

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7067 PCB EDC 20-01 School Choice
SPONSOR(S): Appropriations Committee, Education Committee, Sullivan
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	15 Y, 0 N	D'Souza	Hassell
1) Appropriations Committee	18 Y, 10 N, As CS	Potvin	Pridgeon

SUMMARY ANALYSIS

The bill revises the Gardiner Scholarship Program (GSP), the Family Empowerment Scholarship Program (FES), the Florida Tax Credit Program (FTC), and Florida's statewide, standardized assessments.

School Choice

The bill revises requirements for the GSP by allowing a student with a disability who turns 3 years of age after September 1 to apply and be determined eligible for a scholarship if funds are available, instead of requiring the student to wait for the next program year to apply and prohibiting eligibility to participate if the child is receiving another educational scholarship.

The bill revises requirements for the FES by increasing the income threshold by 25 percentage points when more than 5 percent of total available scholarships have not been awarded and increasing the cap on total enrollment growth from 0.25 percent per year to 1.0 percent per year. The bill also expands program eligibility and providing eligibility for certain student populations.

The bill revises requirements for the FTC by providing that a student who receives a FTC scholarship remains eligible to participate until the student enrolls in a public school, graduates from high school, or reaches 21 years of age.

As part of the annual review of the Hope Scholarship Program (HSP), the bill requires a review of the school bullying prevention education program, climate, and code of student conduct of a public school only if ten or more students transfer to another public or private school using the HSP in a single academic year.

Statewide, Standardized Assessments

The bill requires each school district to choose either the SAT or ACT for districtwide administration to grade 11 students beginning in the 2020-2021 school year. The bill authorizes the Commissioner of Education to discontinue the statewide, standardized Geometry end-of-course assessment upon approval from the U.S. Department of Education to use the SAT or ACT as the state's high school mathematics assessment under federal law. The bill discontinues the grade 9 English language arts assessment after the 2021-2022 school year.

Other Provisions

The bill requires all grade 12 students to take a civic literacy assessment beginning in the 2020-2021 school year and requires postsecondary students to demonstrate civic literacy by successfully completing a civic literacy course and achieving a passing score on the civic literacy assessment. A student who achieves a passing score on the assessment in high school will not be required to take the assessment at a postsecondary institution.

The bill requires the Commissioner of Education to submit a report by December 1, 2020, to the Governor, Senate President, Speaker of the House, the Board of Governors, and the State Board of Education, to provide recommendations addressing the feasibility of implementing the Pathways in Technology Early College High School program, or a similar program, in Florida.

The bill would have an indeterminate fiscal impact based on the number of FES scholarships awarded to eligible students who were not enrolled in a public school in the prior school year. However, any fiscal impacts would be incorporated into the overall Florida Education Finance Program.

The bill provides an effective date of July 1, 2020, except as otherwise provided.

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

STORAGE NAME: h7067a.APC

DATE: 2/26/2020

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

School Choice

Present Situation

For decades, Florida has been a national leader in providing high quality education options for thousands of parents and students. In addition to a myriad of public options, Florida offers four scholarship programs that allow parents of eligible students to register and attend private schools that may better serve a student's particular needs. Research shows students participating in another scholarship program were 15 percent more likely to enroll in a public college than their peers.¹ Private schools must meet specific criteria in order to be eligible to participate in these programs and the Department of Education (DOE) and Commissioner of Education (commissioner) are tasked with implementation and oversight responsibilities. In 2018, the Legislature strengthened the oversight and accountability measures for all scholarship programs in the state.² In addition, because a majority of private schools participate in more than one scholarship program, the Legislature consolidated all the common criteria relating to private school participation into a single statute.³

The Gardiner Scholarship Program

The Gardiner Scholarship Program (GSP) was created in 2014 and provides parents of eligible students with disabilities more flexibility to customize their child's education.⁴ Funds are distributed to qualified⁵ scholarship-funding organizations (SFOs) to establish accounts for eligible students.⁶ Parents can use funds from their account to choose from a variety of approved items for their student, including: contracted services, curriculum, instructional materials, tuition and specialized services such as applied behavior analysis, speech therapy, or occupational therapy.⁷

A student is eligible for the GSP if the:

- student is a resident of the state;
- student is 3 or 4 years old on or before September 1 of the year in which the parent applies for a scholarship; and
- student has a qualifying disability⁸ documented by an IEP or a diagnosis by a licensed physician or psychologist.⁹

¹ Urban Institute, *The Effects of Statewide Private School Choice on College Enrollment and Graduation – Evidence from the Florida Tax Credit Scholarship Program*, September 2017, available at: https://www.urban.org/sites/default/files/publication/93471/the_effects_of_statewide_private_school_choice_on_college_enrollment_and_graduation_1.pdf.

² Ch. 2018-6, L.O.F.

³ Section 1002.421, F.S. In the 2018-19 school year, 1,569 of private schools participated in more than one scholarship program. There were a total of 2,067 participating private schools. Email, Florida Department of Education, Jared Ochs, Legislative Affairs Director (July 31, 2019).

⁴ Section 1002.385(1), F.S.

⁵ Section 1002.385(2)(e), F.S.

⁶ *See s.* 1002.385, F.S.

⁷ Section 1002.385(5), F.S.

⁸ Section 1002.385(2)(d), F.S. Qualifying disabilities include: Autism spectrum disorder, cerebral palsy, Down syndrome, intellectual disability, Phelan-McDermid syndrome, Prader-Willi syndrome, spina bifida, high-risk, muscular dystrophy, Williams syndrome, rare diseases, anaphylaxis, deaf, visually impaired, traumatic brain injured, hospital or homebound, or dual sensory impaired.

⁹ Section 1002.385(3)(a), F.S.

As of December 2019, 13,239 students were awarded Gardiner scholarships.¹⁰ The average scholarship amount is \$10,500 per student.¹¹

The Family Empowerment Scholarship Program

The Family Empowerment Scholarship Program (FES) was established in 2019 to provide children of Florida families that have limited financial resources with educational options to achieve success in their education.¹² The FES provides 18,000 students annually on a first-come, first-served basis education opportunities for academic and career success.¹³ Beginning in the 2020-2021 school year, the number of students participating in the FES may annually increase by 0.25 percent of the state's total public school enrollment.¹⁴

A student is eligible for FES if the student meets the following criteria:

- The student's household income level does not exceed 300% of the federal poverty level (\$77,250 for a family of four) or the student is on the direct certification list (list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution on Indian Reservations program);¹⁵ or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care;¹⁶ and
- The student is eligible to enroll in kindergarten or has spent the prior school year in attendance at a Florida public school. Prior attendance means the student was enrolled in, and in attendance at, a Florida public school during both the October and February student counts.¹⁷

Priority is given to students whose household income levels do not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care.¹⁸ Prior to scholarship funds being awarded, the student must be accepted and enrolled in a participating private school.¹⁹ A private school that is currently eligible to participate in any of the scholarship programs is eligible to participate in the FES.²⁰

As of the February 1, 2020, payments, 17,724 FES scholarships were funded for the 2019-2020 school year.²¹

The Florida Tax Credit Scholarship Program

The Florida Tax Credit Scholarship Program (FTC Program) was created in 2001²² and allows taxpayers to make private, voluntary contributions to SFOs that can then be awarded as scholarships to eligible low-income students for private school tuition and fees. Taxpayers can receive a tax credit for use against their liability for corporate income tax, insurance premium tax, severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders or alcoholic beverage taxes on beer, wine, and spirits²³. The tax credit is equal to 100 percent of the eligible contributions made.²⁴ To receive a tax credit the taxpayer must submit an application to the Department of Revenue and

¹⁰ Email from Amy Graham, Senior Policy Director, Step Up for Students (January 29, 2020).

¹¹ Florida Department of Education, *Gardiner Scholarship Program Fact Sheet* (October 2019), <http://www.fldoe.org/core/fileparse.php/5606/urlt/Gardiner.pdf>.

¹² Section 1002.394(1), F.S.

¹³ Section 1002.394(11)(a), F.S.

¹⁴ *Id.*

¹⁵ Section 1002.394(3)(a)1., F.S.

¹⁶ Section 1002.394(3)(a)2., F.S.

¹⁷ Section 1002.394(3)(b), F.S.

¹⁸ Section 1002.394, F.S.

¹⁹ Section 1002.394(3)(c), F.S.

²⁰ Section 1002.394(8)(a), F.S.

²¹ Email from Laura Mazyck, Interim Executive Director of Independent Education and Parental Choice, Department of Education (February 21, 2020).

²² Section 1002.395, F.S.

²³ Section 1002.395(1) and (5), F.S.

²⁴ Sections 220.1875 and 1002.395(5), F.S.

specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.²⁵ Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.²⁶

For FY 2017-2018, the maximum amount of tax credits available to be awarded was \$698 million. In any state fiscal year when the annual tax credits granted for the prior state fiscal year are equal to or greater than 90 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount is increased by 25 percent.²⁷ For FY 2017-2018, the actual tax credit contributions applicable against this limit was \$639.2 million which allowed the tax credit cap to increase by 25 percent; consequently the maximum amount of tax credits available for award in FY 2018-19 is \$873.6 million. However, the March 2019 Revenue Estimating Conference has forecasted \$687.8 million in estimated tax credit collections for FY 2018-2019.

A student is eligible for this scholarship program if:

- the student is on the direct certification list (eligible for free or reduced-priced lunch) or the student's household income does not exceed 185% of the federal poverty level;
- the student is currently placed, or during the previous state fiscal year was placed in foster care or in out-of-home care; or
- the student's household income is greater than 185 percent of the federal poverty level but does not exceed 260 percent of the federal poverty level.²⁸

In the 2018-19 school year, 100,512 students enrolled in 1,807 private schools in the FTC Program.²⁹

Research on the academic performance of FTC students is conducted annually. The DOE must provide a grant to a state university to annually report on the student performance of participating students. The report must include, to the extent possible, a comparison of scholarship student performance to the statewide student performance of public school students with socioeconomic backgrounds similar to those of the participating program students. The report must also include student performance for each participating private school with a student population that was at least 51 percent comprised of FTC Program students in the prior school year. The annual report must be published by the DOE on its website.³⁰

Florida law requires the Auditor General to annually conduct operational audits of the accounts and records of eligible nonprofit SFOs receiving eligible contributions under the FTC Program, including any contracts for services with related entities, to determine compliance.³¹ Such audits shall include, but not be limited to, a determination of the eligible nonprofit SFO's compliance.³² The Auditor General must provide its report on the results of the audits to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Chief Financial Officer, and the Legislative Auditing Committee, within 30 days of completion of the audit.

The Hope Scholarship Program

²⁵ Section 1002.395(5)(b), F.S.

²⁶ Section 1002.395(5)(e), F.S.

²⁷ Section 1002.395(5)(a), F.S.

²⁸ Section 1002.395(3)(b), F.S.

²⁹ Florida Tax Credit Scholarship Program, *February 2019 Quarterly Report*, available at <http://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Feb-2019-Q-Report.pdf>.

³⁰ Section 1002.395(9)(f), F.S.; See Florida State University Learning Systems Institute, *Florida Tax Credit Scholarship Program Evaluation*, <https://lsi.fsu.edu/projects/current-projects/florida-tax-credit-scholarship-program-evaluation/> (last visited January 30, 2020). The Learning Systems Institute (LSI) at Florida State University must conduct a program evaluation of the FTC Program and participating private schools are required to report the scores of FTC students in grades 3 to 10 on a nationally norm-referenced test or on Florida's standardized assessment to LSI.

³¹ Section 11.45(2)(l), F.S.

³² See Section 1002.395(6)(j), F.S.

In 2018, the Legislature created the Hope Scholarship Program (HSP) to provide the parent of a public school student subjected to a specified incident³³ at school the opportunity to transfer the child to another public school or to request a scholarship for the child to enroll in and attend an eligible private school.³⁴ A parent may also choose to enroll their child in a public school located outside the district in which the student resides and request a transportation scholarship.³⁵ The scholarship program is funded by taxpayers who make eligible contributions to SFOs, and in turn, receive a credit against any tax due as a result of the purchase or acquisition of a motor vehicle.³⁶ Contingent upon available funds, scholarships will be awarded on a first-come, first-served basis to eligible students in kindergarten through grade 12 who report an incident to the school principal.³⁷ Unallocated HSP funds may be used to fund the FTC Program under certain circumstances.³⁸

The DOE is required to contract with an independent entity to provide an annual evaluation of the HSP by:³⁹

- reviewing the school bullying education program, climate, and code of student conduct of each public school from which 10 or more students transferred to another public or private school using the HSP to determine areas in the school or school district procedures involving reporting, investigating, and communicating a parent's and student's rights that are in need of improvement;
- reviewing the school bullying prevention education program, climate, and code of student conduct of each public school to which a student transferred if the student was from a school identified above in order to identify best practices and make recommendations to a public school at which the incidents occurred;
- reviewing the performance of participating students enrolled in a private school in which at least 51 percent of the total enrolled students in the prior school year participated in the program and in which there are at least 10 participating students who have scores for tests administered; and
- surveying the parents of participating students to determine academic, safety, and school climate satisfaction and to identify any challenges to or obstacles in addressing the incident or relating to the use of the scholarship.

Effect of Proposed Changes

The Gardiner Scholarship Program

The bill authorizes a student with a disability who meets the GSP eligibility requirements, but who turns 3 years of age after September 1, to be determined eligible for a Gardiner scholarship on or after his or her third birthday and awarded a scholarship if funds are available. If funds are not available, the student is placed on the waitlist for the subsequent program year. The bill prohibits eligibility to participate in the GSP if the child is receiving any another educational scholarship, not just a FTC scholarship or John M. McKay scholarship.

The bill requires a Gardiner scholarship account to be closed after 2 fiscal years, rather than 3 fiscal years, in which the account has been inactive. The bill requires the parent to annually renew participation in the GSP in order for their student to be eligible to receive funding. The bill authorizes a student whose participation in the GSP is not renewed to continue spending scholarship funds that are in his or her account from prior years unless the account must be closed.⁴⁰ The bill requires a student's Gardiner scholarship account to be closed⁴¹ if a parent does not procure the necessary educational services for the student and the account has been inactive for 2 fiscal years.

³³ Section 1002.40(3), F.S. A specified incident includes: battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school.

³⁴ Section 1002.40(1), F.S.

³⁵ Section 1002.40(6)(a), F.S.

³⁶ Section 1002.420(2)(d) and (13), F.S.

³⁷ Section 1002.420(3) and (6), F.S.

³⁸ See s. 1002.40(13), F.S.

³⁹ Section 1002.40(8)(d)1.-4., F.S.

⁴⁰ See Section 1002.385(6)(b), F.S.

⁴¹ *Id.*

The Family Empowerment Scholarship Program

For eligibility to participate in the FES, the bill requires priority be given to:

- eligible students who received a FES during the previous school year;
- new applicants whose household income levels do not exceed 185 percent of the federal poverty level;
- new applicants who are in foster care or out-of-home care; and
- new applicants who are a dependent child of a member of the U.S. Armed Forces.

Beginning in the 2020-2021 school year, the bill requires the maximum number of FES scholarships to annually increase by 1 percent of the total public school student enrollment, rather than 0.25 percent. If more than 5 percent of the additional 1 percent increase of scholarships have not been awarded, the bill requires the maximum household income level be increased by 25 percent in the following fiscal year.

The bill also requires an eligible nonprofit SFO to verify the household income level of students and submit to DOE the verified list of students and related documentation to enable the DOE to determine student eligibility.⁴² The DOE must notify the school district of the parent's intent to participate the FES upon receipt of the verified list, instead of upon the parent's request. The bill revises the requirement that each school district inform all households within the district receiving free or reduced-priced meals under the National School Lunch Act of their eligibility to apply to an eligible nonprofit SFO, rather than DOE, for a scholarship by February 1 of each year. The parent must submit a request to an eligible nonprofit SFO at least 60 days before the first scholarship payment.

The bill expands eligibility by eliminating the requirement to spend the prior year enrolled in a public school for students in first or second grade. Also, students who received a FTC scholarship during the previous school year and, before initial receipt of the scholarship, spent the prior year attending a Florida public school are eligible to apply.

The bill also aligns the FES with the FTC Program requirements by:

- allowing a student to participate in no more than two virtual school, correspondence school, or distance learning program courses per school year;
- requiring DOE to maintain a list of nationally norm-referenced tests, which must meet industry standards of quality,⁴³ identified for purposes of satisfying the testing requirement;⁴⁴ and
- requiring a private school participating in the FES to report the scores of all participating students to a state university⁴⁵ by August 15 of each year.

The Florida Tax Credit Scholarship Program

For the purposes of continuity of educational choice, the bill provides that a student who receives a FTC scholarship remains eligible to participate until the student enrolls in a public school, graduates from high school or reaches 21 years of age. The bill aligns the FTC Program with the FES and the John M. McKay Scholarship Program by clarifying that a student who returns from a Department of Juvenile Justice detention center and has not spent more than 21 days there is not considered to have returned to public school.

⁴² See Section 1002.394(7)(b), F.S. The DOE is required to cross-check the list of participating FES students with the public school enrollment lists before each scholarship payment to avoid duplication.

⁴³ See Rule 6A-6.0960(b)1.-7., F.A.C.

⁴⁴ See Section 1002.394(8)(c)1., F.S. To be eligible to participate in the FES, a private school must annually administer or make provision for students participating in the program in grades 3 through 10 to take one of the nationally norm-referenced tests identified by DOE or to take the statewide assessments pursuant to s. 1008.22, F.S. Students with disabilities for whom standardized testing is not appropriate are exempt from this requirement. A participating private school must report a student's scores to his or her parent.

⁴⁵ See Section 1002.395(f), F.S. The DOE must issue a project grant award to a state university, to which private schools must report scores of participating students on the nationally norm-referenced tests or the statewide assessments administered by the private school in grades 3 through 10.

The bill authorizes eligible nonprofit SFOs to use the income earned on eligible contributions⁴⁶ for administrative expenses if the SFO has operated as an eligible nonprofit SFO 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. The bill requires the Auditor General to conduct operational audits at least every 3 years of the accounts of eligible non-profit SFOs receiving eligible contributions⁴⁷ under the FTC Program.⁴⁸

The Hope Scholarship Program

As part of the annual review of the HSP by an independent entity, the bill requires reviewing the school bullying prevention education program, climate, and code of student conduct of each public school from which ten or more students transferred to another public or private school using the Hope Scholarship in a single academic year to determine areas in the school or school district procedures involving reporting, investigating, and communicating a parent's and student's rights that are in need of improvement.

Florida's Statewide, Standardized Assessments

Present Situation

Under the *Every Student Succeeds Act* (ESSA),⁴⁹ states must implement high quality statewide, standardized assessments for all students:⁵⁰

- Annual English language arts (ELA) and mathematics assessments for all students in grades 3 through 8.
- At least one ELA and one mathematics assessment in high school.
- At least one science assessment during grades 3 through 5, 6 through 9, and 10 through 12.

Under ESSA, students in grade 8 who take a high school end-of-course (EOC) mathematics assessment used in the accountability system may be exempted from the grade-level mathematics assessment, but only if they will take a higher level mathematics assessment in high school that is also used in the accountability system.⁵¹

Each state's standardized assessments must also provide for the appropriate accommodations (i.e. interoperability with, and the ability to use assistive technology) necessary to measure the academic achievement of students with disabilities.⁵²

⁴⁶ See Sections 212.099, 212.1832, and 1002.40, F.S. "Eligible contribution" or "contribution" means a monetary contribution from an eligible business to an eligible nonprofit scholarship-funding organization to be used pursuant to the FTC Program. The eligible business making the contribution may not designate a specific student as the beneficiary of the contribution.

⁴⁷ See Section 1002.395, F.S.

⁴⁸ Florida Auditor General, *Annual Report* (2019), available at https://flauditor.gov/pages/pdf_files/annual%20report%202019.pdf.

The Legislature should consider amending Sections 11.45(2)(1), 1002.385(14)(a), and 1002.40(12), F.S., to require the Auditor General to conduct operational audits at least once every 3 years of the accounts and records of eligible nonprofit SFOs.

⁴⁹ Pub. L. No. 114-95, 129 Stat. 1802 (Dec. 10, 2015); 20 U.S.C. s. 6301 *et seq.* ESSA is a federal law reauthorizing and substantially revising the *Elementary and Secondary Education Act of 1965*. The goal of ESSA is to improve elementary and secondary education in public schools by conditioning the receipt of federal funds on the implementation of federal requirements. In order to receive Title I funds under ESSA, states must implement a statewide accountability system for K-12 public schools. ESSA also offers competitive and noncompetitive grant funds for teacher and school leader development, family engagement, student support, weighted per-pupil funding, and the development of innovative student progression systems and assessment formats.

⁵⁰ 20 U.S.C. s. 6311(b)(2).

⁵¹ 20 U.S.C. s. 6311(b)(2)(C).

⁵² 20 U.S.C. s. 6311(b)(2)(B)(vi)(II). Includes students with the most significant cognitive disabilities and students with a disability who are provided under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*).

Florida’s statewide, standardized assessments measure the extent to which students have mastered the Next Generation Sunshine State Standards.⁵³ The requirements for students in Florida are as follows:⁵⁴

ELA	Mathematics	Science	Social Studies
Grades 3-10: annual participation in the ELA Florida Standards Assessment (FSA)	<ul style="list-style-type: none"> Grades 3-8: annual participation in the mathematics FSA High school: Algebra I and Geometry EOC assessments 	<ul style="list-style-type: none"> Grades 5 and 8: Statewide Science Assessments High school: Biology I EOC assessment 	<ul style="list-style-type: none"> Middle school: Civics EOC assessment High school: U.S. History EOC assessment

The commissioner assists and supports districts in measuring student performance on the state standards by maintaining a statewide item bank, facilitating the sharing of developed tests or test items among school districts, and providing technical assistance in best assessment practices.⁵⁵ The commissioner may discontinue the item bank if he or she determines that district participation is insufficient for its sustainability.⁵⁶

To promote transparency in the statewide, standardized assessment program, the DOE must solicit cost proposals for publication of the state assessments on its website in any procurement for the statewide, standardized ELA assessment in grades 3 through 10 and the statewide, standardized mathematics assessment in grades 3 through 8. Each statewide, standardized assessment⁵⁷ and EOC assessment,⁵⁸ excluding assessment retakes, must be published at least once on a triennial basis pursuant to a schedule determined by the commissioner.⁵⁹ The first set of assessments must be published no later than June 30, 2021, and must include, at a minimum, the statewide, standardized grade 3 ELA and mathematics assessments, the statewide, standardized grade 10 ELA assessment, and the Algebra I EOC assessment.⁶⁰

A local education agency is authorized under ESSA to administer a locally selected assessment in lieu of the statewide, standardized high school ELA, mathematics, or science assessments.⁶¹ However, any such assessment must:⁶²

- be approved by the state;
- be nationally recognized;
- be aligned to the state’s academic standards;⁶³
- address the depth and breadth of such standards;
- be equivalent in its content coverage, difficulty, and quality to the state assessments;

⁵³ See s. 1008.22(3), F.S.; Office of the Governor, *Executive Order 19-32: Commitment to Eliminating Common Core, Ensuring High-Quality Academic Standards and Raising the Bar for Civic Literacy* (January 31, 2019), https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-32.pdf; Florida Department of Education, *February 12, 2020 – Meeting Agenda*, <http://www.fldoe.org/policy/state-board-of-edu/meetings/2020/2020-02-12> (last visited February 14, 2020). See rule 6A-1.09401, F.A.C. On January 31, 2019, Governor DeSantis issued an executive order directing the commissioner to comprehensively review Florida’s academic standards for kindergarten through grade 12 students by January 1, 2020, and provide recommended revisions to the governor. The recommendations provided to Governor DeSantis are known as Florida’s Benchmarks for Excellent Student Thinking (B.E.S.T.) Standards. On February 12, 2020, the State Board of Education approved the B.E.S.T. Standards and established a timeline for incorporating the new standards by the 2022-2023 school year.

⁵⁴ See s. 1008.22(3)(a) and (b), F.S.

⁵⁵ Section 1008.22(6)(b), F.S.

⁵⁶ *Id.*

⁵⁷ See s. 1008.22(3)(a), F.S.

⁵⁸ See s. 1008.22(3)(b)1., F.S.

⁵⁹ Section 1008.22(8)(a), F.S.

⁶⁰ Section 1008.22(8)(b), F.S.

⁶¹ See 20 U.S.C. s. 6311(b)(2)(H).

⁶² 20 U.S.C. s. 6311(b)(2)(H)(i)-(v).

⁶³ See Section 1003.41(1) and (2), F.S. The NGSSS for Florida.

- provide comparable, valid, and reliable data on academic achievement, as compared to the state assessment, for all students and for each subgroup of students, with results expressed in terms consistent with the state’s academic achievement standards (i.e., Level 1, Level 2, etc.);
- meet the same technical requirements as the state assessments; and
- provide unbiased, rational, and consistent differentiation between schools within the state in order to meet the requirements of the state accountability system.

The Michigan Department of Education (MDE) has received conditional approval from the U.S. Secretary of Education to administer the SAT as its high school ELA and mathematics assessment.⁶⁴ The MDE participated in a peer review and submitted evidence to the U.S. Department of Education, which found that Michigan’s administration of the SAT as its high school ELA and mathematics assessment substantially met the requirements of ESSA. While MDE met more of the requirements related to state administration of the SAT, there are still significant concerns related to test design and alignment with Michigan’s academic content standards that have not yet been addressed. The MDE must submit satisfactory evidence to the U.S. Department of Education to address this issue and receive full approval.⁶⁵

Effect of Proposed Changes

Beginning in the 2020-2021 school year, the bill requires each school district to choose either the SAT or ACT for districtwide administration to each public school student in grade 11, including students attending public high schools, alternative schools, and centers of the Department of Juvenile Justice.

The bill also authorizes the commissioner to discontinue the Geometry end-of-course assessment upon approval from the U.S. Department of Education to use the SAT or ACT as the state’s high school mathematics assessment under ESSA, which may be through a waiver from high school mathematics testing requirements under ESSA or modification of the state’s ESSA plan. The bill also phases out the grade 9 ELA assessment after the 2021-2022 school year.

The bill requires only the statewide, standardized ELA and math assessments in grades 3 through 6 to be delivered in a paper-based format.

The bill authorizes the DOE to establish timeframe for advertisement and submission of bids for the 2020 adoption cycle of instructional materials.

U.S. Government Course and Civic Literacy

Present Situation

As part of the 24 credits required to graduate from high school, students must earn three credits in social studies.⁶⁶ One-half of the three credits must be earned in the U.S. Government course.⁶⁷

Each student entering a Florida College System (FCS) institution or state university must demonstrate competency in civic literacy through two options: successful completion of a civic literacy course or achieving a passing score on an assessment.⁶⁸

⁶⁴ U.S. Department of Education, *Michigan 9: Reading/language arts and mathematics general assessments for high school* (December 30, 2019), <https://www2.ed.gov/admins/lead/account/nclbfinalassess/michigan9.pdf>.

⁶⁵ *Id.*; U.S. Department of Education, *ESEA Waivers*, <https://www2.ed.gov/admins/lead/account/stateplan17/waivers/index.html> (last visited January 29, 2020). The Arizona and Virginia Departments of Education have requested that the U.S. Secretary of Education approve a waiver from the ESSA requirement that high school students in the same grade to take the same statewide, standardized mathematics assessment. These states have requested to administer the SAT or ACT as a locally-selected assessment in lieu of their respective statewide, standardized mathematics assessment. The U.S. Secretary of Education has denied these waivers because evidence has not shown that these assessments meet the assessment requirements under ESSA.

⁶⁶ Section 1003.4282(3)(d), F.S.

⁶⁷ *Id.*

⁶⁸ Section 1007.25(4), F.S.

The chairs of the State Board of Education (SBE) and the Board of Governors (BOG), or their respective designees, must jointly appoint a faculty committee to:⁶⁹

- develop a new course in civic literacy or revise an existing general education core course in American History or American Government to include civic literacy; and
- establish course competencies and identify outcomes that include, at a minimum:
 - an understanding of the basic principles of American democracy and how they are applied in our republican form of government;
 - an understanding of the United States Constitution,
 - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance; and
 - an understanding of landmark Supreme Court cases and their impact on law and society.

The SBE must adopt in rule and the BOG must adopt in regulation at least one existing assessment that measures competencies consistent with the required course competencies.⁷⁰ The BOG has adopted the following assessments and passing scores to meet this requirement:⁷¹

Assessment	Passing Score
U.S. Citizenship Services Naturalization Test – Civics (with supplemental questions)	60
AP Government and Politics: United States	3
AP U.S. History	4
CLEP American Government	50

While the SBE has adopted the same Advanced Placement and College-Level Examination Program assessments and respective passing scores for students to meet this requirement, it has not adopted the U.S. Citizenship Services Naturalization Test.⁷²

Effect of Proposed Changes

Beginning in the 2020-2021 school year, the bill requires all grade 12 students to take the civic literacy assessment identified by the SBE for students entering FCS institutions.

The bill revises the civic literacy requirement for postsecondary students by requiring students to successfully complete a civic literacy course and achieve a passing score on the civic literacy assessment. A student who passes the assessment in high school fulfills the civic literacy assessment requirement but must still complete the postsecondary civic literacy course once enrolled in a state university or FCS institution.

The Pathways in Technology Early College High School Program

Present Situation

The “Pathways in Technology Early College High School (P-TECH) 9-14 School Model” is a pioneering global education reform initiative created by IBM that prepares students with the academic, technical and professional skills required for 21st century jobs and ongoing education.⁷³ In September 2011, the first P-TECH school was launched in Brooklyn, New York, through a public-private partnership between IBM, the New York City Department of Education, and The City University of New York.⁷⁴ The P-TECH school was designed to accomplish two goals:

⁶⁹ Section 1007.25(4)(a)-(b), F.S.

⁷⁰ Section 1007.25(4), F.S.

⁷¹ Florida Board of Governors Regulation 8.006.

⁷² See rule 6A-10.02413(2), F.S.

⁷³ P-TECH, *About*, <http://www.ptech.org/about/> (last visited Feb. 24, 2020).

⁷⁴ P-TECH, *History*, <http://www.ptech.org/about/history/> (last visited Feb. 24, 2020).

- Address the global “skills gap” and strengthen regional economies by building a workforce with the academic, technical and professional skills required for new jobs.
- Provide underserved youth with an innovative education that creates a direct pathway to college attainment and career readiness.⁷⁵

From the first school launched in 2011, the P-TECH model has been implemented in over 204 schools across eight states in the United States and 16 international countries.⁷⁶ Over 500 companies are partnering with schools in industries, such as health information management, advanced manufacturing and energy technology.⁷⁷

Students who participated in the first P-TECH Brooklyn School cohort achieved a 100 percent graduation rate from high school, and 112 students went on to graduate with both their high school and associate degrees in science, technology, engineering, or math (STEM).⁷⁸ The graduation rate for those students was more than four times the national on-time community college graduation rate, and five times the rate for students from low-income families.⁷⁹

How the Model Works

The P-TECH model is a partnership among K-12, postsecondary institutions, and industry, whereby the partners commit to providing students with rigorous and hands-on academic, technical, and workplace experiences.⁸⁰ P-TECH schools span grades 9-14, and enable students to earn both a high school diploma and a no-cost, 2-year postsecondary degree in a STEM field.⁸¹ Students participate in a range of workplace experiences, which include mentorship, worksite visits, and paid internships. The P-TECH model is designed as a 6-year experience; however, students are able to move at their own pace and may complete it in 4 years.⁸² The model is comprised of six key components:

- Public-Private Partnership: developing and sustaining partnerships with the school district, postsecondary institution, and one or more major employers.
- Six-Year Integrated Program: integrating high school and college courses, which are aligned to essential industry skills and lead to a postsecondary degree for students.⁸³
- Workplace Learning: providing opportunities for students to obtain and develop workplace skills both in the classroom and with hands-on experiences.
- Open Enrollment: schools are open to all students and have no grade or testing requirements for admission.
- No Cost: the P-TECH school program and the associate degree earned is provided at no cost to students or their families.
- Access to Jobs: industry partners commit to making graduates first in line for jobs.⁸⁴

Funding for a P-TECH school comes from a variety of sources including K-12 schools, postsecondary, workforce, and other grants. Ensuring adequate funding for the school is important for its ongoing sustainability and high-quality replication in a state.⁸⁵

⁷⁵ *Id.*

⁷⁶ P-TECH, *Our Schools Map*, <http://www.ptech.org/resources/schools-map/> (last visited Feb. 24, 2020). The eight U.S. states with P-TECH schools include New York, Illinois, Connecticut, Maryland, Colorado, Rhode Island, Texas, and Louisiana.

⁷⁷ P-TECH, *History*, <http://www.ptech.org/about/history/> (last visited Feb. 24, 2020).

⁷⁸ P-TECH, *Results*, <http://www.ptech.org/impact/results/> (last visited Feb. 24, 2020).

⁷⁹ Rick Hess, *Straight Up Conversation: IBM Foundation Chief Jen Crozier on P-TECH Schools* (Oct. 18, 2018), http://blogs.edweek.org/edweek/rick_hess_straight_up/2018/10/straight_up_conversation_ibm_foundation_chief_jen_crozier_on_p-tech_schools.html (last visited Feb. 24, 2020).

⁸⁰ P-TECH, *How it Works-The Model*, <http://www.ptech.org/how-it-works/the-model/> (last visited Feb. 24, 2020).

⁸¹ P-TECH, *Mission*, <http://www.ptech.org/about/mission/> (last visited Feb. 24, 2020).

⁸² *Id.*

⁸³ P-TECH, *College Partner*, <http://www.ptech.org/how-it-works/partners/college-partners/> (last visited Feb. 24, 2020). P-TECH schools are aimed at creating a structure that allows a student to complete an associate in applied science degree aligned to high-potential jobs. A choice between a maximum of two degrees provides greater structure and support for students.

⁸⁴ P-TECH, *How it Works-The Model*, <http://www.ptech.org/how-it-works/the-model/> (last visited Feb. 24, 2020).

⁸⁵ P-TECH, *How it Works-Funding*, <http://www.ptech.org/how-it-works/funding/> (last visited Feb. 24, 2020).

Effect of Proposed Changes

To determine the feasibility of implementing the P-TECH program, or a similar program, in Florida, the bill requires the Commissioner of Education to submit a report by December 1, 2020, to the Governor, Senate President, Speaker of the House, the BOG, and the SBE, with recommendations addressing the feasibility of implementing in Florida.

The bill requires the P-TECH program, or a similar program, to achieve the following:

- Incorporate secondary and postsecondary education with workforce education and work experience in a flexible 6-year integrated model.
- Allow students to earn a high school diploma, an associate degree, and applicable industry certifications and gain work experience, within 6 years after enrolling in the 9th grade.
- Have an open enrollment policy that encourages a diverse student body, including students from low-income families and first-generation college students.
- Support student success through flexible class scheduling, advising and mentoring, and other wrap-around services.
- Provide seamless articulation to Florida's postsecondary institutions.

The commissioner's report must, at a minimum, include the following:

- Timelines for implementing a P-TECH program, or similar program, including courses of study which support completion in 4 to 6 years and which meet regional workforce demand.
- A funding model that provides the P-TECH program, or similar program, at no cost to students and may incorporate K-12, postsecondary, and workforce funding, grants, scholarships, and other funding options.
- Partnerships with industries and businesses, including private investment, work-based job training, internships, and priority placement for job opportunities after graduation.
- Recommendations for modifications, if any, to the school and school district accountability requirements.⁸⁶

The bill provides that this section of law will be effective upon becoming law and expire on December 1, 2020.

B. SECTION DIRECTORY:

Section 1. Amends s. 11.45, F.S., revising the frequency in which the Auditor General conduct certain operational audits.

Section 2. Amends s. 1002.385, F.S., authorizing certain students who turn 3 years of age after a certain date to receive a Gardiner scholarship under certain circumstances; revising the conditions necessary for program funds to revert to the state; authorizing certain students to continue using scholarship funds from prior years; requiring certain students' accounts to be closed if his or her parent fails to procure specified services; providing that certain students are ineligible for a scholarship; and deleting a provision allowing certain students to become eligible for a scholarship.

Section 3. Amends s. 1002.394, F.S.; revising student eligibility criteria for initial and renewal awards under the FES; revising student priority criteria for a FES; requiring requests for such scholarship to be provided directly to an eligible nonprofit SFO; requiring the State Board of Education to review specified data relating to enrollment in such program and the FTC Program; revising certain eligibility criteria for such programs under certain circumstances; deleting a notification requirement; revising student ineligibility criteria and school district obligations for such scholarship; requiring DOE to maintain a specified list and notify such organizations of a specified deadline; requiring participating private schools to annually report certain scores to a state university; revising such organization's obligations; and requiring, rather than authorizing, and annual specified increase in the maximum number of students participating in such program.

⁸⁶ Section 1008.34, F.S.
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Section 4. Amends s. 1002.395, F.S., requiring that certain students be given priority for the FTC Program; revising the eligibility requirements for a scholarship award to remain in force; and authorizing eligible nonprofit SFOs to use certain income for specified purposes.

Section 5. Amends s. 1002.40, F.S., revising the criteria for a public school to have a specified entity evaluate its bullying prevention education program, climate, and code of student conduct under the HSP.

Section 6. Amends s. 1003.4282, F.S., deleting obsolete language; requiring students to take a specified assessment relating to civic literacy; and providing that such assessment meets certain postsecondary requirements under specified circumstances.

Section 7. Amends s. 1006.33, F.S., authorizing the Department of Education to establish timeframes for specified purposes relating to instructional materials for a certain adoption cycle.

Section 8. Amends s. 1008.212, F.S., conforming cross-references to changes made by this act.

Section 9. Amends s. 1008.22, F.S., deleting obsolete language; discontinuing a specified English Language Arts assessment at a certain time; requiring certain statewide, standardized assessments to be administered in a paper-based format; providing for the discontinuation of the geometry end-of-course (EOC) assessment; requiring school districts to provide the SAT or ACT to grade 11 students beginning in a specified school year; requiring school districts to choose which assessment to administer; deleting reporting requirements; authorizing the Commissioner of Education to discontinue the geometry EOC assessment under certain circumstances; and deleting specified requirements for the date of the administration of specified assessments.

Section 10. Requires the Commissioner of Education to submit a report by December 1, 2020, on the feasibility of creating a Pathways in Technology Early College High School (P-TECH) program or similar program in Florida.

Section 11 Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Beginning in Fiscal Year (FY) 2019-2020, the Family Empowerment Scholarship Program (FES) is authorized to fund up to 18,000 students annually⁸⁷ and the Department of Education has reported that 17,724 FES scholarships have been funded in the Florida Education Finance Program (FEFP).⁸⁸ The bill requires the maximum number of FES scholarships to annually increase by 1 percent of the total public school student enrollment instead of the current 0.25 percent. The following table represents the estimated number of new FES scholarships that could be awarded in Fiscal Year (FY) 2020-2021:

FY 2020-2021 Forecast FTE ⁸⁹	% Increase	Total Scholarship Increase	Total FY 2020- 2021 Scholarships
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⁸⁷ See Section 1002.394(11), F.S.

⁸⁸ Email from Laura Mazyck, Interim Executive Director of Independent Education and Parental Choice, Department of Education (February 21, 2020).

⁸⁹ Public School PreK-12 Enrollment Estimating Conference, February 17, 2020.

2,890,177.27	0.25%	7,225	24,949
2,890,177.27	1.00%	28,902	46,626

The bill expands the eligibility for a FES scholarship by eliminating the requirement to spend the prior year enrolled in a public school for students in first or second grade. Also students who received a Florida Tax Credit scholarship during the previous school year and, before initial receipt of the scholarship, spent the prior year attending a Florida public school are eligible.

The bill gives first priority to new student applicants whose household income level does not exceed 185 percent of the federal poverty level, who are in foster care or out-of-home care, or who are dependent children of members of the United States Armed Forces; however, it is unknown how many of these priority students would apply and whether or not they were enrolled in a public school in the previous school year.

Step Up for Students reported in its FY 2018-2019 Florida Tax Credit (FTC) Quarterly Report that 34 percent of the new FTC students funded in FY 2018-2019 were not enrolled in a public school in the previous school year.⁹⁰ It is unclear if a similar percentage can be applied to the expanded eligibility for the FES scholarships for FY 2020-2021 that eliminates the requirement to spend the prior year enrolled in a public school for first and second grade students.

The bill would have an indeterminate fiscal impact based on the number of new FES scholarships awarded to eligible students who were not enrolled in a public school in the prior school year. However, any fiscal impacts would be incorporated into the overall FEFP.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

⁹⁰ Email from Elisabeth Goodman, Office of Economic and Demographic Research, November 7, 2019.
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C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 25, 2020, the Appropriations Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- requires the Commissioner of Education to discontinue the geometry end-of-course assessment upon approval from the U.S. Secretary of Education for a waiver from federal high school math testing requirements;
- requires each school district beginning in the 2021-2022 school year and subject to an appropriation, to choose either the SAT or ACT for districtwide administration to grade 11 public school students;
- phases out the grade 9 English Language Arts (ELA) assessment after the 2021-2022 school year;
- requires grade 12 students to take a civic literacy assessment and provides that a student who passes the assessment in high school fulfills the postsecondary civic literacy assessment requirement;
- requires the Commissioner of Education to submit a report to the Governor, Legislature, the Board of Governors, and the State Board of Education on the feasibility of creating additional educational pathways for Florida's students through the P-TECH model, or a similar program;
- authorizes the Department of Education to establish timeframes for advertisement and submission of bids for the 2020 adoption cycle of instructional materials; and
- requires only the statewide, standardized ELA and math assessments in grades 3 through 6 to be delivered in a paper-based format.

The bill analysis is drafted to the committee substitute adopted by the Appropriations Committee.