



# The Florida Senate

Interim Report 2011-215

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Committee on Education Pre-K - 12

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## VIRTUAL INSTRUCTION PROGRAMS

### Issue Description

A recently released software and digital content industry report reviewed trends in online learning.<sup>1</sup> The report notes the following trends:

- Online learning for K-12 students and for teachers is one of the fastest growing areas in the educational uses of technology. A number of key drivers are propelling the rapid growth of online learning: proven effectiveness, market-level acceptance, as evidenced by the extent to which it is now an integral part of the education conversation, and student-driven interest.
- Growing opportunities with blended learning,<sup>2</sup> which can be an effective and engaging method of instruction that schools are finding creates economic efficiencies around student and teacher time, classroom space, length of the school day and year, instructional materials, and digital resources.
- The enabling of “anywhere” learning through new Internet-enabled devices, combined with the roll out of WiMax,<sup>3</sup> and the increased usage of now mainstream tools such as podcasts,<sup>4</sup> along with new software tools for accessing learning, will all contribute to an increasingly mobile learning experience.

Florida is considered a leader in virtual instruction. Virtual instruction programs are a component of the K-20 public education system. District programs are included among the public school choice options available to parents and students. In 2008, the Legislature required each school district to establish its own virtual instruction program by the 2009-2010 school year. During the 2010 legislative session, additional changes were made to the virtual instruction programs.<sup>5</sup>

For the 2009-2010 school year, less than one percent (21,176 full-time equivalent or FTE) of the total final FTE (2,629,327 FTE) were in virtual education. Of the 21,176 FTE in virtual education, 2,575 FTE were in the virtual instruction (VIP) program and 18,601 FTE were in the Florida Virtual School’s traditional program and a safety net program (18,451 FTE and 150 FTE, respectively).<sup>6</sup>

### Background

#### Florida Virtual Instruction

A virtual instruction program is instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>7</sup> Virtual courses may be offered on a part-

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<sup>1</sup> Software & Information Industry Association, *SIIA Trends Report for Education Technology, Online Learning Comes of Age*, 2010.

<sup>2</sup> Blended learning is a combination of face-to-face and online elements.

<sup>3</sup> WiMax is one example of fourth generation wireless technology.

<sup>4</sup> A podcast is one example of streaming media.

<sup>5</sup> ch. 2010-154, L.O.F., which adds community colleges as providers for the school district virtual instruction program and expands eligibility for the program to include siblings of a currently enrolled student of a virtual instruction program.

<sup>6</sup> E-mail, DOE, January 12, 2011.

<sup>7</sup> ch. 2009-59, L.O.F., codified in s. 1002.45(1)(a)2., F.S.

time or full-time basis. A Florida certified teacher is responsible for at least 50 percent of the direct instruction to students in kindergarten through grade 5 or 80 percent of the direct instruction to students in grades 6 through 12.<sup>8</sup>

### Types of Virtual Education Offered in Florida

Florida currently offers three virtual instruction programs:

- The school district virtual instruction program (VIP) provides full-time virtual courses for students in kindergarten through grade twelve and full-time or part-time courses for students in grades nine through 12 enrolled in dropout prevention and academic intervention programs under s. 1003.53, F.S., Department of Juvenile Justice (DJJ) education programs under s. 1003.52, F.S., core-curricula courses to meet class size requirements under s. 1003.03, F.S., or community colleges under s. 1002.45, F.S.<sup>9</sup>
- The Florida Virtual School (FLVS) provides virtual education courses to students in grades six through 12 and through district franchise programs.<sup>10</sup>
- The statewide K-8 Virtual School program provides a full-time virtual instruction program to eligible students in kindergarten through grade eight.<sup>11</sup> This program is currently being phased-out and incorporated into the VIP program.<sup>12</sup> Existing students are allowed to complete the program.<sup>13</sup>

### School District Virtual Instruction Program (VIP)

Each school district must establish its own virtual instruction program.

#### *Student Eligibility*<sup>14</sup>

Enrollment in a school district VIP program is open to any student residing in the district who meets at least one of the following conditions:

- The student attended a Florida public school during the prior year and was reported for funding during the October and February Florida Education Finance Program (FEFP) surveys.
- The student is the dependent child of a member of the military who transfers into Florida with his or her parent from another state or country within 12 months of seeking enrollment in a district virtual instruction program.
- The student was enrolled in a district VIP program<sup>15</sup> or K-8 Virtual School program during the prior school year.
- The student has a sibling who is currently enrolled in the VIP program and that sibling was enrolled in the VIP program at the end of the prior school year.

Participating students must comply with the compulsory school attendance requirements which must be verified by the district. Students must also participate in the state assessment program.<sup>16</sup>

#### *Eligible Providers*<sup>17</sup>

Each school district may:

- Contract with one or more virtual instruction providers approved by the DOE;<sup>18</sup>

<sup>8</sup> s. 1002.45(1)(a)2., F.S.

<sup>9</sup> s. 1002.45(1)(b), F.S.

<sup>10</sup> ss. 1002.37 and 1011.61(1)(c)1.b.(V), F.S.

<sup>11</sup> Until 2009-2010, the K-8 Virtual School program was funded by a specific line-item appropriation in the General Appropriations Act (GAA). Proviso set forth the amount authorized per full-time equivalent student. Chapter 2006-48, L.O.F., established the statutory framework for the program, which was codified in s. 1002.415, F.S.

<sup>12</sup> Phase-out proviso language is incorporated into the FEFP line-item in the 2010-2011 GAA (Specific Appropriations 6 and 78, s. 2, ch. 2010-152 L.O.F.)

<sup>13</sup> s. 1002.45(5)(c), F.S.

<sup>14</sup> s. 1002.45(5), F.S.

<sup>15</sup> In 2008-2009, eligibility at the high school level was limited to the DJJ programs, dropout prevention programs, and career and vocational programs. See s. 1002.45(7)(c), F.S. (2008).

<sup>16</sup> s. 1002.45(6), F.S.

<sup>17</sup> s. 1002.45(1)(c), F.S.

- Contract with the FLVS;<sup>19</sup>
- Establish a franchise of the FLVS; or
- Participate in multi-district agreements to provide virtual instruction services.

In addition, districts may operate their own program and may contract with the providers specified in law or other entities to provide segments of their program.<sup>20</sup> Multidistrict agreements may be executed by regional consortiums on behalf of their member districts.<sup>21</sup>

A charter school may enter into a joint agreement with the school district in which it is located to have its students participate in the district's program.<sup>22</sup>

Annually, the DOE must provide school districts with a list of approved providers to offer virtual instruction programs.<sup>23</sup> To obtain DOE approval, a private provider of virtual instruction programs must document that it:<sup>24</sup>

- Is nonsectarian in its programs, admission policies, employment practices, and operations;
- Complies with statutory antidiscrimination provisions;
- Locates its administrative offices in the state;
- Requires all administrative personnel to be Florida residents;
- Requires all instructional staff to be Florida-certified teachers;
- Subjects all employees or contract personnel to background screening;
- Has prior successful experience offering online courses to K-12 students; and
- Is accredited by a specific entity.<sup>25</sup>

#### ***Program Criteria and Contract Requirements***<sup>26</sup>

Each VIP program must:

- Align its curriculum and content to the Sunshine State Standards;
- Design instruction to enable students to achieve proficiency in each virtual course;
- Provide each student with all necessary instructional materials;
- Provide each full time student, when appropriate, all necessary computer equipment and access to, or reimbursement for, Internet services; and
- Not require tuition or student registration fees.

Each contract with an approved provider must at a minimum:

- Set forth a detailed curriculum plan that illustrates how students will be provided services to attain proficiency on the Sunshine State Standards;

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<sup>18</sup> Legislation in 2010 (ch. 2010-154, L.O.F.) allows a community college to be a provider for the VIP program.

<sup>19</sup> If the district contracts with the FLVS to operate its school district VIP, participating students are subject to the requirements in s. 1002.45, F.S. Students taking individual online courses directly from FLVS are subject to the requirements of s. 1002.37, F.S., which allows enrollment for public, private, and home education students. See DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers #27*, available at: <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>20</sup> See DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers #9*, available at: <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>21</sup> s. 1002.45(1)(c), F.S.

<sup>22</sup> s. 1002.45(1)(d), F.S.

<sup>23</sup> s. 1002.45(2), F.S.

<sup>24</sup> *Id.* See also Rule 6A-6.0981, F.A.C.

<sup>25</sup> The Southern Association of Colleges and Schools Council on Accreditation and School Improvement, the North Central Association Commission on Accreditation and School Improvement, the Middle States Association of Colleges and Schools Commission on Elementary Schools and Commission on Secondary Schools, the New England Association of Schools and Colleges, the Northwest Association of Accredited Schools, the Western Association of Schools and Colleges, or the Commission on International and Trans-Regional Accreditation.

<sup>26</sup> s. 1002.45(3) and (4), F.S.

- Provide a method for determining that a student has satisfied the requirements for graduation if the contract is for the provision of a full-time virtual instruction program to students in grades 9 through 12;
- Specify a method for resolving conflicts among the parties;
- Specify authorized reasons for termination of the contract; and
- Require the approved provider to be responsible for all debts of the school district virtual instruction program if the contract is not renewed or is terminated.

### **Accountability**

Each provider of a school district virtual instruction program receives a school grade or a school improvement rating, as applicable. A provider's school grade or school improvement rating is based upon the aggregated assessment scores of all full-time students in kindergarten through grade 12 served by the provider statewide. The performance of part-time students in grades nine through 12 is factored into the school grade or school improvement ratings of the student's nonvirtual school of record.<sup>27</sup>

An approved provider that receives a school grade of "D" or "F" or a school improvement rating of "Declining" must file with the DOE a school improvement plan for correcting low performance. An approved provider's contract must be terminated if the provider receives a school grade of "D" or "F" or a school improvement rating of "Declining" for any two years during a four-year period. A provider that has a contract terminated may not be an approved provider for a period of at least one year and until the DOE determines that the provider qualifies for participation in the program and has corrected each cause of the provider's low performance.<sup>28</sup>

### **Funding**

District VIP programs are funded through the Florida Education Finance Program (FEFP).<sup>29</sup> Students in full-time kindergarten through grade five programs are funded based on program completion and promotion to the next grade-level.<sup>30</sup> Full and part-time students in grades six through 12 are funded on a credit completion basis. Funding is only received if the course is successfully completed.<sup>31</sup> Six credits equal one full-time equivalent (FTE) student. Half credit completions are included in determining an FTE student.<sup>32</sup> For the VIP program, districts may only earn one FTE per student, per regular school year and they are not eligible for summer school FTE funding.<sup>33</sup>

If a district contracts with a provider, FEFP funding flows to the district and the provider is paid by the district pursuant to the terms of the contract.<sup>34</sup> The district retains FEFP funds in excess of the negotiated contract price. Districts may use FEFP funds to provide equipment or Internet access to students under appropriate circumstances.<sup>35</sup>

### **Florida Virtual School Traditional Programs**

The FLVS is an online school offering virtual education for students in grades six through 12.<sup>36</sup> It offers more than 90 courses that include core subjects, foreign languages, electives, honors, and advanced placement.<sup>37</sup> All FLVS courses

<sup>27</sup> s. 1002.45(8), F.S.

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

<sup>29</sup> s. 1002.45(7), F.S.

<sup>30</sup> s. 1011.61(1)(c)1.b.(III), F.S.

<sup>31</sup> A "successful completion" for students in grades K-5 is completion of a basic education program and promotion to a higher grade level. "Successful completion" for students in grades 6-12 is based on course credits earned for high school students or course completions with a passing grade for middle school students. See DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers #37 and #38*, available at: <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>32</sup> s. 1011.61(1)(c)1.b.(IV), F.S.

<sup>33</sup> DOE, Office of Funding and Financial Reporting, *FTE General Instructions (2010-2011)*, available at: <http://www.fldoe.org/fefp/pdf/1011FTEInstructions.pdf>.

<sup>34</sup> DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers #51 and 52*, available at: <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>. Pursuant to s. 1002.45(7)(c), F.S., community colleges may not count the student enrollment for Community College Program Funding.

<sup>35</sup> s. 1002.45(3)(d), F.S.

<sup>36</sup> ss. 1002.37 and 1011.61(1)(c)1.b.(V), F.S. FLVS refers to the grades 6-12 traditional supplemental model as its "classic" offering. See <http://www.flvs.net/areas/aboutus/Documents/16%20page%20Legislative.pdf>.

are delivered over the Internet. Students have access to these courses at any time during the day. Certified teachers guide students through these courses and communicate with them on a regular basis via phone, e-mail, instant messaging, and discussion forums.<sup>38</sup> Students must have access to a computer. Internet access is not provided by the FLVS.<sup>39</sup> The school is accredited by the Southern Association of Colleges and Schools and the Commission on International and Trans-Regional Accreditation.<sup>40</sup>

### ***Student Eligibility***

The law requires that enrollment priority be given to students who need expanded access to courses in order to meet their educational goals, such as home education students, students in inner-city and rural high schools that do not have access to advanced courses, and students seeking accelerated access to a high school diploma.<sup>41</sup> The FLVS does not award high school diplomas.<sup>42</sup>

### ***Funding***

In the FEFP, the FLVS FTE funding is based on credit successfully completed. Credit completed by a student in excess of the minimum required for that student for high school graduation is not eligible for funding.<sup>43</sup> The DOE has indicated that it does not currently have a mechanism in place to enforce this statutory provision.<sup>44</sup> The department can determine if a student has exceeded this requirement, however, the law is silent as to how to adjust FTE earned in excess of a student's high school graduation requirements.

Six credits equal one full-time equivalent (FTE) student. A student who completes less than six credits is a fraction of an FTE student. Half-credit completions are included in determining an FTE student.<sup>45</sup>

### ***School District Participation***

The FLVS is available to students in all 67 Florida school districts.<sup>46</sup> School districts must provide students with access to FLVS courses during or after the normal school day and through summer school enrollment.<sup>47</sup>

The FLVS Board of Trustees may enter into franchise agreements with Florida district school boards. The board establishes the franchise criteria, the terms and conditions governing franchise agreements, and the performance and accountability measures.<sup>48</sup> The board also reports the performance of each school district franchise to the Commissioner of Education.<sup>49</sup>

FLVS franchises are active in 38 school districts: Baker, Bay, Broward, Charlotte, Clay, Columbia, Dade, Dixie, Duval, Escambia, Flagler, Gilchrist, Glades, Hamilton, Hardee, Hernando, Highlands, Hillsborough, Lafayette, Lake, Lee, Leon, Levy, Marion, Monroe, Nassau, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Polk, Putnam, Santa Rosa, Seminole, St. Johns, Union, and Walton.<sup>50</sup> School districts that operate an approved FLVS franchise count FTE students for funding purposes in the FEFP.<sup>51</sup>

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<sup>37</sup> Florida Virtual School, *Frequently Asked Questions: FLVS Course Questions*, available at: <http://www.fldoe.org/schools/virtual-schools/faqs.asp>.

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

<sup>39</sup> Florida Virtual School, *Hardware/Software Requirements*, See <http://www.flvs.net/areas/flvscourses/Pages/HardwareRequirements.aspx>.

<sup>40</sup> Florida Virtual School, See <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx>.

<sup>41</sup> s. 1002.37(1)(b), F.S.

<sup>42</sup> Florida Virtual School, See <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx>.

<sup>43</sup> s. 1002.37(3)(a), F.S.

<sup>44</sup> E-mail, DOE, January 12, 2011, on file with the committee, and telephonic communication.

<sup>45</sup> ss. 1002.37(3)(a) and 1011.61(1)(c)1.b.(V), F.S.

<sup>46</sup> s. 1001.42(23), F.S.

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

<sup>48</sup> s. 1002.37(2)(i), F.S.

<sup>49</sup> *Id.*

<sup>50</sup> E-mail, FLVS, September 14, 2010, on file with the committee.

<sup>51</sup> s. 1002.37(3)(a) and (4), F.S.

## Findings

### Mission and Structure of the VIP Program

Each district establishes its own mission for the VIP program.<sup>52</sup> Most respondents to a recent Senate survey cited student choice as the primary district mission.<sup>53</sup> Other districts include a focus on at risk students (Bay, Calhoun, Citrus, Okaloosa, Palm Beach, Pasco, and Washington). Some districts provide virtual instruction to meet the constitutional class size requirements (Calhoun, Citrus, Franklin, Okaloosa, Palm Beach, and St. Johns).

Some districts report that decisions related to the selection of approved providers were based on competitive procurement practices (e.g., request for proposals, invitations to bid, or invitations to negotiate), while others were based on requests for information,<sup>54</sup> provider presentations with or without a formal proposal, or prior experience with specific providers.<sup>55</sup>

From the providers' perspective, districts selected providers based on provider experience, qualifications, scope of service, instructional model and coaching support, results for targeted groups of students, and cost of service. One provider noted that cost was the predominant criteria in most of the district decisions.<sup>56</sup>

Districts must meet the requisite statutory contract requirements for virtual instruction, such as having a detailed curriculum plan that illustrates how students will be provided services to attain proficiency in the Sunshine State Standards and a method for determining that a student has satisfied high school graduation requirements, if the contract is for a full-time virtual instruction program to students in grades 9 through 12.<sup>57</sup>

For both 2009-2010 and 2010-2011, many districts indicated that they contracted with multiple approved providers.<sup>58</sup> The survey responses from providers confirm this practice.<sup>59</sup> The following chart identifies the number of districts with VIP contracts by provider.<sup>60</sup>

VIP Contracts 2009-2010 and 2010-2011		
Provider	Number of District Contracts 2009-2010	Number of District Contracts 2010-2011
Advanced Academics Inc. <sup>61</sup>	0	0
Educational Options, Inc. <sup>62</sup>	3	3

<sup>52</sup> Response to Senate committee survey, on file with the committee.

<sup>53</sup> A survey was sent to each school district requesting information related to the mission and current structure of each district's VIP program, providers, and the costs associated with each provider of virtual instruction. Additionally, consortia and VIP providers were surveyed regarding VIP program participation. The final response rate was 74 percent, or 56 total respondents, including districts, providers, and consortia. Many respondents did not fully respond to the request for information and some provided partial or inaccurate answers to specific requests. However, there are a sufficient number of responses from the districts, consortia, and providers to allow for a discussion of specific issues about the implementation of the program.

<sup>54</sup> s. 287.012(21), F.S., defines this term as a written or electronically posted request made by an agency to vendors for information concerning commodities or contractual services. Responses to these requests are not offers and may not be accepted by the agency to form a binding contract.

<sup>55</sup> Responses to Senate survey, on file with the committee.

<sup>56</sup> *Id.*

<sup>57</sup> s. 1002.45(4), F.S.

<sup>58</sup> Responses to Senate survey, on file with the committee. On March 12, 2010, the DOE notified districts that it approved the following providers for the next three years: Advanced Academics, Inc. (Grades 6-12); Educational Options, Inc. (Grades 6-12); Florida Connections Academy, LLC. (Grades K-12); Kaplan Virtual Education (Grades 6-12); K12 Florida, LLC (Grades K-12); and National Network of Digital Schools, Lincoln Interactive (Grades 6-12). *See* <http://www.fldoe.org/Schools/virtual-schools/pdf/VIPApprovedProviders.pdf>. The law (s. 1002.45(1)(a)1., F.S.) grants approved-provider status to the FLVS. According to the DOE, Florida Connections Academy, LLC, does not currently independently provide services.

<sup>59</sup> Approximately 67 percent of the survey respondents reported that multiple providers were used.

<sup>60</sup> The actual contracts from some districts and providers were not provided or were incomplete.

<sup>61</sup> The provider indicates that students in Eckerd Youth Alternatives were served in 2009-2010 as a part of the VIP program.

VIP Contracts 2009-2010 and 2010-2011		
Provider	Number of District Contracts 2009-2010	Number of District Contracts 2010-2011
VIP FLVS Full-Time/FLVSCA <sup>63</sup>	55 <sup>64</sup>	41 <sup>65</sup>
Kaplan Virtual Education	4	5
K12 Florida, LLC	39 <sup>66</sup>	35
National Network of Digital Schools	N/A <sup>67</sup>	1

### *District Operated Programs*

Some districts operate their own VIP program.<sup>68</sup> According to the DOE, a district-operated program is one in which the district provides the administration and most of the services associated with the VIP program.<sup>69</sup> The district-operated programs usually contract for the curriculum, digital content, or other online resources and Learning Management Systems.<sup>70</sup> The DOE does not approve providers that offer a component of a virtual instruction program, such as curriculum or a learning platform.<sup>71</sup>

### *Consortia*

For the VIP program, the law allows multidistrict agreements to be executed by regional consortiums on behalf of their member districts.<sup>72</sup> For 2009-2010 and 2010-2011, the North East Florida Educational Consortium (NEFEC) issued a request for proposals and interviewed providers. However, each district selected the providers.<sup>73</sup> According to NEFEC, districts were largely influenced by whether or not they had any students affiliated with a particular provider.<sup>74</sup>

For the 2009-2010 school year, NEFEC contracted with the FLVS to provide a full-time VIP program for NEFEC's resident K-12 students in participating school districts.<sup>75</sup> Additionally, NEFEC entered into contracts with two other approved providers, Blue Ridge International Academy<sup>76</sup> and K12, LLC, to serve students in member and nonmember districts.<sup>77</sup>

<sup>62</sup> The provider serves full-time students in grades 6-12 and part-time students in grades 9-12.

<sup>63</sup> FLVS contracted with Florida Connections Academy to provide a turnkey K-8 program as a subcontractor to FLVS under the designation "FLVSCA." FLVS Full-Time or the FLVSCA provided the instruction for grades 6-8 and FLVS provided its own 9-12 program for all districts where those grade ranges were offered. Senate survey response, on file with the committee.

<sup>64</sup> FLVS included districts that are under its contract with NEFEC.

<sup>65</sup> FLVS included two districts that are a part of the NEFEC franchise agreement.

<sup>66</sup> This includes five districts under the contract with NEFEC.

<sup>67</sup> This entity was not a provider in 2009-2010.

<sup>68</sup> For 2009-2010, districts included Pinellas, Santa Rosa, and Volusia. For 2010-2011, districts include Franklin, Pasco, Pinellas, and Volusia (grades 9-12). Responses to Senate survey, on file with the committee.

<sup>69</sup> E-mail, DOE, September 13, 2010, on file with the committee.

<sup>70</sup> *Id.* Learning Management Systems or LMS are also referred to as course management systems, learning content management systems, and instructional improvement systems. These systems provide electronic access to curriculum, individualized instruction, resources, ongoing assessments, professional development, and student achievement data in a secure environment.

<sup>71</sup> DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers*, See <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.

<sup>72</sup> s. 1002.45(1)(c), F.S.

<sup>73</sup> Additionally, NEFEC facilitated student approval for enrollment and handled contract management and billing for participating districts in both school years. For 2010-2011, NEFEC is also providing the instructors, supervision, data reporting for state reports, and professional development. Teachers are paid on the basis of performance (i.e., successful student completion.) Response to Senate committee survey, August 24, 2010, on file with the committee.

<sup>74</sup> *Id.*

<sup>75</sup> The contract included NEFEC member districts (Baker, Bradford, Columbia, Dixie, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Putnam, and Union), and Monroe. Although listed in the contract, Nassau, the Florida School for the Deaf and the Blind, and the P.K. Yonge Developmental Research School did not participate under the contract. Contract on file with the committee. E-mail, October 27, 2010.

<sup>76</sup> The academy is a subsidiary of Educational Options, Inc.

<sup>77</sup> Contracts on file with the committee.

For the 2010-2011 school year, thirteen districts use a NEFEC model.<sup>78</sup> In this model, districts operate their own VIP program for students in kindergarten through grade 5.<sup>79</sup> Thirteen districts are authorized to be a part of a franchise agreement between NEFEC and the FLVS to serve students in grades 6-12.<sup>80</sup> According to NEFEC, this K-12 model is designed as a cost-effective solution for small districts in that it allows for combining students across districts.<sup>81</sup>

### Instruction and Technology

Approved providers generally employ the teachers for virtual instruction. Two VIP providers offer an option for their curriculum to be taught by district employed teachers. All instruction for FLVS franchises is provided by district teachers, which allows districts to retain FTE, but pay \$50 per enrollment.<sup>82</sup>

Current law requires each VIP program to provide each full time student, when appropriate, all necessary computer equipment and access to, or reimbursement for, Internet services. Districts determine the appropriateness of providing equipment and access.<sup>83</sup> Providers indicated that districts establish eligibility requirements, such as meeting the income guidelines for the National School Lunch Program.

### Student Enrollment By Grade Level and Type of Enrollment

The following table details the statewide VIP enrollment by status, full-time or part-time, and grade levels served for 2009-2010.<sup>84</sup> It includes Pinellas, a district-operated VIP program, and approved VIP providers for 2009-2010.

Pinellas County School District					
TYPE OF ENROLLMENT			GRADE LEVEL		
	#	%		#	%
<b>PART-TIME</b>	0	0%	9-12	0	0%
<b>FULL-TIME</b>	26	100%	K-5	0	0%
			6-8	26	100%
			9-12	0	0%
<b>Total</b>	26	100%	<b>Total</b>	26	100%

Florida Virtual School					
TYPE OF ENROLLMENT			GRADE LEVEL		
	#	%		#	%
<b>PART-TIME</b>	0	0%	9-12	0	0%
<b>FULL-TIME</b>	534	100%	K-5	143	27%
			6-8	121	23%
			9-12	270	51%
<b>Total</b>	534	100%	<b>Total</b>	534	100%

Florida Connections Academy, LLC					
TYPE OF ENROLLMENT			GRADE LEVEL		
	#	%		#	%
<b>PART-TIME</b>	0	0%	9-12	0	0%
<b>FULL-TIME</b>	592	100%	K-5	395	66%
			6-8	195	33%
			9-12	2	<1%
<b>Total</b>	592	100%	<b>Total</b>	592	100%

<sup>78</sup> Nine NEFEC members (Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Putnam, and Union), Monroe, and three Heartland Consortium members (Glades, Hardee, and Highlands). Some districts (e.g., Hamilton) also have contracts with other providers.

<sup>79</sup> Response to Senate committee survey, August 24, 2010, on file with the committee.

<sup>80</sup> The NEFEC franchise was established through a contract between Putnam, on behalf of NEFEC, and the FLVS. Contract on file with the committee. The agreement is for nine NEFEC districts (Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Monroe, and Putnam) and four members of the Heartland Consortium (DeSoto, Glades, Hardee, and Highlands). Contract on file with the committee. Three NEFEC member districts are not a party to the NEFEC franchise agreement (Flagler, Levy, and Union). According to NEFEC, each district is an FLVS franchise, but operates under the NEFEC/FLVS umbrella franchise agreement.

<sup>81</sup> Response to Senate committee survey, August 24, 2010, on file with the committee.

<sup>82</sup> See [http://www.flvs.net/areas/elearning/Pages/FLORIDA%20DISTRICTS/Florida\\_Franchise.aspx](http://www.flvs.net/areas/elearning/Pages/FLORIDA%20DISTRICTS/Florida_Franchise.aspx).

<sup>83</sup> s. 1002.45(3)(d), F.S. DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers*.

<sup>84</sup> DOE, Survey 4, as of October 14, 2010. Advanced Academics, Inc., only had one student enrolled for 2009-2010.



K12 Florida, LLC					
TYPE OF ENROLLMENT			GRADE LEVEL		
	#	%		#	%
<b>PART-TIME</b>	0	0%	9-12	0	0%
<b>FULL-TIME</b>	993	100%	K-5	571	58%
			6-8	365	37%
			9-12	57	6%
<b>Total</b>	993	100%	<b>Total</b>	993	100%

Educational Options, Inc.					
TYPE OF ENROLLMENT			GRADE LEVEL		
	#	%		#	%
<b>PART-TIME</b>	27	61%	9-12	27	61%
<b>FULL-TIME</b>	17	39%	K-5	0	0%
			6-8	2	5%
			9-12	15	34%
<b>Total</b>	44	100%	<b>Total</b>	44	100%

Kaplan Virtual Education					
TYPE OF ENROLLMENT			GRADE LEVEL		
	#	%		#	%
<b>PART-TIME</b>	0	0%	9-12	0	0%
<b>FULL-TIME</b>	37	100%	K-5	0	0%
			6-8	7	19%
			9-12	30	81%
<b>Total</b>	37	100%	<b>Total</b>	37	100%

### Safety Net Students

The K-8 statewide pilot program is being phased out. However, students who have been in the program are eligible to receive full-time virtual instruction until they have completed grade eight. Proviso permits school districts to execute an appropriate contract for full-time virtual instruction for these students through K-8 virtual schools that received funds under an appropriation in 2008.<sup>85</sup> The DOE must verify the eligibility of the students, assist with placement of each student in a school district virtual instruction program regardless of the student's district of residence, and assist the school district with executing an appropriate contract with the approved pilot K-8 virtual school for payment for virtual instruction for each student.

According to the DOE, there were approximately 165 eligible students who participated in the safety net in 2009-2010. Palm Beach contracted to serve all K12, LLC students statewide and FLVS contracted to serve all Florida Connections Academy students statewide in that school year.<sup>86</sup> These contracts are continuing for 2010-2011.<sup>87</sup>

## Policy Considerations

### Services and Cost

Districts, providers, and consortia provided VIP program contract cost information.<sup>88</sup> Following are the contract prices for the approved providers for the 2010-2011 school year:<sup>89</sup>

#### FLVS

Annual Student Service Fee	\$3,995.00 per student <sup>90</sup>
Annual Student Computer Services Fee	\$655.00 per student
Annual Student ISP Fee <sup>91</sup>	\$99.50 per student
Annual Student Intensive Reading Fee	\$380.00 per student

<sup>85</sup> Specific Appropriation 93 in chapter 2008-152, L.O.F. School districts may expend \$4,704 per student for each student who was enrolled and served during the 2009-2010 fiscal year and who is re-enrolled and eligible to be served during the 2010-2011 fiscal year. The maximum number of students to be funded is the number served in 2009-2010.

<sup>86</sup> E-mail, DOE, on file with the committee, September 13, 2010.

<sup>87</sup> E-mail, on file with the committee, October 22, 2010.

<sup>88</sup> No contract information was provided for 2010-2011 from Advanced Academics, Inc.

<sup>89</sup> Responses to Senate survey, on file with the committee.

<sup>90</sup> Per funded full-time FTE.

<sup>91</sup> Internet Services Provider fee.

*K12, LLC*<sup>92</sup>*Full-Time K12 Teachers*

K-8 Annual Student Service Fee	\$3,995.00 per student
9-12 Annual Student Service Fee	\$4,795.00 per student
Annual Student Computer Services Fee	\$560.00 per student
Annual Student ISP Fee	\$99.50 per student
Replacement/additional materials kit (as requested)	\$150.00 per student per course

*K12, LLC**Full-Time District Teachers*<sup>93</sup>

K-8 Annual Student Service Fee	\$2,745.00 per student
9-12 Annual Student Service Fee	\$2,745.00 per student
Annual Student Computer Services Fee	\$560.00 per student
Annual Student ISP Fee	\$99.50 per student
Replacement/additional materials kit (as requested)	\$150.00 per student per course

*Kaplan*

Full-time enrollment	\$3540 per school year
Per-course enrollment	\$295 per ½ credit course enrollment
Technology provision	\$830 per student, if needed

*Educational Options, Inc.* \$185 per half credit

*National Network of Digital Schools* \$95.00 per course per student

The programs for these VIP providers are referred to as turnkey programs (e.g., all necessary systems for registration, enrollment, grading, assessment, communication, reporting, and program assessment are already in place).<sup>94</sup> However, the programs are not entirely turnkey. Practically, provider contract price is only part of the total district cost per student in that a district in most cases provides administrative staff support and has expenses such as supplies, travel, and printing.<sup>95</sup> For example, Brevard reported the contract prices and district costs associated with each of its providers. The contract prices and district costs for the three providers were: Educational Options, Inc., \$185 per half credit earned and additional district costs per FTE of \$5,535 (19 successful completions); K12, LLC, \$3,995 per FTE without technology and additional district costs of \$2,627 (37 successful completions); and Kaplan, \$3,540 per FTE without technology and additional district costs of \$7,903 (5 successful completions). Osceola reported a contract price of \$3,995 per FTE with FLVSCA and additional district costs of roughly \$650 per FTE (65 successful completions). For Brevard and Osceola, these are district reported costs that exceed the contract price.

The total district costs per student tend to be higher than anticipated because of the district specific costs in addition to the contract costs which together are allocated over a relatively few number of students.<sup>96</sup> The districts generally are unable to take advantage of economies of scale. If the students under the provider program are very small, the cost per student is skewed and abnormally high. As programs increase in size, district costs per student should be significantly reduced.

**Statewide or Local Virtual Charter Schools**

Several providers have advocated for the authorization of virtual charter schools. Originally, some of these contractors requested a statewide charter. A recent court ruling on the Florida Schools of Excellence Commission may affect the

<sup>92</sup> E-mail from K12, LLC, on file with the committee, October 26, 2010.

<sup>93</sup> The cost also includes professional development for five teachers. In using district teachers for course instruction, the district assumes responsibility for K12 fees for those students regardless of student completion or promotion.

<sup>94</sup> Not all districts provided sufficient detailed supporting information. Districts also reported costs associated with franchises.

<sup>95</sup> Based on responses to Senate survey, on file with the committee.

<sup>96</sup> For example, Volusia only reported 84 enrollments for 2009-2010. Response to Senate survey, on file with the committee.

ability to create statewide virtual charter schools.<sup>97</sup> In addition, a state level program would require a much greater infusion of state funds because school district local funds would not be available. Therefore, the contractors have begun advocating for local virtual charter schools under the jurisdiction of the school boards.

Authorizing virtual charter schools at the local level may replace the existing school district virtual instruction programs. Each of the current virtual providers would be able to establish local virtual charter schools in any districts. Therefore, many districts would probably have six or more charter applications to run local virtual schools. These virtual charter schools could be easily created since there would be no local infrastructure or staffing requirements. These schools would likely be operated regionally or on a statewide basis by the contractors or agents of the contractors. This would likely increase student choice within each district, but it may limit the school district's oversight and districts may have a disincentive for school district participation because of a potential loss of funding.

Existing charter school statutes may need to be revised to effectively implement local virtual charter schools since current law does not contemplate virtual instruction. Also, the funding methodology for paying for local virtual charter schools may need to be reviewed. Otherwise, the contractors would potentially receive full FEFP funding for virtual instruction, which would impede competitive market pricing for virtual instruction. Full FEFP funding is substantially greater than the amount districts are now paying through the competitive bidding process for the school district virtual instruction programs.

### **Expansion of Student Eligibility for School District Programs**

Student eligibility has been limited to students with prior public school attendance, with some exceptions. This provision is designed to limit state costs by limiting the participation of those students who would not ordinarily go to public schools. Parents and contractors have been advocating for expansion of eligibility to all students, including home school and private school students, in a manner that is similar to the authority given to the FLVS program.

### **Accountability**

This is the first year for school grades under the VIP program and not all of the FLVS franchises and approved providers received a school grade.<sup>98</sup> FLVS franchises receive a school grade, including a high school grade, as applicable.<sup>99</sup> Ten districts identified themselves as franchises that had full-time VIP students.<sup>100</sup> For 2009-2010, only one franchise (Broward Virtual Education) will receive a school grade at the end of 2010.<sup>101</sup> According to the DOE, the other districts did not report enough full-year-enrolled eligible students with FCAT scores to meet the sample size criteria for a school grade.<sup>102</sup>

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<sup>97</sup> The Duval County School Board along with other districts challenged the constitutionality of s. 1002.335, F.S. On December 2, 2008, the First District Court of Appeal held that the statute establishing the FSEC with the authority to authorize charter schools violated article IX, section 4 of the Florida Constitution, which authorizes school boards to "operate, control and supervise all free public schools within the school district." See *Duval County School Board v. State Board of Education*, 998 So.2d 646 (Fla. 1<sup>st</sup> DCA 2008).

<sup>98</sup> For any school to be eligible for a school grade, it must serve at least 30 full-year-enrolled standard-curriculum students with valid FCAT scores in reading and math and serve at least 30 full-year-enrolled students with valid FCAT scores in reading and math in both the current year and the previous year. Rule 6A-1.09981(4), F.A.C. This criteria also applies to traditional public schools.

<sup>99</sup> E-mail, DOE, October 25, 2010, on file with the committee.

<sup>100</sup> Broward, Escambia, Flagler, Hillsborough, Okaloosa, Osceola, Palm Beach, Pasco, Santa Rosa, and St. Johns. Responses to Senate survey, on file with the committee.

<sup>101</sup> Schools that serve high school grade levels receive a grade based on a weighting of FCAT-based components and non-FCAT-based components. Florida's high schools are graded using several non-FCAT based components (e.g., graduation rate, accelerated curriculum participation for students in grades 9 – 12, accelerated curriculum performance, and postsecondary readiness of students in reading and in math) proportional to the number and level of non-high-school grades taught at the school at tested grade levels. Broward Virtual Education's grade is pending until the non-FCAT-based components are available near the end of 2010. See <http://schoolgrades.fldoe.org/pdf/0910/2010SchoolGradesTAP.pdf>.

<sup>102</sup> E-mail, DOE, October 25, 2010, on file with the committee. The law (ss. 1008.34(3)(a)1. and 1008.341(2), F.S.) provides that a school grade and school improvement rating are not provided if the number of the school's students for whom student performance data is available for the current year and previous year is less than the minimum sample size necessary for statistical reliability and prevention of the unlawful release of personally identifiable student data.

District-operated VIP programs (e.g., Pinellas) receive a school grade for purposes of the VIP program. VIP approved providers also receive a school grade, but not a high school grade, since there are no graduation rates for the providers. The provider grades are solely based on the FCAT, including 10<sup>th</sup> grade scores. Following are the school grades for approved private VIP providers:<sup>103</sup>

2009-2010 School Grades for Approved VIP Providers	
District	Grade
FLVS Full Time	Incomplete <sup>104</sup>
FLVS Connections Academy	A
Advanced Academics, Inc.	None
Educational Options, Inc.	None
K12 Florida, LLC	A
Kaplan Virtual Education	None
K-8 FLVA safety net (Palm Beach)	A
Connections Academy safety net (FLVS)	A

As the VIP student participation increases over time, it is likely that more providers will receive a school grade. For the parents of VIP students enrolled in a provider's program that does not receive a grade due to a small enrollment, the ability to compare virtual instruction providers is limited. Comparisons are also limited for parents of full time students in grades nine through 12 who are enrolled in DJJ education programs. While an approved VIP provider may serve these students, the law excludes certain classifications of students in alternative schools<sup>105</sup> from school grading and students who are in programs operated or contracted by the Department of Juvenile Justice.<sup>106</sup>

In a similar situation, the Legislature has enacted legislation to allow student performance data for particular schools to be released with smaller cell sizes.<sup>107</sup> For example, for charter schools that do not receive a school grade, the DOE and each charter school must report to parents and the public to the extent that the information does not compromise a student's privacy.<sup>108</sup> The department is also required to compare the charter school student performance data for each of these charter schools with the student performance data in traditional public schools in the district and other charter schools in the state.<sup>109</sup> Each charter school is also required to provide this information on its Web site and provide notice to the public.

### Accreditation

In response to the Senate survey, Miami-Dade County School District noted that Miami-Dade College would not initially recognize the diploma that the district's virtual instruction program, Miami-Dade Online Academy, granted to its graduates in June.<sup>110</sup> According to the district, Miami-Dade College indicated that the entity granting the diploma must be accredited.<sup>111</sup> The college does not consider the accreditation status of a state-approved virtual

<sup>103</sup> E-mail, DOE, October 22, 2010, on file with the committee.

<sup>104</sup> Schools that fail to test at least 90 percent of eligible students are initially assigned a grade of "I" (for incomplete data). Schools are further investigated to determine whether sufficient data are available to accurately assign a regular school grade.

<sup>105</sup> This applies to students subject to district school board policies for expulsion for repeated or serious offenses, and students who are in dropout-retrieval programs who have officially been designated as dropouts.

<sup>106</sup> ss. 1008.34(3)(c)3. and 1008.341(3), F.S. See also Rule 6A-1.099822, F.A.C.

<sup>107</sup> s. 1002.33(21)(b), F.S.

<sup>108</sup> *Id.* Privacy of student records is provided for in s. 1002.22, F.S., relating to student records, and 20 U.S.C. s. 1232g, the federal Family Educational Rights and Privacy Act.

<sup>109</sup> Although no grade is assigned, the DOE includes these schools online with the schools that receive a school grade. See <http://schoolgrades.fldoe.org/>.

<sup>110</sup> Response to Senate committee survey, August 17, 2010, on file with the committee.

<sup>111</sup> *Id.* The high school provider, Kaplan Virtual Education, is accredited by AdvancED, the parent organization of the North Central Association Commission on Accreditation and School Improvement (NCA CASI) and the Southern Association of

instruction provider.<sup>112</sup>

This issue has since been resolved in that the college eventually agreed to recognize the academy's diploma. However, the issue delayed students' ability to register for classes at the college. The district is still concerned about whether other postsecondary institutions will recognize the academy diploma and has applied for accreditation.<sup>113</sup> The district notes that the accreditation process may take some time to be completed. Additionally, the district indicates that the accreditation process will add about \$8,400 to the district's costs this year and will require an annual renewal fee of \$2,000.

### Articulation

One approved provider issues certified high school diplomas to students who successfully complete its graduation requirements.<sup>114</sup> Students can work toward this provider's diploma regardless of whether the students begin their high school career with the provider, or transfer from a different school. All transfer credits from an accredited institution are honored.<sup>115</sup>

Under the current contract, a diploma option is a part of the VIP program in one Florida district for students who may not be able to meet the requirements for a Florida high school diploma.<sup>116</sup> A total of 21 credits are required for graduation: 4 in English, 3 in math, science, and social studies, a half-credit each in career education, fine arts, and health, and 6.5 credits in elective courses. A student must earn at least 4 credits through the provider to earn the provider's diploma, which is an out-of-state private school diploma. There is no exit exam for graduation and no minimum GPA.

Florida high school students are currently required to complete 24 credits in order to earn a high school diploma. Students must also earn passing scores on the Florida Comprehensive Assessment Test (FCAT) or attain a passing score on the SAT or ACT. Beginning in the 2010-2011 school year, high school graduation requirements increase to include more rigorous courses.<sup>117</sup> Students will be required to pass statewide, standardized end-of-course (EOC) assessments in specific courses beginning with the 2011-2012 school year.

Proponents for the safety net diploma option note that despite all diligent efforts, some students may still find themselves at-risk of not attaining a standard high school diploma. These senior high school students may only receive a certificate of completion or GED or dropout during their last year of high school because of severely insufficient credits or an inability to pass all district required courses or state exit exams. They also note that since the provider is accredited,<sup>118</sup> the diploma will offer educational and professional opportunities, such as attending a university or enlisting in the armed forces. Finally, the proponents assert that a student transferring to participate in this option is no different than one who transfers to a private brick and mortar school during the student's senior year to obtain a high school diploma from a private school.

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Colleges and Schools Council on Accreditation and School Improvement (SACS CASI). See <http://www.advanc-ed.org/oasis2/u/par/accreditation/summary?institutionId=68>.

<sup>112</sup> The academy does not provide the virtual instruction. Rather, it contracts with providers that meet the accreditation requirements in s. 1002.45(2)(a)5., F.S.

<sup>113</sup> Response to Senate committee survey, September 28, 2010, on file with the committee.

<sup>114</sup> Blue Ridge International Academy, the virtual school division of Educational Options, Inc., See <http://blueridgelearning.com/provides/online-education-solutions.html>.

<sup>115</sup> *Id.*

<sup>116</sup> See <http://blueridgelearning.com/works/graduation-requirements.html>. The contract refers to this as a "safety net" program. See contract with Blue Ridge International Academy, on file with the committee. Electives may be satisfied by completing independent study in service learning, physical education (e.g., band, chorus, drama, or music), performing arts, or work experience.

<sup>117</sup> Beginning with students entering grade 9 in the following school years, courses include Geometry (2010-2011), Biology I (2011-2012), Algebra II (2012-2013), Chemistry or physics (2013-2014), and an additional equally rigorous science course (2013-2014). See ch. 2010-22, L.O.F., codified in ss. 1003.428 and 1003.429, F.S.

<sup>118</sup> Northwest Accreditation Commission and the Southern Association of Colleges and Schools Council on Accreditation and School Improvement. See <http://www.advanc-ed.org/oasis2/u/par/accreditation/summary?institutionId=17644> and <http://207.114.235.104/results.aspx>.

On the other hand, Florida has increasingly emphasized a rigorous curriculum with end-of-course assessments to prepare students for postsecondary school or the world of work. The safety net diploma option lowers these requirements and may not prepare students for postsecondary school or the world of work.

### **Access**

District programs are included among the public school choice options available to parents and students.<sup>119</sup> Several providers raised concerns related to district practices that limit enrollment in the VIP program or their particular program. One provider noted that most enrollments occur in grades specified in the contract between the district and the provider and that some districts have accommodated student enrollment needs.<sup>120</sup> However, instances were noted where districts specified that a student must enroll in a particular provider's program or a franchise and limited enrollment to a specific group of students (e.g., only prior year VIP students or a particular grade level). Additionally, concerns were raised about the timely release of school grades to allow for planning future student enrollment.

Finally, concerns were raised about district enrollment windows for students who wish to participate in the school district's VIP program. Current law does not specify criteria for when enrollment may occur. The DOE notes that the enrollment windows for this program vary by district, but that districts are required to inform parents and students of their right to participate in the VIP program.<sup>121</sup> Some districts include this program in their enrollment windows for other choice programs and some handle it separately. Districts may have separate enrollment windows for the first and second semester.

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<sup>119</sup> ss. 1002.20(6)(a), and s. 1002.31(2), F.S.

<sup>120</sup> Correspondence, on file with the committee, and telephonic communication.

<sup>121</sup> DOE, *School District Virtual Instruction Program (2010-2011) Questions and Answers*. See <http://www.fldoe.org/schools/virtual-schools/pdf/DistrictVIP-FAQ.pdf>.