt rules; amending s.

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59 1011.61, F.S.; revising the definition of the term
60 "full-time equivalent student"; amending s. 1011.62,
61 F.S.; conforming a provision to changes made by the
62 act; providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Present paragraphs (c) through (g) of subsection
67 (3) of section 1002.37, Florida Statutes, are redesignated as
68 paragraphs (d) through (h), respectively, a new paragraph (c)
69 and paragraph (i) are added to that subsection, paragraph (e) is
70 added to subsection (10) of that section, and paragraphs (a) and
71 (b) of subsection (1), paragraphs (c) and (j) of subsection (2),
72 paragraph (a) of subsection (3), and subsections (7) and (11) of
73 that section are amended, to read:

74 1002.37 The Florida Virtual School.—

75 (1) (a) The Florida Virtual School is established for the
76 development and delivery of online and blended ~~distance~~ learning
77 education. The Commissioner of Education shall monitor the
78 school's performance and report its performance to the State
79 Board of Education and the Legislature.

80 (b) The mission of the Florida Virtual School is to provide
81 students with technology-based educational opportunities to gain
82 the knowledge and skills necessary to succeed. The school shall
83 serve any student in this ~~the~~ state who meets the profile for
84 success in this educational delivery context and shall give
85 priority to:

86 1. Students who need expanded access to courses in order to
87 meet their educational goals, such as home education students

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88 and students in inner-city and rural high schools who do not
89 have access to higher-level courses.

90 2. Students seeking accelerated access in order to obtain a
91 high school diploma at least one semester early.

92 3. Students who are children of an active duty member of
93 the United States Armed Forces who is not stationed in this
94 state whose home of record or state of legal residence is
95 Florida.

96 4. Students enrolled in the Florida Virtual School Justice
97 Education Program pursuant to s. 1002.371.

98
99 The board of trustees of the Florida Virtual School shall
100 identify appropriate performance measures and standards based on
101 student achievement that reflect the school's statutory mission
102 and priorities, and shall implement an accountability system for
103 the school that includes assessment of its effectiveness and
104 efficiency in providing quality services that encourage high
105 student achievement, seamless articulation, and maximum access.

106 (2) The Florida Virtual School shall be governed by a board
107 of trustees comprised of seven members appointed by the Governor
108 to 4-year staggered terms. The board of trustees shall be a
109 public agency entitled to sovereign immunity pursuant to s.
110 768.28, and board members shall be public officers who shall
111 bear fiduciary responsibility for the Florida Virtual School.
112 The board of trustees shall have the following powers and
113 duties:

114 (c) The board of trustees shall aggressively seek avenues
115 to generate revenue to support its future endeavors, and shall
116 enter into agreements with blended ~~distance~~ learning providers.

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117 The board of trustees may acquire, enjoy, use, and dispose of
118 patents, copyrights, and trademarks and any licenses and other
119 rights or interests thereunder or therein. Ownership of all such
120 patents, copyrights, trademarks, licenses, and rights or
121 interests thereunder or therein shall vest in the state, with
122 the board of trustees having full right of use and full right to
123 retain the revenues derived therefrom. Any funds realized from
124 patents, copyrights, trademarks, or licenses are ~~shall be~~
125 considered internal funds as provided in s. 1011.07. Such funds
126 shall be used to support the school's marketing and research and
127 development activities in order to improve courseware and
128 services to its students.

129 (j) The board of trustees shall submit to the State Board
130 of Education both forecasted and actual enrollments and credit
131 completions for the Florida Virtual School, according to
132 procedures established by the State Board of Education. At a
133 minimum, such procedures must include the number of public,
134 private, and home education students served, by program and by
135 county of residence, and the number of students enrolled in the
136 Florida Virtual School Justice Education Program pursuant to s.
137 1002.371.

138
139 The Governor shall designate the initial chair of the board of
140 trustees to serve a term of 4 years. Members of the board of
141 trustees shall serve without compensation, but may be reimbursed
142 for per diem and travel expenses pursuant to s. 112.061. The
143 board of trustees shall be a body corporate with all the powers
144 of a body corporate and such authority as is needed for the
145 proper operation and improvement of the Florida Virtual School.

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146 The board of trustees is specifically authorized to adopt rules,
147 policies, and procedures, consistent with law and rules of the
148 State Board of Education related to governance, personnel,
149 budget and finance, administration, programs, curriculum and
150 instruction, travel and purchasing, technology, students,
151 contracts and grants, and property as necessary for optimal,
152 efficient operation of the Florida Virtual School. Tangible
153 personal property owned by the board of trustees shall be
154 subject to the provisions of chapter 273.

155 (3) Funding for the Florida Virtual School shall be
156 provided as follows:

157 (a)1. The calculation of a "full-time equivalent student"
158 enrolled in an online learning program must ~~shall~~ be as
159 prescribed in s. 1011.61(1)(c)1.b.(V) and is subject to s.
160 1011.61(4).

161 2. The calculation of a "full-time equivalent student"
162 enrolled in a blended learning program offered pursuant to s.
163 1002.371 must be as prescribed in s. 1011.61(1)(c)1.b.(I) and is
164 subject to s. 1011.61(4).

165 3. For a student in a home education program, funding shall
166 be provided in accordance with this subsection upon course
167 completion if the parent verifies, upon enrollment for each
168 course, that the student is registered with the school district
169 as a home education student pursuant to s. 1002.41(1)(a).

170 (c) A full-time equivalent student enrolled in a blended
171 learning program offered pursuant to s. 1002.371, including a
172 student enrolled during the summer, must be reported to the
173 Department of Education in the manner the department prescribes
174 and must be funded through the Florida Education Finance

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175 Program.

176 (i) The Florida Virtual School may be funded for blended
177 learning through the Florida Education Finance Program only for
178 full-time students enrolled in the Florida Virtual School
179 Justice Education Program pursuant to s. 1002.371. However, such
180 students may enroll in online courses and be funded as provided
181 in paragraph (3) (a).

182 (7) The board of trustees shall annually submit to the
183 Governor, the Legislature, the Commissioner of Education, and
184 the State Board of Education the audit report prepared pursuant
185 to subsection (6) and a complete and detailed report setting
186 forth:

187 (a) The operations and accomplishments of the Florida
188 Virtual School within this ~~the~~ state and those occurring outside
189 this ~~the~~ state as Florida Virtual School Global and, beginning
190 with the 2022-2023 school year, the Florida Virtual School
191 Justice Education Program established under s. 1002.371.

192 (b) The marketing and operational plan for the Florida
193 Virtual School, ~~and~~ Florida Virtual School Global, and,
194 beginning with the 2022-2023 school year, the Florida Virtual
195 School Justice Education Program established under s. 1002.371,
196 including recommendations regarding methods for improving the
197 delivery of education through the Internet and other distance
198 learning technology.

199 (c) The assets and liabilities of the Florida Virtual
200 School and Florida Virtual School Global at the end of the
201 fiscal year.

202 (d) Recommendations regarding the unit cost of providing
203 services to students through the Florida Virtual School, ~~and~~

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204 Florida Virtual School Global, and, beginning with the 2022-2023
205 school year, the Florida Virtual School Justice Education
206 Program established under s. 1002.371. In order to most
207 effectively develop public policy regarding any future funding
208 of the Florida Virtual School, it is imperative that the cost of
209 the program is accurately identified. The identified cost of the
210 program must be based on reliable data.

211 (e) Recommendations regarding an accountability mechanism
212 to assess the effectiveness of the services provided by the
213 Florida Virtual School, ~~and~~ Florida Virtual School Global, and,
214 beginning with the 2022-2023 school year, the Florida Virtual
215 School Justice Education Program established under s. 1002.371.

216 (10)

217 (e) Students enrolled in the Florida Virtual School Justice
218 Education Program pursuant to s. 1002.371 must take all industry
219 certification examinations, national assessments, and statewide,
220 standardized assessments at the institution or facility operated
221 by, or under the supervision of, the Department of Corrections.

222 (11) The Florida Virtual School shall receive a school
223 grade pursuant to s. 1008.34 for students receiving full-time
224 instruction pursuant to this section. School performance for the
225 Florida Virtual School as it relates to the Justice Education
226 Program must be assessed based on student learning gains and
227 student progression as demonstrated by the student assessment
228 instrument and protocol selected pursuant to s. 1002.371(6).

229 Section 2. Section 1002.371, Florida Statutes, is created
230 to read:

231 1002.371 Florida Virtual School Justice Education Program.—

232 (1) Beginning with the 2022-2023 school year, the Florida

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233 Virtual School shall establish the Florida Virtual School
234 Justice Education Program to offer inmates younger than 22 years
235 of age housed in institutions and facilities operated by, or
236 under the supervision of, the Department of Corrections the
237 opportunity to earn a standard high school diploma pursuant to
238 s. 1003.4282. Courses must be delivered in an educational
239 setting under the supervision of the Department of Corrections
240 by Florida Virtual School personnel certified pursuant to s.
241 1012.55 who provide instruction through online courses pursuant
242 to s. 1002.37 or through blended learning courses consisting of
243 both traditional classroom and online instructional techniques.
244 Students in blended learning courses must be full-time students
245 of the school as provided in s. 1011.61(1)(a)1. The funding,
246 performance, and accountability requirements for blended
247 learning courses are the same as those for traditional classroom
248 courses.

249 (2) The Florida Virtual School shall separately report all
250 students enrolled in the program for purposes of the Florida
251 Education Finance Program.

252 (3) The Florida Virtual School shall receive state funds
253 for operating purposes as provided in the General Appropriations
254 Act for students enrolled in the program. The calculation to
255 determine the amount of state funds shall be as prescribed in s.
256 1002.37(3)(f).

257 (4) The program must include and receive funding for a
258 summer school period that must begin on the day immediately
259 following the end of the regular school year and end on the day
260 immediately preceding the subsequent regular school year.
261 Students may not be funded for more than 25 hours per week of

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262 instruction.

263 (5) A student who turns 22 years of age while enrolled in
264 the program may remain enrolled if his or her continued
265 enrollment is approved by the Florida Virtual School and the
266 Department of Corrections; however, funding for such a student
267 may not be reported through the Florida Education Finance
268 Program.

269 (6) The Department of Education, with the assistance of the
270 Florida Virtual School and the Department of Corrections, shall
271 select a common student assessment instrument and protocol for
272 measuring student learning gains and student progression for
273 students receiving full-time instruction pursuant to this
274 section. The Department of Education, the Florida Virtual
275 School, and the Department of Corrections, jointly, shall review
276 the effectiveness of such assessment instrument and protocol and
277 implement changes as necessary.

278 (7) A student who is removed from the program may appeal to
279 the Department of Education to seek reinstatement, subject to a
280 final determination on the appeal by the Commissioner of
281 Education.

282 (8) By July 1, 2023, and annually thereafter, the Florida
283 Virtual School shall negotiate a cooperative agreement with the
284 Department of Corrections for the delivery of educational
285 services to students under the jurisdiction of the Department of
286 Corrections to implement the program. Such agreement must
287 provide for, but is not limited to:

288 (a) Roles and responsibilities of the Florida Virtual
289 School and the Department of Corrections, including the roles
290 and responsibilities of contract providers.

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291 (b) Resolution of administrative issues, including
292 procedures for sharing information.

293 (c) Allocation of resources, including the maximization of
294 state and federal funding.

295 (d) Procedures for educational evaluation for exceptional
296 education students and those with special needs.

297 (e) Procedures for individualized progress monitoring plans
298 developed for all students not classified upon entry to the
299 program as exceptional education students. These plans must
300 address academic, literacy, career, and technical skills and
301 must include provisions for intensive remedial instruction in
302 areas of weakness.

303 (f) Curriculum and delivery of instruction, including
304 resources required for delivery of instruction through
305 technological means.

306 (g) Procedures for assessments, including, but not limited
307 to, industry certification examinations, national assessments,
308 and statewide, standardized assessments administered pursuant to
309 s. 1008.22 at an institution or facility operated by the
310 Department of Corrections.

311 (h) Classroom management procedures and attendance
312 policies.

313 (i) Procedures for provision of qualified personnel,
314 whether supplied by the Florida Virtual School or the Department
315 of Corrections, and for the performance of their duties in a
316 Department of Corrections setting.

317 (j) Provisions for improving skills in teaching and working
318 with students in the program.

319 (k) Transition plans for students moving into and out of

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320 the program, including graduates transitioning to postsecondary
321 education or into the workforce.

322 (l) Procedures and timelines for the timely documentation
323 of credits earned and the transfer of student records.

324 (m) Methods and procedures for dispute resolution.

325 (n) Provisions for ensuring the safety of education
326 personnel and support for the agreed-upon education program.

327 (9) This section and the cooperative agreement required
328 under subsection (8) do not require the Florida Virtual School
329 to provide more services than can be supported by the funds
330 generated by students participating in the program.

331 (10) This section does not prohibit a student from
332 participating in the Correctional Education Program pursuant to
333 s. 944.801.

334 (11) The State Board of Education and the Department of
335 Corrections shall adopt rules to administer this section.

336 Section 3. Paragraph (c) of subsection (1) of section
337 1011.61, Florida Statutes, is amended to read:

338 1011.61 Definitions.—Notwithstanding the provisions of s.
339 1000.21, the following terms are defined as follows for the
340 purposes of the Florida Education Finance Program:

341 (1) A "full-time equivalent student" in each program of the
342 district is defined in terms of full-time students and part-time
343 students as follows:

344 (c)1. A "full-time equivalent student" is:

345 a. A full-time student in any one of the programs listed in
346 s. 1011.62(1)(c); or

347 b. A combination of full-time or part-time students in any
348 one of the programs listed in s. 1011.62(1)(c) which is the

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349 equivalent of one full-time student based on the following
350 calculations:

351 (I) A full-time student in a combination of programs listed
352 in s. 1011.62(1)(c) shall be a fraction of a full-time
353 equivalent membership in each special program equal to the
354 number of net hours per school year for which he or she is a
355 member, divided by the appropriate number of hours set forth in
356 subparagraph (a)1. The difference between that fraction or sum
357 of fractions and the maximum value as set forth in subsection
358 (4) for each full-time student is presumed to be the balance of
359 the student's time not spent in a special program and shall be
360 recorded as time in the appropriate basic program.

361 (II) A prekindergarten student with a disability shall meet
362 the requirements specified for kindergarten students.

363 (III) A full-time equivalent student for students in
364 kindergarten through grade 12 in a full-time virtual instruction
365 program under s. 1002.45 or a virtual charter school under s.
366 1002.33 shall consist of six full-credit completions or the
367 prescribed level of content that counts toward promotion to the
368 next grade in programs listed in s. 1011.62(1)(c). Credit
369 completions may be a combination of full-credit courses or half-
370 credit courses.

371 (IV) A full-time equivalent student for students in
372 kindergarten through grade 12 in a part-time virtual instruction
373 program under s. 1002.45 shall consist of six full-credit
374 completions in programs listed in s. 1011.62(1)(c)1. and 3.
375 Credit completions may be a combination of full-credit courses
376 or half-credit courses.

377 (V) A Florida Virtual School full-time equivalent student

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378 in an online program shall consist of six full-credit
379 completions or the prescribed level of content that counts
380 toward promotion to the next grade in the programs listed in s.
381 1011.62(1)(c)1. and 3. for students participating in
382 kindergarten through grade 12 part-time virtual instruction and
383 the programs listed in s. 1011.62(1)(c) for students
384 participating in kindergarten through grade 12 full-time virtual
385 instruction. Credit completions may be a combination of full-
386 credit courses or half-credit courses.

387 (VI) Each successfully completed full-credit course earned
388 through an online course delivered by a district other than the
389 one in which the student resides shall be calculated as 1/6 FTE.

390 (VII) A full-time equivalent student for courses requiring
391 passage of a statewide, standardized end-of-course assessment
392 under s. 1003.4282 to earn a standard high school diploma shall
393 be defined and reported based on the number of instructional
394 hours as provided in this subsection.

395 (VIII) For students enrolled in a school district as a
396 full-time student, the district may report 1/6 FTE for each
397 student who passes a statewide, standardized end-of-course
398 assessment without being enrolled in the corresponding course.

399 2. A student in membership in a program scheduled for more
400 or less than 180 school days or the equivalent on an hourly
401 basis as specified by rules of the State Board of Education is a
402 fraction of a full-time equivalent membership equal to the
403 number of instructional hours in membership divided by the
404 appropriate number of hours set forth in subparagraph (a)1.;
405 however, for the purposes of this subparagraph, membership in
406 programs scheduled for more than 180 days is limited to students

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407 enrolled in:

408 a. Juvenile justice education programs.

409 b. The Florida Virtual School.

410 c. Virtual instruction programs and virtual charter schools
411 for the purpose of course completion and credit recovery
412 pursuant to ss. 1002.45 and 1003.498. Course completion applies
413 only to a student who is reported during the second or third
414 membership surveys and who does not complete a virtual education
415 course by the end of the regular school year. The course must be
416 completed no later than the deadline for amending the final
417 student enrollment survey for that year. Credit recovery applies
418 only to a student who has unsuccessfully completed a traditional
419 or virtual education course during the regular school year and
420 must retake the course in order to be eligible to graduate with
421 the student's class.

422

423 The full-time equivalent student enrollment calculated under
424 this subsection is subject to the requirements in subsection
425 (4).

426

427 The department shall determine and implement an equitable method
428 of equivalent funding for schools operating under emergency
429 conditions, which schools have been approved by the department
430 to operate for less than the minimum term as provided in s.
431 1011.60(2).

432 Section 4. Paragraph (f) of subsection (1) of section
433 1011.62, Florida Statutes, is amended to read:

434 1011.62 Funds for operation of schools.—If the annual
435 allocation from the Florida Education Finance Program to each

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436 district for operation of schools is not determined in the
437 annual appropriations act or the substantive bill implementing
438 the annual appropriations act, it shall be determined as
439 follows:

440 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
441 OPERATION.—The following procedure shall be followed in
442 determining the annual allocation to each district for
443 operation:

444 (f) *Supplemental academic instruction allocation.*—

445 1. There is created the supplemental academic instruction
446 allocation to provide supplemental academic instruction to
447 students in kindergarten through grade 12.

448 2. The supplemental academic instruction allocation shall
449 be provided annually in the Florida Education Finance Program as
450 specified in the General Appropriations Act. These funds are in
451 addition to the funds appropriated on the basis of FTE student
452 membership in the Florida Education Finance Program and shall be
453 included in the total potential funds of each district.

454 Beginning with the 2018-2019 fiscal year, each school district
455 that has a school earning a grade of "D" or "F" pursuant to s.
456 1008.34 must use that school's portion of the supplemental
457 academic instruction allocation to implement intervention and
458 support strategies for school improvement pursuant to s. 1008.33
459 and for salary incentives pursuant to s. 1012.2315(3) or salary
460 supplements pursuant to s. 1012.22(1)(c)5.c. that are provided
461 through a memorandum of understanding between the collective
462 bargaining agent and the school board that addresses the
463 selection, placement, and expectations of instructional
464 personnel and school administrators. For all other schools, the

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465 school district's use of the supplemental academic instruction
466 allocation may include, but is not limited to, the use of a
467 modified curriculum; reading instruction; after-school
468 instruction; tutoring; mentoring; a reduction in class size;
469 extended school year; intensive skills development in summer
470 school; dropout prevention programs as defined in ss. 1003.52
471 and 1003.53(1)(a), (b), and (c); and other methods of improving
472 student achievement. Supplemental academic instruction may be
473 provided to a student in any manner and at any time during or
474 beyond the regular 180-day term identified by the school as
475 being the most effective and efficient way to best help that
476 student progress from grade to grade and to graduate.

477 3. The supplemental academic instruction allocation shall
478 consist of a base amount that has a workload adjustment based on
479 changes in unweighted FTE. The supplemental academic instruction
480 allocation shall be recalculated during the fiscal year. Upon
481 recalculation of funding for the supplemental academic
482 instruction allocation, if the total allocation is greater than
483 the amount provided in the General Appropriations Act, the
484 allocation shall be prorated to the level provided to support
485 the appropriation, based on each district's share of the total.

486 4. Funding on the basis of FTE membership beyond the 180-
487 day regular term shall be provided in the FEFP only for students
488 enrolled in juvenile justice education programs, the Florida
489 Virtual School Justice Education Program pursuant to s.
490 1002.371, or in education programs for juveniles placed in
491 secure facilities or programs under s. 985.19. Funding for
492 instruction beyond the regular 180-day school year for all other
493 K-12 students shall be provided through the supplemental

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494 academic instruction allocation and other state, federal, and
495 local fund sources with ample flexibility for schools to provide
496 supplemental instruction to assist students in progressing from
497 grade to grade and graduating.

498 Section 5. This act shall take effect July 1, 2022.