

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: PCS/SB 1348 (902550)

INTRODUCER: Education Committee

SUBJECT: Educational Choice Scholarships

DATE: January 24, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	<b>Pre-meeting</b>
2.			AED	
3.			AP	

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**I. Summary:**

PCS/SB 1348 modifies provisions related to funding for the Family Empowerment (FES), Florida Tax Credit (FTC), and Hope scholarship programs. Specifically, the bill modifies the FES program by:

- Maintaining the requirement that the Florida Department of Education (DOE) complete the cross-check of the list of participating students against the public school enrollment list to avoid duplication, however the bill removes the requirement that the cross-check be completed before the distribution of each quarterly scholarship payment.
- Adding a requirement for the DOE to adjust scholarship payments to eligible nonprofit scholarship-funding organizations (SFOs) and recalculate the Florida Education Finance Program (FEFP) allocation for school districts upon completion of the cross-check.
- Requiring the DOE to transfer scholarship funds to the SFO for quarterly disbursement upon receiving the necessary documentation from the SFO to verify the student's participation.

The bill also modifies the FTC and Hope scholarship programs by requiring the DOE to recalculate the FEFP allocation for school districts upon completion of the required cross-check.

There is no fiscal impact to the state. The fiscal impact of the bill to individuals is indeterminate. See Section V.

The bill takes effect on July 1, 2022.

## II. Present Situation:

### Education Choice

Across the United States, an evolving school choice landscape reflects changes in the accessibility and desirability of an array of education options, including traditional and nontraditional public schools, private schools, and homeschooling.<sup>1</sup> All 50 states and the District of Columbia provide parents the ability to send their child to a school outside of their zoned school.<sup>2</sup> Twenty-seven states and the District of Columbia have enacted policies designed to broaden access to a private education.<sup>3</sup> The three primary policies states have adopted that expand private education choices include:<sup>4</sup>

- School vouchers;
- Scholarship tax credits; and
- Education savings accounts.

### Education Choice in Florida

Approximately 45 percent of Florida's prekindergarten through grade 12 students participate in education choice programs in Florida.<sup>5</sup> Students in all programs must meet school attendance requirements through:<sup>6</sup>

- Enrolling in a public school;
- Enrolling in a private school;<sup>7</sup>
- Participating in a home education program directed by his or her parent;<sup>8</sup> or
- Enrolling in a private tutoring program.<sup>9</sup>

To help students take advantage of educational choice options, Florida offers multiple student scholarship programs for students who meet the eligibility requirements:

<sup>1</sup> National Center for Education Statistics, *School Choice in the United States 2019* (2019), available at <https://nces.ed.gov/pubs2019/2019106.pdf> at ix.

<sup>2</sup> National Conference of State Legislatures, *Interactive Guide to School Choice Laws* <https://www.ncsl.org/research/education/interactive-guide-to-school-choice.aspx> (last visited Jan. 21, 2022).

<sup>3</sup> National Conference of State Legislatures, *Private School Choice* <https://www.ncsl.org/research/education/private-school-choice635174504.aspx> (last visited Jan. 21, 2022).

<sup>4</sup> School vouchers are state-funded scholarships that pay for students to attend private school rather than public school. Scholarship tax credits allow individuals and corporations to allocate a portion of their owed state taxes to SFOs that issue public and private school scholarships to K-12 students. Education Savings Accounts are state-funded grants deposited into special savings accounts from which parents can withdraw funds for certain educational expenses. *Id.*

<sup>5</sup> ReimaginedEd, *Once Again, Charter Schools Dominate Florida's Education Choice Landscape, Florida's K-12 School Choice Options*, <https://www.reimaginedonline.org/2021/01/once-again-charter-schools-dominate-floridas-education-choice-landscape/> (last visited Jan. 21, 2022).

<sup>6</sup> Section 1003.01(13), F.S.

<sup>7</sup> A private school is defined as an individual, association, co-partnership, or corporation, or department, division, or section of such organizations, that designates itself as an educational center that includes kindergarten or a higher grade and is below college level. A private school may be a parochial, religious, denominational, for-profit, or nonprofit school. A home education program is not considered a private school. Section 1002.01(2), F.S.

<sup>8</sup> A home education program is defined as the sequentially progressive instruction of a student directed by his or her parent in order to satisfy attendance requirements. Section 1002.01(1), F.S.

<sup>9</sup> Section 1002.43, F.S.

- The Family Empowerment Scholarship Program (FES program),<sup>10</sup> a school voucher program for students of families with limited financial means and students of military families, and an education savings account (ESA) program for students with disabilities.
- The Florida Tax Credit Scholarship Program (FTC program),<sup>11</sup> a tax-credit scholarship program for families with limited financial resources.
- The Hope Scholarship Program (Hope program), a school voucher program serving students who have reported an incident of battery, harassment, hazing, bullying or other encounter as defined in law.<sup>12</sup>
- The John M. McKay Scholarship for Students with Disabilities Program (McKay program),<sup>13</sup> a school voucher program.

### ***Family Empowerment Scholarship (FES) Program***

The FES program was established in 2019<sup>14</sup> to provide educational options to eligible children of Florida families with limited financial resources through a state funded school voucher scholarship. In 2021, the FES was expanded to provide education options to eligible children of Florida families in the military as well as disabled students.<sup>15</sup> Funding for the FES program is based on the Florida Education Finance Program (FEFP) allocation formula.<sup>16</sup>

### **Student Eligibility**

To be eligible for an award under the FES program, a student must meet the criteria in one of the following scholarship options:<sup>17</sup>

- Educational Opportunity (EO option), the student is:
  - On the direct certification list pursuant to law or the student's household income level does not exceed 375 percent of the federal poverty level<sup>18</sup> with priority given to a student whose household income level does not exceed 185 percent of the federal poverty level;
  - Currently placed, or during the previous fiscal year was placed, in foster care or in out-of-home care as defined in law;
  - A sibling of a student who is participating in the FES program if the student resides in the same household as the sibling; or
  - A dependent child of a member of the United States Armed Forces.
- Unique Ability Option for disabled students (UA option), the student:
  - Is three or four years of age on or before September 1 of the year in which the student applies for the program or is eligible to enroll in kindergarten through grade 12 in a Florida public school;

<sup>10</sup> Section 1002.394, F.S., and Rule 6A-6.0952, F.A.C.

<sup>11</sup> Section 1002.395, F.S., and Rule 6A-6.0960, F.A.C.

<sup>12</sup> Section 1002.40, F.S., and Rule 6A-6.0951, F.A.C.

<sup>13</sup> Section 1002.39, F.S., and Rule 6A-6.0970, F.A.C. The McKay program will merge into the FES program beginning in the 2022-2023 school year. Section 1002.394(12), F.S.

<sup>14</sup> Section 6, ch. 2019-21, L.O.F.

<sup>15</sup> Section 4, ch. 2021-027, L.O.F.

<sup>16</sup> See Section 1002.394(12), F.S.

<sup>17</sup> Section 1002.394(3), F.S.

<sup>18</sup> Section 1002.394(3), F.S. The qualifying household income level of 375 percent under the EO option may increase by 25 percentage points in any fiscal year in which more than 5 percent of the available scholarships authorized have not been awarded.

- Has a defined disability;<sup>19</sup> and
- Is the subject of an IEP written in accordance with the State Board of Education or has received a diagnosis of a disability from a physician or psychologist.

An approved student who does not receive a scholarship must be placed on the wait list in the order in which the student is approved.<sup>20</sup>

### Program Prohibitions

A student is not eligible for a scholarship while he or she is enrolled in a public school or Department of Juvenile Justice (DJJ) program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program, a virtual program that receives state funding pursuant to the student's participation, enrolled in the Florida School for the Deaf and the Blind, receiving any other educational scholarship as provided in law,<sup>21</sup> not having regular and direct contact with his or her private school teachers, or participating in a private tutoring program unless determined eligible under the UA option.<sup>22</sup>

### School District Obligations

School districts must provide information on the district's website and inform all households within the district receiving free or reduced priced meals under the National School Lunch Act<sup>23</sup> of their eligibility to apply for the scholarship. School districts must also provide IEP meeting and evaluation services, notify the student and parent about, and provide services for, statewide assessment participation. The school district must also report students for funding purposes through the FEFP.<sup>24</sup>

### Department of Education Obligations

The DOE is required to:<sup>25</sup>

- Publish information on the DOE website about the FES program, including student eligibility criteria, parental responsibilities, and relevant data.
- Before the distribution of funds and each scholarship payment, cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication.
- Maintain and publish a list of nationally norm-referenced tests identified for purposes of satisfying the FES program testing requirement.
- Establish and notify SFOs<sup>26</sup> of specified deadlines.

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<sup>19</sup> Section 1002.394(2), F.S.

<sup>20</sup> Section 1002.394(3)(c), F.S.

<sup>21</sup> Section 1002.395(6), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> 42 U.S.C s. 1751, et seq. The National School Lunch Program (NSLP) is a federally assisted meal program operating in public and nonprofit private schools and residential child care institutions. It provides nutritionally balanced, low-cost or free lunches to children each school day. The program was established under the National School Lunch Act in 1946. USDA Food and Nutrition Service, *National School Lunch Program*, <https://www.fns.usda.gov/nslp> (last visited Jan. 21, 2021).

<sup>24</sup> Section 1002.394(7), F.S.

<sup>25</sup> Section 1002.394(8), F.S.

<sup>26</sup> A.A.A. Scholarship Foundation – FL, LLC and Step Up For Students are the approved SFOs to administer the FTC in 2021-2022. Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Jan. 23, 2022).

- Notify each school district of a parent’s participation in the scholarship program.
- Deny or terminate program participation upon a parent’s failure to comply with program requirements as provided for in law.<sup>27</sup>
- Notify the parent and SFO when a scholarship account is closed and program funds revert to the state.
- Notify SFOs of other SFOs identified students who are receiving scholarship.
- Maintain a list of approved providers on its website.
- Require each SFO to verify eligible expenditures.
- Investigate written complaints of program violations.
- Require specified quarterly reports by SFOs.
- Notify eligible SFOs that a scholarship may not be awarded in a school district in which the award will exceed 99 percent of the school district’s share of state funding.

#### Scholarship-funding Organization Obligations

An SFO awarding FES program scholarships to students:<sup>28</sup>

- Must receive applications, determine student eligibility, notify parents and provide the DOE with specified information.
- Must award scholarships in priority order.
- May use up to 2.5 percent of the total amount of all FES program scholarships awarded for administrative expenses. The funds used for administrative expenses must originate from eligible tax credit contributions authorized under the FTC and Hope programs.<sup>29</sup>
- Must notify the DOE of any program requirement violation.

In addition, an eligible SFO awarding scholarships to students under the EO option must verify the household income level of eligible students and submit the verified lists of students and related documentation to the DOE.<sup>30</sup>

An SFO awarding scholarships to students under the UA option must also:

- Establish and maintain separate ESAs for each eligible student.
- Verify qualifying education expenditures.
- Return any remaining program funds to the DOE.
- Notify the parent about the availability of, and the requirements associated with requesting, an initial IEP or IEP reevaluation.
- Document each scholarship student’s eligibility for a fiscal year before granting a scholarship for that fiscal year.

#### Scholarship Funding and Payment

The scholarship funding amount is based on the student’s grade level and school district in which the student was assigned plus a share of most categorical programs.<sup>31</sup> Upon notification from the

<sup>27</sup> See Section 1002.394(10), F.S.

<sup>28</sup> Section 1002.394(11), F.S.

<sup>29</sup> Section 1002.395(6)(j), F.S.

<sup>30</sup> Section 1002.394(11), F.S.

<sup>31</sup> In addition to the basic amount for current operations for the FEFP specified in law, the Legislature may appropriate categorical funding for specified programs, activities, or purposes. Section 1011.62(6), F.S.

SFO on specified dates that an application has been approved for the program, the DOE must verify that the student is not prohibited from receiving a scholarship pursuant to law.<sup>32</sup> The SFO must provide the DOE with the documentation necessary to verify the student's initial and continued participation. Upon verification, the DOE must transfer, from state funds only, the amount calculated. The amount of the scholarship award is equal to 100 percent of the calculated amount. The amount of the award is deposited quarterly in the student's account once the scholarship has been verified and approved.<sup>33</sup>

Beginning in the 2020-2021 school year, the number of students participating in the FES program under the EO option annually increases by one percent of the state's total public school student enrollment.<sup>34</sup> An eligible student who meets specified<sup>35</sup> requirements is excluded from the maximum number of students.<sup>36</sup>

Under the EO option, the amount of the scholarship must be the calculated amount or the amount of the private school's tuition and fees whichever is less.<sup>37</sup> A transportation scholarship of \$750 may be awarded to a student who is determined eligible and enrolled in a Florida public school that is different from the school to which the student was assigned if the school district does not provide the student with transportation to the school.<sup>38</sup>

Beginning in the 2021-2022 school year, up to 20,000 scholarships are established for students determined eligible under the UA option. Beginning in the 2022-2023 school year, the maximum number of students participating under this option annually increases by 1.0 percent of the state's total exceptional student education enrollment, not including gifted students. An eligible student who meets specified requirements<sup>39</sup> is excluded from the maximum number of students.

During the 2020-21 school year, FES program scholarships in the amount of \$218 million were awarded to a total of 34,824 students.<sup>40</sup> FES program scholarships awarded through December, 2021 for the 2021-2022 school year were awarded to 76,180 EO option scholarship recipients

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<sup>32</sup> Section 1002.394(6), F.S.

<sup>33</sup> Section 1002.394(11), F.S.

<sup>34</sup> Section 1002.394(12)(a), F.S.

<sup>35</sup> Specified requirements include the student: received an FTC or Hope scholarship during the previous school year but did not receive a renewal scholarship based solely on the SFOs lack of available funds; Is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; or Is on the direct certification list or the student's household income level does not exceed 185 percent of the federal poverty level or the student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care and spent the prior school year in attendance at a Florida public school or, beginning in the 2022-2023 school year, is eligible to enroll in kindergarten. Section 1002.394(12)(a), F.S.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

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

<sup>39</sup> Specified requirements include the student: receiving instructional services under the Voluntary Prekindergarten Education Program during the previous school year and has a current IEP; is a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; spent the prior school year in attendance at a Florida public school; or received a John M. McKay Scholarship for Students with Disabilities in the 2021-2022 school year. Section 1002.394(12)(b), F.S.

<sup>40</sup> PreK-12 Appropriations Subcommittee, *Overview of School/Education Choice for K-12 Students*, Presentation to the PreK-12 Appropriations Subcommittee, The Florida House of Representatives (Nov. 3, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3094&Session=2022&DocumentType=Meeting%20Packets&FileName=pka%2011-3-21%20REVISED.pdf>.

and 24,694 UA option scholarship recipients.<sup>41</sup> However, during the fall of 2021, funding for more than 8,000 scholarship recipients was delayed at least four-to-six weeks, with more than 1,800 students waiting seven-to-eleven weeks to receive their award.<sup>42</sup>

### ***Florida Tax Credit (FTC) Scholarship Program***

The FTC program was established in 2001<sup>43</sup> to authorize private, voluntary contributions from corporate donors to eligible nonprofit scholarship-funding organizations (SFOs)<sup>44</sup> that award tax credit scholarships to eligible children from low-income families.<sup>45</sup> State law requires the SFOs to use the contributions received to provide scholarships to eligible students for the cost of private school tuition or transportation to a public school that is different from the school to which the student was assigned.

#### **Student Eligibility**

To be eligible for an award under the FTC program, a student must meet at least one of the following criteria:

- The student is on the direct certification list<sup>46</sup> or the student's household income level does not exceed 375 percent of the federal poverty level pursuant to law;<sup>47</sup> or
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care as defined in law.<sup>48</sup>

Priority is given to a student whose household income level does not exceed 185 percent of the federal poverty level or who is in foster care or out-of-home care.

A sibling of a student who is participating in the scholarship program is eligible for a scholarship if the student resides in the same household as the sibling.<sup>49</sup>

#### **Program Prohibitions**

A student is not eligible for a scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a

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<sup>41</sup> Email, Florida Department of Education, Jessica Fowler (Jan. 24, 2022).

<sup>42</sup> Email, Step Up For Students, Brett Schultz (Jan. 21, 2022).

<sup>43</sup> Section 5, ch. 2001-225, L.O.F.

<sup>44</sup> A.A.A. Scholarship Foundation – FL, LLC and Step Up For Students are the approved SFOs to administer the FTC in 2021-2022. Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Jan. 23, 2022).

<sup>45</sup> The program allows a corporation to receive a dollar-for-dollar tax credit up to 100% of its state income tax liability. The program also includes credits against the insurance premium tax for contributions to eligible SFOs, credits against severance taxes on oil and gas production, self-accrued sales tax liabilities of direct pay permit holders, and alcoholic beverage taxes on beer, wine, and spirits. The maximum amount the state may award is \$873 million in credits for the 2020-21 fiscal year. Department of Education, *Florida Tax Credit Scholarship Program June 2021 Quarterly Report* (2021), available at: <https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2021-Q-Report.pdf>.

<sup>46</sup> Direct certification list means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education by the Department of Children and Families. Section 1002.395(2)(c), F.S.

<sup>47</sup> Section 1002.395(3)(b), F.S.

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

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

home education or private tutoring program, or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.<sup>50</sup>

#### Scholarship Funding Tax Credits

A taxpayer may submit an application for a tax credit toward one or more contributions to an eligible SFO that administers an educational scholarship program.<sup>51</sup> The SFO must expend an amount equal to or greater than 75 percent of the net eligible contributions for annual or partial-year scholarships. No more than 25 percent of such contributions may be carried forward to the following state fiscal year. All amounts carried forward must be specifically identified for particular students and expended for annual or partial-year scholarships in the following state fiscal year.<sup>52</sup>

#### Scholarship-funding Organization Obligations

SFOs must comply with requirements relating to administration of the program, which include federal antidiscrimination laws and background checks. In addition, SFOs must:<sup>53</sup>

- Provide scholarships from eligible contributions to eligible students for the cost of tuition and fees for an eligible private school or transportation to a public school other than the school to which the student is assigned.
- Give first priority to eligible students who received an FTC program scholarship during the previous school year.
- Apply all funds available under the FTC program and the Hope program for renewal scholarship awards before awarding any initial scholarships.
- Provide a scholarship to an eligible student on a first-come, first-served basis unless the student qualifies for priority established in law.
- Refer any student eligible for an FTC program scholarship who did not receive a renewal or initial scholarship based solely on the lack of available funds through the FTC program or Hope program to another eligible SFO that may have funds available.
- Not restrict or reserve scholarships for use at a particular private school or provide scholarships to a child of an owner or operator.
- Allow a student in foster care or out-of-home care or a dependent child of a parent who is a member of the United States Armed forces to apply for a scholarship at any time.
- Allow a student to attend any eligible private school and transfer to another eligible school during the school year.
- Maintain separate accounts for scholarship funds and operating funds.
- Provide the annual financial audit report to the Auditor General and the Florida Department of Education (DOE).
- Submit quarterly reports to the DOE.
- Maintain a surety bond.

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<sup>50</sup> Section 1002.395(4), F.S.

<sup>51</sup> Section 1002.395(5), F.S.

<sup>52</sup> *Id.*

<sup>53</sup> Section 1002.395(6), F.S.

### Department of Education Obligations

The DOE has multiple obligations, including all of the following:<sup>54</sup>

- Verifying the eligibility of each SFO.
- Verifying the eligibility of expenditures.
- Cross-checking the list of participating students against the public school enrollment to avoid duplication.
- Maintaining a list of nationally norm-referenced tests.
- Issuing a project grant award every two years to a state university to which private schools must report the scores from nationally norm-referenced tests.
- Notifying the SFO of their eligible students and eligible students associated with other SFOs.
- Requiring specified quarterly reports by SFOs.
- Providing a process to match the direct-certification list with the scholarship application data.

### School District Obligations

School districts are required to notify households that receive a free or reduced-price meal of the scholarship and implement the administration of statewide assessments at participating private schools.<sup>55</sup>

### Scholarship Funding and Payment

The scholarship amount provided to any student for any single year must be for total costs authorized and not exceed annual limits as provided in law.<sup>56</sup> The SFO must obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment. Payment of the scholarship must be made by the SFO on at least a quarterly basis.<sup>57</sup>

During the 2020-21 school year, FTC program scholarships in the amount of \$662 million were awarded to a total of 106,112 students enrolled in 1,945 participating Florida private schools.<sup>58</sup> The maximum scholarship amount per student in the 2020-2021 school year was \$7,408.<sup>59</sup> This reflects a 4 percent increase in private school participation while the total student enrollment saw a decrease of 4.5 percent from the 2019-2020 school year.<sup>60</sup>

### ***Hope Scholarship Program***

The Hope program was established in 2018<sup>61</sup> as a tax credit scholarship program to provide the parent of a public school student in kindergarten through grade 12 an opportunity to transfer the student to another public school or to request a scholarship for the student to enroll in and attend

<sup>54</sup> Section 1002.395(9), F.S.

<sup>55</sup> Section 1002.395(10), F.S.

<sup>56</sup> Statute 1002.395(11), F.S.

<sup>57</sup> *Id.*

<sup>58</sup> Florida Department of Education, *Florida Tax Credit Scholarship Program June 2021 Quarterly Report (2021)*, available at <https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2021-Q-Report.pdf>.

<sup>59</sup> Florida Department of Education, *Fact Sheet, Florida Tax Credit Scholarship Program (2021)*, available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Oct-2021-line.pdf>.

<sup>60</sup> *Id.*

<sup>61</sup> Section 16, ch. 2018-6, L.O.F.

an eligible private school if that student has been subjected to an incident of battery; harassment;<sup>62</sup> hazing; bullying; kidnapping; physical attack; robbery; sexual offenses; threat or intimidation; or fighting at school.<sup>63</sup>

#### Program Prohibitions

A student is not eligible for a Hope program scholarship while he or she is enrolled in a public school or DJJ program; receiving another state educational scholarship pursuant to Florida law; enrolled in a home education or private tutoring program; or enrolled in the Florida School for the Deaf and the Blind. The student is also limited to participating in no more than two state-funded virtual courses per year.<sup>64</sup>

#### School District Obligations and Parental Options

Upon receipt of a report of an incident, the school principal must provide a copy of the report to the parent and investigate the incident. The school district must also offer the parent an opportunity to enroll his or her student in a different public school or attend an eligible private school through the Hope program.<sup>65</sup> In addition, the school district in which the student resides must notify the student and his or her parent about the locations and times to take all statewide assessments for each student participating in the statewide assessment program.<sup>66</sup>

#### Florida Department of Education Obligations

The DOE is required to:<sup>67</sup>

- Cross-check the list of participating scholarship students with the public school enrollment lists to avoid duplication;
- Maintain a list of nationally norm-referenced tests to satisfy testing requirements;
- Require quarterly reports by SFOs<sup>68</sup> regarding the number of students and private schools enrolled; and
- Contract with an independent entity to annually evaluate the program.

<sup>62</sup> Harassment includes “COVID-19 harassment” defined as any threatening, discriminatory, insulting, or dehumanizing verbal, written or physical conduct an individual student suffers in relation to, or as a result of, school district protocols for COVID-19, including masking requirements, the separation or isolation of students, or COVID-19 testing requirements, that have the effect of substantially interfering with a student’s educational performance, opportunities or benefits. Eligibility under COVID-19 harassment extends through the 2021-2022 school year. Department of Education, *Emergency Rule 6AER21-02 COVID-19 Hope Scholarship Transfer Procedures* (2021), available at <https://www.fldoe.org/core/fileparse.php/19994/urlt/hope.pdf>. Rule 6A-6.0951, F.A.C.

<sup>63</sup> Section 1002.40(1) and (6), F.S. The student subjected to a specified incident is eligible for a Hope program scholarship whether or not the incident is substantiated. Rule 6A-6.0951, F.A.C.

<sup>64</sup> Section 1002.40(4), F.S.

<sup>65</sup> Section 1002.40(6), F.S.

<sup>66</sup> *Id.*

<sup>67</sup> Section 1002.40(8), F.S.

<sup>68</sup> A.A.A. Scholarship Foundation – FL, LLC and Step Up For Students are the approved SFOs to administer the FTC in 2021-2022. Florida Department of Education, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Jan. 23, 2022).

### Nonprofit Scholarship-funding Organization (SFO) Obligations

The scholarship is directly administered by state-approved SFOs, which have multiple obligations, including:<sup>69</sup>

- Reviewing applications to determine student eligibility.
- Notifying parents of their receipt of a scholarship.
- Establishing deadlines for parents to confirm participation.
- Awarding scholarships and giving priority to renewing students.
- Preparing quarterly reports to the DOE.
- Notifying the DOE of any violation of Hope program requirements.

### Scholarship Funding Tax Credit

Funding for the program comes from taxpayers who elect to donate up to \$105 of the sales tax they pay when purchasing a motor vehicle in Florida. Dealers collect the contributions and remit the funds to participating SFOs.<sup>70</sup> Eligible contributions used to fund the Hope program may be used to fund FTC program scholarships, with conditions.<sup>71</sup> An SFO may carry forward to the next state fiscal year no more than five percent of net eligible contributions to the Hope program.<sup>72</sup>

### Scholarship Funding and Payment

The calculated amount for a student to attend an eligible private school must be calculated in accordance with the FES program.<sup>73</sup> The maximum amount awarded to a student enrolled in a public school located outside of the district in which the student resides is \$750.<sup>74</sup>

The SFO must obtain verification from the private school of a student's continued attendance at the school for each period covered by a scholarship payment. Payment of the scholarship must be made by the SFO on at least a quarterly basis.<sup>75</sup>

During the 2020-2021 school year, \$78.2 million in contributions were available to fund scholarships for eligible students and scholarships in the amount of \$2.9 million were awarded to a total of 488 students.<sup>76</sup> As of November 2021, 217 scholarships were awarded to students for the 2021-2022 school year with a total scholarship funding of \$380,560.<sup>77</sup>

<sup>69</sup> Section 1002.40(10), F.S.

<sup>70</sup> Section 1002.40(13), F.S.

<sup>71</sup> Section 1002.40(11)(i), F.S.

<sup>72</sup> *Id.*

<sup>73</sup> Section 1002.40(11), F.S.

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

<sup>75</sup> *Id.*

<sup>76</sup> PreK-12 Appropriations Subcommittee, *Overview of School/Education Choice for K-12 Students*, Presentation to the PreK-12 Appropriations Subcommittee, The Florida House of Representatives (Nov. 3, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3094&Session=2022&DocumentType=Meeting%20Packets&FileName=pka%2011-3-21%20REVISED.pdf> at 19-20.

<sup>77</sup> PreK-12 Appropriations Subcommittee, *Update and Discussion on Fiscal Year 2021-2022 School Choice Enrollments and Funding*, Presentation to the PreK-12 Appropriations Subcommittee, The Florida House of Representatives (Nov. 3, 2021), available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3094&Session=2022&DocumentType=Meeting%20Packets&FileName=pka%2011-3-21%20REVISED.pdf> at 10.

### **III. Effect of Proposed Changes:**

PCS/ SB 1348 modifies provisions related to funding in the Family Empowerment (FES), Florida Tax Credit (FTC), and Hope scholarship programs. Specifically, the bill modifies the FES program by:

- Maintaining the requirement that the Florida Department of Education (DOE) complete the cross-check of the list of participating students against the public school enrollment list to avoid duplication, however the bill removes that the cross-check must be completed before the distribution of each quarterly scholarship payment.
- Adding a provision requiring the DOE to adjust scholarship payments to eligible nonprofit scholarship-funding organizations (SFOs) and recalculate the Florida Education Finance Program (FEFP) allocation for school districts upon completion of the cross-check.
- Removing the specified dates by which the SFO must notify the DOE that an application has been approved for the program, and the requirement that the DOE verify that the student is not prohibited from receiving a scholarship upon such notification.
- Requiring the DOE to transfer scholarship funds to the SFO for quarterly disbursement upon receiving the documentation from the SFO that is necessary for the DOE to verify the student's participation.

The bill also modifies the FTC and Hope scholarship programs by requiring the DOE to recalculate the FEFP allocation for school districts upon completion of the required cross-check.

Such modifications may streamline the scholarship funding process so that funds are deposited into student accounts in a timely fashion while maintaining verification provisions so that there is no duplication in funding.

The bill takes effect on July 1, 2022.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

#### **D. State Tax or Fee Increases:**

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A parent of a student awarded a Family Empowerment Scholarship may receive the scholarship payment in the student's scholarship account in a more timely fashion, thereby saving the family out-of-pocket expenses.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.394, 1002.395, and 1002.40.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.