

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 7067 PCB EDC 20-01 K-12 Scholarship Programs
SPONSOR(S): Appropriations Committee and Education Committee, Sullivan and others
TIED BILLS: None **IDEN./SIM. BILLS:** CS/CS/SB 1220

FINAL HOUSE FLOOR ACTION: 81 Y's 39 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/HB 7067 passed the House on March 9, 2020, and subsequently passed the Senate on March 13, 2020.

The bill modifies provisions in the Family Empowerment Scholarship Program (FES), the Florida Tax Credit Scholarship Program (FTC), and the Hope Scholarship Program (HSP) in order to expand access to the FES and establish a priority order for award of FES and FTC scholarships.

Specifically, the bill:

- increases the FES enrollment cap from 0.25 percent to 1.0 percent of the state's total public school enrollment,
- increases the income eligibility for the FES by 25.0 percent of the maximum federal poverty level after a year in which more than 5.0 percent of the amount of the annual increase in available scholarships are not awarded,
- allows a student who can no longer receive a FTC scholarship award due to lack of available scholarships to transfer to the FES and receive priority of award second only to FES renewal scholarships,
- requires scholarship-funding organizations (SFOs) to give priority to FTC renewal students who received a scholarship during the previous school year and to exhaust all funds for renewal scholarships before awarding initial scholarships,
- requires SFOs to refer FTC eligible students to another SFO if funds are not available to award a scholarship to the student, and
- requires the exhaustion of FTC funds before HSP funds in excess of the 5.0 percent carry forward may be used to award initial FTC scholarships.

The bill also provides full-time equivalent (FTE) add-on bonus funding amounts in the Florida Education Finance Program to school districts for each student who completes a general education core course or associate degree, with a specified letter grade or GPA, through dual enrollment. School districts must allocate at least 50.0 percent of the funds received from dual enrollment bonus FTE to schools that generated funds to support student academic and postsecondary readiness.

The bill would have an indeterminate fiscal impact based on the number of kindergarten FES scholarships awarded that would exceed the forecasted number of kindergarten students entering the Florida Education Finance Program (FEFP). However, any fiscal impacts would be incorporated into the overall FEFP. See Fiscal Analysis & Economic Impact Statement.

The bill was approved by the Governor on June 25, 2020, ch. 2020-95, L.O.F., and will become effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF 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 15.0 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 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.⁴ The FES provides 18,000 students annually, on a first-come, first-served basis, education opportunities for academic and career success.⁵ Beginning with 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.⁶

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

- The student's household income level does not exceed 300.0 percent of the federal poverty level (\$78,600 for a family of four⁷) 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);⁸ or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care;⁹ and
- In either case, 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,

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 1002.394(1), F.S.

⁵ Section 1002.394(11)(a), F.S.

⁶ *Id.*

⁷ U.S. Department of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation, *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs*, <https://aspe.hhs.gov/poverty-guidelines> (last visited April 1, 2020).

⁸ Section 1002.394(3)(a)1., F.S.

⁹ Section 1002.394(3)(a)2., F.S.

and in attendance at, a Florida public school during both the October and February student counts.¹⁰

Priority is given to students whose household income levels do not exceed 185.0 percent of the federal poverty level or who are in foster care or out-of-home care.¹¹ Prior to scholarship funds being awarded, the student must be accepted and enrolled in a participating private school.¹² A private school that is currently eligible to participate in any of the scholarship programs is eligible to participate in the FES.¹³

For FY 2019-2020, 17,724 FES scholarships were funded.¹⁴

The Florida Tax Credit Scholarship Program

The Florida Tax Credit Scholarship Program (FTC) was created in 2001¹⁵ and allows taxpayers to make private, voluntary contributions to scholarship-funding organizations (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 spirits.¹⁶ The tax credit is equal to 100.0 percent of the eligible contributions made.¹⁷ To receive a tax credit the taxpayer must submit an application to the Department of Revenue and specify each tax for which the taxpayer requests a credit and the applicable taxable or state fiscal year for the credit.¹⁸ Taxpayers can rescind tax credits, which will become available to another eligible taxpayer in that fiscal year.¹⁹

In any state fiscal year when the annual tax credits granted for the prior state fiscal year are equal to or greater than 90.0 percent of the tax credit cap amount applicable to that state fiscal year, the tax credit cap amount is increased by 25.0 percent.²⁰ For FY 2019-2020, the Department of Revenue reported \$702,538,583 in tax credit contributions.²¹

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 185.0 percent 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 185.0 percent of the federal poverty level but does not exceed 260.0 percent of the federal poverty level.²²

For FY 2019-2020, 110,387 FTC scholarships were funded.²³

¹⁰ Section 1002.394(3)(b), F.S.

¹¹ Section 1002.394, F.S.

¹² Section 1002.394(3)(c), F.S.

¹³ Section 1002.394(8)(a), F.S.

¹⁴ Email from Laura Mazyck, Interim Executive Director of Independent Education and Parental Choice, Department of Education (February 21, 2020).

¹⁵ Section 1002.395, F.S.

¹⁶ Section 1002.395(1) and (5), F.S.

¹⁷ Sections 220.1875 and 1002.395(5), F.S.

¹⁸ Section 1002.395(5)(b), F.S.

¹⁹ Section 1002.395(5)(e), F.S.

²⁰ Section 1002.395(5)(a), F.S.

²¹ Email from Ryan Bailey, Budget Analyst, House PreK-12 Appropriations Subcommittee (March 16, 2020).

²² Section 1002.395(3)(b), F.S.

²³ Email from Laura Mazyck, Interim Executive Director of Independent Education and Parental Choice, Department of Education (February 21, 2020).

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 51.0 percent composed of FTC students in the prior school year. The annual report must be published by the DOE on its website.²⁴

The Hope Scholarship Program

If any eligible contributions under the Hope Scholarship Program (HSP) are not used within the state fiscal year in which such contributions are collected, no more than 5.0 percent of eligible contributions may be carried forward to the following state fiscal year by an eligible SFO.²⁵ Eligible contributions remaining on June 30 of each year which are in excess of the 5.0 percent that may be carried forward must be transferred to other eligible SFOs participating in the HSP to provide scholarships for eligible students.²⁶ If no other eligible SFO participates in the HSP, eligible contributions in excess of the 5.0 percent may be used to fund scholarships eligible under the FTC.²⁷

Effect of Proposed Changes

The Family Empowerment Scholarship

Beginning with the 2020-2021 school year, the bill increases the annual growth of the number of available FES scholarships by 1.0 percent, rather than 0.25 percent, of the state's total public school student enrollment.

The bill modifies initial eligibility for the FES by specifying that the maximum household income level will increase by 25.0 percent of the maximum federal poverty level in the fiscal year following any fiscal year in which more than 5.0 percent of the available scholarships authorized under the FES have not been awarded.

The bill allows, beginning with the 2020-2021 school year, a student who received a FTC scholarship during the previous school year but did not receive a renewal FTC scholarship based solely on the eligible nonprofit SFO's lack of available funds to receive a FES scholarship. This ensures that FTC students will be able to continue their education at their school of choice even if contributions to the program decline. The bill requires eligible nonprofit SFOs with such students to annually notify the DOE in a format and by a date established by the DOE.

The bill establishes a priority order for award of a FES scholarship, and removes the requirement that the scholarship is awarded on a first-come, first-served basis.

The priority order is as follows:

- A student who received a FES scholarship during the previous school year and requested a renewal scholarship award.
- A student who received a FTC scholarship in the previous school year but did not receive a renewal scholarship because of a lack of funds and is on the direct certification list or whose household income does not exceed 185.0 percent of the federal poverty level; is placed in foster

²⁴ 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 March 16, 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 through 10 on a nationally norm-referenced test or on Florida's standardized assessment to LSI.

²⁵ Section 1002.40(11)(i), F.S.

²⁶ *Id.*

²⁷ *Id.*

care or in-home care; or has a household income level that does not exceed 300.0 percent of the federal poverty level, or an adjusted maximum.

- A student who is on the direct certification list, whose household income does not exceed 185.0 percent of the federal poverty level, or who is placed in foster care or in-home care, and spent the prior year in full-time attendance at a Florida public school.
- A student who is on the direct certification list, whose household income does not exceed 185.0 percent of the federal poverty level, or who is placed in foster care or in-home care, and is eligible to enroll in kindergarten.
- A student who is in a household with an income level that does not exceed 300.0 percent of the federal poverty level or an adjusted maximum and, in priority order, spent the prior year in full-time attendance at a Florida public school or is eligible to enroll in kindergarten.

In order to implement the priority order established in the bill, the bill requires the DOE to:

- notify eligible nonprofit SFOs of the deadlines for submitting the verified list of students determined to be eligible for an initial or renewal scholarship; and
- establish deadlines for the receipt of initial applications and renewal notifications.

The bill aligns the FES to the FTC by:

- requiring the DOE to maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES testing requirement; and
- requiring each private school to report the scores of all participating students to a state university for the purpose of annual reporting of performance data by August 15 of each year.

The Florida Tax Credit Scholarship

The bill requires SFOs to give priority to FTC renewal students and to exhaust all funds for renewal scholarships before awarding initial scholarships. The bill also specifies that priority for an initial FTC scholarship must be given to a student whose household income level does not exceed 185.0 percent of the federal poverty level or who is in foster care or out-of-home care.

The bill modifies continued eligibility requirements so a FTC scholarship student remains eligible to participate until the student graduates from high school or attains the age of 21 years, whichever occurs first, regardless of the student's income level.

The bill requires eligible nonprofit SFOs to apply all funds available under the FTC and the HSP for renewal scholarship awards before awarding any initial scholarships. The bill also requires each eligible nonprofit SFO to refer any student eligible for a FTC scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC or HSP to another eligible nonprofit SFO that may have funds available.

The bill specifies that if a SFO uses excess eligible contributions to the HSP to fund FTC scholarships, the SFO must fully exhaust all contributions made to the HSP for renewal FTC scholarship students prior to awarding any initial scholarships.

Dual Enrollment Bonus Funding

Present Situation

To encourage high school students to earn postsecondary credit, school districts receive bonus full-time equivalent (FTE) funds for students who earn passing scores on subject exams for accelerated programs, without incurring costs for students to take such courses.

Advanced Placement

An additional value of 0.16 FTE must be reported by school districts for each student who earns a score of three or higher on an Advanced Placement (AP) subject exam, provided he or she was taught in the AP class in the prior year.²⁸

International Baccalaureate and Advanced International Certificate of Education

A value of 0.16 additional FTE is calculated for each student enrolled in an International Baccalaureate (IB) course who receives a score of four or higher on the subject exam.²⁹

A value of 0.16 additional FTE is calculated for an Advanced International Certificate of Education (AICE) student who earn a score of “E” on a full-credit subject exam.³⁰ A value of additional 0.08 FTE is calculated for an AICE student who is enrolled in a half-credit class and earns a score of “E” or higher on the subject exam.³¹

A value of 0.30 FTE is calculated for each student who receives an IB or AICE diploma.³² Eighty percent of additional funding under these programs must go back to the program generating the funds or in the case of AP, support AP instruction at the school.³³

Dual Enrollment

Although dual enrollment is recognized as an acceleration option in the school grades calculation, schools do not receive weighted FTE funding for completed coursework like AP, IB, or AICE programs. In addition, school districts must pay state universities \$105.07³⁴ and state colleges \$71.98³⁵ per credit hour when dual enrollment course instruction takes place on a postsecondary institution’s campus and the course is taken during the fall or spring term.³⁶ When dual enrollment course instruction is provided at a high school site by postsecondary institution faculty, school districts must reimburse postsecondary institutions the proportion of salary and benefits used to provide the instruction.³⁷

In the 2018-2019 school year, 28,309 public schools students were enrolled in at least one dual enrollment course.³⁸

Effect of Proposed Changes

The bill provides the following FTE add-on bonus funding amounts in the Florida Education Finance Program to school districts for each student who completes a general education core course or associate degree, with a specified letter grade or GPA, through dual enrollment:

- 0.16 FTE for an early college program student who receives an “A” grade or higher
- 0.08 FTE for a non-early college program student who receives an “A” grade or higher
- 0.30 FTE for a student earning an associate degree with a 3.0 GPA or higher

²⁸ Florida Department of Education, *2019-20 Funding for Florida School Districts*, <http://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf> (last visited March 13, 2020).

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ Section 1009.24(4)(a), F.S.

³⁵ Section 1009.23(3)(a), F.S.

³⁶ Section 1007.271(21)(n), F.S.

³⁷ *Id.*

³⁸ Email from John Peters, Budget Specialist, Higher Education Appropriations Subcommittee, *Dual Enrollment Participation*, (March 23, 2020).

School districts must allocate at least 50.0 percent of the funds received from dual enrollment bonus FTE to schools that generated funds to support student academic and postsecondary readiness.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Beginning in FY 2019-2020, the FES is authorized to fund up to 18,000 students annually³⁹ and the DOE has reported that 17,724 FES scholarships have been funded in the FEFP.⁴⁰ The bill requires the maximum number of FES scholarships to annually increase by 1.0 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 FY 2020-2021:

FY 2020-2021 Forecast FTE⁴¹	% Increase	Total Scholarship Increase	Total FY 2020- 2021 Scholarships
2,890,177.27	0.25%	7,225	24,949
2,890,177.27	1.0%	28,902	46,626

The bill expands the eligibility for a FES scholarship to students who received a FTC scholarship during the previous school year, but did not receive a renewal scholarship for FY 2020-2021 based solely on the lack of available FTC funds.

The bill establishes a priority order for FES scholarships awarded in FY 2020-2021 to include a FTC student who did not receive a renewal FTC scholarship for FY 2020-2021 based solely on the lack of available FTC funds. The January 2020 Revenue Estimating Conference projected scholarship credits of approximately \$732.6 million for FY 2020-2021.

The increase in total number of FES scholarships that can be awarded in FY 2020-2021 would have an indeterminate fiscal on the FEFP based on the number kindergarten FES scholarships awarded that may exceed the forecasted number of kindergarten students entering the FEFP. However, any fiscal impacts would be incorporated into the overall FEFP.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

³⁹ See Section 1002.394(11), F.S.

⁴⁰ Email from Laura Mazyck, Interim Executive Director of Independent Education and Parental Choice, Department of Education (February 21, 2020).

⁴¹ Public School PreK-12 Enrollment Estimating Conference, February 17, 2020.

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The FES may allow low-income families to send their children to private schools, which may not have been an affordable option previously.

D. FISCAL COMMENTS:

The bill provides for additional FTE membership values for students who complete general education core courses with an “A” grade or higher, or associate degrees with a 3.0 GPA or higher through dual enrollment. While statewide dual enrollment data is available, specific grade and GPA is not identifiable. Any additional fiscal impact to the FEFP is indeterminate.