

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 7197      PCB KINS 11-04      Digital Learning  
**SPONSOR(S):** Appropriations Committee, K-20 Innovation Subcommittee, Stargel  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Innovation Subcommittee	14 Y, 0 N	Fudge	Sherry
1) Appropriations Committee	21 Y, 1 N, As CS	Heflin	Leznoff
2) Education Committee			

### SUMMARY ANALYSIS

The bill increases the availability of online learning options by:

- Authorizing virtual charter schools to provide full-time online instruction to eligible kindergarten through grade 12 students in the district in which the student resides;
- Authorizing charter schools to offer blended learning courses to full-time students of the charter school. The online instruction must be provided from the physical location of the charter school;
- Authorizing Florida Virtual School (FLVS) to provide full-time instruction to students in kindergarten through grade 12, and part-time instruction to students in grades 4-5; part-time courses for 4<sup>th</sup> and 5<sup>th</sup> grade students are limited to public school students taking grade 6-8 courses for acceleration purposes;
- Requiring public school students receiving full-time and part-time instruction from the FLVS to take statewide assessments and receive a school grade for student receiving full-time instruction;
- Expanding the options available for school district virtual instruction programs, including:
  - Requiring school districts to provide multiple opportunities and provider options for virtual instruction;
  - Authorizing full-time K-12, part-time 9-12 and full- or part-time instruction for dropout prevention, academic intervention, and Department of Juvenile Justice (DJJ) courses;
  - Authorizing school districts to operate/create their own virtual instruction programs; and
  - Modifying the eligibility criteria for participation in virtual instruction programs to allow kindergarten and 1st grade eligibility without the requirement for prior year enrollment in the public school system;
- Requiring the department to develop an evaluation method for providers of part-time virtual programs;
- Authorizing students to take an online course offered by a school district other than their district of residence, providing that the total FTE reported by both school districts does not exceed one;
- Requiring high school students entering grade 9 in the 2011-2012 school year to complete at least one online course within the 24 credit requirement for high school graduation;
- Clarifying that funding for all virtual instruction options (FLVS, district operated virtual instruction programs and virtual charter schools) shall be through the Florida Education Finance Program (FEFP) as provided in the General Appropriations Act, but cannot include funding for class size requirements.
- Requiring all statewide end-of-course assessments to be administered online by the 2014-2015 school year;
- Revising the requirements for issuance of adjunct teaching certificates by school districts to encourage the use of experienced individuals to provide online instruction in Florida; and
- Requiring the Department of Education to issue a report identifying and explaining the best methods and strategies for increasing student access to digital learning.

The bill has a fiscal impact on state government. See Fiscal Comments.

The bill is effective July 1, 2011.

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

STORAGE NAME: h7197a.APC

DATE: 4/18/2011

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Virtual instruction programs provide an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>1</sup>

##### Reports and Recommendations

##### Florida Department of Education: Study on the Advisability of Expanding Part-time Virtual Options For Florida Students in Grades 9-12

In January 2010, the Florida Department of Education (DOE) released its “Study on the Advisability of Expanding Part-time Virtual Options for Florida Students in Grades 9-12.”<sup>2</sup> The report’s primary recommendation was that part-time online educational opportunities only be expanded as data-driven accountability mechanisms are developed for the courses. Specifically, the report recommended that only part-time online courses with statewide end-of-course examinations or valid independent exams, such as Advanced Placement (AP) courses, be made available to students.<sup>3</sup> However, comparable external tests or Florida Comprehensive Assessment Tests (FCAT), where applicable, should be permitted in place of statewide end-of-course exams.<sup>4</sup>

The report also recommended requiring part-time online courses to be approved by the DOE, and that the DOE in turn require that the provider demonstrate that the courses meet the standards created by the International Association for K-12 Online Learning (iNACOL). Advanced Placement courses should be required to successfully complete the College Board’s AP audit and all core courses should receive NCAA-approval from the NCAA eligibility center.<sup>5</sup>

##### Digital Learning Now!

In 2010, former Governor Jeb Bush (1999-2007) and Bob Wise, Governor of West Virginia (2001–2005) launched a national campaign, Digital Learning Now!, to advance policies that will create a high quality digital learning environment to better prepare students with the knowledge and skills to succeed in college and careers. The project is managed by the Foundation for Excellence in Education (Foundation) in partnership with the Alliance for Excellent Education. The Foundation is a 501(c)3 not-for-profit charitable organization whose mission is to ignite a movement of reform, state by state, to transform education for the 21st century. On December 1, 2010, the Foundation identified *10 Elements of High Quality Digital Learning*.<sup>6</sup> The 10 elements include:

1. **Student Eligibility:** All students are digital learners.
2. **Student Access:** All students have access to high quality digital content and online courses.
3. **Personalized Learning:** All students can customize their education using digital content through an approved provider.
4. **Advancement:** Students progress based on demonstrated competency.

---

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

<sup>2</sup> Florida Department of Education, *Study on the Advisability of Expanding Part-time Virtual Options For Florida Students in Grades 9-12*, on file with House Education Committee staff.

<sup>3</sup> *Id.* at 31.

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

<sup>5</sup> *Id.* at 32.

<sup>6</sup> Foundation for Excellence in Education, *Digital Learning Now!*, available at:

<http://www.excelined.org/Docs/Digital%20Learning%20Now%20Report%20FINAL.pdf>, December 1, 2010 (last visited March 30, 2011).

5. **Content:** Digital content, instructional materials, and online blended learning courses are high quality.
6. **Instruction:** Digital instruction and teachers are high quality.
7. **Providers:** All students have access to multiple high quality providers.
8. **Assessment and Accountability:** Student learning is the metric for evaluating the quality of content and instruction.
9. **Funding:** Funding creates incentives for performance, options and innovation.
10. **Delivery:** Infrastructure supports digital learning.

The first two recommendations were to expand the eligibility and access for students to participate in virtual education to all students who are eligible for public schools.<sup>7</sup>

The report also recommended that virtual education be delivered on a personalized basis. Specifically, the report called for flexible scheduling and blended learning opportunities where students could spend part of the day learning in the classroom and part of the day learning online.<sup>8</sup> Additionally, the report recommended that students should progress based on their demonstrated capacity. This would permit students to spend more time on subjects which they have not yet mastered and to move on from those subjects which they have mastered.<sup>9</sup>

Digital content, instructional materials, and online and blended learning courses should be aligned with applicable state standards. Accordingly, courses should be evaluated based on what students are expected to learn. Also, digital content should not be evaluated based on a higher standard than that applied to printed content, and that the textbook review process not be applied to digital content due to the potential to update digital content in real time.<sup>10</sup>

Online education instructors should be permitted to be certified through alternative routes which are most suitable for their particular educational role and are driven by performance.<sup>11</sup>

The report also recommended that students should have access to multiple high quality providers. To facilitate this access, the approval process should be open, transparent, and expeditious; students should be able to select from all approved public, private, and non-profit providers; the state should treat all providers equally; and the state should provide information concerning digital learning to students.<sup>12</sup>

Moreover, the quality of the content and instruction provided by virtual education courses should be measured by student performance on digital assessments.<sup>13</sup> Digital assessments were recommended because of the distinct advantages they offer, including unique evaluation models (such as simulations and constructed responses), faster results, instant feedback for students, and personalized analytics for teachers.<sup>14</sup> Student performance was recommended as the basis for quality measurement because of the advantages of outcome-based accountability frameworks.<sup>15</sup>

The final two recommendations dealt with the funding and infrastructure for digital education.<sup>16</sup>

### Florida's Public K-12 Virtual Education Options

---

<sup>7</sup> *Id.* at 7. The report called for the removal of certain barriers to eligibility and access to virtual education, including eligibility criteria such as public school attendance and class size limitations. *Id.* at 7-8.

<sup>8</sup> *Id.* at 8.

<sup>9</sup> *Id.* at 9.

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

<sup>11</sup> *Id.* at 10.

<sup>12</sup> *Id.* at 10-11.

<sup>13</sup> *Id.* at 11.

<sup>14</sup> *Id.* at 12.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 12-13.

## Florida Virtual School

The Florida Virtual School (FLVS) is a public online school providing students with several virtual education options.<sup>17</sup> FLVS offers more than 100 courses in core subjects, world languages, electives, honors, and Advanced Placement.<sup>18</sup>

FLVS offers individual course enrollments to all Florida students in grades 6-12, including public school, private school, and home education students.<sup>19</sup> In addition, the FLVS has partnered with Connections Academy to provide a full-time virtual education program to students in grades K-12.<sup>20</sup> Florida Virtual School Full Time (FLVS FT) is open to any public school student in grades K-12 through a school district virtual instruction program<sup>21</sup> if the student meets certain eligibility criteria and the student's resident school district contracts with FLVS for the provision of a virtual instruction program. There are separate statutory requirements relating to student eligibility, assessment and accountability, and funding for each of these options.<sup>22</sup>

FLVS is governed by a board of trustees appointed by the governor,<sup>23</sup> and its performance is monitored by the Commissioner of Education and reported to the State Board of Education and Legislature.<sup>24</sup> FLVS is fully accredited by the Southern Association of Colleges and Schools and AdvancEd.<sup>25</sup>

### School District Virtual Instruction Program

A school district virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.<sup>26</sup> The purpose of the program is to make instruction available to students using online and distance learning technology in the nontraditional classroom.<sup>27</sup> In 2008, the Legislature required all school districts to provide a virtual instruction program beginning with the 2009-2010 academic year.<sup>28</sup> In 2009, the Legislature significantly revised the program requirements.<sup>29</sup>

Each district must offer:

- A full-time virtual instruction program for students in kindergarten through grade 12,<sup>30</sup> and
- A full-time or part-time virtual instruction program for students in grades 9-12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-

---

<sup>17</sup> See Florida Virtual School, *Grades K-12 Options with FLVS*, <http://www.flvs.net/parents/Pages/K-12Options.aspx> (last visited May 26, 2010).

<sup>18</sup> Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited May 26, 2010).

<sup>19</sup> Florida Virtual School, *supra* note 17.

<sup>20</sup> Florida Virtual School Full Time, *Florida Virtual School Full Time*, <http://www.flvsft.com/> (last visited May 26, 2010).

<sup>21</sup> See s. 1002.45, F.S.

<sup>22</sup> Individual course enrollments and the FLVS FT program for non-public school students operate under s. 1002.37, F.S., relating to the Florida Virtual School. The FLVS FT program for public school students operates under s. 1002.45, F.S., relating to school district virtual instruction programs.

<sup>23</sup> Section 1002.37(2), F.S.

<sup>24</sup> Section 1002.37(1)(a), F.S.

<sup>25</sup> Florida Virtual School, *Accreditation*, <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx> (last visited May 26, 2010). In 2009, AdvancEd acquired the Commission on International and Trans-Regional Accreditation. See <http://www.citaschools.org/> and <http://www.advanc-ed.org/> (last visited May 26, 2010).

<sup>26</sup> Section 1002.45(1)(a), F.S.

<sup>27</sup> Section 1002.45(1)(b), F.S.

<sup>28</sup> Section 4, ch. 2008-147, L.O.F.

<sup>29</sup> Section 11, ch. 2009-59, L.O.F.

<sup>30</sup> Section 1002.45(1)(b)1., F.S.

curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.<sup>31</sup>

Students are eligible to participate in the virtual instruction program if the student was:

- Enrolled in a public school and reported for funding in the FEFP in the prior school year;
- A dependent child of a member of the armed forces whose parent was transferred in the last 12 months;
- Enrolled in a school district operated virtual instruction program or K-8 virtual school program in the prior school year; or
- A sibling of a student currently enrolled a virtual school program;

To provide its students with the opportunity to participate in a virtual instruction program, a school district may choose one or more of the following options:

- Contract with the Florida Virtual School (FLVS) or establish a franchise of the FLVS;<sup>32</sup>
- Contract with a provider approved by the Department of Education (DOE);<sup>33</sup>
- Contract with a community college;<sup>34</sup> or
- Enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.<sup>35</sup>

Contracts with the FLVS or other providers may include multidistrict contractual arrangements executed by a regional consortium.<sup>36</sup> Additionally, a charter school may enter into an agreement with a district for the charter school's students to participate in the district's virtual instruction program.<sup>37</sup>

Each contract between a school district and a provider must include the following:

- A detailed curriculum plan;
- A method for determining that a student has satisfied the requirements for graduation, if the contract is for a full-time virtual instruction program in grades 9-12;
- A method for resolving conflicts among parties;
- Authorized reasons for termination of the contract;
- A requirement that the approved provider be responsible for all debts of the program if the contract is terminated or not renewed; and
- A requirement that the approved provider comply with all statutory requirements relating to the program.<sup>38</sup>

Each provider contracted to provide a school district virtual instruction program must participate in the statewide assessment program and the state's education performance accountability system.<sup>39</sup> Each provider receives a school grade or school improvement rating, which is based upon the aggregated assessment scores of all students served by the provider statewide.<sup>40</sup> School grades or school improvement ratings are published on DOE's website.<sup>41</sup>

If a provider receives a school grade of "D" or "F" or a school improvement rating of "Declining," the provider must file a school improvement plan for correcting low performance with the DOE. The school improvement plan must identify the causes of the low performance and propose a plan for

---

<sup>31</sup> Section 1002.45(1)(b)2., F.S.

<sup>32</sup> Section 1002.45(1)(c)1., F.S.

<sup>33</sup> Section 1002.45(1)(c)2., F.S.

<sup>34</sup> Section 9, ch. 2010-154, L.O.F.; s. 1002.45(1)(a) and (1)(c)2., F.S.

<sup>35</sup> Section 1002.45(1)(c)3., F.S.

<sup>36</sup> Section 1002.45(1)(c), F.S. Multidistrict consortia include Panhandle Area Educational Consortium (PAEC), Heartland Educational Consortium (HEC), and Northeast Florida Educational Consortium (NEFEC). See s. 1001.451, F.S.

<sup>37</sup> Section 1002.45(1)(d), F.S.

<sup>38</sup> Section 1002.45(4), F.S.

<sup>39</sup> Section 1002.45(8)(a)1., F.S.

<sup>40</sup> The performance of part-time 9-12 students is not included in the provider's school grade or school improvement rating. Performance of such students is included in the nonvirtual school that provides the student's primary instruction. Section 1002.45(8)(b), F.S.

<sup>41</sup> Section 1002.45(8)(a)2., F.S.

improvement. If a provider receives a school grade of "D" or "F" for any two years during a four-year period, the provider's contract must be terminated and the provider cannot be approved for at least one year.<sup>42</sup>

### Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a "charter."<sup>43</sup> The charter exempts the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods.<sup>44</sup> One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.<sup>45</sup>

Charter schools are funded in the same manner as traditional public schools and may not charge tuition.<sup>46</sup> Like traditional public schools, a charter school's students must take the statewide assessments and charter schools receive an annual school grade.<sup>47</sup> Teachers employed by or under contract with a charter school must be certified as those in traditional public schools.<sup>48</sup>

### High School Graduation Requirements

To graduate, a student must earn credits in required high school courses and achieve the required grade point average, with the number of credits, required courses, and required grade point average varying based upon which graduation option the student selects.<sup>49</sup> Students may also receive a standard high school diploma in Florida by successfully completing the International Baccalaureate (IB) or Advanced International Certificate of Education (AICE) program curricula.

In addition, to receive a standard high school diploma, each student is currently required to pass the grade 10 FCAT in Reading and Mathematics or attain concordant scores on either the SAT or ACT tests.<sup>50</sup>

### Statewide Assessment Program

The Commissioner of Education must design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of public schools.<sup>51</sup> The statewide assessment program consists of the Florida Comprehensive Assessment Test (FCAT) and statewide, standardized end-of-course (EOC) assessments.<sup>52</sup>

The FCAT consists of comprehensive grade-level assessments in reading, writing, mathematics, and science.<sup>53</sup> Statewide, standardized EOC assessments are course-specific assessments.<sup>54</sup> The FCAT and statewide, standardized EOC assessments must be criterion-referenced tests<sup>55</sup> and must be

---

<sup>42</sup> Section 1002.45(8)(c) and (d), F.S.

<sup>43</sup> Section 1002.33(5)(a), (7) and (9)(a), F.S.

<sup>44</sup> Section 1002.33(2) and (16), F.S.

<sup>45</sup> Section 1002.33(2), F.S.

<sup>46</sup> Section 1002.33(9)(d) and (17), F.S.

<sup>47</sup> Section 1002.33(16)(a), F.S.

<sup>48</sup> Section 1002.33(12)(f), F.S.

<sup>49</sup> Sections 1003.428, 1003.429, and 1003.43, F.S.

<sup>50</sup> Sections 1003.428(4)(b), 1003.429(6)(a), 1003.43(5)(a), and 1008.22(3)(c)6. and (10), F.S.; Florida Department of Education, Office of Assessment and School Performance, *FCAT Graduation Requirements* (Nov. 2009), available at <http://fcat.fldoe.org/pdf/fcatpass.pdf> [hereinafter *FCAT Graduation Requirements*].

<sup>51</sup> Section 1008.22(3), F.S.

<sup>52</sup> Section 1008.22(3)(c)1. and 2., F.S.

<sup>53</sup> Section 1008.22(3)(c)1., F.S.

<sup>54</sup> Section 1008.22(3)(c)2.a., F.S.

<sup>55</sup> Section 1008.22(3)(c)4., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students. Florida

aligned to the core curricular content established in the *Sunshine State Standards*, which specify the knowledge and skills that K-12 public school students are expected to acquire.<sup>56</sup>

In 2008, the Legislature required the State Board of Education to review the Sunshine State Standards and replace them with more specific, rigorous, and relevant Next Generation Sunshine State Standards.<sup>57</sup> In order to align the assessment program with the Next Generation Sunshine State Standards, the DOE is developing new statewide assessments, including the FCAT 2.0 and EOC Assessments.<sup>58</sup> In 2010, the Legislature significantly revised the statewide assessment program requirements, replacing several FCAT assessments with EOC assessments.<sup>59</sup>

EOC assessments are subject-specific assessments that are administered at the end of a particular course. EOC assessments must be rigorous, statewide, standardized, and developed or approved by the DOE.<sup>60</sup> In 2010, the Legislature required the DOE to implement statewide, standardized EOC assessments in Algebra 1, Geometry, and Biology 1 at the high school level,<sup>61</sup> and an EOC assessment in Civics Education at the middle school level.<sup>62</sup> Contingent upon funding, the Legislature also required the commissioner to establish an implementation schedule for the development and administration of additional statewide, standardized EOC assessments in English/Language Arts II,<sup>63</sup> Algebra 2, Chemistry, Physics, Earth/Space Science, United States (US) History, and World History.<sup>64</sup> Currently, the DOE is developing an EOC in US History.<sup>65</sup>

Beginning with the 2010-2011 school year, the Department began transitioning to Computer Based Testing for statewide assessments. By 2014-2015, end-of-course assessments will be provided online for Algebra 1, Geometry, Biology 1, US History, and Civics.<sup>66</sup>

### **Effect of Proposed Changes**

The bill incorporates several elements identified in the *10 Elements of High Quality Digital Learning*,<sup>67</sup> such as, requiring high school students to take an online course, authorizing blended learning courses, increasing access to high quality digital providers, establishing metrics for evaluating the quality of content and instruction, and requiring administration of assessments online.

### **Blended Learning Courses**

The bill authorizes charter schools to offer blended learning courses to full-time students of the charter school who receive online instruction from the physical location of the charter school. The bill requires that blended learning courses be provided by part-time or full-time employees of the charter school or by contracted providers of the instructional service. The instructor must also be certified in the subject

---

Department of Education, *FCAT Handbook: A Resource for Educators*, at 5 (2005), available at <http://fcat.fldoe.org/handbk/complete.pdf> [hereinafter *FCAT Handbook*]. Before 2008, the FCAT consisted of CRTs in reading, writing, mathematics, and science and norm-referenced tests (NRTs) in reading and mathematics. *Id.* In 2008, the Legislature repealed provisions authorizing use of the NRT. Section 7, ch. 2008-142 and s. 18, ch. 2008-235, L.O.F.

<sup>56</sup> Section 1008.22(3)(c)1. and 2.a., F.S.

<sup>57</sup> Section 1, ch. 2008-235, L.O.F., *codified at* s. 1003.41, F.S.

<sup>58</sup> State Board of Education, *Action Item: Approval for High School Accountability Assessments and High School Graduation Requirements* (May 18, 2010), available at [http://www.fldoe.org/board/meetings/2010\\_05\\_18/coveraccountability.pdf](http://www.fldoe.org/board/meetings/2010_05_18/coveraccountability.pdf).

<sup>59</sup> Chapters 2010-22 and 2010-48, L.O.F.

<sup>60</sup> Section 1008.22(3)(c)2.a., F.S.

<sup>61</sup> Section 8, ch. 2010-22, L.O.F.

<sup>62</sup> Section 3, ch. 2010-48, L.O.F.

<sup>63</sup> Priority must be given to the development of EOC assessments in English/Language Arts II. The commissioner must evaluate the feasibility and effect of transitions from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an EOC assessment in English/Language Arts II and report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011. Section 1008.22(3)(c)2.c., F.S.

<sup>64</sup> Section 1008.22(3)(c)2.c., F.S.

<sup>65</sup> Rule 6A-1.09422(3)(e), F.A.C.

<sup>66</sup> Florida Department of Education/ARM, *Transition to Next Generation and Computer-Based Tests in Florida*, available at: <http://fcat.fldoe.org/fcat2/cbt.asp>, last updated February 2011 (last visited March 24, 2011).

<sup>67</sup> Foundation for Excellence in Education, *Digital Learning Now!*, available at: <http://www.excelined.org/Docs/Digital%20Learning%20Now%20Report%20FINAL.pdf>, December 1, 2010 (last visited March 30, 2011).

area of the course. Faculty members providing online instruction for blended courses may be in a remote location from the school. However, the students of the courses must be full-time students of the charter school and must receive online instruction from the physical location of the school. Blended learning courses are considered in the same manner as traditional courses for funding and accountability purposes.

### Online Learning

The bill requires grade 9 students entering the 2011-2012 school year to take at least one online course before high school graduation. The requirement may be met by a course offered through the Florida Virtual School, through an online course offered by the high school, or through an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement. This requirement can also be met by enrollment in a full-time or part-time virtual instruction program offered by the school district.

### Virtual Charter Schools

Beginning with the 2011-2012 school year, the bill expands virtual instruction options by allowing a charter school to operate a virtual charter school to provide full-time online instruction to eligible kindergarten through grade 12 students in the district in which the student resides. The virtual charter school may contract with the Florida Virtual School or an approved provider.

The governing board of a virtual charter school:

- May be required to have 50 percent of the governing board reside in the school district in which the school is sponsored.
- Must hold at least three public meetings annually in the school district.
- Must have a quorum of the governing board physically present at each meeting.

Students are eligible to attend a virtual charter school in the district in which the student resides if the student was:

- Enrolled in a public school and reported for funding in the FEFP in the prior school year;
- A dependent child of a member of the armed forces whose parent was transferred in the last 12 months;
- Enrolled in a school district operated virtual instruction program or K-8 virtual school program in the prior school year;
- A sibling of a student currently enrolled a virtual school program; or
- Eligible to enter kindergarten or first grade.

The funding for a virtual charter school shall be through the FEFP, however, no funds will be provided for class size requirements.

The sponsor of a virtual charter school may withhold an administrative fee of up to 5 percent to cover the cost of services and for the school district's local instructional improvement system or other technological tools required to access electronic and digital instructional materials.

### Florida Virtual School

The bill allows the expansion of the Florida Virtual School (FLVS) to provide full-time online instruction to students in kindergarten through grade 12, and part-time instruction to students in grades 4-5. However, part-time courses for 4th and 5th grade students are limited to public school students taking grade 6-8 courses for acceleration purposes. The FTE generated by the Florida Virtual School for fourth and fifth grade students must be part of the total FTE of 1.0 reported for the student for the fiscal year.

Elementary school principles are required to notify parents of students scoring level 4 or 5 on FCAT reading or math of the option for the student to take accelerated courses through the FLVS.



The bill requires public school students receiving full-time and part-time instruction from the FLVS to take statewide assessments – including FCAT and statewide end-of-course exams.

The bill requires the FLVS to receive a school grade for students receiving full-time instruction.

### District Virtual Instruction Program

Beginning with the 2011-2012 school year, the bill expands the virtual instruction program by requiring each school district to provide multiple opportunities for part-time and full-time virtual instruction, including at least three virtual instruction provider options. To increase utilization of virtual instruction, the bill requires school districts to directly notify parents of these options through an open enrollment period for full-time students of at least ninety days and not ending earlier than thirty days prior to the first day of the school year.

The bill expands the district virtual instruction program to include part-time virtual instruction in grades 9 through 12 for courses that are measured by an evaluation system developed by the Department of Education. The evaluations will include the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessments, the percentage of students taking AP course exams, and the percentage of students scoring a three (3) or above on the AP course exam.

Currently, school districts may fulfill the requirement for virtual instruction through contracts with the Florida Virtual School, contracts with approved providers, or through an agreement with another school district. The bill clarifies that school districts may fulfill this requirement through agreements with more than one school district and through multidistrict contractual arrangements, as well as through developing a school district operated virtual instruction program.

The bill also increases the criteria by which the department approves providers. The provider must demonstrate student performance improvements for each subject area and grade level and provide a detailed curriculum and student performance accountability plan. The courses and programs offered by the provider must meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board. The instructional content of courses must be aligned with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards. The provider must also publish information about each full-time and part-time program, school policies and procedures, certification status and physical location of all administrative and instructional personnel, student teacher ratios, student completion and promotion rates, and student, educator, and school performance accountability outcomes. Currently approved providers must re-apply for approval to provide a part-time program for students in grades 9 through 12. A provider that has its contract terminated may not be an approved provider for a period of at least two years.

The bill also revises eligibility criteria for student participation in a school district operated virtual instruction program to include students entering kindergarten or first grade without the requirement for prior year enrollment and funding in a public school. The bill further clarifies that funding for students participating in a virtual instruction program shall be through the Florida Education Finance Program as provided in the General Appropriations Act, but cannot include funding for class size requirements.

### Online Assessments

The bill requires all statewide end-of-course assessments to be administered online by the 2014-2015 school year.

### Adjunct Teaching Certificate

The bill revises the authority of school districts to issue adjunct certificates for part-time teaching positions. School districts would be able to utilize the expertise of individuals in this state to provide online instruction to Florida students. An adjunct teaching certificate is valid through the term of the annual contract between the adjunct and the school district and is renewable if the adjunct teacher is rated effective or highly effective pursuant to s. 1012.34, F.S.

## Reports

The bill requires the Department of Education to identify and explain the best methods and strategies for assisting district school boards in acquiring digital learning and for implementing part-time virtual education for kindergarten through fifth grade. This explanation must be made in a report to the Governor, the Senate President, and the Speaker of the House of Representatives. The report must contain criteria to enable school districts to differentiate between the levels of service and pricing for digital learning. The criteria must include such factors as the level of student support, the frequency of teacher-student communications, instructional accountability standards, and academic integrity.

### B. SECTION DIRECTORY:

**Section 1:** Creating section 1002.321, F.S., creating the Digital Learning Now Act to expand access to high-quality digital learning.

**Section 2:** Amending s. 1002.33, F.S., authorizing virtual charter schools and authorizing blended learning courses at charter schools.

**Section 4:** Amending s. 1002.45, F.S., revising requirements for school district operated virtual instruction programs and establishing virtual charter schools to expand options for virtual instruction.

**Section 3:** Amending section 1002.37, F.S., revising requirements for reporting of full-time equivalent students; authorizing the Florida Virtual School (FLVS) to provide full-time instruction to kindergarten through grade 12 students and part-time instruction to grades 4 through 12 students; limiting instruction to part-time students in grades 4 and 5 to public school students and only grade 6 through 8 courses; requiring parental notification of accelerated learning options for all students scoring level 4 or 5 on FCAT reading or math; requiring students of the FLVS to take statewide assessments; and requiring the FLVS to receive a school grade.

**Section 5:** Creating s. 1002.455, F.S., establishing eligibility criteria for participation in virtual instruction options.

**Section 6:** Amending s. 1003.428, F.S., revising high school graduation requirements to include at least one course completed through online learning.

**Section 7:** Creating s. 1003.498, F.S., establishing options for school district virtual course offerings.

**Section 8:** Amending s. 1008.22, F.S., requiring all statewide end-of-course assessments be administered online.

**Section 9:** Amending s. 1011.61, F.S., revising the requirements for reporting of full-time equivalent student membership for purposes of funding in the FEFP.

**Section 10:** Amending s. 1012.57, F.S., revising requirements for issuance of adjunct teaching certificates.

**Section 11:** Amending s. 1000.04, F.S., correcting a cross-reference.

**Section 12:** Amending s. 1002.20, F.S., correcting a cross-reference.

**Section 13:** Amending s. 1003.03, F.S., correcting a cross-reference.

**Section 14:** Requiring the Department of Education to submit a report on ways to expand digital learning statewide and strategies for implementing part-time virtual education in kindergarten through grade 5.

**Section 15:** Providing an effective date of July 1, 2011.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments section.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

The bill expands options for students to participate in virtual instruction. The bill will increase enrollment for the Florida Virtual School as well as for school district operated virtual instruction programs. Additionally the bill authorizes virtual charter schools. All of the expanded enrollment options for virtual instruction will add enrollment to the Florida Education Finance Program (FEFP) for funding in the General Appropriations Act. A Public School Enrollment Estimating conference was held on April 12, 2011 and adopted estimates for full-time equivalent enrollment impacts for several provisions of proposed bill language. Although the estimating conference did not adopt estimates for all of the provisions of this bill, the following estimates apply:

<b>FTE Enrollment Expansion Issue</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
Authorization for students to cross districts to take online courses	FTE – no change in TOTAL FTE  Funding - \$1.13 M cost to state if 1% of students in 90% districts take courses in another district	FTE – no change in TOTAL FTE  Funding - \$1.13 M cost to state if 1% of students in 90% districts take courses in another district	FTE – no change in TOTAL FTE  Funding - \$1.13 M cost to state if 1% of students in 90% districts take courses in another district
Florida Virtual School Expansion	FTE = 400 Funding = \$2.0M	FTE = 452 Funding = \$2.2M	FTE = 497 Funding = \$2.4M
Virtual Instruction Program Eligibility Expansion & Authorization for Virtual Charter schools	FTE = 600 Funding = \$3.1M	FTE = 678 Funding = \$3.5M	FTE = 746 Funding = \$3.9M
<b>TOTAL FTE and ESTIMATED FUNDING IMPACT</b>	<b>FTE = 1,000 Funding = \$6.2M</b>	<b>FTE = 1,130 Funding = \$6.8M</b>	<b>FTE = 1,243 Funding = \$7.4M</b>

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the Proposed Committee Bill favorably. The bill required that for the courses required for high school graduation, at least one course must contain online learning. The amendment revised this provision to require the course to be completed solely through online learning.

On April 15, 2011, the Appropriations Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment creates the Digital Learning Now Act to expand student access to high-quality digital learning.

The strike-all amendment revises the following provisions:

- Revises the number of virtual instruction options that school district must provide. (Reduced from 9 to 3 to accommodate smaller districts).
- Specifically authorizes school districts to operate/create their own virtual instruction programs.
- Modifies the eligibility criteria for participation in virtual instruction programs to allow kindergarten and 1<sup>st</sup> grade eligibility without the requirement for prior year enrollment in the public school system.
- Revises the date by which high school students entering grade 9 must complete at least one online course, from 2013-14 to 2011-2012.
- Revises the funding requirements for all virtual instruction options (FLVS, school district operated virtual instruction programs and virtual charter schools) to clarify that funding shall be through the Florida Education Finance Program as provided in the General Appropriations Act, but cannot include funding for class size requirements.

Additionally, the strike-all adds the following provisions:

- Authorizes virtual charter schools to provide full-time online instruction to kindergarten through grade 12 students in the district in which the student resides.
  - Virtual charter schools must contract with the Florida Virtual School, an approved provider, or enter into an agreement with the school district to allow the charter school's students to participate in the district's VIP.
  - The district may require that up to half of the virtual charter school's governing board reside in the district.
  - The board must hold three public meetings in the district per year.
  - A quorum of the governing board members must physically attend each meeting.
  - The sponsoring school district may withhold an administrative fee equal to 5% of the total funds generated by the charter school through the FEFP.
- Authorizes school districts to offer blended learning courses that combine traditional classroom instruction and virtual instruction taught by a teacher that is not physically in the classroom.
- Enables public school students to enroll in an online course offered by another district if:

- the course is not offered by the student's district; or
  - the course is offered, but the student is unable to schedule the course.
- Authorizes Florida Virtual School to provide full-time online instruction to students in kindergarten through grade 12, and expands part-time instruction to students in grades 4-5 for public school students taking grade 6 through 8 courses.
  - Elementary school principals are required to notify parents of students scoring level 4 or 5 on FCAT reading or math of the option for the student to take accelerated courses through the FLVS.
- Requires public school students receiving full-time and part-time instruction from the Florida Virtual School to take statewide assessments – including FCAT and statewide end-of-course exams
- Requires Florida Virtual School to receive a school grade for students receiving full-time instruction.