

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7055      PCB EDC 18-01      Education  
**SPONSOR(S):** Appropriations Committee, Education Committee, Bileca and Diaz, M.  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	16 Y, 4 N	Brink	Hassell
1) Appropriations Committee	20 Y, 8 N, As CS	Potvin	Leznoff

### SUMMARY ANALYSIS

The bill:

- Establishes the Hope Scholarship Program for students subjected to certain misconduct in public schools.
- Establishes Reading Education Scholarship Accounts for struggling readers in grades 3-5.
- Streamlines and strengthens monitoring and oversight provisions for private school scholarship programs.
- Expands allowable expenditures of scholarship funds in the Gardiner Scholarship Program.
- Requires the Florida Department of Education (DOE) to develop templates to help teachers develop curricula.
- Requires paper-based statewide, standardized English language arts and math assessments for grades 7-8.
- Requires integration of social studies content into reading and writing prompts on state assessments.
- Requires released assessment items to be in an electronic format that facilitates sharing of assessment items.
- Provides Florida Virtual School (FLVS) students with access to district testing facilities for certain assessments.
- Allows charter schools to provide educational leadership preparation programs.
- Allows charter schools to delay opening up to 3 years.
- Provides charter schools with access to surplus property on the same basis as public schools.
- Clarifies requirement for distributing discretionary capital outlay millage revenues with charter schools.
- Requires school districts to provide background screening results for charter school employees within 14 days.
- Revises eligibility requirements for high performing charter schools and allows replication of up to two schools.
- Clarifies provisions relating to charter school terminations and consolidations.
- Expands the Principal Autonomy Pilot Program Initiative to a statewide program.
- Allows certain principals to manage multiple district schools that operate under an independent governing board.
- Expands a superintendent's duties to recommend to approve schools to operate under such a governing board, subject to school board approval.
- Revises requirements related to home school and private school dual enrollment costs.
- Establishes and enhances school district ethical and financial accountability and transparency requirements.
- Requires school boards to provide financial efficiency data and fiscal trend information.
- Requires DOE to provide a web-based tool to identify high-performing, efficient schools and school districts.
- Establishes anti-nepotism provisions for district school superintendents.
- Revises requirements for the distribution of Title I funds.
- Requires DOE to conduct outreach on apprenticeship programs to include military veterans.
- Exempts military personnel, veterans, and spouses from initial educator certification application and exam fees.
- Allows JROTC instructors to participate in the Teachers Classroom Supply Assistance Program.
- Provides FLVS enrollment priority for children of Florida resident military personnel who are stationed out of state.
- Designates March 25 as "Medal of Honor Day".
- Provides that certain instruction on Medal of Honor recipients satisfies specified instructional requirements.
- Requires employee organizations that represent instructional personnel to recertify in certain circumstances.

The bill appropriates for the 2018-2019 fiscal year the sum of \$19,350,000 in recurring funds from the General Revenue Fund and the sum of \$850,000 in nonrecurring funds from the General Revenue Fund to implement the provisions of this act. The bill conforms to appropriations provided in HB 5001 as the funding for the Florida Education Finance Program is contingent upon its passage.

The bill takes effect on July 1, 2018.

### FULL ANALYSIS

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

**STORAGE NAME:** h7055a.APC

**DATE:** 2/6/2018

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Private Educational Choice Scholarship Programs**

##### Present Situation

Current law allows parents of public school students to seek private school choice options under the John M. McKay Scholarships for Students with Disabilities Program (McKay), the Florida Tax Credit Scholarship Program (FTC), and the Gardiner Scholarship Program (GSP).<sup>1</sup>

Under the McKay program, the parent of a public school student with a disability may request and receive a McKay Scholarship for the student to attend a private school.<sup>2</sup> Under the FTC, the parent of a student who qualifies for free or reduced-price school lunch or who is currently placed, or during the previous state fiscal year was placed, in foster care may seek a scholarship from an eligible nonprofit scholarship-funding organization.<sup>3</sup>

The GSP is available to students who are 3 or 4 years of age or are eligible to enroll in kindergarten through grade 12 in a public school, have an eligible disability,<sup>4</sup> and are the subject of an IEP or have a diagnosis of an eligible disability from a physician or psychologist. Under the GSP, a parent may exercise his or her “parental option to determine the appropriate placement or the services that best meet the needs of his or her child.”<sup>5</sup> GSP funds may be used to reimburse purchases of the following items or services:<sup>6</sup>

- Instructional materials
- Curriculum
- Specialized services including, but not limited to, applied behavior analysis services and services provided by speech-language pathologists, occupational therapists, physical therapists, and listening and spoken language specialists
- Enrollment in, or tuition or fees associated with enrollment in, an eligible private school, an eligible postsecondary educational institution, a private tutoring program, a virtual program offered by a Department of Education (DOE)-approved private online provider, or a DOE-approved online course
- Fees for standardized assessments
- Contributions to the Stanley G. Tate Prepaid College Program
- Contracted services provided by a public school or school district<sup>7</sup>
- Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator’s certificate or who has demonstrated a mastery of subject area knowledge
- Fees for specialized summer education program
- Fees for specialized after-school education programs
- Transition services provided by job coaches

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<sup>1</sup> Section 1002.20(6)(b), F.S.

<sup>2</sup> Section 1002.20(6)(b)1., F.S.; *see s.* 1002.39, F.S.

<sup>3</sup> Section 1002.20(6)(b)2., F.S.; *see s.* 1002.395, F.S.

<sup>4</sup> Eligible disabilities are autism; cerebral palsy; Down syndrome; an intellectual disability; Prader-Willi syndrome; Spina bifida; Williams syndrome; for a student ages 3-5, being a high-risk child; muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; deaf; visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term “hospital or homebound” includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months. Section 1002.385(2)(d), F.S.

<sup>5</sup> Section 1002.385(11), F.S.

<sup>6</sup> *See s.* 1002.385(5), F.S.

<sup>7</sup> A student who receives contracted public school services is not considered to be enrolled in a public school for eligibility purposes.

Section 1002.385(5)(g), F.S.

- For home education students, fees for an annual evaluation of educational progress by a state-certified teacher
- Tuition and fees for approved Voluntary Prekindergarten Education Program and school readiness providers
- Fees for services provided at a member center of the Professional Association of Therapeutic Horsemanship International
- Fees for services provided by a therapist certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

### *School Safety and Student Discipline*

Florida law requires each district school board to provide for the proper accounting for all students; for the attendance and control of students at school; and for proper attention to health, safety, and other matters relating to the welfare of students. School boards must adopt rules, policies, and procedures for addressing disciplinary issues and providing for a safe and orderly school environment.<sup>8</sup> Each school board must adopt a code of student conduct that is based upon its rules governing student conduct and discipline.<sup>9</sup> The code of student conduct must include, but is not limited to:

- consistent policies and specific grounds for disciplinary action;
- penalties and procedures for acts requiring discipline, including in-school suspension, out-of-school suspension, expulsion, and corporal punishment;
- an explanation of the rights and responsibilities of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities;
- a dress code policy and penalties and procedures for addressing dress code violations;
- notice that student possession of alcohol, drugs, weapons, or firearms; violence against school district personnel; disruptive behavior on a school bus; sexual harassment; and threats or false reports made against school property, personnel, or transportation are grounds for disciplinary action and may result in the imposition of criminal penalties;
- policies for the assignment of violent or disruptive students to alternative educational programs;<sup>10</sup>
- student eligibility standards and related student disciplinary actions regarding student participation in extracurricular activities which must provide that:
  - a student not suspended or expelled is eligible to participate in extracurricular activities;
  - a student's eligibility to participate may not be affected by recruiting allegations until a final determination has been reached;
  - a student may not participate in a sport if the student participated in that same sport at another school during the same school year unless the student:
    - is a dependent child of active duty military personnel whose move resulted from military orders;
    - has been relocated due to a foster care placement in a different school zone;
    - has moved due to a court-ordered change in custody due to separation or divorce or the serious illness or death of a custodial parent; or
    - is authorized for good cause in district or charter school policy.

At the beginning of each school year, the code of student conduct must be:

- distributed to all teachers, school personnel, students, and parents;
- made available in the school district's student handbook or similar publication; and
- discussed in student classes, school advisory council meetings, and parent and teacher association or organization meetings at the beginning of the school year.<sup>11</sup>

<sup>8</sup> Section 1006.07(1)(a), F.S.

<sup>9</sup> Section 1006.07(2), F.S.

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

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

The law provides an extensive description of the roles, duties, and authority of each personnel classification charged with maintaining a safe and orderly school environment and enforcing disciplinary violations.<sup>12</sup> Each district school superintendent must, among other things, recommend to the district school board plans for promoting the welfare of students, including attendance, discipline, health and safety, and other matters. Each superintendent must fully support the disciplinary authority of school principals, classroom teachers, and school bus drivers.<sup>13</sup>

In addition to the code of student conduct, each school board must adopt policies prohibiting bullying and harassment, hazing, and dating violence and abuse, and for emergency preparedness and response.<sup>14</sup> Current law prohibits bullying or harassment:

- of any public K-12 student or employee during a public K-12 education program or activity;
- during a school-related or school-sponsored activity;
- on a public K-12 school bus;
- using a computer system or network that is within the scope of the K-12 educational institution;<sup>15</sup> or
- using technology or electronic devices that are not owned or otherwise controlled by a school if the bullying substantially interferes with the victim's ability to participate in or benefit from the activities offered by a school.<sup>16</sup>

Each school district's bullying and harassment policy must:

- prohibit, define, and describe the behaviors that constitute bullying and harassment;
- establish procedures for reporting and investigating acts of bullying and harassment;
- establish procedures for making referrals to law enforcement;
- provide instruction to students, parents, teachers, and others on recognizing behavior that leads to bullying and harassment and taking preventative action;
- establish procedures for including incidents of bullying or harassment in the school's required report of data concerning school safety and discipline;<sup>17</sup> and
- establish procedures for referring victims and perpetrators to counseling.<sup>18</sup>

Each school principal must ensure that standardized forms prescribed by the rule of the State Board of Education (SBE) are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.<sup>19</sup>

DOE uses The School Environmental Safety Incident Reporting (SESIR) System to compile data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. In the 2015-16 school year, over 47,000 Florida public school students reported incidents that include battery, bullying, harassment, hazing, physical attacks, and sexual assault, battery and harassment.<sup>20</sup>

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<sup>12</sup> See s. 1003.32, F.S., (classroom teachers and school principals), s. 1006.08, F.S. (superintendents), s. 1006.09, F.S. (school principals), and 1006.10, F.S. (school bus drivers).

<sup>13</sup> Section 1006.08(1), F.S.

<sup>14</sup> See ss. 1006.07(4) and (6), 1006.135, 1006.14, 1006.147, and 1006.148, F.S.

<sup>15</sup> "Within the scope of a public K-12 educational institution" means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity. Section 1006.147(3)(d), F.S.

<sup>16</sup> Section 1006.147(2), F.S.

<sup>17</sup> Section 1006.147(4)(f), (h), (k), and (l), F.S. The School Environmental Safety Incident Reporting (SESIR) System is used by the DOE to compile data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. Florida Department of Education, *Statewide Report on School Safety and Discipline Data*, <http://www.fldoe.org/safeschools/sesir.asp>. (last visited October 27, 2017).

<sup>18</sup> Section 1006.147(4)(j), F.S.

<sup>19</sup> Section 1006.09(6), F.S.

<sup>20</sup> Florida Department of Education, *Statewide Report on School Safety and Discipline Data*, <http://www.fldoe.org/safeschools/sesir.asp>. (last visited October 27, 2017).

BATTERY	2,516
BULLYING	2,867
FIGHTING	21,957
HARASSMENT	1,832
HAZING	6
PHYSICAL ATTACK	10,342
SEXUAL ASSAULT	25
SEXUAL BATTERY	28
SEXUAL HARASSMENT	1,805
SEX OFFENSES	1,581
THREAT/INTIMIDATION	4,314

However, there is evidence to suggest that the number of reported incidents through SESIR is much lower than actual incidents. The Department of Health, in collaboration with the DOE, administers the Youth Risk Behavior Survey (YRBS) that is a statewide, school-based confidential survey of Florida's public high school students. The purpose of the YRBS is to monitor priority health-risk behaviors that contribute substantially to the leading causes of death, disability, and social problems among youth, which contribute to patterns in adulthood. In 2015, 123,500 high school students reported being bullied on school property during the past 12 months.<sup>21</sup> In addition, 8.1 percent of high school students did not go to school because they felt unsafe at school or on their way to or from school.<sup>22</sup>

### *Motor Vehicle Taxes*

Florida sales and use tax, plus any applicable discretionary sales surtax, is due on all new or used motor vehicles sold, leased, delivered into, imported into, or used in Florida, unless a specific exemption applies. Florida sales and use tax is due on the sales price of the motor vehicle, including any separately itemized charge or fee for items, such as:

- any accessory sold with the vehicle;
- preparation, settlement, or closing fees;
- freight, handling, or delivery of the motor vehicle to the dealer;
- commission; and
- any other expense or cost of the dealer that the dealer requires the purchaser to pay.

Any separately itemized fee or charge mandated by a state law for titling, licensing, or registering the motor vehicle, or for recording a lien on the motor vehicle, is not subject to tax.<sup>23</sup>

Florida collects a 6 percent state sales tax rate on the purchase of all vehicles.<sup>24</sup>

### *Struggling Readers*

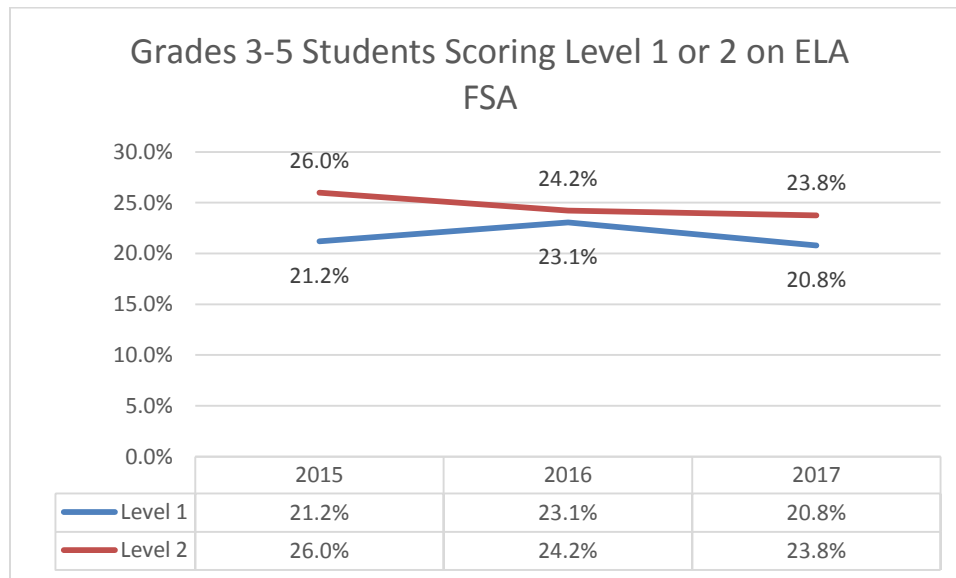
Recent data from the English Language Arts Florida Standards Assessment indicate that nearly half of Florida's students are reading below grade level.<sup>25</sup>

<sup>21</sup> Presentation by Department of Health to the PreK-12 Innovation Subcommittee, Oct. 25, 2017, *available at* <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2908&Session=2018&DocumentType=Meeting%20Packets&FileName=pki%2010-25-17.pdf>

<sup>22</sup> Department of Health, Youth Risk Behavior Survey, *available at*, <http://www.floridahealth.gov/statistics-and-data/survey-data/florida-youth-survey/youth-risk-behavior-survey/documents/2015-yrbs-summary-tables.pdf>

<sup>23</sup> Florida Department of Revenue, Sales and Use Tax on Motor Vehicles, *available at* [http://floridarevenue.com/Forms\\_library/current/gt800030.pdf](http://floridarevenue.com/Forms_library/current/gt800030.pdf)

<sup>24</sup> Florida: Sales Tax Handbook *at* <https://www.salestaxhandbook.com/florida/sales-tax-vehicles>



The law requires schools to identify students with a substantial reading deficiency in kindergarten through grade 3 and to provide them with intensive reading interventions.<sup>26</sup> In addition, school districts have a variety of intervention options available to help students improve their academic performance, from instructional materials to intervention systems that allow teachers and schools to monitor the progress of students and determine appropriate supports. The law requires districts to develop and implement a multi-tiered system of supports (MTSS), which utilizes a problem-solving process to identify and support student needs based upon available data, including attendance, behavior and discipline, statewide assessment, and progress monitoring data.<sup>27</sup> The process must include parent involvement, student observation, review of data, vision and hearing screening to rule out sensory deficits, and evidence-based interventions implemented in the general education environment.<sup>28</sup>

However, even with available supports and interventions, many students are unable to meet grade level ELA standards.

### Effect of Proposed Changes

#### *Hope Scholarship Program*

The bill establishes the Hope Scholarship Program (HSP), which provides the parent of a public school student subjected to an incident at school the opportunity to transfer the student to a public school within the school district, receive a scholarship to transport the student to a public school in another school district, or receive a scholarship for the student to attend a private school. For purposes of the program an incident includes battery, harassment, hazing, bullying, kidnapping, physical attack, robbery, sexual offense, harassment, assault, battery, threat, intimidation, or fighting at school. School means any educational program or activity conducted by a public K-12 educational institution, any school-related or school-sponsored program or activity, and riding on a school bus, as defined in s. 1006.25(1), F.S., including waiting at a school bus stop.

Beginning with the 2018-2019 school year, contingent upon funds, scholarships are awarded on a first-come, first-served basis.

<sup>25</sup> Florida Department of Education, PK-12 Education Information Portal, <https://edstats.fldoe.org/SASPortal/main.do> (last visited Jan. 29, 2018).

<sup>26</sup> See s. 1008.25(5)(a), F.S.

<sup>27</sup> See Rules 6A-6.0331(1) and 6A-1.099811(2)(r), F.A.C.

<sup>28</sup> Rule 6A-6.0331(a), F.S.

A student is ineligible for the HSP if the student is:

- enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school or a charter school;
- enrolled in a Department of Juvenile Justice commitment program;
- enrolled in a virtual school, correspondence school or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to two courses per school year; or
- receiving any other state sponsored K-12 educational scholarship.

Once an incident is reported to the school principal, the school principal must provide a copy of the incident report to the parent and investigate the incident to determine if the incident must be reported to the DOE. Upon conclusion of the investigation or within 15 days after receipt of the report of the incident, whichever occurs first, the school district must notify the parent of the HSP and offer that parent an opportunity to enroll their student in another public school or to receive a Hope Scholarship to attend an eligible private school. If the student enrolls in a public school outside the district, the student is eligible for a transportation scholarship limited to \$750.

The Department of Education must contract with an independent entity to conduct an annual evaluation of the program. The entity must review the school climate and code of student conduct at each public school at which 10 or more students transferred to another public school or private school using the scholarship to determine areas for improvement. The review must include an assessment of the investigation of incidents; analysis of school incident and discipline data; the effectiveness of communication with students, parents, and personnel; and challenges and obstacles to implementing recommendations. The entity must also identify best practices from the schools to which students transferred.

The entity will also review the performance of participating students enrolled in private schools at which at least 51 percent of total enrolled students are program participants. Parents of participating students will be surveyed to determine academic, safety, and school climate satisfaction and to identify any challenges or obstacles in addressing the incident or use of the scholarship.

The bill requires school districts to notify scholarship students in private schools who wish to participate in the statewide student assessment program or the Florida Alternate Assessment of the locations and times to take all statewide assessments.

Private schools that participate in the HSP must meet the same requirements for participation established by Florida Tax Credit Scholarship Program.

Likewise, the commissioner has the same duties and responsibilities over private schools established in the Florida Tax Credit Program.

A participating SFO will be governed by the same statutory requirements as outlined in the Florida Tax Credit Scholarship Program.

The bill specifically requires the SFO to:

- receive applications and determine student eligibility;
- notify parents of their receipt of a scholarship on a first-come, first-served basis, based upon the funds provided;
- award scholarships on a first-come, first-serve basis, giving priority to renewing students; and
- notify the DOE of any violations regarding the program.

The bill requires the Auditor General (AG) to conduct an annual operational audit of accounts of each participating SFO, which must include a verification of students served and transmission of that

information to the DOE. The AG also must notify the DOE of any SFO that fails to comply with a request for information.

The scholarship amount is calculated as a percentage of the unweighted FTE as follows:

- Eighty-eight percent for students in grades K-5.
- Ninety-two percent for students in grades 6-8.
- Ninety-six percent for students enrolled in grades 9-12.

The HSP is funded by taxpayers who make an eligible contribution to a scholarship funding organization. The eligible contribution provides the taxpayer with a credit against any tax due as a result of the purchase or acquisition of a motor vehicle. The credit may not exceed the amount of taxes owed. Each eligible contribution is limited to a single payment of \$105 at the time of purchase of a motor vehicle or at the time of registration of a motor vehicle that was not purchased from a dealer. The purchaser elects whether or not to contribute at the time of the purchase or registration of the vehicle. Contributions must be made to a dealer at the time of purchase or to an agent of the Department of Revenue (DOR) at the time of registration, if the vehicle was not purchased from a dealer.

The bill provides that a dealer, designated agent, or private tag agent must:

- provide the purchaser a contribution election form, as prescribed by the DOR, at the time of purchase or at the time of registration if the vehicle is not purchased from a dealer;
- collect eligible contributions;
- remit to the SFO no later than the date the return is due the total amount of contributions made to the SFO and collected during the preceding reporting period. The dealer shall also report this information to DOR no later than the date the return is due; and
- report on each return filed with the DOR the total amount of credits allowed under during the preceding calendar month.

The SFO must report to the DOR, on or before the 20th day of each month, the total amount of contributions received in the preceding calendar month. The report must include:

- the federal employer identification number of each designated agent, private tag agent, or dealer who remitted contributions to the SFO during that reporting period; and
- the amount of contributions received from each designated agent, private tag agent, or dealer during that reporting period.

If a dealer or organization fails to submit the above required reports, they will be subject to a \$1,000 penalty for every month, or part thereof, the report is not provided, up to a maximum of \$10,000. The penalty shall be collected by DOR and transferred to the General Revenue Fund. The penalty must be settled or compromised if DOR determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud.

A person who, with intent to unlawfully deprive or defraud the program of money, fails to remit HSP contributions is guilty of theft, punishable as follows:

- If the amount stolen is less than \$300, the offense is a second-degree misdemeanor. Upon a second conviction, the offender is guilty of a first-degree misdemeanor. Upon a third or subsequent conviction, the offender is guilty of a third degree felony.
- If the amount stolen is \$300 or more, but less than \$20,000, the offense is a third-degree felony.
- If the amount stolen is \$20,000 or more, but less than \$100,000, the offense is a second-degree felony.
- If the amount stolen is \$100,000 or more, the offense is a first-degree felony.

The sentencing judge must order an offender to make restitution to the SFO in the amount stolen. Upon finding that a dealer failed to remit a contribution for which the dealer claimed credit, DOE shall notify the dealer of such finding and request evidence from the dealer that the remittance obligation was met within 30 days after such notice. If the dealer fails to provide evidence that the remittance obligation



was met, DOR may impose a civil fine in an amount equal to twice the amount the dealer failed to remit. If the fine is not paid within 60 days after it was imposed, DOR may bring a civil action under s. 120.69 to recover the fine.

### *Reading Scholarship Accounts*

The bill establishes Reading Scholarship Accounts to provide funds for public school students to purchase certain programs or services that will assist them in improving their reading skills. Eligibility for an account is limited to students in grades 3 through 5 who scored below a Level 3 on the Grade 3 or Grade 4 statewide, standardized English language arts (ELA) assessment in the previous school year. The scholarship must be offered on a first-come, first-served basis, contingent upon available funds.

In order to participate, the parent and student must:

- submit an application to an eligible scholarship funding organization by the deadline established by the scholarship funding organization;
- submit eligible expenses to the scholarship funding organization for reimbursement of qualifying expenditures, which may include:
  - instructional materials;
  - curriculum, which means a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction;
  - tuition and fees for part-time tutoring services provided by a person who holds a baccalaureate degree in the subject area; a person who holds an adjunct teaching certificate,<sup>29</sup> or a person who has demonstrated a mastery of subject area knowledge,<sup>30</sup>
  - fees for summer education programs;
  - fees for after-school education programs;
  - specialized services by approved providers or by a hospital in this state which are selected by the parent and may include, but are not limited to:
    - applied behavior analysis services;<sup>31</sup>
    - services provided by speech-language pathologists;<sup>32</sup>
    - occupational therapy services;<sup>33</sup>
    - services provided by physical therapists;<sup>34</sup> and
    - services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an implant or assistive hearing device.
- be responsible for the payment of all eligible expenses in excess of the amount in the account and the terms agreed to between the parent and the providers; and
- not receive any refund or rebate of any expenditures made in accordance with the purchase of allowable services.

The program must be administered by a scholarship funding organization (SFO) that is eligible to participate in the FTC.<sup>35</sup> The organization may establish reading scholarship accounts for eligible students in accordance with current requirements of such organization, including but not limited to:

- Verification of eligible students
- Verification of eligible expenditures
- Applications for scholarships
- Issuing scholarships on a first-come, first-served basis

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<sup>29</sup> See s. 1012.57, F.S.

<sup>30</sup> See s. 1012.56(5), F.S.

<sup>31</sup> See ss. 627.6686 and 641.31098, F.S.

<sup>32</sup> See s. 468.1125, F.S.

<sup>33</sup> See s. 468.203, F.S.

<sup>34</sup> See s. 486.021, F.S.

<sup>35</sup> See s. 1002.395(16), F.S.

- Complying with annual expenditure requirements<sup>36</sup>

Additionally, a participating SFO:

- may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment that the department deems to be commercially viable or cost-effective;
- must provide payments no less frequently than on a quarterly basis; and
- may receive up to 3 percent of the amount of each scholarship award from state funds for administrative expenses if the organization has operated as a nonprofit entity for at least the preceding 3 fiscal years and did not have any findings of material weakness or material noncompliance in its most recent audit as required by law.<sup>37</sup>

By September 30, the school district must notify the parent of each student in grades 3 through 5 who scored below a Level 3 on the assessment in the previous school year of the process to request and receive a scholarship.

The bill provides the DOE the same oversight responsibilities as those required in existing scholarship programs.<sup>38</sup> The DOE must provide a student's scholarship funds to the organization once the organization has notified the DOE of a student's eligibility. The maximum amount of the scholarship for a student must be provided in the General Appropriations Act and 100 percent of the funds must be released to the DOE at the beginning of the first quarter of each fiscal year.

A student's scholarship account must be closed and any remaining funds revert to the state after:

- denial or revocation of program eligibility by the Commissioner of Education for fraud or abuse, including, but not limited to, the student or student's parent accepting any payment, refund, or rebate, in any manner, from a provider of any services received; or
- three consecutive fiscal years in which an account has been inactive.

## **Private School Oversight and Accountability**

### Present Situation

Each specific statute establishing the McKay program, the FTC, and the GSP outlines the following:

- student eligibility criteria;
- private school eligibility and responsibilities;
- parent responsibilities;
- DOE responsibilities; and
- Commissioner of Education responsibilities.

While student eligibility criteria is specific to each program, many of the requirements regarding private schools, DOE, and the commissioner are identical.<sup>39</sup> Currently, s. 1002.421, F.S., outlines some of the common eligibility requirements and private school responsibilities. Specifically, it provides that a private school must be a Florida private school as defined in s. 1002.01(2), F.S., must be registered, and must:

- comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d;
- notify the DOE of its intent to participate in a scholarship program;
- notify the DOE of any change in the school's name, school director, mailing address, or physical location within 15 days after the change;

<sup>36</sup> See s. 1002.395(6), F.S.

<sup>37</sup> See s. 1002.395(6)(m), F.S.

<sup>38</sup> See ss. 1002.385(9), F.S., 1002.39(9), F.S., and 1002.395(9), F.S.

<sup>39</sup> See ss. 1002.39, F.S., 1002.385, F.S., and 1002.395, F.S.

- complete student enrollment and attendance verification requirements, including use of an online attendance verification form, prior to scholarship payment;
- annually complete and submit to the DOE a notarized scholarship compliance statement certifying that all school employees and contracted personnel with direct student contact have undergone background screening pursuant to s. 943.0542, F.S.;
- demonstrate fiscal soundness and accountability;
- meet applicable state and local health, safety, and welfare laws, codes, and rules, including fire safety and building safety;
- employ or contract with teachers who hold baccalaureate or higher degrees, have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;
- require each employee and contracted personal with direct student conduct, upon employment or engagement to provide services, to undergo a state and national background screening, pursuant to s. 943.0542, F.S.;
- disqualify instructional personnel and school administrators who fail the background screening;
- adopt policies establishing standards of ethical conduct for instructional personnel and school administrators; and
- before employing instructional personnel or school administrators in any position that requires direct contact with students, conduct employment history checks of each of the personnel's or administrators' previous employers, screen the personnel or administrators through use of the educator screening tools described in s. 1001.10(5), F.S., and document the findings.<sup>40</sup>

Requirements for the commissioner are similar throughout all three current scholarship programs and include the authority to:

- deny, suspend, or revoke a private school's participation in the program and to take other action as necessary to ensure compliance with the laws governing private schools participating in the program;
- deny, suspend, or revoke a private school's participation in the program if the commissioner determines that an owner or operator of the private school is operating or has operated an educational institution in Florida or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public; and
- immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or if there is fraudulent activity on the part of the private school.<sup>41</sup>

The DOE has similar responsibilities across all three programs, including:

- annually verifying the eligibility of private schools;<sup>42</sup>
- establishing a process that allows for individuals to notify DOE of violations of state law relating to program participation;<sup>43</sup>
- annually receiving and retaining from every participating private school a notarized, sworn compliance statement certifying compliance with state law,<sup>44</sup> and
- cross-checking the list of participating scholarship students with public school enrollment lists to avoid duplicate payments.<sup>45</sup>

A number of stakeholders representing participating private schools, scholarship funding organizations, and the DOE brought several recommendations for strengthening the oversight and accountability of

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<sup>40</sup> Section 1002.421, F.S.

<sup>41</sup> Sections 1002.385(10), F.S., 1002.39(7), F.S., and 1002.395(11), F.S.

<sup>42</sup> Sections 1002.385(9)(a), F.S., 1002.39(6)(b), F.S., and 1002.395(9)(c), F.S.

<sup>43</sup> Sections 1002.385(9)(c), F.S., 1002.39(6)(c), F.S.; and 1002.395(9)(f), F.S.

<sup>44</sup> Sections 1002.385(9)(1002.39(6)(d), F.S.; and 1002.421(e), F.S.

<sup>45</sup> Sections 1002.385(9)(e), F.S., 1002.39(6)(e), F.S., and 1002.395(9)(h), F.S.

the scholarship programs to the PreK-12 Innovation Subcommittee Meeting on December 6, 2017.<sup>46</sup> Subsequently, these recommendations were presented to the full Education Committee on January 18, 2018.<sup>47</sup>

### Effect of Proposed Changes

In order to provide clarity, transparency, and improve accountability, the bill:

- streamlines and consolidates private school eligibility, DOE obligations, and commissioner authority regarding the McKay, FTC, and GSP scholarship programs;
- applies requirements and responsibilities consistently across all three scholarship programs; and
- introduces new accountability measures and strengthens specific current requirements as recommended by stakeholders.

The bill combines all the common provisions regarding private school participation requirements, the DOE's obligations, and commissioner's authority into the current common section of statute, s. 1002.421, F.S., and removes duplicative language in the individual program statutes.

In addition to the relocation of current requirements, the bill includes new accountability provisions presented before the Education Committee that:<sup>48</sup>

- require the DOE to conduct site visits for new private schools entering a scholarship program;
- authorize the DOE to conduct site visits to any school that has had a complaint filed regarding a violation of state law or state board rule;
- require the DOE to coordinate with the entities conducting the health and fire inspections to obtain copies of the inspection reports directly from that entity, rather than the private school;
- require private schools to provide, at a minimum, written information to the parents regarding the school's services and programs, and the qualifications of classroom teachers;
- require private schools to provide the parent with a quarterly report of the student's progress, rather than just an annual report;
- require the owner or operator of a private school to meet the same background screening requirements as owners of SFOs and report results to the DOE;
- require the owner or operator of a private school that intends to transfer ownership of the school to notify the parents at least 30 calendar days in advance of the transfer;
- prohibit an owner or operator that was deemed ineligible to participate from transferring ownership or management authority to a relative in order to continue participation in a scholarship program; and
- require a private school, if it receives more than \$250,000 in scholarship funds in any scholarship program, to submit an annual financial report to the SFO or the DOE, as applicable.

The bill requires the SBE to adopt rules establishing deadlines for private school applications and timelines for site visits.

Owners or operators of a participating private school will continue to undergo state and national background screening requirements; however, in addition to the offenses listed in s. 435.04, F.S., the results will also be screened against offenses, including, but not limited to: fraud, forgery, and criminal use of personal identification information. Owners or operators who fail the background screening requirements are not eligible to participate in a scholarship program.

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<sup>46</sup> PreK-12 Innovation Subcommittee Meeting, Dec. 6, 2017, available at: <https://thefloridachannel.org/videos/12-6-17-house-prek-12-innovation-subcommittee/>

<sup>47</sup> Florida House of Representatives; Education Committee Meeting, Jan. 18, 2018, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2906&Session=2018&DocumentType=Meeting%20Packets&FileName=edc%201-18-18.pdf>.

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

A private school that fails to meet the requirements of s. 1002.421, F.S., fails to meet a specific requirement pertaining to an individual scholarship program, or has consecutive years of material exceptions in their annual financial report, may be deemed ineligible to participate in a scholarship program under chapter 1002, F.S.

In addition to conforming changes in the GSP, the bill revises the list of allowable expenditures by providing that GSP funds may be used for:

- tuition or fees associated with full-time or part-time enrollment in an eligible private school;
- part-time tutoring services provided by a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given; and
- tuition or fees associated with enrollment in a nationally or internationally recognized research-based training program for children with neurological disorders or brain damage.

Currently, the law specifically references the Learning Systems Institute at Florida State University as the agency responsible for conducting the annual student achievement report required under the FTC program. The bill replaces the reference to the Learning System Institute with "state university." It also reduces the annual project appropriation from \$500,000 per year to \$250,000 per year.

### **Schools of Hope Program Fund**

The Schools of Hope Program fund is created within the DOE.<sup>49</sup> Current law<sup>50</sup> authorizes a school of hope to receive funds from the Schools of Hope Program fund for statutorily identified expenditures. A traditional public school that must implement intervention and support strategies under Florida's system for school improvement<sup>51</sup> is eligible to receive up to \$2,000 per full-time equivalent (FTE) student from the Schools of Hope Program fund based on the strength of the school's plan for implementation and its focus on evidence-based interventions that lead to student success by providing wrap-around services that leverage community assets.<sup>52</sup>

The law also establishes the Schools of Hope Revolving Loan Program to help hope operators<sup>53</sup> meet school building construction needs and to pay for expenses related to the startup of a school of hope.<sup>54</sup> The Schools of Hope Program fund is the state's fund source for the revolving loan program.

Current law allows funds for the Schools of Hope Revolving Loan Program that are not disbursed by June 30 of the fiscal year in which the funds are allocated to carry forward for up to 5 years.<sup>55</sup> There is no similar carry forward provision for funds from the Schools of Hope Program for traditional public schools.

### **Effect of Proposed Changes**

The bill provides that Schools of Hope Program funds not disbursed by June 30 of the fiscal year in which the funds are allocated may be carried forward in the same manner as Schools of Hope Revolving Loan Program funds.

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<sup>49</sup> Section 43, ch. 2017-116.

<sup>50</sup> s. 1002.333(10)(a), F.S.

<sup>51</sup> See s. 1008.33(1)(a) and (2), F.S.

<sup>52</sup> s. 1002.333(10)(b), F.S.

<sup>53</sup> See s. 1002.333, F.S.

<sup>54</sup> Section 44, ch. 2017-116.

<sup>55</sup> s. 1001.292(8), F.S.

## Supplemental Academic Instruction Categorical

### Present Situation

In 1999, the Legislature created the Supplemental Academic Instruction (SAI) Categorical Fund as part of the A+ Education Plan<sup>56</sup> for assisting school districts in providing supplemental instruction to students in kindergarten through grade 12.<sup>57</sup>

The SAI categorical funds are allocated annually to each school district in the amount provided in the General Appropriations Act. These funds are provided in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program (FEFP) and are included in the total funds for each district. For Fiscal Year 2017-2018, each school district that has one or more of the 300 lowest-performing elementary schools based on the statewide reading assessment must use these funds, together with the funds provided in the district's research-based reading instruction allocation, to provide an additional hour of intensive reading instruction<sup>58</sup>. After this requirement has been met, school districts may use these funds for: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement.

### Effect of Proposed Changes

The bill modifies the FEFP SAI allocation by:

- deleting the requirement that the 300 lowest-performing elementary schools, based on the statewide reading assessment, must use their portion of the SAI allocation to implement an extra hour of intensive reading instruction; and
- requiring that each school district with a school earning a grade of "D" or "F" use that school's portion of the SAI allocation to implement the intervention and support strategies required under Florida's system for school improvement. For all other schools, the school district may use the SAI for eligible purposes currently described in law.

## Researched-Based Reading Instruction Allocation

### Present Situation

Funds for comprehensive, research-based reading instruction are allocated annually to each school district in the amount provided in the General Appropriations Act. Each eligible school district receives the same minimum amount as specified in the General Appropriations Act, and any remaining funds are distributed to eligible school districts based on each school district's proportionate share of K-12 base funding.<sup>59</sup> These funds must be used to provide a system of comprehensive reading instruction to students enrolled in K-12 programs.

Currently, priority of the funds is to provide an additional hour of intensive reading instruction beyond the normal school day for each day of the entire school year for the students in the 300 lowest-performing elementary schools based on the statewide reading assessment.<sup>60</sup> This additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching reading. Students enrolled in the schools that have level 5 reading assessment scores may choose to participate in the additional hour of instruction on an optional basis.<sup>61</sup>

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<sup>56</sup> Section 23, ch. 99-398, L.O.F.

<sup>57</sup> Florida House of Representatives, Council for Lifelong Learning, Supplemental Academic Instruction Fact Sheet (Sept. 2001) available at

<http://archive.flsenate.gov/data/publications/2002/house/reports/EdFactSheets/fact%20sheets/supplementalacademicinstruction.pdf>.

<sup>58</sup> s. 1011.62(1)(f), F.S.

<sup>59</sup> See, e.g., s.6, ch. 2017-234, L.O.F.

<sup>60</sup> See s. 1011.62(9)(c), F.S.

<sup>61</sup> Section 1011.62(9)(a), F.S.

Annually, school districts must submit a K-12 comprehensive reading plan that outlines their specific use of the research-based reading instruction allocation for review and approval by the DOE's Just Read, Florida! Office.<sup>62</sup> On or before June 1 of each year, the office must approve or reject a district's plan. If a school district and the office cannot reach agreement on the plan's contents, the school district may appeal to the SBE for resolution. No later than July 1 annually, the department shall release the school district's allocation of appropriated funds to those districts having approved plans. The department may withhold a school district's funds if the department determines that such funds are not being used to implement the approved plan.<sup>63</sup>

### Effect of Proposed Changes

The bill:

- Modifies identification of the 300 lowest-performing elementary schools on a 3-year average of the statewide reading assessment data
- Allows the extra hour to be optional for students scoring Level 4 or Level 5 on the reading assessments
- Requires summer reading camps to be taught by someone certified or endorsed in reading or working toward that status
- Requires supplemental instructional materials purchased using reading allocation funds to incorporate research-based practices identified by the Just Read, Florida! Office
- Requires only school districts that have a school with a grade below a "B" to submit a comprehensive reading plan. The review and approval process will be part of the DOE's monitoring, intervention, and support strategies required under Florida's school improvement system
- Eliminates the DOE's ability to withhold funds based on a school district's failure to submit a reading plan

## **Statewide Assessment Program**

### Present Situation

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment (grades 5 and 8).<sup>64</sup> The assessments measure the extent to which students have mastered Florida's academic content standards: the Next-Generation Sunshine State Standards (NGSSS), including Florida Standards for ELA and math.<sup>65</sup> The grade-level ELA and math assessments and Algebra I and Geometry EOC assessments are referred to as the Florida Standards Assessments (FSA). EOC assessments count as 30 percent of a student's final course grade.<sup>66</sup> Results from the assessments are used to calculate school grades and school improvement ratings<sup>67</sup> and determine student readiness for promotion to 4<sup>th</sup> grade and high school graduation.<sup>68</sup> In addition, school districts use student performance data from the assessments in the performance evaluations for instructional personnel and school administrators.<sup>69</sup>

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<sup>62</sup> Section 1011.62(9)(d)1., F.S.

<sup>63</sup> s. 1011.62(9), F.S.

<sup>64</sup> Sections 1008.22(3), 1003.4156, and 1003.4282, F.S. (2017) Retake administrations are offered for the Grade 10 FSA ELA and Algebra I EOC assessment.

<sup>65</sup> See Florida Department of Education, *ESEA Flexibility Request* (August 21, 2015) at 98, available at <http://www.fldoe.org/core/fileparse.php/5637/urlt/15WaiverRenewalESEA.pdf>.

<sup>66</sup> Sections 1003.4156(1)(c)-(d) and 1003.4282(3), F.S.

<sup>67</sup> See ss. 1008.34 and 1008.341, F.S.

<sup>68</sup> See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

<sup>69</sup> See s. 1012.34(3)(a)1., F.S.; rule 6A-5.030(2)(a), F.A.C.

In 2017, the Legislature amended the law to reduce the assessment burden on public schools. Specifically, the Legislature eliminated the Algebra II end-of-course assessment and required that all statewide, standardized ELA and math assessments in grades 3 through 6 must be delivered only in a paper-based format no later than the 2018-2019 school year.<sup>70</sup> As of the 2017-2018 school year all assessments, except the statewide, standardized Grade 3 ELA assessment, the writing portion of the ELA assessment for grades 4 through 7, and the science assessments for grades 5 and 8, are administered on computers.<sup>71</sup>

In addition, the DOE must publish each statewide, standardized assessment and statewide EOC assessment on the DOE's website, excluding retake and alternate assessments, at least once every three years.<sup>72</sup> When published, each assessment must have been administered during the most recent school year. The law allows the commissioner to determine the schedule for publishing assessments during the 3- year period; however, subject to appropriation, the initial publication must occur no later than June 30, 2021, and must include the grade 3 ELA and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment.<sup>73</sup> The DOE, as part of the next procurement of assessments, must solicit cost proposals for publication of assessments. The DOE must also publish materials on its website to help the public interpret the published assessment information.<sup>74</sup>

### Effect of Proposed Changes

The bill specifies that the statewide, standardized assessments published by the DOE must be published in a format that facilitates sharing of assessment items. The bill also requires all statewide, standardized ELA and math assessments in grades 7 and 8 to be paper-based by the 2019-2020 school year.

To increase the focus on developing student literacy skills through content-rich curriculum and instruction, the bill requires that reading passages and writing prompts used in statewide, standardized ELA assessments incorporate grade-level Social Studies core curricular content.

## **Professional Development and Curriculum**

### Present Situation

Currently, the DOE publishes test specification sheets that identify standards that are measured through the statewide, standardized assessments.<sup>75</sup> However, the specification sheets are not designed to assist with the development, selection, or implementation of curriculum. The 2017 Legislature took initial steps to help school districts implement standards-based curricula to develop core knowledge and literacy skills by requiring the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students' background knowledge and literacy skills, including student attainment of the Next Generation Sunshine State Standards for social studies, science, and the arts.<sup>76</sup>

Florida law requires a number of entities, including the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations, to work collaboratively to develop a coordinated system of professional development. The purpose of the system is to increase student achievement, enhance classroom

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<sup>70</sup> See s. 35, ch. 2017-116, L.O.F., *codified at* s. 1008.22(3), F.S. (2017).

<sup>71</sup> See Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 7069* (2017).

<sup>72</sup> See s. 35, ch. 2017-116, L.O.F., *codified at* s. 1008.22(8), F.S. (2017).

<sup>73</sup> See *id.*

<sup>74</sup> See *id.*

<sup>75</sup> See, e.g., Florida Department of Education, *DRAFT Grade 4 Mathematics Item Specifications* (Nov. 2017), available at [https://fsassessments.org/assets/documents/Math\\_G4\\_FSA-Item-Specifications\\_v5\\_101617.pdf](https://fsassessments.org/assets/documents/Math_G4_FSA-Item-Specifications_v5_101617.pdf).

<sup>76</sup> Section 15, ch. 2017-116, L.O.F., *codified at* s. 1001.215(4), F.S. (2017).



instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.<sup>77</sup>

Part of the DOE's responsibility in the professional development system is to disseminate to the school community research-based professional development methods and programs that have demonstrated success in meeting identified student needs.<sup>78</sup> At least one method of dissemination must be through a web-based statewide performance support system, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.<sup>79</sup> In addition, the DOE must disseminate, using the web-based statewide performance-support system, proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, meeting identified school needs, and providing effective teacher mentorship activities.<sup>80</sup> The DOE must also disseminate, using web-based technology, research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system.<sup>81</sup>

### Effect of Proposed Changes

To help school districts and teachers plan and implement effective, standards-based curricula, the bill requires that professional development resources disseminated through the web-based statewide performance-support system include sample course-at-a-glance and unit overview templates that school districts may use when developing curricula. The templates must provide an organized structure for addressing the Florida Standards, grade-level expectations, evidence outcomes, and 21<sup>st</sup> Century skills that build toward mastery at each grade level.

Each template must support teaching to greater intellectual depth and:

- provide course or year-long sequencing of concept-based unit overviews based on the Florida Standards;
- describe the knowledge and vocabulary required within the standards;
- promote the instructional shifts required within the standards; and
- illustrate the interdependence of grade level expectations within and across content areas within a grade.

## **Charter Schools**

### *School Leader Preparation Programs*

#### Present Situation

The law requires the SBE to classify school services, designate certification subject areas, establish competencies for certification, and establish certification requirements for all school-based personnel.<sup>82</sup>

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<sup>77</sup> Section 1012.98(1), F.S.

<sup>78</sup> Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

<sup>79</sup> *Id.*

<sup>80</sup> Section 1012.98(11), F.S.

<sup>81</sup> Section 1012.98(7), F.S.

<sup>82</sup> Section 1012.55(1)(b), F.S.

In Florida, aspiring school administrators<sup>83</sup> must complete a state-approved school leader preparation program and attain certification as an educational leader.<sup>84</sup>

The law establishes two classes of certification for school administrators – educational leadership and school principal. There are two types of school leader preparation programs:

- Level I programs are offered by school districts and postsecondary institutions and lead to initial certification in educational leadership for the purpose of preparing individuals to serve as school administrators.
- Level II programs are offered by school districts, build upon Level I training, and lead to certification as a school principal.<sup>85</sup>

The DOE must establish a process for the approval and renewal of Level I and Level II school leader preparation programs.<sup>86</sup> Initial approval of a Level I or Level II program lasts for 5 years and must be approved by the DOE. Program proposals may be submitted by a postsecondary institution or school district.<sup>87</sup>

### Effect of Proposed Changes

The bill allows charter schools and charter management organizations to submit applications to establish Level I and Level II leader preparation programs or program renewals.

### *Deferral of Opening*

### Present Situation

Once a charter school application is approved, the initial startup commences with the beginning of the public school calendar for the district in which the charter is granted. A charter school may defer the opening of the school's operations for up to 2 years to provide time for adequate facility planning. The charter school must provide written notice of such intent to the sponsor and the parents of enrolled students at least 30 calendar days before the first day of school.

### Effect of Proposed Changes

The bill allows a charter school to defer opening for up to 3 years, rather than two.

### *Surplus Facilities*

### Present Situation

If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district.<sup>88</sup>

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<sup>83</sup> School administrators include school principals, school directors, and assistant principals. *See* s. 1012.01(3)(c), F.S.

<sup>84</sup> *See* s. 1012.55(1)(b), F.S.; rule 6A-4.0081, F.A.C.

<sup>85</sup> *Id.*

<sup>86</sup> Section 1012.562, F.S.

<sup>87</sup> Section 1012.562(2) and (3), F.S.

<sup>88</sup> Section 1002.33(18)(e), F.S.

Tangible personal property that has been properly classified as surplus by a district school board must be disposed of in accordance with current surplus property requirements.<sup>89</sup> The district may offer surplus property to other governmental units in the county or district for sale or donation or may offer the property to private nonprofit agencies by sale or donation. If no acceptable bid is received within a reasonable time, then the property must be offered directly to such governmental units for sale or donation.<sup>90</sup>

### Effect of Proposed Changes

The bill requires that tangible personal property that has been properly classified as surplus, marked for disposal, or otherwise unused by a district school board must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving such property may not sell or dispose of the property without written permission of the school district.

### *High-Performing Charter Schools*

#### Present Situation

Charter schools and operators of systems of charter schools with a track record of academic excellence and financial stability may earn "high-performing" status.<sup>91</sup> A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of "A" and no school grade below "B;"
- has received an unqualified opinion<sup>92</sup> on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.<sup>93</sup>

Initial eligibility for "high-performing" status is verified by the Commissioner of Education, upon request by a charter school. Thereafter, the commissioner must annually verify continued eligibility.<sup>94</sup>

High-performing charter schools may take advantage of various benefits. Among other benefits, the operator of a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates one of its high-performing charter schools. The application process for such applications is streamlined to expedite approval.<sup>95</sup> A high-performing charter school may not be replicated more than once in any given year and may not replicate again until the new charter school achieves "high-performing" status.<sup>96</sup> Systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.<sup>97</sup> Additionally, a high-performing charter school may have the term of its charter extended to up to 15 years.<sup>98</sup>

A high-performing charter school may increase the school's enrollment once per year to more than the capacity identified in the charter and expand grade levels within kindergarten through grade 12 to add grade levels not already served as long as the increase in enrollment in either case does not exceed the current facility capacity.<sup>99</sup>

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<sup>89</sup> Section 1013.28 (2)(a), F.S.

<sup>90</sup> Section 274.05, F.S.

<sup>91</sup> Section 1002.331(1), F.S.; *see s. 218.503(1), F.S.* (financial emergency conditions).

<sup>92</sup> An unqualified audit opinion means that the charter school's financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

<sup>93</sup> Section 1002.331(1), F.S.; *see s. 218.503(1), F.S.* (financial emergency conditions).

<sup>94</sup> Sections 1002.331(5) and 1002.332(2)(a), F.S.

<sup>95</sup> Section 1002.331(2), F.S.

<sup>96</sup> Section 1002.331(3)(b), F.S.

<sup>97</sup> Section 1002.332(2), F.S.

<sup>98</sup> Section 1002.331(4), F.S.

<sup>99</sup> Section 1002.331(2)(a) and (b), F.S.

## Effect of Proposed Changes

The bill revises the criteria determining a high-quality charter school by also allowing a school that receives two consecutive grades of “A” to be determined a high-performing charter school. It allows a high-performing charter school to replicate up to two new schools that substantially replicate one of its high-performing schools. For those schools qualifying under the two consecutive grades of “A” provision, the bill revises the financial eligibility requirements to require only 2 years of financial audits that received an unqualified opinion and no state of financial emergency.

The bill clarifies that the increase in student enrollment may occur as long as it does not exceed the capacity of the facility at the time of enrollment, rather than the original capacity of the facility, allowing a charter school that has expanded its original facility or has access to additional facilities, to increase enrollment without being limited to the original facility capacity.

The bill also provides that facility capacity for purposes of grade level expansion must include any improvements to an existing facility or any new facility in which a majority of the students of the high-performing charter school will enroll.

## *Charter School Contracts*

### Present Situation

Each charter school must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school must meet to remain in operation. The terms of the charter must be negotiated by the applicant and sponsor within 30 days after approval of the application. The parties then have 40 days to finalize the charter.<sup>100</sup> The initial term of a charter is 4 or 5 years and must include specific requirements provided in law.<sup>101</sup>

A sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate a contract. The sponsor may also terminate or not renew a charter for any of the following reasons:

- failure to participate in the state’s education accountability system or meet the requirements for student performance stated in the charter;
- failure to meet generally accepted standards of financial management;
- a violation of law; or
- other good cause shown.<sup>102</sup>

At least 90 days before renewing, nonrenewing, or terminating a charter, the sponsor must notify the governing board of the school of the proposed action in writing and stipulate that the school’s governing board, within 14 calendar days of receiving the notice, may request a hearing that is conducted at the sponsor’s election in accordance with either of the following procedures:

- A direct hearing conducted by the sponsor within 60 days after receipt of the request for a hearing. The hearing must be conducted in accordance with ss. 120.569 and 120.57, F.S. The sponsor shall decide upon nonrenewal or termination by a majority vote, and the sponsor's decision shall be a final order; or
- A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings, conducted within 60 days after receipt of the request for a hearing and in accordance with chapter 120, F.S.. The administrative law judge's recommended order shall be submitted to

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<sup>100</sup> Section 1002.33(6)(h), F.S.

<sup>101</sup> Section 1002.33(7), F.S.

<sup>102</sup> Section 1002.33(8)(a), F.S.

the sponsor. The sponsor, by a majority vote, is required to adopt or modify the administrative law judge's recommended order and issue a final order.<sup>103</sup>

The sponsor must state the specific reasons for the decision in the final order and provide the final order to the charter school's governing board and DOE no later than 10 calendar days after its issuance. The charter school's governing board may, within 30 calendar days of receiving the final order, appeal the decision pursuant to s. 120.68, F.S.<sup>104</sup>

### Effect of Proposed Changes

The bill revises the initial term of a charter to 5 years. The bill allows a planning period of 1 year in addition to the 5-year charter.

The bill specifies that, in the event of a termination or nonrenewal, the sponsor must have clear and convincing evidence that one of the disqualifying factors occurred. The bill also specifies that a violation of law must be material in order to constitute a disqualifying factor.

The bill revises the hearing procedures once a charter school receives its notice of termination or nonrenewal by removing the option for the school district to conduct a direct hearing. The hearing must be conducted by an administrative law judge within 90 days after receipt of the request for a hearing, and the administrative law judge must issue the final order. The administrative law judge must also award the prevailing party reasonable attorney fees and costs incurred during the administrative proceeding and any appeals.

The charter school governing board may, within 30 calendar days after receiving the judge's final order, appeal the decision pursuant to s. 120.68, F.S.

The bill also revises the ability of charter schools to modify their charter due to consolidation and provides that a charter school with a school grade of "C" or higher that closes as part of a consolidation must be reported by the school district as a consolidation.

### *Services*

#### Present Situation

Currently, a school district can provide goods and services to a charter school on a contractual basis. The services must be provided to the charter school at a rate no greater than the actual cost to the district unless mutually agreed upon in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeals Commission.<sup>105</sup>

#### Effect of Proposed Changes

If a dispute regarding a contract to provide goods and services cannot be resolved through mediation, an appeal may be made to an administrative law judge appointed by the Division of Administrative Hearings, rather than the Charter School Appeals Commission. The administrative law judge has final order authority to rule on the dispute and shall award the prevailing party reasonable attorney fees and costs incurred during the mediation process, administrative proceeding, and any appeals, to be paid by the non-prevailing party.

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<sup>103</sup> Section 1002.33(8)(b), F.S.

<sup>104</sup> Section 1002.33(8)(c), F.S.

<sup>105</sup> Section 1002.33(20)(b), F.S.

## *Background Screening*

### Present Situation

Instructional and noninstructional personnel who are employed or contracted to fill positions in a charter school and members of the charter school governing board must undergo a Level 2 background screening.<sup>106</sup> Level 2 background screening is a state and national fingerprint-based criminal history check conducted to determine whether an individual has a criminal history and, if so, whether such history contains one or more statutorily designated offenses that disqualify an individual from employment.<sup>107</sup> A charter school must disqualify any individual convicted of a disqualifying offense from employment in an instructional or school administrator position that requires direct student contact.<sup>108</sup>

Prior to hiring an individual for an instructional or school administrator position with direct student contact, a charter school must conduct an employment history check and screen the person using DOE-provided educator screening tools. Such efforts, including any inability to contact previous employers, must be documented.<sup>109</sup>

### Effect of Proposed Changes

If a charter school has their employees undergo background screening through the school district in which the charter school is located, the bill requires the district to provide the background screening results of its governing board members and instructional and noninstructional personnel to the charter school within 14 days after submission of the fingerprints. If the district fails to do so, the fees for the screening must be reimbursed.

## *Charter School Capital Outlay*

### Present Situation

Charter school capital outlay funding consists of revenue resulting from the discretionary millage authorized in s. 1011.71(2), F.S., and state funds when such funds are appropriated in the General Appropriations Act.<sup>110</sup>

If the school board levies the discretionary millage, the DOE must calculate the amount of revenue raised by the discretionary millage that the school district must distribute to each eligible charter school.<sup>111</sup> The calculation must reduce the total discretionary millage revenue by the school district's annual debt service obligation incurred as of March 1, 2017, and any amount of participation requirement pursuant to s. 1013.64(2)(a)8., F.S., that is being satisfied by discretionary millage revenues.

Among other things, revenues raised using the discretionary millage may be used by school district to fund payments for educational facilities and sites due under a lease-purchase agreement not exceeding, in the aggregate, an amount equal to three-fourths of the revenues.<sup>112</sup>

### Effect of Proposed Changes

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<sup>106</sup> Sections 1002.33(12)(g)1., 1012.32(2)(b), 1012.465, and 1012.56(10), F.S.

<sup>107</sup> Section 435.04, F.S. The disqualifying offenses specific to Level 2 background screening are supplemented by additional disqualifying offenses specific to educator certification and employment of instructional personnel and school-based administrators. Section 1012.315, F.S.

<sup>108</sup> Sections 435.04, 1002.33(12)(g)2., 1002.33(12)(g)2., and 1012.315, F.S.

<sup>109</sup> Sections 1001.10(5) and 1002.33(12)(g)4., F.S.

<sup>110</sup> The 2017 Legislature appropriated \$50 million for charter school capital outlay. Specification Appropriation 18, s. 2, ch. 2017-70, L.O.F.

<sup>111</sup> See s. 1013.62(3), F.S.

<sup>112</sup> See s. 101171(2)(e), F.S.

The bill specifies that charter school capital outlay funds consist of state funds when such funds are provided. However, if in any given fiscal year the amount of state funds for charter school capital outlay is not equal to or is less than the average charter school capital outlay funds per unweighted full-time equivalent student for the 2018-2019 fiscal year, multiplied by the estimated number of charter school students for the applicable fiscal year, and adjusted by changes in the Consumer Price Index from the previous year, charter school capital outlay funding shall also consist of revenue resulting from the discretionary 1.5 millage authorized in s. 1011.71(2), F.S.

The bill modifies the calculation for distributing discretionary millage revenue to eligible charter schools by clarifying that the debt service obligation that can be reduced from the distribution is the debt service obligation incurred by March 1, 2017, which has not subsequently been retired.

The bill requires each school district, annually by October 1, to certify to the DOE the amount of debt service and the participation requirement can be reduced from the total discretionary millage revenue. The Auditor General must verify compliance during scheduled operation audits of school districts.

The bill further provides that if aggregate lease-purchase agreement payments, including lease-purchase agreements entered into before June 30, 2009, exceed three-fourths of the discretionary millage proceeds, the district may not withhold the administrative fees authorized in law<sup>113</sup> from any charter school operating in the school district.

## **Flexibility from State Requirements for Educational Facilities**

### Present Situation

The uniform statewide building code for the planning and construction of public educational and ancillary plants, i.e., the State Requirements for Educational Facilities (SREF), is adopted by the Florida Building Commission as part of the Florida Building Code.<sup>114</sup> District school boards must adhere to the SREF when planning and constructing educational facilities and ancillary plants. Generally, SREF standards are premised on providing enhanced safety of occupants and increasing the life span of the extensive, publicly funded infrastructure of Florida's public school districts.<sup>115</sup>

Facilities for non-conversion charter schools must meet the requirements of the uniform statewide building code, except for the SREF.<sup>116</sup>

District school boards may adopt a resolution to implement an exception to one or more of the following SREF requirements:<sup>117</sup>

- use of wood studs in interior nonload-bearing walls;
- paved walkways, roadways, driveways, and parking areas;
- covered walkways for relocatable buildings; and
- site lighting.

The resolution must pass by a supermajority vote at a public meeting that begins no earlier than 5 p.m. Before voting on the resolution, a district school board must conduct a cost-benefit analysis prepared according to a professionally accepted methodology that describes how each exception selected by the district school board:<sup>118</sup>

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<sup>113</sup> See s. 1002.33(20), F.S.

<sup>114</sup> Section 1013.37(1), F.S.

<sup>115</sup> See, e.g., s. 1013.12 (casualty, safety, sanitation, and fire safety standards and inspection of property) and 1013.451, F.S. (life-cycle cost comparison)

<sup>116</sup> Section 1002.33(18)(a), F.S.

<sup>117</sup> See s. 1013.385(2), F.S.

<sup>118</sup> Section 1013.385(1), F.S.

- achieves cost savings;
- improves the efficient use of school district resources; and
- impacts the life-cycle costs and life span for each educational facility to be constructed.

The cost-benefit analysis must also demonstrate that implementation of the exception will not compromise student safety or the quality of student instruction. The district school board must conduct at least one public workshop to discuss and receive public comment on the proposed resolution and cost-benefit analysis, which must begin no earlier than 5 p.m. and may occur at the same meeting at which the resolution will be voted upon.<sup>119</sup>

### Effect of Proposed Changes

The bill expands the available exceptions a district school board may adopt to include any other provisions in SREF that limit the ability of a school to operate in a facility on the same basis as a charter school. In order to adopt the exception, the regional planning council must determine that there is sufficient shelter capacity within the school district as documented in the Statewide Emergency Shelter Plan.<sup>120</sup>

## **Principal Autonomy Pilot Project Initiative**

### Present Situation

In 2016, the Principal Autonomy Pilot Project Initiative (PAPPI) was established within the DOE to provide principals of participating schools in participating school districts<sup>121</sup> with increased autonomy and authority over allocation of resources and staffing.<sup>122</sup> Each participating school district must identify three schools that received at least two school grades of “D” or “F” during the previous three school years, describe the areas in which increased autonomy will be granted, and state measurable goals regarding student achievement and operation efficiency. The principal assigned to each school must have earned a highly effective performance evaluation rating in the previous year.<sup>123</sup> Each participating principal, along with a three-member leadership team from each participating school and district personnel working with each school, must also complete a nationally recognized school turnaround program focusing on improving leadership, instructional infrastructure, talent management, and differentiated support and accountability.<sup>124</sup>

In order to receive a salary supplement of \$10,000, the principal must be transferred to a school that earned a grade of “F” or three consecutive grades of “D” and must have implemented a turnaround option at a school as the school’s principal in which the school improved by at least one letter grade.<sup>125</sup>

Among other things, the principal of a participating school is granted greater authority to hire qualified instructional personnel or refuse placement or transfer of such personnel and deploy financial resources to school programs at the principal’s discretion to help improve student achievement and meet goals identified in the district’s PAPPI proposal.<sup>126</sup>

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<sup>119</sup> *Id.*

<sup>120</sup> See s. 252.385(2)(b), F.S.

<sup>121</sup> Participation in PAPPI is currently limited to the Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas, and Seminole school districts. See s. 1011.6202(1), F.S.

<sup>122</sup> See ch. 2016-223, L.O.F., *codified at* s 1011.6202, F.S. Plans were submitted to the State Board of Education by the Broward, Palm Beach, and Pinellas school districts. Each plan was approved by the state board at its March 22, 2017 meeting. See Florida State Board of Education, *Minutes State Board of Education Meeting* (May 16, 2017), available at <http://www.fldoe.org/core/fileparse.php/18491/urlt/minutes.pdf>.

<sup>123</sup> See s. 1011.6202(2)(a), F.S.

<sup>124</sup> Section 1011.6202(4), F.S.

<sup>125</sup> See s. 1011.6202(7), F.S.

<sup>126</sup> See s. 1012.28(8)(a) and (b), F.S.



A participating school is exempt from the provisions of chapters 1000-1013, F.S., and implementing state board rules, except for statutes pertaining to:<sup>127</sup>

- the election and compensation of school board members and the election, appointment, or compensation of district school superintendents;
- the student assessment program and school grading;
- the uniform start date;
- student progression and graduation;
- services to students with disabilities;
- class size, except compliance is calculated at the school, rather than classroom, level;
- civil rights and discrimination;
- student health, safety and welfare;
- educator evaluation, pay schedules, and employment contracts;
- school facilities, with certain exceptions;
- equitable distribution of Title I funds;
- public meetings and records public inspection and criminal and civil penalties;
- public records; and
- code of ethics for public officers and employees.

Each participating school must submit an annual report to the SBE, and the SBE must annually report on the implementation of the pilot project. At the end of the 3-year pilot, the commissioner must submit a full evaluation of the effectiveness of the program to the Senate President, the Speaker of the House of Representatives, and the Governor.<sup>128</sup>

The initial term of the program is 3 years.<sup>129</sup> Thereafter, schools must receive authorization from the SBE to renew their participation in the program.<sup>130</sup>

### Effect of Proposed Changes

The bill expands PAPPI from a 3-year pilot to a statewide program and allows any school district, beginning with the 2018-2019 school year and contingent upon available funds, to submit a principal autonomy proposal to the SBE by December 1. If the SBE approves the proposal, the district is eligible to participate in the program for 3 years. The bill deletes annual reporting requirements for principals and districts participating in the pilot and deletes the requirement that the commissioner submit an evaluation of the pilot program.

In addition, the bill establishes district-independent, autonomous schools. The purpose of such schools is to expand the impact of participating principals by allowing them to manage one or more schools operated by a third-party governing board and providing the school with the same exemptions and administrative autonomy provided to participating PAPPI schools. The bill specifies that a school, whether a participating school or a school operated by an independent governing board and managed by a participating principal, continues its exemption from laws and rules beyond the initial 3-year period so long as the school receives a school grade no lower than a "B."

The bill specifies that a participating principal who successfully completes the school turnaround training may manage one or more schools operated by an independent governing board through a contract with the school board. Each member of the independent board must not be an employee of the school district or any school operated by the board.

For the purpose of tort liability, the independent governing board, autonomous school, and its employees or agents are subject to the same waiver of sovereign immunity in tort actions as the state,

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<sup>127</sup> See s. 1011.6202(3)(b), F.S.

<sup>128</sup> Section 1011.6202(6), F.S.

<sup>129</sup> Section 1011.6202(5), F.S.

<sup>130</sup> *Id.*

state agencies and or subdivisions. The bill specifies that the district school board is not liable for civil damages under state law for the employment actions or personal injury, property damage or death resulting from an act or omission of an operator, the school of hope and its employees or agents.

The bill allows an autonomous school to be either a private or public employer and provides that employees of a public employer must be compulsory members of the Florida Retirement System.

Subject to appropriation each year, the DOE must:

- fund the costs of the program to include the administrative and enrollment costs for the school turnaround training program; and
- provide up to \$10,000 for each participating principal as an annual salary supplement for 3 years.

The bill revises salary supplement eligibility requirements to allow a participating principal to qualify by teaching at a school that earned two consecutive grades of “D” rather than three. The bill also specifies that a participating principal may qualify for a salary supplement by managing a school operated by the independent governing board.

## **Safety and Security Assessments**

### Present Situation

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies. Additionally, school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.<sup>131</sup>

Districts are required to use the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a self-assessment of the districts’ current safety and security practices. Each district school superintendent must make recommendations to the school board for improving emergency preparedness and response policies based upon the self-assessment results. The self-assessment results and superintendent’s recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent’s recommendations must be reported to the commissioner within 30 days after the school board meeting.<sup>132</sup>

### Effect of Proposed Changes

The bill requires each school district to conduct a security risk assessment at each public school site in the district in addition to a self-assessment of the school districts’ current safety and security practices. Both the risk assessment and self-assessment of current safety and security best practices will be conducted using a format prescribed by the department, rather than the practices developed by OPPAGA.

## **Commissioner of Education Authority**

### Present Situation

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<sup>131</sup> Section 1006.07(4)(a)-(b), F.S.

<sup>132</sup> Section 1006.07(6), F.S.

The commissioner is the chief educational officer of the state, and is responsible for giving full assistance to the State Board of Education (SBE) in enforcing compliance with the mission and goals of the K-20 education system except for the State University System.<sup>133</sup> The commissioner's office operates all statewide functions necessary to support the SBE, including strategic planning and budget development, general administration, assessment, and accountability.<sup>134</sup> The commissioner is appointed by the SBE<sup>135</sup> and serves as the Executive Director of the DOE.<sup>136</sup>

The DOE is responsible for coordinating, when necessary, the use of educational facilities during emergency activations among federal and state agencies, local school districts, colleges and universities.<sup>137</sup> The DOE also serves as the primary liaison in coordinating all phases of emergency response from pre-disaster planning through post disaster recovery of educational facilities.<sup>138</sup>

The DOE staff members are assigned to serve as contacts (called "Emergency Management (EM) Buddies").<sup>139</sup> Staff for the Divisions of Blind Services and Vocational Rehabilitation perform the same function for their local offices.<sup>140</sup> In an emergency situation, the commissioner activates the EM Buddies for the affected areas of the state.<sup>141</sup> The EM Buddies provide the direct communications conduit between the DOE, district school superintendents, Florida College System (FCS) institution presidents, and state and local emergency operations centers.<sup>142</sup> The primary functions of the EM Buddies are to provide information directly to schools and districts and to collect status information from district school superintendents, FCS institution presidents, and county emergency operations centers.<sup>143</sup> The role of the EM Buddies spans over three phases of an emergency event: preparedness for the emergency event and monitoring, survival of the event, and assessment of and recovery from the event.<sup>144</sup>

The DOE emergency management staff transmit instructions and specific requests to, and receive regular reports from, EM Buddies.<sup>145</sup> DOE emergency management staff organize information into regular reports for the commissioner<sup>146</sup> and State Emergency Operations Center on shelter status, school closings and openings, plans, and needs.<sup>147</sup>

### Effect of Proposed Changes

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<sup>133</sup> Section 1001.10, F.S.

<sup>134</sup> *Id.* at (2).

<sup>135</sup> Art. IX, s. 2, Fla. Const.

<sup>136</sup> Section 20.15(2), F.S.

<sup>137</sup> Florida Division of Emergency Management, *The State of Florida 2016 Comprehensive Emergency Management Plan, 2016 Draft Revision*,

[http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20\(COMPLETE%20FINAL%20DRAFT\).pdf](http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20(COMPLETE%20FINAL%20DRAFT).pdf), at 10 of ESF 6 Appendix.

<sup>138</sup> Florida Division of Emergency Management, *The State of Florida 2016 Comprehensive Emergency Management Plan, 2016 Draft Revision*,

[http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20\(COMPLETE%20FINAL%20DRAFT\).pdf](http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20(COMPLETE%20FINAL%20DRAFT).pdf), at 10 of ESF 6 Appendix.

<sup>139</sup> Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 2. The Board of Governors employs a similar process for the state universities. *Id.*

<sup>140</sup> Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 2.

<sup>141</sup> Email, Florida Department of Education (March 17, 2017).

<sup>142</sup> Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 3.

<sup>143</sup> *Id.*

<sup>144</sup> *Id.* at 4.

<sup>145</sup> *Id.* at 5.

<sup>146</sup> Email, Florida Department of Education (March 17, 2017).

<sup>147</sup> Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 5.

The bill authorizes the commissioner to coordinate with school districts, Florida College System institutions, and the satellite offices of the Division of Blind Services and the Division of Vocational Rehabilitation to assess their need for resources and assistance in the event of an emergency situation.

According to the DOE, the bill expands the commissioner's authority and responsibility for supporting all sectors during an emergency and will likely be helpful in securing necessary information in a timely manner before, during, and after any emergency situation.<sup>148</sup> The needs assessment may expedite the provision of resources and assistance to enable each school, institution, or satellite office to reopen as soon as possible after considering the health, safety, and welfare of students and clients.<sup>149</sup>

## **Industry Certification Teacher Bonuses**

### Present Situation

The Legislature allocates public education funding to Florida's 67 school districts through the FEFP. The FEFP is a funding formula that helps to equalize education funding among Florida's geographically diverse school districts and is the primary mechanism for funding the operating costs of Florida school districts, which among other things, includes the payment of teacher salaries.<sup>150</sup>

In addition to funding school district operating costs, the FEFP also includes funds for teachers who teach courses that lead to the attainment of a Career and Professional Education (CAPE) industry certification. Depending on the certification earned, a school district receives bonus funding of 0.1, 0.2, 0.3, 0.5, or 1.0 FTE.<sup>151</sup> Teacher bonus funding is awarded for each student taught by a teacher who provided instruction in a course that led to the student's attainment of a CAPE industry certification on the CAPE Industry Certification Funding List, as follows:

- A bonus in the amount of \$25 is awarded for a course with a weight of 0.1.<sup>152</sup>
- A bonus in the amount of \$50 is awarded for a course with a weight of 0.2.<sup>153</sup>
- A bonus in the amount of \$75 is awarded for a course with a weight of 0.3.<sup>154</sup>
- A bonus in the amount of \$100 is awarded for a course with a weight of 0.5 or 1.0.<sup>155</sup>

### Effect of Proposed Changes

The bill provides the SBE with authority to adopt rules that establish criteria under which a student's industry certification may be rescinded. The bill also prohibits the award of a bonus to a teacher who fails to maintain the security of any CAPE industry certification examination or who otherwise violates the security or administration protocol of any industry certification examination that may lead to a bonus for student attainment of an industry certification.

## **Florida Virtual School**

### Present Situation

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<sup>148</sup> Email, Florida Department of Education (March 17, 2017).

<sup>149</sup> Florida Department of Education, *2018 Agency Bill Analysis for SB 436* (Oct. 16, 2017), at 2.

<sup>150</sup> See s. 1011.60, F.S. The performance salary schedule is funded from the same sources used to pay instructional personnel and school administrators under the grandfathered salary schedule.

<sup>151</sup> Section 1011.62 (1)(o), F.S. (2017)

<sup>152</sup> *Id.*

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> *Id.*

The Florida Virtual School (FLVS) is established for the development and delivery of online and distance learning education.<sup>156</sup> The FLVS is a fully accredited public school choice providing elementary, middle, and high school curriculum to Florida residents for free. All courses are fully online.<sup>157</sup>

The FLVS is available to students in all Florida school districts.<sup>158</sup> At the beginning of each school year, district school boards must notify parents of high school students of the opportunity and benefits of acceleration mechanisms and FLVS courses and options for early high school graduation.<sup>159</sup> School districts must provide students at all grade levels with access to FLVS courses during and after the normal school day and through summer school enrollment.<sup>160</sup>

Public school students receiving full-time instruction in kindergarten through grade 12 by the FLVS must participate in the statewide assessment program. Public school students receiving part-time instruction by the FLVS in courses requiring statewide end-of-course assessments must take all end-of-course statewide assessments. Unless an alternative testing site is mutually agreed to by FLVS and the school district or as contracted by the school district, all statewide assessments must be taken at the school to which the student is assigned according to district school board attendance areas. A school district must provide the student access to the school's testing facilities.<sup>161</sup>

### Effect of Proposed Changes

The bill specifies that industry certification examinations, national assessments, and statewide assessments offered by a school district must be available to all FLVS students. The bill also provides that such examinations and assessments must be taken at the school to which the student would be assigned according to local attendance areas unless an alternative testing site is agreed upon.

## **Members and Veterans of the U.S. Armed Forces**

### *Florida Virtual School*

#### Present Situation

Florida Virtual School (FLVS) was established by law to provide students in kindergarten through grade 12 with technology-based educational opportunities to gain knowledge and skills necessary to succeed.<sup>162</sup>

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<sup>156</sup> Section 1002.37(1)(a), F.S. FLVS began as two independent programs in Alachua and Orange Counties. The two counties partnered to establish the FLVS as a grant-based pilot project in the 1996-97 academic year. In 2000, the Legislature removed the program's pilot status and statutorily codified the school. Chapter 2000-224, L.O.F

<sup>157</sup> Florida Virtual School, *Accreditation*, available at <https://www.flvs.net/meet-flvs/accreditation> (last visited May 3, 2016).

<sup>158</sup> Florida Virtual School, *Florida Virtual School 2014-15 Legislative Report*, at 5, available at <http://www.flvs.net/areas/aboutus/Pages/LegislativeReport.aspx> (last visited July 29, 2016).

<sup>159</sup> Section 1003.02(1)(i), F.S.

<sup>160</sup> Sections 1001.42(23) and 1003.498 F.S.

<sup>161</sup> Section 1002.37(9), F.S.

<sup>162</sup> Section 1002.37(1), F.S.

Enrollment in FLVS is free for Florida residents, and non-residents may enroll but must pay tuition. Currently, there are children of military personnel who are not stationed in Florida but have a home of record or legal residence certificate stating their residence is in Florida. However, the law treats them as non-residents for purposes of FLVS enrollment, and the students must pay tuition to participate.

Currently, FLVS is required to give priority for enrollment to:

- students who need expanded access to courses to meet their educational goals, such as home education students and students in inner-city and rural high schools that do not have access to higher level courses; and
- students seeking accelerated access to obtain a high school diploma at least one semester early.<sup>163</sup>

### Effect of Proposed Changes

The bill provides that students who are children of military personnel not stationed in Florida are considered Florida residents for purposes of FLVS enrollment if their home of record or state of legal residence certificate is Florida. This change will allow such students to enroll in FLVS without having to pay tuition. The bill also provides that such students must be given enrollment priority.

### *Temporary Teaching Certificate Extension*

### Present Situation

Florida law establishes educator certification requirements, including requirements for earning a temporary teaching certificate.<sup>164</sup> In order to receive a temporary teaching certificate, an applicant must:

- meet general certification requirements;<sup>165</sup>
- obtain full-time employment in a position that requires a Florida educator certificate by a school district program;<sup>166</sup> and
- demonstrate mastery of subject area knowledge<sup>167</sup> by:
  - passing the appropriate subject area test;<sup>168</sup> or
  - completing the required degree or content courses specified in state board rule for subject area specialization<sup>169</sup> and attaining at least a 2.5 grade point average on a 4.0 scale in the subject area courses.<sup>170</sup>

A temporary certificate is valid for three fiscal years and is nonrenewable.<sup>171</sup> An educator who is employed under a temporary certificate must pass the general knowledge test within one calendar year after employment in order to remain employed in a position that requires a certificate. The educator then has until the end of the three-year certification to complete the requirement for a renewable professional certificate.<sup>172</sup> The SBE is required to adopt rules to allow the DOE to extend the validity period of a temporary certificate for two years when the requirements for the professional certificate, not including the general knowledge requirement, were not completed due to serious illness or injury of the applicant, or due to other extenuating circumstances.<sup>173</sup>

### Effect of Proposed Changes

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<sup>163</sup> Section 1012.37(1)(b), F.S.

<sup>164</sup> Section 1012.56, F.S.

<sup>165</sup> Section 1012.56(2)(a)-(f) and 1012.56(7)(b), F.S.

<sup>166</sup> Section 1012.56(1)(b), F.S.; rule 6A-4.004(1)(a)2., F.A.C.

<sup>167</sup> Section 1012.56(5) and (7)(b), F.S.

<sup>168</sup> Section 1012.56(7)(b), F.S.

<sup>169</sup> Section 1012.56(7)(b), F.S. Degree and content requirements specified in ch. 6A-4, F.A.C.

<sup>170</sup> Section 1012.56(2)(c), F.S.

<sup>171</sup> Section 1012.56(7), F.S. (flush-left provisions at end of subsection).

<sup>172</sup> *Id.*

<sup>173</sup> *Id.* See rule 6A-4.004, F.A.C.

The bill requires that state board rule allow the DOE to extend the validity period of a temporary certificate for two years if the requirements for the professional certificate, not including the general knowledge requirement,<sup>174</sup> have not been fulfilled due to the military service of an applicant's spouse.

### *Florida Teacher's Classroom Supply Assistance Program*

#### Present Situation

The Florida Teachers Classroom Supply Assistance Program is a fund for classroom teachers employed by a public school district or a public charter school to purchase, on behalf of the school district or charter school, classroom materials and supplies for the public school students assigned to them.<sup>175</sup> For purposes of the program, "classroom teacher" means a certified teacher employed by a public school district or a public charter school in that district on or before September 1 of each year whose full-time or job-share responsibility is the classroom instruction of students in prekindergarten through grade 12, including full-time media specialists and certified school counselors serving students in prekindergarten through grade 12, who are funded through the Florida Education Finance Program.<sup>176</sup>

Instructors of junior reserve officer training (JROTC) are currently ineligible for the program because they do not meet the definition of "classroom teacher." This is because JROTC instructors are not required to hold an educator certificate.<sup>177</sup> For fiscal year 2017, the legislature appropriated \$45,286,750 for the Florida Teacher's Classroom Supply Assistance program.

#### Effect of Proposed Changes

The bill provides that JROTC instructors are eligible to receive funding through the Florida Teachers Classroom Supply Assistance program.

### *Educational Leadership Certification*

#### Present Situation

The law requires the SBE to classify school services, designate certification subject areas, establish competencies for certification, and establish certification requirements for all school-based personnel.<sup>178</sup> In Florida, aspiring school administrators<sup>179</sup> must complete a state-approved school leader preparation program and attain certification as an educational leader.<sup>180</sup>

The SBE has established two classes of certification for school administrators – educational leadership and school principal. Certification in educational leadership qualifies an individual for any position falling under the classification "school administrator."<sup>181</sup> Generally, a Level I program offered by a postsecondary institution leads to a master's or higher degree in educational leadership and prepares an individual for certification.<sup>182</sup> Such institutions may offer a modified program for individuals who

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<sup>174</sup> Section 1012.56(2)(g), F.S.

<sup>175</sup> Section 1012.71, F.S.; s. 6, ch. 2017-234, L.O.F.

<sup>176</sup> Section 1012.71(1) F.S.

<sup>177</sup> Section 1012.71(1) F.S., and 1012.55(4) F.S.

<sup>178</sup> Section 1012.55(1)(b), F.S.

<sup>179</sup> School administrators include school principals, school directors, and assistant principals. *See* s. 1012.01(3)(c), F.S.

<sup>180</sup> *See* s. 1012.55(1)(b), F.S.; rule 6A-4.0081, F.A.C.

<sup>181</sup> *See* s. 1012.562, F.S.; rule 6A-4.0081, F.A.C.

<sup>182</sup> The individual must still earn a passing score on the Florida Educational Leadership Examination in order to be considered as a Level I program completer and earn the educational leadership certification. *See* rule 6A-5.081(2)(a)7., F.A.C.

already hold a master's or higher degree. School district programs may only serve school district employees who already hold a master's or higher degree.<sup>183</sup>

In order to advance to certification as a school principal, the individual must first hold an educational leadership certificate.<sup>184</sup>

There are two types of school leader preparation programs:

- Level I programs are offered by school districts and postsecondary institutions and lead to initial certification in educational leadership for the purpose of preparing individuals to serve as school administrators.
- Level II programs are offered by school districts, build upon Level I training, and lead to certification as a school principal.

To receive a Level II certification as a school principal, the individual must:

- hold a valid professional certificate covering educational leadership, administration, or administration and supervision; and
- document successful performance of the duties of the school principalship in a DOE approved district school principal certification program<sup>185</sup>

The SBE must adopt rules to allow an individual who meets the following criteria to be eligible for a temporary certificate in educational leadership:<sup>186</sup>

- earned a passing score on the Florida Educational Leadership Examination;
- documented three years of successful experience in an executive management or leadership position; and
- documented receipt of a bachelor's degree or higher from an accredited institution of higher learning.

An individual operating under a temporary certificate must be under the mentorship of a state-certified school administrator during the term of the temporary certificate.<sup>187</sup>

For an individual to qualify for admission to a Level II program, the individual must have obtained their certificate in educational leadership by completing a Level I school leadership preparation program, earned a highly effective or effective evaluation rating, and satisfactorily performed instructional leadership responsibilities as measured by the school district's evaluation system.<sup>188</sup> Currently there are 71 Level II school principal preparation programs in Florida; including 67 school districts, three lab schools, and the Florida Virtual School.

### Effect of Proposed Changes

The bill creates a pathway for veterans who have served either as commissioned officers or noncommissioned officers, to become school principals. The bill requires the DOE to issue a three-year temporary certificate in educational leadership to an individual whose application indicates that he or she:

- has earned a passing score on the Florida Educational Leadership Examination;
- served as a commissioned or noncommissioned military officer in the U.S. Armed Forces for at least 3 years;

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<sup>183</sup> Rules 6A-5.081(1)(b)1.; 7; (c)1.; and 3.a., F.A.C. *But see* r. 6A-4.004(5)(c), F.A.C. (allowing an approved school district Level I program to admit a candidate without a master's or higher degree, provided that the candidate is notified that he or she is not eligible to complete the program without official documentation of the master's degree).

<sup>184</sup> Rules 6A-4.0083, F.A.C.

<sup>185</sup> *Id.*

<sup>186</sup> Section 1012.55(1)(d), F.S. *See* rule. 6A-4.004(5), F.A.C.

<sup>187</sup> *Id.*

<sup>188</sup> Section 1012.562(3)(a), F.S.



- has been honorably discharged or has retired from the U.S. Armed forces; and
- is presently employed fulltime in a position for which a Florida educators' certificate is required in a Florida school (public or nonpublic) that has a DOE-approved Level II program.

The bill also requires that an approved Level II program must admit applicants who hold such a temporary certificate and requires the DOE to issue a permanent school principal certificate to an individual who holds the temporary certificate and successfully completes the Level II program.

### *Medal of Honor Day*

#### Present Situation

The Medal of Honor is the “highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Services of the United States. The Medal is generally presented to recipients by the President of the United States.”<sup>189</sup>

Section 1003.42(2), F.S. establishes components of required instruction for public school students. Instructional staff must teach, among other things:

- a character-development program in kindergarten through grade 12; and
- in order to encourage patriotism, the sacrifices that veterans have made in serving our country and protecting democratic values worldwide.

The law does not establish any particular grade level or courses in which instruction on these topics must be provided. However, DOE takes steps to ensure that the content is taught in public schools. The law also encourages the SBE to “adopt standards and pursue assessment of the requirements” of subsection (2) of s. 1003.42, F.S.

Each district school board is required to develop or adopt a curriculum for the character-development program and submit it to the DOE for approval. The character-development curriculum must stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic and religious tolerance; and cooperation.<sup>190</sup> Further, instruction related to veterans should occur on or before Veteran’s day and Memorial Day. Members of the instructional staff are also encouraged to use the assistance of local veterans when practicable.<sup>191</sup>

There are various resources available to educate students about the Medal of Honor and the significance it can play in character development programs.<sup>192</sup>

#### Effect of Proposed Changes

The bill allows the Governor to issue a proclamation designating March 25<sup>th</sup> as “Medal of Honor Day” and encourages public officials, schools, private organizations, and all residents of the state to commemorate Medal of Honor Day and honor any Floridian who, while serving as a member of the Armed Services, distinguished himself or herself while engaged in action against an enemy of the United States.

The bill also states that a character development program that incorporates the values of the Congressional Medal of Honor and that is offered as part of a social studies, English Language arts, or

<sup>189</sup> Congressional Medal of Honor Foundation, <http://themedalofhonor.com/cmoh-foundation/history> (last visited Dec. 20, 2017).

<sup>190</sup> Section 1003.42(2)(s), F.S.

<sup>191</sup> Section 1003.42(2)(t), F.S.

<sup>192</sup> Congressional Medal of Honor Foundation, Heroes Among Us, <http://themedalofhonor.com/character-development> (last visited Jan. 25, 2018).

other school wide character building and veteran awareness initiative meets the instructional requirements related to character development and the sacrifices made by veterans.

### *Licensure Interruption for Active Duty Military Personnel*

#### Present Situation

There is requirements that relevant military experience gained during a period of active duty service in the Florida National Guard or U.S. Armed Forces Reserves, which interrupts an applicant's period of training for a professional license, to be considered during a licensure determination.

Some individual practice acts, such as the construction contracting practice act, require the licensing entity to consider such experience for licensure requirements.<sup>193</sup>

#### Effect of Proposed Changes

The bill requires boards of examiners or other qualification boards regulated under general law to accept periods of training and practical experience in the Florida National Guard or the U.S. Armed Forces Reserves in place of the interrupted or delayed periods of training, study, apprenticeship, or practical experience if the board finds the standard and type of work or training performed in the Florida National Guard or the US Armed Forces Reserves to be substantially the same as the standard and type required under Florida law. To be eligible for the above process, service members must request the issuance under these provisions within six months after the release from the Florida National Guard or the U.S. Armed Forced Reserves.

### *Educator Certification Fees*

#### Present Situation

The SBE must establish, by rule, fees for applications, examinations, certification, certification renewal, late renewal, record making, and recordkeeping.<sup>194</sup> Fees for taking the Florida Teacher Certification Examination for the first time are as follows<sup>195</sup>:

FTCE Test	Fee
General Knowledge Test	\$130
Subject Area Test	\$200
Professional Education Test	\$150

The fee to apply for an initial educator certificate is \$75.<sup>196</sup>

#### Effect of Proposed Changes

The bill requires the SBE to waive initial general knowledge, professional education, and subject area examination fees and certification fees for the following individuals:

- A member of the United States Armed Forces or a reserve component thereof who is serving or has served on active duty or the spouse of such a member

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<sup>193</sup> Section 489.1131, F.S.

<sup>194</sup> Section 1012.59(1), F.S.

<sup>195</sup> Rule 6A-4.0021(4), F.A.C.

<sup>196</sup> See rule 6A-4.0012(1)(a)1., F.A.C.

- The surviving spouse of a member of the United States Armed Forces or a reserve component thereof who was serving on active duty at the time of death
- An honorably discharged veteran of the United States Armed Forces or a veteran of a reserve component thereof who served on active duty and the spouse or surviving spouse of such a veteran

## *Apprenticeship Programs*

### Present Situation

The DOE is responsible for the development of the apprenticeship and preapprenticeship standards for trades and assisting district school boards and community college district boards of trustees in developing preapprenticeship programs.<sup>197</sup>

An apprenticeship program is an organized course of instruction that is registered and approved by the DOE and must address all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.<sup>198</sup> The length of an apprenticeship program varies from one to five years depending on the occupation's training requirements.<sup>199</sup>

An apprenticeship may be offered only in occupations that:

- are customarily learned in a practical way through a structured, systematic program of on-the-job, supervised training;
- are commonly recognized throughout the industry or recognized with a positive view toward changing technology;
- involve manual, mechanical, or technical skills and knowledge that require a minimum of 2,000 hours of work and training, excluding the time spent in related instruction;
- require related instruction to supplement on-the-job training; and
- involve the development of skills sufficiently broad to be applicable in like occupations throughout an industry, rather than skills that are of restricted application to the products or services of any one company<sup>200</sup>

The following categories of occupations may not create an apprenticeship program: selling, retailing, or similar occupations in the distributive field; managerial occupations; and professional and scientific vocations for which entrance requirements customarily require an academic degree.<sup>201</sup>

To be eligible for an apprenticeship program, the person must be at least 16 years of age. Admission requirements relating to education, physical ability, work experience, and other criteria vary based on the program's training needs. As of January 2017, there were 10,464 active registered apprentices and 193 registered program sponsors in Florida.<sup>202</sup>

### Effect of Proposed Changes

The bill requires the DOE to lead and coordinate outreach efforts to educate veterans about apprenticeship and career opportunities. The bill also specifies that laws and rules regulating apprenticeships and approved apprenticeship agreements do not invalidate any special provisions for veterans, minority persons, or women concerning apprenticeship programs.

### **Dual Enrollment**

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<sup>197</sup> Section 446.011(2), F.S.

<sup>198</sup> Section 446.021(6), F.S.

<sup>199</sup> Section 446.021(6), F.S.; rule 6A-23.004, F.A.C.

<sup>200</sup> Section 446.092, F.S.

<sup>201</sup> Section 446.092(6), F.S.

<sup>202</sup> Florida Department of Education, Agency Legislative Bill Analysis, HB 525, (Mar. 3, 2017).

## Present Situation

The dual enrollment program is an acceleration mechanism that allows an eligible secondary<sup>203</sup> or home education student to enroll in a postsecondary course creditable toward high school completion and an associate or baccalaureate degree or career certificate.<sup>204</sup> Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college, university or career certificate credit.<sup>205</sup>

Home education students can participate in the dual enrollment program. To participate in dual enrollment, a home education student must:<sup>206</sup>

- provide proof of enrollment in a home education program that meets statutory requirements;<sup>207</sup>
- be responsible for his or her own instructional materials unless provided for in the articulation agreement; and
- sign a home education articulation agreement<sup>208</sup> with the postsecondary institution in which the student plans to enroll.

Each postsecondary institution eligible to participate in the dual enrollment program is required to enter into a home education articulation agreement with each eligible home education student seeking enrollment in a dual enrollment course and the student's parent. Initial and continued eligibility requirements for home education students may not exceed those required of other dually enrolled students. Articulation agreements must be annually submitted by the postsecondary institution to the DOE on or before August 1.<sup>209</sup>

In addition, each eligible postsecondary institution must also enter into a private school articulation agreement with each eligible private school in its geographic service area. The private school articulation agreement must include:<sup>210</sup>

- a delineation of courses and programs available to the private school student;
- the initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students;
- the student's responsibilities for providing his or her own instructional materials and transportation;
- a provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program;
- a provision expressing that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student; and
- a provision stating whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for each dual enrollment course taken by its students.

Currently, a dual enrollment student is not required to pay registration, tuition or lab fees for dual enrollment courses taken at a public postsecondary career center, FCS institution or state university.<sup>211</sup> Home education students are responsible for their instructional materials and transportation. However,

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<sup>203</sup> For purposes of dual enrollment, "secondary" is defined as a student who is enrolled in grades 6-12 in a Florida public school or Florida private school. Section 1007.271(2), F.S.

<sup>204</sup> Section 1007.271(1), F.S.

<sup>205</sup> Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, available at <http://fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf> (last visited March 15, 2017).

<sup>206</sup> Section 1007.271(13), F.S.

<sup>207</sup> Requirements for home education programs are outlined in s. 1002.41, F.S.

<sup>208</sup> Section 1007.271(13)(b), F.S.

<sup>209</sup> *Id.*

<sup>210</sup> *See* s. 1007.271(24)(b), F.S.

<sup>211</sup> Section 1009.25(1)(a), F.S.; section 1007.271(2) and (16), F.S.

a FCS institution is not prohibited from providing instructional materials at no cost to a home education student.<sup>212</sup>

### Effect of Proposed Changes

The bill provides that a home education student participating in a dual enrollment program is not responsible for providing his or her own instructional materials. The bill also removes the requirement that a private school articulation agreement include a provision stating whether the private school will compensate the postsecondary instruction for the standard tuition rate per credit hour.

## **Title I Funding**

### Present Situation

Title I, Part A of the Elementary and Secondary Education Act, provides financial assistance to LEAs and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards. Federal funds are currently allocated through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state.<sup>213</sup>

In 2017, the Legislature implemented several revisions to the distribution of Title I funds, requiring school districts to provide Title I funds directly to all eligible schools and to limit the amount of Title I funds that a district may withhold as follows:<sup>214</sup>

- One percent for parent involvement
- A necessary and reasonable amount for administration not to exceed eight percent
- A reasonable and necessary amount to provide:<sup>215</sup>
  - homeless programs;
  - delinquent and neglected programs;
  - prekindergarten programs and activities;
  - private school equitable services; and
  - transportation for foster care children to their school of origin or choice program.

After providing Title I funds to schools above the 75 percent poverty threshold, the district must distribute all remaining Title I funds to all eligible schools in accordance with federal law and regulation. The threshold for identifying eligible schools may not exceed the threshold established by a school district for the 2016-2017 school year or the statewide percentage of economically disadvantaged students, as determined annually.<sup>216</sup> Schools may participate in district-wide or district sponsored initiatives by paying a proportionate share of Title I funds to the school district.

Of the 7 percent of Title I funds that must be set aside for school improvement, 95 percent must be awarded to districts through either a formula or competitive approach or some combination thereof. The remaining 5 percent would be used primarily to support DA regional activities.<sup>217</sup>

### Effect of Proposed Changes

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<sup>212</sup> Section 1007.271(17), F.S.

<sup>213</sup> U.S. Department of Education, *Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)*, available at <https://www2.ed.gov/programs/titleiparta/index.html?exp=0>.

<sup>214</sup> See s. 45, ch. 2017-116, L.O.F. codified at s. 1011.69(5), F.S. (2017)

<sup>215</sup> Section 1011.69(5)(a), F.S.

<sup>216</sup> Section 1011.69(5), F.S.

<sup>217</sup> See 20 U.S.C. s. 6303(a).

The bill clarifies that when districts distribute Title I funds to schools above the 75 percent poverty threshold, the 75 percent may include high schools above the 50 percent threshold as permitted by federal law.

The bill specifies that a district may also withhold a necessary and reasonable amount of Title I funds, not to exceed 1 percent, for Title I schools to provide:

- extended learning opportunities, such as summer school, before-school and after-school programs, and additional class periods of instruction during the school day; and
- supplemental academic and enrichment services, as well as wrap-around services.

The bill also provides that eligible schools, not including charter schools, can use their Title I distribution of funds for district level educational services that the district may provide. Funds provided by eligible schools for district level educational services may not be included in the 1 percent limitation.

## **School District Accountability**

### *Auditor General*

#### Present Situation

The Auditor General (AG) or a Certificated Public Accountant (CPA) is required to perform annual financial audits of district school boards.<sup>218</sup> If the AG does not perform a financial audit of a district school board, the school board must have a financial audit completed within nine months of its fiscal year end by an independent CPA.<sup>219</sup> The scope of financial audits include an examination of the financial statements, the issuance of a report on compliance and internal control in accordance with generally accepted government auditing standards, and the issuance of a report on compliance and internal control for each major Federal program.<sup>220</sup>

The AG also conducts operational audits of district school boards in accordance with Government Auditing Standards at least every 3 years.<sup>221</sup> Operational audits must include an evaluation of management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities. The examination of internal controls is designed to promote and encourage the achievement of management's control objectives in economic and efficient operations, reliability of records and reports, and safeguarding of assets.<sup>222</sup>

The AG is required to report material weaknesses in internal control and significant control deficiencies that are disclosed during the course of a financial audit. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the financial statements would not be prevented or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention. The AG must report material noncompliance or abuse that has a material effect on a financial statement audit. The classification of an audit finding is dependent upon its potential impact on the specific school district

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<sup>218</sup> State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 1, available at [https://flauditor.gov/pages/pdf\\_files/2018-030.pdf](https://flauditor.gov/pages/pdf_files/2018-030.pdf). Section 11.45(2), F.S. and s. 218.39(1), F.S.

<sup>219</sup> Section 218.39(1), F.S.

<sup>220</sup> State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 1, available at [https://flauditor.gov/pages/pdf\\_files/2018-030.pdf](https://flauditor.gov/pages/pdf_files/2018-030.pdf). Section 11.45(1)(c), F.S.

<sup>221</sup> *Id.* Section 11.45(2)(f), F.S.

<sup>222</sup> *Id.* Section 11.45(1)(g), F.S.

under audit. Therefore, the classification of an audit finding could vary from school district to school district.<sup>223</sup>

The AG must annually compile and transmit a summary of significant findings and financial trends to the Senate President, the Speaker of the House of Representatives, and the Legislative Auditing Committee (LAC).<sup>224</sup> If an audit contains any significant findings, district school boards, must conduct an audit overview during a public meeting.<sup>225</sup>

The AG has authority to perform follow-up procedures necessary to determine a district school board's progress in addressing the findings and recommendations in the previous audit report.<sup>226</sup> The AG must also notify the LAC of any financial or operational audit report which indicates that a district school board failed to take full corrective action in response to a finding included in the two preceding financial or operational audits.<sup>227</sup>

Upon notification, the LAC may direct a school board to provide a written statement explaining the reason the school board failed to take corrective action or, if the school board intends to take full corrective action, describing the corrective action and state when it will occur.<sup>228</sup> If the LAC determines that the written statement is not sufficient, it may require the chair of the school board to appear before the committee. If the LAC determines that the school board has failed to take full corrective action for which there is no justifiable reason or has failed to comply with committee requests, the committee must refer the matter to the State Board of Education (SBE) to proceed in accordance with its oversight enforcement authority.<sup>229</sup>

On February 2, 2014, the LAC conducted a workshop on Financial Oversight for District School Boards. As part of its presentation, the AG's office recommended that operational audits include testing for previous operational audit findings with questionable costs. Individual members of the Manatee County School Board submitted written comments and suggested the following:

- Require districts with audit findings to implement an immediate compliance process.
- Shorten the timeframe to comply with audit findings.
- Increase the frequency of the AG's financial and operational audits when audit findings occur.
- Expand the scope of AG audits to include all management areas.<sup>230</sup>

### Effect of Proposed Changes

The bill requires the AG to contact district school boards with previous operational audit findings. The school boards must provide evidence of initiation of corrective action within 45 days and evidence of completion of corrective action within 180 days. If districts fail to comply with the AG's request, the AG must notify the LAC.

The bill requires district school boards, the Florida College System institution board of trustees, and the university board of trustees to conduct an audit overview when an audit contains a finding classified as a material weakness or significant deficiency instead of any significant finding, which is not defined in statute. The audit overview must describe the corrective action to be taken and the timeline for completion.

### *Inspector General*

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<sup>223</sup> Section 218.39(1), F.S.

<sup>224</sup> Section 11.45(7)(f), F.S. *See also* s. 11.40, F.S.

<sup>225</sup> Section 1010.30(2), F.S.

<sup>226</sup> Section 11.45(2)(j), F.S.

<sup>227</sup> Section 11.45(7)(j)1., F.S.

<sup>228</sup> *Id.*

<sup>229</sup> Sections 11.45(7)(j)3. and 1008.32, F.S.

<sup>230</sup> Joint Legislative Auditing Committee, *Meeting Packet, February 10, 2014, available at* <http://www.leg.state.fl.us/Data/Committees/Joint/JCLA/Meetingpackets/021014.pdf>.

## Present Situation

Each state agency is required to have an Inspector General (IG),<sup>231</sup> including the DOE, to provide a central point for the coordination of activities that promote accountability, integrity, and efficiency in government.<sup>232</sup> The Office of the Chief Inspector General (CIG) is within the Executive Office of the Governor. The CIG monitors the activities of the agency inspectors general under the Governor's jurisdiction, including the DOE's IG.

The IG:

- advises in the development of performance measures, standards, and procedures for the evaluation of state agency programs;
- assesses the reliability and validity of information provided by the agency on performance measures and standards;
- reviews the actions taken by the agency to improve agency performance, and making recommendations, if necessary;
- supervises and coordinates audits, investigations, and reviews relating to the operations of the state agency;
- conducts, supervises, or coordinates other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in its programs and operations;
- provides central coordination of efforts to identify and remedy waste, abuse, and deficiencies to the CIG; recommends corrective action concerning fraud, abuses, and deficiencies; and reports on the progress made in implementing corrective action;
- coordinates agency-specific audit activities between the AG, federal auditors, and other governmental bodies to avoid duplication;
- reviews rules relating to the programs and operations of the agency and makes recommendations concerning their impact;
- maintains an appropriate balance between audit, investigative, and other accountability activities; and
- complies with the General Principles and Standards for Offices of Inspectors General as published and revised by the Association of Inspectors General.<sup>233</sup>

The inspector general for the DOE is appointed by the CIG.<sup>234</sup> The DOE inspector general must report to and be under the exclusive, general supervision of the commissioner. The DOE inspector general must report to the CIG, and may hire and remove staff within the IG office in consultation with the CIG but independently of the DOE.<sup>235</sup>

The DOE's IG is responsible for promoting accountability, efficiency, and effectiveness and detects fraud and abuse within school districts. If the commissioner determines that the district school board is unwilling or unable to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement, the office must conduct, coordinate, or request investigations into such substantiated allegations.<sup>236</sup>

## Effect of Proposed Changes

The bill requires the DOE's IG to investigate allegations and reports of possible fraud or abuse made by:

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<sup>231</sup> Section 20.055(2), F.S. The Department of Education is created pursuant to s. 20.15, F.S.

<sup>232</sup> Section 20.005(2), F.S.

<sup>233</sup> Section 20.055(2)(a)-(j), F.S.

<sup>234</sup> Section 20.055(3)(a), F.S.

<sup>235</sup> *Id.*

<sup>236</sup> Section 1001.20(4)(e), F.S.



- any member of the Cabinet;
- any presiding officer of the Senate or House;
- a chair of a substantive or appropriations committee with appropriate jurisdiction; or
- a member of the board for which investigation is sought.

### *Internal Auditor*

#### Present Situation

An internal audit is an independent and objective assurance and consulting activity that provides information on how financial systems and processes are working. Internal audits result in findings and recommendations that help improve processes and mitigate risks surrounding those processes. An internal audit is different from an external audit, which expresses an opinion on the reasonableness of financial statements within materiality limits. Internal audits focus on processes to determine if they are compliant, effective, and efficient.<sup>237</sup>

Currently, district school boards are may employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor reports directly to the district school board or its designee.<sup>238</sup>

Bay, Brevard, Broward, Clay, Duval, Escambia, Hillsborough, Lake, Lee, Leon, Marion, Martin, Miami-Dade, Orange, Palm Beach, Pasco, Pinellas, and Polk district school boards employ internal auditors. However, according to the Office of the Auditor General, the internal auditors in Bay, Clay, Lee and Marion counties perform audits only of school internal funds and are not required to comply with externally established auditing standards.<sup>239</sup>

On February 2, 2014, as part of its presentation to the LAC, the AG's office recommended that school districts of a specified size employ internal auditors to periodically report on the effectiveness of budgetary control procedures. The AG's office also recommended laws requiring internal controls designed to:

- prevent and detect fraud, waste and abuse;
- promote and encourage economic and efficient operations;
- ensure the reliability of financial records and reports; and
- safeguard assets.<sup>240</sup>

#### Effect of Proposed Changes

The bill requires school districts with revenues over \$500 million to employ an internal auditor. The internal auditors must perform a comprehensive risk assessment every five years and conduct other audits and reviews as the district school board directs to determine:

- the adequacy of internal controls;
- compliance with applicable laws;
- the efficiency of operation;
- the reliability of financial records;
- financial solvency;
- projected revenues and expenditures; and

<sup>237</sup> Gibson Consulting Group, *Phase II: Operational Efficiency Audit – Comprehensive Report for Hillsborough County Public Schools*, available at [http://www.sdhc.k12.fl.us/docs/00/00/17/86/HCPGibsonPhaseIIFinal\\_Report.pdf](http://www.sdhc.k12.fl.us/docs/00/00/17/86/HCPGibsonPhaseIIFinal_Report.pdf).

<sup>238</sup> Section 1001.42(12)(l), F.S.

<sup>239</sup> Email, Auditor General, Deputy Auditor General – Educational Entities and Local Government Audits, (Oct. 26, 2017).

<sup>240</sup> Joint Legislative Auditing Committee, *Meeting Packet, February 10, 2014*, at 110 and 114, available at <http://www.leg.state.fl.us/Data/Committees/Joint/JCLA/Meetingpackets/021014.pdf>.

- the rate of change in the ending fund balance.

The bill also requires the internal auditor to prepare audit reports and establishes penalties for failure to produce financial records to the internal auditor.<sup>241</sup>

As a result, in fiscal year 2015-16, five districts (Seminole, Volusia, Osceola, Collier, and Sarasota) would have been required to employ an internal auditor and the scope of Lee county's internal auditor would have been increased.<sup>242</sup>

### *Cost Accounting and Reporting*

#### Present Situation

Currently, school districts are required to account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis including:

- expenditures for in-service training (district level only);
- expenditures for categorical programs (district level only); and
- expenditures for basic programs.

The commissioner must present to the Legislature a district-by-district report of the expenditures reported.<sup>243</sup>

Districts must spend at least the percent of the funds generated by each of the programs listed on the aggregate total school costs for such programs:

- Ninety percent for kindergarten and grades 1, 2, and 3.
- Eighty percent for grades 4, 5, 6, 7, and 8.
- Eighty percent for grades 9, 10, 11, and 12.
- Ninety percent for programs for exceptional students, on an aggregate program basis.
- Eighty percent for grades 7 through 12 career education programs, on an aggregate program basis.
- Eighty percent for students-at-risk programs, on an aggregate program basis.
- Ninety percent for Juvenile justice programs, on an aggregate program basis.<sup>244</sup>

Each state is required to calculate the per-pupil expenditures of federal, state, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of federal, state, and local funds, disaggregated by source of funds, for each local educational agency and each school in the state.<sup>245</sup>

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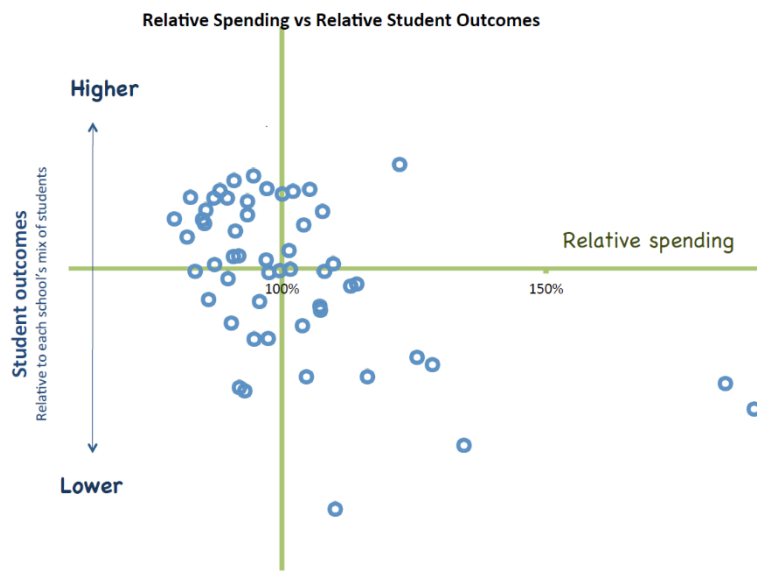
<sup>241</sup> Section 11.47(3), F.S. Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit or examination which the Auditor General or the Office of Program Policy Analysis and Government Accountability is by law authorized to perform is guilty of a misdemeanor of the first degree. Section 11.47(4), F.S. Any officer who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit or examination which the Auditor General or the Office of Program Policy Analysis and Government Accountability is by law authorized to perform, is subject to removal from office.

<sup>242</sup> Florida Department of Education, *Bureau of School Business Services, Office of Funding and Financial Reporting, Financial Profiles of Florida School Districts, 2015-16 Financial Data Statistical Report, June 2017*, at 15, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/2015-2016-Profiles.pdf>.

<sup>243</sup> Section 1010.20(1) and (2), F.S.

<sup>244</sup> Section 1010.20(1)-(3), F.S.

<sup>245</sup> 20 U.S.C. s. 6311(h)(1)(C)(x).



Other states use expenditure data, together with student performance data to determine school efficiency.<sup>246</sup>

### Effect of Proposed Changes

The bill requires school districts to report to the DOE total operating costs and classroom instructional expenditures on a school-by-school and aggregate district basis. The bill requires the DOE to calculate the percentage of classroom expenditures to total operating expenditures at school, district and state level. The results must be categorized into peer groups based on the size of each school and district. The DOE must also calculate the average percentage of classroom expenditures to total operating expenditures at the school, district and state level.

The bill also requires the DOE to develop a fiscal transparency tool that identifies public schools and districts that produce high academic achievement by comparing the ratio of classroom instructional expenditures to total expenditures to student performance measures. The results must be displayed on the DOE website in an easy to use format that allows comparison between schools and districts. Each school district must post a link to the fiscal transparency tool on the district's webpage.

### *Budget Transparency*

#### Present Situation

It is important for school districts to provide budgetary transparency to enable taxpayers, parents, and education advocates to obtain school district budget and related information in a manner that is easy to understand. Budgetary transparency leads to more responsible spending, more citizen involvement, and improved accountability. A budget that is not transparent, accessible, or accurate cannot be properly analyzed, its implementation thoroughly monitored, or its outcomes evaluated.<sup>247</sup>

District school boards are required to post a plain language version of each proposed, tentative, and official budget on their website. The budget must describe each budget item in easily understandable

<sup>246</sup> Building State Capacity and Productivity Center, *Understanding the Productivity Landscape in Your State*, available at [http://www.bscpcenter.org/productivity/pdf/bscp\\_productivity\\_webinar2\\_7\\_25\\_13.pdf](http://www.bscpcenter.org/productivity/pdf/bscp_productivity_webinar2_7_25_13.pdf). Texas Comptroller of Public Accounts, *Financial Allocation Study for Texas 2010*, available at <https://www.heartland.org/publications-resources/publications/fast-financial-allocation-study-for-texas-2010>. Ohio Department of Education, *Expenditure & Revenue Data*, available at <http://education.ohio.gov/Topics/Finance-and-Funding/Finance-Related-Data/Expenditure-and-Revenue/Expenditure-Revenue-Data>.

<sup>247</sup> Section 1011.035(1), F.S.  
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terms. The information must be prominently posted on the school district's website in a manner that is readily accessible to the public. However, these budgets do not have understandable summary financial performance or efficiency information that allows a comparison of expenditure trends.<sup>248</sup>

### Effect of Proposed Changes

The bill changes the section title to "school district fiscal transparency" to reflect the additional information that must be provided and authorizes individual school board members to request and receive all budget information. The bill also requires district school boards to increase fiscal transparency by providing graphical representations of summary financial efficiency data and fiscal trend information. The data must provide fiscal trend information for the previous three years at the school and district level and must provide calculations on the:

- ratio of students to teachers and administrators;
- total operating and instructional expenditures per student;
- general administrative expenditures as a percentage of total budget; and
- rate of change in the general fund's ending fund balance not classified as restricted.

### *General Funds Guidelines*

#### Present Situation

District school boards must maintain a general fund ending balance that is sufficient to address normal contingencies.<sup>249</sup> If a district school board's general fund's ending fund balance not classified as restricted, committed, or nonspendable in the approved operating budget is projected to fall below 3 percent of projected general fund revenues during the current fiscal year, the district superintendent must provide a written notification to the district school board and the commissioner.<sup>250</sup>

If the same ending fund balance is projected to fall below 2 percent of projected general fund revenues during the current fiscal year, the district superintendent must provide written notification to the district school board and the commissioner. Within 14 days after receiving the notification, if the commissioner determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency, the commissioner must appoint a financial emergency board that must operate under the requirements, powers, and duties specified in law.<sup>251</sup>

As of June 30, 2016, only the Jefferson County School District had a financial condition ratio below 3 percent. Jefferson County School District's financial condition ratio was negative 0.43 percent and the District's financial condition ratio was below 3 percent in the prior two consecutive fiscal years.<sup>252</sup>

### Effect of Proposed Changes

The bill requires districts with ending fund balances that fall below the 3 percent threshold for two consecutive years to reduce administration expenditures in proportion to the reduction in the general fund's ending balance or the reduction in student enrollment, whichever is greater. The bill also prohibits any district school board with an ending fund balance below the 3 percent threshold from making expenditures on out-of-district travel and cellular phones.

### *Financial Emergency*

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<sup>248</sup> Section 1011.035(2), F.S.

<sup>249</sup> Section 1011.051, F.S.

<sup>250</sup> Section 1011.051(1), F.S.

<sup>251</sup> Section 1011.051(2), F.S., s. 218.503(3)(g), F.S.

<sup>252</sup> State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 11, available at [https://flauditor.gov/pages/pdf\\_files/2018-030.pdf](https://flauditor.gov/pages/pdf_files/2018-030.pdf).

## Present Situation

District school boards are subject to review and oversight by the commissioner when the district is unable to timely pay current debts and liabilities. A district school board is in a state of financial emergency when the district is unable to timely pay current debts and liabilities and state assistance is needed for corrective action.<sup>253</sup> While in a state of financial emergency, the commissioner may implement measures which:

- require commissioner approval of the district school board's budget;
- prohibit a district school board from issuing debt;
- require inspections and reviews of district school board records, reports and information;
- establish a financial emergency board to oversee the activities of the district school board; and
- require a plan of action that will cause the district school board to no longer be in a financial emergency.<sup>254</sup>

## Effect of Proposed Changes

The bill requires the DOE to contract with an independent third party to conduct an investigation of the accounts and records of any district school board that failed to timely pay any current debt or liability during the 2015-16 fiscal year, or thereafter. The investigation must determine the cause of the deficit, steps taken to avoid the deficit and whether school board members violated the law. The investigation must also include an analysis of:

- budget reports;
- journal entries;
- budget methodologies;
- staff emails;
- financial statements; and
- meeting minutes.

The investigation results must include a recommendation for corrective action and controls to avoid future budget shortfalls. The district school board, the DOE, the LAC and the district's financial emergency board, if applicable, must receive the results of the investigation.

The bill also requires the withholding of district school board member's and superintendent's salaries when the district fails to timely pay current debts and liabilities. The salary of each district school board member and superintendent must be withheld until the issue is addressed.

## *District School Board Budget Transparency*

### Present Situation

District school boards must prepare, adopt, and submit an annual budget to the commissioner.<sup>255</sup> Estimated expenditures in a school district's tentative budget cannot exceed estimated income.<sup>256</sup> District expenditures must be limited to amounts budgeted and no expenditures can be authorized or obligations incurred in excess of the budgetary appropriation.<sup>257</sup> However, a district school board may establish policies that allow expenditures to exceed amounts budgeted if the district school board approves the expenditure and amends the budget.<sup>258</sup>

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<sup>253</sup> Section 218.503(1) and (3), F.S.

<sup>254</sup> Section 218.503(3), F.S.

<sup>255</sup> Section 1011.01(3)(a), F.S.

<sup>256</sup> Section 1011.02(4), F.S.

<sup>257</sup> Section 1011.06, F.S. It is the duty of the superintendent and district school board to take whatever action is necessary during the fiscal year to keep expenditures and obligations within the budgeted income. Rules 6A-1.007(1) and 6A-1.007(2), F.A.C. The school board must approve amendments to the budget whenever budget changes occur.

<sup>258</sup> Section 1011.06(2), F.S.

District school boards are required to post a plain language version of each proposed, tentative, and official budget on its website. The budget must describe each item in terms that are easily understandable. A school district must prominently post budget information on its website in a manner that is readily accessible to the public.<sup>259</sup>

#### Effect of Proposed Changes

The bill requires district budget amendments to occur at the district school board's next scheduled public meeting. The district school board must also provide a full explanation of any budget amendments.

#### *Department of Education Reporting Requirements*

#### Present Situation

The Legislature may require school districts failing to meet prescribed academic performance standards to increase emphasis on classroom instruction activities by meeting certain classroom expenditure requirements. In determining the classroom expenditure requirement, the DOE is required to calculate the total K-12 operating and classroom instruction expenditures for each district and the percentage of classroom expenditures to total operating expenditures for each district and the state. School districts required to increase emphasis on classroom activities must submit a final report to the DOE explaining proposed budget actions and the district's level of compliance with spending requirements.<sup>260</sup>

#### Effect of Proposed Changes

The bill repeals the requirement that a school district increase emphasis on classroom instruction activities if the school district fails to meet minimum academic performance standards.

#### *Lobbying*

#### Present Situation

Currently, an individual elected to a school district office is prohibited from lobbying the school district for a period of two years after leaving the position; however, current law does not prohibit an appointed superintendent from lobbying immediately after leaving the position.<sup>261</sup>

#### Effect of Proposed Changes

The bill prohibits appointed, along with elected superintendents, from lobbying school districts for a period of two years after vacating the position.

#### *District School Board Member Salary*

#### Present Situation

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<sup>259</sup> Section 1011.035(3), F.S.

<sup>260</sup> Section 1011.64(1)-(4), F.S.

<sup>261</sup> Section 112.313(14), F.S.

Each district school board member receives a salary based on the population of the county served. In addition, district school board members receive additional compensation for population increments over the minimum for each population group as follows:<sup>262</sup>

<u>Pop. Group</u>	<u>County Pop. Range</u>		<u>Base Salary</u>	<u>Group Rate</u>
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

### Effect of Proposed Changes

The bill aligns district school board member salaries with beginning teacher salary or the amount calculated by statute, whichever is less. In fiscal year 2016-17, average district school board member salary exceeded the average beginning teacher salary in the following districts:

- Alachua (\$782)
- Broward (\$739)
- Dade (\$850).
- Duval (\$1,810).
- Hillsborough (\$3,554).
- Lee (\$1,525).
- Leon (\$435).
- Marion (\$528).
- Orange (\$1,091).
- Palm Beach (\$747).
- Pinellas (\$2,605)
- Putnam (\$3,875).
- Santa Rosa (\$1,263).
- Walton (\$870).<sup>263</sup>

### *District School Board Member Travel Expenses*

#### Present Situation

Each district school board member is reimbursed for authorized travel expenses. Any travel outside the district must also be governed by the rules of the State Board of Education.<sup>264</sup>

#### Effect of Proposed Changes

The bill requires prior district school board approval for reimbursement of out-of-district travel expenses. Any request for out-of-state travel must also include an itemized list of all anticipated expenses,

<sup>262</sup> Section 1001.395, F.S.

<sup>263</sup> Florida Department of Education, Florida District Staff Salaries of Selected Positions, 2016-17, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.stml>.

Email, House Education Committee (January 11, 2018).

<sup>264</sup> Section 1001.39, F.S.

including, but not limited to, the anticipated costs of all means of travel, lodging, and subsistence. The public must have an opportunity to comment on the travel agenda item.

### *Financial Disclosure Fines*

#### Present Situation

Currently, the Commission on Ethics (COE) determines whether a person owing a public financial disclosure fine is a public officer or public employee.<sup>265</sup> If the COE determines that the person is a current public officer or public employee, it may notify the Chief Financial Officer (CFO) or governing body of the amount owed. After receipt and verification of the notice, the CFO or governing body must withhold the lesser of 10 percent, or the maximum allowable under federal law, of any payment made from public money to satisfy outstanding fines. Additionally, the CFO or governing body may withhold an amount to compensate for administrative costs.<sup>266</sup>

#### Effect of Proposed Changes

The bill includes district school boards as a governing body with the authority to withhold a portion of an employee's salary to pay public financial disclosure fines and permits district school boards to withhold a portion of the salary to cover administrative costs.

### *School District Personnel Policies*

#### Present Situation

District school board members are prohibited from employing or appointing a relative to work under their direct supervision.<sup>267</sup>

#### Effect of Proposed Change

The bill prohibits superintendents, along with district school board members, from employing or appointing a relative to work under their direct supervision. However, employees employed prior to the election or appointment of a family member are exempt from this restriction.

### **Standards of Ethical Conduct**

#### Present Situation

District school boards are required to adopt policies establishing standards of ethical conduct for instructors and administrators. The policies require instructors and administrators to complete specific training and establish a duty and procedure for reporting misconduct. Current law prohibits district school boards, instructors and administrators from entering into confidentiality agreements regarding termination, dismissal or resignation based on misconduct. District school boards are prohibited from providing references or discussing the performance of instructors or administrators without disclosing misconduct. Any part of an agreement that conceals instructor or administrator misconduct is unenforceable.<sup>268</sup>

#### Effect of Proposed Change

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<sup>265</sup> Sections 112.3144(5) and (7), and 112.3145(7), F.S.

<sup>266</sup> Section 112.31455(1)-(4), F.S.

<sup>267</sup> Section 1012.23(2), F.S. The term "relative" includes father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister. *See* s. 112.3135, F.S.

<sup>268</sup> Section 1001.42(6), F.S.



The bill clarifies that school officers and administrative personnel are subject to ethics standards, including training, reporting procedures, reference requirements and contract requirements.

The bill also clarifies educational staff disqualified from employment for conviction of certain criminal acts by changing the term “school administrators” to administrative personnel.

## Employee Organizations

### Present Situation

Collective bargaining is a constitutional right afforded to public employees<sup>269</sup> in Florida.<sup>270</sup> Chapter 447, F.S., specifies that public employees have the right to be represented in collective bargaining by any employee organization of their own choosing or to refrain from being represented.<sup>271</sup> An employee organization is defined as a “labor organization, union, association, fraternal order, occupational or professional society, or group, however organized or constituted, which represents, or seeks to represent, any public employee or group of public employees concerning any matters relating to their employment relationship with a public employer.”<sup>272</sup> An employee organization that is authorized to represent public employees in collective bargaining is known as a certified bargaining agent.<sup>273</sup>

An employee organization seeking to become a certified bargaining agent for a unit of public employees must register with and be certified by the commission. To register, the employee organization must submit an application to the commission that includes the following information:

- The name and address of the organization and of any parent organization or organization with which it is affiliated
- The names and addresses of the principal officers and all representatives of the organization
- The amount of the initiation fee and of the monthly dues that members must pay
- The current annual financial statement of the organization
- The name of its business agent, if any; if different from the business agent, the name of its local agent for service of process; and the addresses where such person or persons can be reached
- A pledge, in a form prescribed by the commission, that the employee organization will conform to the laws of the state and that it will accept members without regard to age, race, sex, religion, or national origin
- A copy of the current constitution and bylaws of the employee organization

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<sup>269</sup> The term “public employee” means any person employed by a public employer except:

(a) Persons appointed by the Governor or elected by the people, agency heads, and members of boards and commissions.

(b) Persons holding positions by appointment or employment in the organized militia.

(c) Individuals acting as negotiating representatives for employer authorities.

(d) Persons who are designated by the Public Employees Relations Commission (commission) as managerial or confidential employees pursuant to specific criteria.

(e) Persons holding positions of employment with the Florida Legislature.

(f) Persons who have been convicted of a crime and are inmates confined to institutions within the state.

(g) Persons appointed to inspection positions in federal/state fruit and vegetable inspection service whose conditions of appointment are affected by the following:

1. Federal license requirement.
2. Federal autonomy regarding investigation and disciplining of appointees.
3. Frequent transfers due to harvesting conditions.

(h) Persons employed by the commission.

(i) Persons enrolled as undergraduate students in a state university who perform part-time work for the state university.

The term “public employer” means the state or any county, municipality, or special district or any subdivision or agency thereof which the commission determines has sufficient legal distinctiveness properly to carry out the functions of a public employer. Section 447.203, F.S.

<sup>270</sup> Art. I, s. 6, FLA. CONST.

<sup>271</sup> Section 447.301(2), F.S.

<sup>272</sup> Section 447.203(11), F.S.

<sup>273</sup> Section 447.203(12), F.S.

- A copy of the current constitution and bylaws of the state and national groups with which the employee organization is affiliated or associated<sup>274</sup>

A registration granted to an employee organization is valid for one year and must be renewed annually.<sup>275</sup> The renewal application must reflect any changes to the information provided to the commission in the preceding application and must include a current annual financial report that contains the following information:

- Assets and liabilities at the beginning and end of the fiscal year
- Receipts of any kind and the sources thereof
- Salary, allowances, and other direct or indirect disbursements, including reimbursed expenses, to each officer and each employee who, during such fiscal year, received more than \$10,000 in the aggregate from the employee organization and any other affiliated employee organization
- Direct and indirect loans made to any officer, employee, or member that aggregated more than \$250 during the fiscal year, together with a statement of the purpose, security, if any, and arrangements for repayment
- Direct and indirect loans to any business enterprise, together with a statement of the purpose, security, if any, and arrangements for repayment<sup>276</sup>

After registering with the commission, an employee organization may begin the certification process. In order to be certified, an employee organization that is selected by a majority of the employees in an appropriate unit as their representative must first request recognition by the public employer.<sup>277</sup> If the public employer recognizes the employee organization as the collective bargaining representative for that unit, the employee organization must then petition the commission for certification.<sup>278</sup> If the unit proposed by the employee organization is deemed appropriate, the commission must immediately certify the employee organization as the exclusive representative of all employees in the unit.<sup>279</sup>

However, if the employer refuses to recognize the employee organization, the employee organization must file a petition with the commission that is accompanied by dated statements signed by at least 30 percent of the employees in the proposed unit, indicating that such employees desire to be represented by the employee organization.<sup>280</sup> If the commission determines the petition to be sufficient, it must order an election by secret ballot to determine whether the employee organization will be certified.<sup>281</sup> The petitioning employee organization is placed on the ballot along with any other registered employee organization that submits dated statements signed by at least 10 percent of the employees in the proposed unit, indicating their desire to be represented by that employee organization.<sup>282</sup> When an employee organization is selected by a majority of the employees voting in an election, the commission must certify the employee organization as the exclusive collective bargaining representative of all employees in the unit.<sup>283</sup>

An employee or group of employees who no longer desires to be represented by the certified bargaining agent may file with the commission a petition to revoke certification. The petition must be accompanied by dated statements signed by at least 30 percent of the employees in the unit, indicating that such employees no longer desire to be represented by the certified bargaining agent. If the commission finds the petition to be sufficient, it must immediately order an election by secret ballot. If a

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<sup>274</sup> Section 447.305(1), F.S.

<sup>275</sup> Section 447.305(2), F.S.

<sup>276</sup> *Id.*

<sup>277</sup> Section 447.307(1)(a), F.S.

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

<sup>280</sup> *Id.*

<sup>281</sup> Section 447.307(3)(a), F.S.

<sup>282</sup> Section 447.307(2), F.S.

<sup>283</sup> Section 447.307(3)(b), F.S.

majority of voting employees vote against the continuation of representation by the certified bargaining agent, the organization's certification is revoked.<sup>284</sup>

### Effect of Proposed Changes

The bill requires an employee organization that has been certified as the collective bargaining agent for a unit of instructional personnel to include for each such certified bargaining unit the following information in its renewal of registration:

- The number of employees in the bargaining unit who are eligible for representation by the employee organization
- The number of employees who are represented by the employee organization, specifying the number of members who pay dues and the number of members who do not pay dues

If the employee organization's dues-paying membership for a unit of instructional personnel is less than 50 percent of the employees eligible for representation in the unit, the organization must petition the PERC for recertification as the exclusive representative of all employees in the unit within 1 month after the date on which the organization applies for renewal of registration.

If the registered employee organization does comply with the recertification requirements or if it does not include the required information in its application for recertification renewal, the organization's certification for that unit is revoked.

### **Other Provisions**

The bill also removes obsolete language requiring the DOE to develop a statewide operating electronic Individual Educational Plan (IEP) system by July 1, 2007. The DOE launched the IEP system before the deadline.

## **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 11.45, F.S., relating to the duties and authorities of the Auditor General.

**Section 2.** Amends s. 112.313, F.S., relating to standards of conduct for public officers, employees of agencies, and local government attorneys.

**Section 3.** Amends s. 112.31455, F.S., relating to collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.

**Section 4.** Amends s. 212.1832, F.S., relating to credits for contributions to the Hope Scholarship Program.

**Section 5.** Amends s. 213.053, F.S., relating to confidentiality and information sharing.

**Section 6.** Amends s. 250.483, F.S., relating to active duty National Guard or Armed Forces licensure or qualifications.

**Section 7.** Amends s. 446.041, F.S., relating to duties of the Department of Education regarding apprenticeship programs.

**Section 8.** Amends s. 446.081, F.S., relating to limitations of apprentice agreements.

**Section 9.** Creates s. 683.147, F.S., establishing the Medal of Honor Day.

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<sup>284</sup> Section 447.308, F.S.

**Section 10.** Amends s. 1001.10, F.S., relating to the general powers and duties of the Commissioner of Education.

**Section 11.** Amends s. 1001.20, F.S., relating to the powers and duties of the Department of Education.

**Section 12.** Amends s. 1001.39, F.S., relating to district school board member's travel expenses.

**Section 13.** Amends s. 1001.395, F.S., relating to district school board member's compensation.

**Section 14.** Amends s. 1001.42, F.S., relating to the powers and duties of district school boards.

**Section 15.** Amends s. 1001.51, F.S., relating to the duties and responsibilities of district school superintendents.

**Section 16.** Amends s. 1002.33, F.S., relating to charter schools.

**Section 17.** Amends s. 1002.331, F.S., relating to high-performing charter schools.

**Section 18.** Amends s. 1002.333, F.S., relating to persistently low-performing schools.

**Section 19.** Amends s. 1002.37, F.S., relating to the Florida Virtual School.

**Section 20.** Amends s. 1002.385, F.S., relating to the Gardiner Scholarship.

**Section 21.** Amends s. 1002.39, F.S., relating to the John M. McKay Scholarships for Students with Disabilities Program.

**Section 22.** Amends s. 1002.395, F.S., relating to the Florida Tax Credit Scholarship Program.

**Section 23.** Creates s. 1002.40, F.S., establishing the Hope Scholarship Program.

**Section 24.** Amends s. 1002.395, F.S., relating to reading scholarship accounts.

**Section 25.** Amends s. 1002.421, F.S., relating to state school choice scholarship program accountability and oversight.

**Section 26.** Amends s. 1003.42, F.S., relating to required instruction.

**Section 27.** Amends s. 1003.576, F.S., relating individual education plans for exceptional students.

**Section 28.** Amends s. 1006.07, F.S., relating to district school board duties, student discipline and school safety.

**Section 29.** Amends s. 1007.271, F.S., relating to dual enrollment programs.

**Section 30.** Amends s. 1008.22, F.S., relating to student assessment program for public schools.

**Section 31.** Amends s. 1010.20, F.S., relating to cost accounting and reporting for school districts.

**Section 32.** Amends s. 1010.30, F.S., relating to required audits.

**Section 33.** Amends s. 1011.01, F.S., relating to budget systems.

**Section 34.** Amends s. 1011.03, F.S., relating to public hearings and budgets to be submitted to Department of Education.

**Section 35.** Amends s. 1011.035, F.S., relating to school district fiscal transparency.

**Section 36.** Amends s. 1011.051, F.S., relating to guidelines for school district general funds.

**Section 37.** Amends s. 1011.06, F.S., relating to guidelines for school district expenditures.

**Section 38.** Amends s. 1011.09, F.S., relating to expenditure of funds by district school boards.

**Section 39.** Amends s. 1011.10, F.S., relating to penalties for school districts.

**Section 40.** Amends s. 1011.60, F.S., relating to minimum requirements of the Florida Education Finance Program.

**Section 41.** Amends s. 1011.62, F.S., relating to funds for operation of schools.

**Section 42.** Amends s. 1011.6202, F.S., relating to Principal Autonomy Program Initiative.

**Section 43.** Repeals s. 1011.6202, F.S., relating to school district minimum classroom expenditure requirements.

**Section 44.** Amends s. 1011.69, F.S., relating to the Equity in School-Level Funding Act.

**Section 45.** Amends s. 1011.71, F.S., relating to district school taxes.

**Section 46.** Amends s. 1012.23, F.S., relating to school district personnel policies.

**Section 47.** Amends s. 1012.2315, F.S., relating to assignment of teachers.

**Section 48.** Amends s. 1012.28, F.S., relating to public school personnel and the duties of school principals.

**Section 49.** Amends s. 1012.32, F.S., relating to qualifications of educator personnel.

**Section 50.** Amends s. 1012.55, F.S., relating to educator positions for which certificates are required.

**Section 51.** Amends s. 1012.56, F.S., relating to educator certification requirements.

**Section 52.** Amends s. 1012.562, F.S., relating to public accountability and state approval of school leader preparation programs.

**Section 53.** Amends s. 1012.59, F.S., relating to certification fees.

**Section 54.** Amends s. 1012.98, F.S., relating to the School Community Professional Development Act.

**Section 55.** Amends s. 1013.28, F.S., relating to the disposal of property.

**Section 56.** Amends s. 1013.385, F.S., relating to school district construction flexibility.

**Section 57.** Amends s. 1013.62, F.S., relating to charter schools capital outlay funding.

**Section 58.** Provides funding from the General Revenue Fund.

**Section 59.** Authorizes the Department of Revenue to adopt rules to administer this act.

**Section 60.** Provides an effective date of July 1, 2018.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

On December 1, 2017, the Revenue Estimating Conference (REC) evaluated the language related to the Hope Scholarship Program, except that the language evaluated called for a \$20 contribution per vehicle purchase instead of \$105 as in the current bill. The REC estimated, at the \$20 contribution level, the negative impact on General Revenue collections would be at least \$7.9 million annually. Based on that analysis, at the \$105 contribution level staff estimates the negative impact on General Revenue collections will be at least \$41.5 million.

#### 2. Expenditures:

See Fiscal Comments, *infra*.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

For the 2018-2019 fiscal year, the bill appropriates to the Department of Education the sum of \$19,350,000 in recurring funds from the General Revenue Fund for the following provisions of the bill:

- \$9,700,000 to fund the Reading Scholarship Accounts and \$300,000 to fund administrative expenses of the eligible nonprofit scholarship-funding organization.
- \$2,000,000 to fund the Department of Education's obligations for implementation of the Hope Scholarship program.
- \$5,600,000 to implement the paper-based assessments for grades 7 and 8 English language arts and math assessments.
- \$950,000 to fund the Department of Education's additional oversight requirements for school choice scholarship and program accountability.
- \$250,000 for the Department of Education to issue a competitive grant award for purposes of reporting on assessment data provided by participating private schools in the Florida Tax Credit Scholarship Program.
- \$550,000 to fund instructional materials for home education students.

For the 2018-2019 fiscal year, the bill appropriates to the Department of Education the sum of \$850,000 in nonrecurring funds from the General Revenue Fund for the following provisions of the bill:

- \$750,000 to fund the Department of Education's development of the web-based fiscal transparency tool.
- \$100,000 to fund the Department of Education's contracting for the completion of a forensic audit.

The bill conforms to appropriations provided in HB 5001 as the funding for the Florida Education Finance Program is contingent upon the bill's passage.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

#### **B. RULE-MAKING AUTHORITY:**

The bill provides the State Board of Education rulemaking authority to establish criteria under which a student's industry certification may be rescinded.

The bill also authorizes the Department of Revenue to adopt emergency rules and deems all necessary conditions for exercising emergency rulemaking authority to be met.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**