

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 202

INTRODUCER: Appropriations Committee; Appropriations Committee on Education Committee; and Senator Simon and others

SUBJECT: K-12 Education

DATE: March 20, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sagues, Jahnke</u>	<u>Bouck</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>Gray</u>	<u>Elwell</u>	<u>AED</u>	<u>Fav/CS</u>
3.	<u>Gray</u>	<u>Sadberry</u>	<u>AP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 202 establishes and modifies K-12 education programs to provide additional financial supports for families and flexibility for school districts. The bill expands educational choice and opportunity for Florida families, supports public schools by reducing state regulations, and benefits teachers by removing barriers to certification.

The bill expands and supports school choice by:

- Increasing the number of students served under the Family Empowerment Scholarship for students with disabilities (FES-UA) by increasing annual scholarship growth rates from 1 percent to 3 percent of Florida’s exceptional education students.
- Expanding eligibility for the Florida Tax Credit Scholarship Program (FTC) and Family Empowerment Scholarship Program for education options (FES-EO) to any student that is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school, and removing enrollment caps for the FES-EO. The bill establishes the personalized education program as a parent directed educational choice option and authorizes the student to participate in FTC. The bill retains the priority for FTC and FES-EO scholarships for those students whose household income does not exceed 185 percent of the federal poverty level (FPL) and creates a second priority for households with income not exceeding 400 percent of the FPL.
- Expanding the scope of authorized uses for the FTC and FES-EO scholarships to include specified purchases through an education savings account.

- Authorizing excess funds from the FTC to fund FES-UA scholarships.
- Authorizing a limited number of students enrolled in a personalized education program to participate in the FTC and FES-EO scholarships.
- Requiring scholarship funding organizations to develop purchasing guidelines for authorized uses of scholarship funds and publish them to their websites.

The bill requires the State Board of Education (SBE) to, by November 1, 2023, recommend reductions to the Florida Early Learning-20 education code, considering stakeholder input. The bill provides immediate reductions to regulations by:

- Providing flexibility for school districts by exempting from the required cost per student station any construction started prior to July 1, 2026.
- Removing the requirement for at least one course within the 24 credits required for a standard diploma to be completed through online learning.
- Adding flexibility for student transportation by allowing vehicles other than school buses to regularly transport students.
- Revising the requirements of the acceptable means of demonstrating mastery of general knowledge and professional preparation and education competence to include documentation of two years of effective or highly effective teaching in a Florida public school while teaching under a temporary certificate.
- Increasing the length of a nonrenewable temporary teaching certificate from 3 to 5 years.
- Expressly authorizing any public school, including charter schools, to permit a student to enroll part-time, and provides for proportional funding based on time of attendance.
- Authorizes the Commissioner of Education to deny an owner, officer or director to participate in the state school scholarship program if the individual has operated an educational institution that closed during the school year.
- Extends the timeline to transfer a student record from three to five school days.
- Authorizes the district school tax to be used for payment of salaries and benefits for employees whose job duties support related activities.

The bill will have a negative impact on state expenditures. In addition to maximizing the capacity of estimated tax credits and assuming the use of a carryforward or reserve balance available under the Florida Tax Credit Scholarship (FTC) the bill will require an additional \$217.2 million state appropriation for Fiscal Year 2023-2024. The impact on state expenditures will increase or decrease depending on the average awards for the scholarships and if more or less students participate than forecasted.

In Fiscal Year 2024-2025, the impact on state expenditures is expected to grow as additional home school students may participate in the program due to increases in the caps in the bill.

The bill has an effective date of July 1, 2023.

II. Present Situation:

The Present Situation is presented under Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Education Choice Scholarships in Florida

Present Situation

Florida offers scholarship programs that allow parents of eligible students to register and attend private schools that may better serve a student's particular needs or to provide educational options for students with disabilities. These programs primarily consist of the Florida Tax Credit Scholarship (FTC),¹ the Family Empowerment Scholarship for students attending private school (FES-EO), the Family Empowerment Scholarship for students with disabilities (FES-UA),² and the Hope Scholarship Program (Hope).³

Private schools must meet specific criteria in order to be eligible to participate in Florida's scholarship programs and the Florida Department of Education (DOE) and Commissioner of Education (commissioner) are tasked with implementation and oversight responsibilities. DOE oversight responsibilities include verification of private school eligibility and compliance, parent information and complaints, coordination of health and safety inspections, provision of statewide assessments, and initial site visits.⁴

Currently, 71 percent of the kindergarten through grade 12 eligible student population qualifies for an FTC or FES-EO scholarship.⁵

Scholarship Funding Organizations

Florida's scholarship programs are administered by DOE-approved non-profit scholarship-funding organizations (SFO).⁶ A SFO must be a state university; or an independent college or university that is eligible to participate in the William L. Boyd, IV, Effective Access to Student Education Grant Program, located and chartered in this state, is not for profit, and is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools; or is a Florida based charitable organization that complies with scholarship program requirements.⁷ There are currently two SFOs approved to administer the FES-EO, the FES-UA, the FTC, the HOPE, and the Reading Scholarship Programs. Specifically, the A.A.A. Scholarship Foundation administers FTC, FES-EO, and FES-UA scholarships, while Step Up for Students administers FTC, FES-EO, FES-UA, HOPE, and Reading Scholarship Program scholarships.⁸

¹ Section 1002.395, F.S.; *see also* rule 6A-6.0960, F.A.C.

² Section 1002.394, F.S.; *see also* rule 6A-6.0952, F.A.C.

³ Section 1002.40, F.S.; *see also* rule 6A-6.0951, F.A.C.

⁴ Section 1002.421, F.S.

⁵ Florida House of Representatives, *Presentation to the PreK-12 Appropriations Committee, Overview on Florida's K-12 Choice Scholarship Programs* (Feb. 7, 2023), available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3209&Session=2023&DocumentType=Meeting+Packets&FileName=pka+2-7-23.pdf>.

⁶ DOE, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Feb. 15, 2023).

⁷ Section 1002.395, F.S.

⁸ DOE, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Feb. 15, 2023).

Florida Tax Credit Scholarship Program

The FTC was created in 2001 and enables taxpayers to make private, voluntary contributions to a SFO, to expand educational opportunities for families that have limited financial resources. The FTC is funded with contributions to SFOs from taxpayers who receive a tax credit for use against their liability for specified taxes. The tax credit is equal to 100 percent of the eligible contributions made. SFOs use these contributions to award scholarships to eligible low-income students for the cost of tuition and fees at an eligible private school or transportation expenses to a Florida public school in which a student is enrolled and that is different from the school to which the student was assigned.

FTC Scholarship Eligibility

The FTC provides scholarships to students, with priority given to children from low-income families and those who are in foster care or out-of-home care. Contingent upon available funds, a student is initially eligible for an FTC scholarship if he or she is:

- On the direct certification list⁹ or the student's household income level does not exceed an adjusted maximum percent of the federal poverty level (FPL), which is set at 400 percent of the FPL, or \$111,000¹⁰ for a family of four, for the 2022-2023 school year.¹¹
- Currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care.
- A sibling of a student participating in the FTC scholarship and the siblings reside in the same household.

Scholarship Term

Once a student qualifies for an FTC scholarship based on household income during his or her initial eligibility year, the student continues to be eligible until he or she graduates from high school or turns 21 years old, whichever occurs first, regardless of household income level in subsequent years.¹² A scholarship recipient is not required to reapply annually, however, an SFO may require a recipient to annually confirm continued participation in the program.¹³

FTC Scholarship Prohibitions

A student is not eligible for a scholarship under the FTC if the student is:

⁹ See s. 1002.395, F.S.

¹⁰ United States Department of Health & Human Services, *U.S. Federal Poverty Guidelines Used to Determine Financial Eligibility for Certain Federal Programs*, Chart showing multiples of the poverty guidelines for 2022, available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

¹¹ Section 1002.395(3)(b)1., F.S. The FPL may be increased by 25 percentage points in the fiscal year following a fiscal year in which more than 5 percent of the allowable scholarships have not been funded. The eligibility for the 2021-2022 school year was set at 375 percent of the FPL. See also Step Up for Students, *Florida Tax Credit Scholarship Parent Handbook* (July 2022), at 3, available at <https://www.stepupforstudents.org/wp-content/uploads/2022-2023-FTC-Parent-Handbook-Final-Draft.pdf>.

¹² Section 1002.395, F.S.

¹³ See Step Up for Students, *2022-2023 Florida Tax Credit Scholarship Parent Handbook* (July 2022), at 4-5, available at <https://www.stepupforstudents.org/wp-content/uploads/2022-2023-FTC-Parent-Handbook-Final-Draft.pdf>; AAA Scholarship Foundation, *2021-2022 Parent and School Handbook-Florida Income-Based Scholarship Program*, at 5, available at https://www.aaascholarships.org/wp-content/uploads/2022/06/Parent-and-School-Handbook_FL_2021-22_v3_rev20220616.pdf.

- Enrolled in a school operating for the purpose of providing educational services to youth in Department of Juvenile Justice commitment programs;
- Receiving a scholarship from another eligible SFO under this section;
- Receiving an educational scholarship pursuant to this chapter;
- Participating in a home education program;
- Participating in a private tutoring program;
- Participating in a virtual or correspondence school or distance learning program that receives state funding for the student's participation unless the participation is limited to no more than two courses per school year; or
- Enrolled in the Florida School for the Deaf and the Blind.

Authorized Use of FTC Funds

An FTC scholarship may be used to cover the tuition and fees for a student to attend an eligible private school, or receive a transportation scholarship to another public school.

FTC Scholarship Award Amount

Effective with the 2021-2022 school year, the Legislature increased the FTC scholarship amount to be the full amount provided for the student, from the previous 95 percent calculated amount.¹⁴ The maximum scholarship award amount for the 2021-2022 school year was \$7,408 per student.¹⁵

In lieu of a scholarship for enrollment in a private school, an eligible¹⁶ student may receive a scholarship for transportation to a public school other than the public school to which the student was assigned. The transportation scholarship award must be an amount equal to the school district expenditure per student riding a school bus, as determined by the DOE, or \$750, whichever is greater.

Responsibilities of FTC Scholarship Recipients

Parents and students must meet specified requirements for participation, which include enrolling in a private school, taking a norm-referenced assessment, authorizing payment to the private school, complying with income verifications, and satisfying attendance requirements.

With a few exceptions, Florida law requires all children who will be six years of age on February 1 of each school year and are less than 16 years of age to attend school regularly. Children who will be five years of age by September 1 of each school year are eligible for public kindergarten.¹⁷

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or

¹⁴ Section 1002.395, F.S. (2021); *See also* section 5, ch. 2021-27, L.O.F.

¹⁵ DOE, *FTC Scholarship Program: Fact Sheet* (Oct. 2022), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Oct-2022-line.pdf>.

¹⁶ The student must be on the direct certification list, the student's house income level does not exceed 185 percent of the FPL, or the student is placed in foster care or in out-of-home care.

¹⁷ Section 1003.21(1)(a), F.S.

tardiness is excused or unexcused are determined by the district school board.¹⁸ The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.¹⁹

Regular attendance, as required by law, can be satisfied by attendance in a:

- Public school supported by public funds;
- Parochial, religious, or denominational school;
- Private school supported in a whole or in part by tuition charges by endowment or gifts;
- Home education program; or
- Private tutoring program.²⁰

Dispersal of FTC Scholarship Award

The SFO sends scholarship payment checks quarterly to each student's school of enrollment, after the school completes the attendance verification. A payment made by warrant and delivered by the SFO to the private school must be restrictively endorsed by the parent.

An SFO may also make scholarship payments directly to eligible private schools by funds transfer (including debit cards, electronic payment cards, or any other means the DOE deems commercially viable or cost-effective). Payments must be approved by the parent before the funds are deposited.²¹

Family Empowerment Scholarship Program

The FES-EO and FES-UA provide children of families in Florida with educational options, including children of families with limited financial resources, children of law enforcement and military families, and children with disabilities.²² The scholarship program includes two types of scholarships to assist eligible students to pay for the tuition and fees associated with attendance at a private school or transportation to another public school (FES-EO), and to provide access to additional educational options for a student with a disability by covering the cost of a variety of approved items, including: contracted services, curriculum, instructional materials, tutoring, specified education programs, and specialized services (FES-UA). Each scholarship has specific student eligibility requirements, program requirements, award calculation methodologies, and allowable expenditures.²³

FES-EO Eligibility

A student is eligible for a scholarship to attend private school if the student meets the following criteria:

¹⁸ Section 1003.24, F.S.

¹⁹ Section 1003.26, F.S.

²⁰ Section 1003.01(13), F.S.

²¹ Section 1002.395, F.S.

²² Section 1002.394, F.S. *see also* Rule 6A-6.0952, F.A.C.

²³ Section 1002.394, F.S.

- The student is on the direct certification list²⁴ or the student's household income level does not exceed 185 percent of the federal poverty level (FPL)²⁵ for the 2022-2023 school year;
- The student is currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care;
- The student's household income level does not exceed an adjusted maximum percent of the FPL, which is set at 400 percent of the FPL for the 2022-2023 school year;²⁶
- The student is a sibling of a student who is participating in the FES-EO and the siblings reside in the same household;
- The student is a dependent child of a member of the United States Armed Forces, including a reservist;²⁷ or the student is a dependent child of a law enforcement officer, which are additional options from the FTC.

Similar to the FTC, scholarship priority is given to students whose household income levels do not exceed 185 percent of the FPL or who are in foster care or out-of-home care.

FES Scholarship Prohibitions

A student is not eligible for a scholarship under the FES-EO or FES-UA if the student is:

- Enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school, or a charter school;
- Enrolled in a Department of Juvenile Justice commitment program;
- Receiving any other state-sponsored K-12 educational scholarship;
- Not having regular and direct contact with his or her private school teacher, unless the student has an eligible disability and is awarded a scholarship under the FES-UA and is enrolled in the private school's transition-to-work program or a home education program;
- Participating in a private tutoring program, unless the student has an eligible disability and is awarded a scholarship under the FES-UA; or
- Participating in a virtual instruction program.²⁸

FES-EO Scholarship Term

FES-EO eligibility continues for a student receiving a scholarship to attend private school until the student returns to a public school, graduates from high school, or turns 21 years old, whichever occurs first, regardless if the student's household income exceeds the FPL cap in subsequent years.²⁹ A scholarship recipient who maintains continued eligibility is not required to

²⁴ 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. Section 1002.395(2).

²⁵ Step Up for Students, *2022-2023 Family Empowerment Scholarship for Educational Options Parent Handbook* (July 2022), at 3, available at <https://www.stepupforstudents.org/wp-content/uploads/2022-2023-FES-EO-Parent-Handbook-Final-Draft.pdf>. For a family of four, 185 percent of the FPL is \$51,337.50.

²⁶ Section 1002.394(3), F.S. The Federal Poverty Level may be increased by 25 percentage points in the fiscal year following a fiscal year in which more than 5 percent of the allowable scholarships have not been funded. The eligibility for the 2021-2022 school year was set at 375 percent of the FPL. For a family of four, 400 percent of the FPL is \$111,000.

²⁷ A member of the United States Armed Forces means a member of the Army, Navy, Air Force, Coast Guard, Marine Corps, or Space Force, including a Reservist. Rule 6A-6.0952(2)(f), F.A.C.

²⁸ Section 1002.394, F.S.

²⁹ Section 1002.394, F.S.

reapply annually, however, an SFO may require a recipient to annually confirm their continued participation in the program.³⁰

Authorized Uses of FES-EO Awards

An FES-EO scholarship may be used to cover the tuition and fees for a student to attend an eligible private school. The scholarship award may be used to cover the cost of any assessment fee required by the participating private school and any costs to provide a digital device, including internet access, to the student. A scholarship in the amount of \$750 or an amount equal to the school district expenditure per student riding a bus, whichever is greater, may also be awarded to an eligible student enrolled in a Florida public school which is different from the school to which the student was assigned or in a lab school, if the school district does not provide the student with transportation to the school.

Number of Available FTC, FES-EO, and FES-UA Awards

For the 2019-2020 school year, the maximum program capacity for a student awarded a FES-EO scholarship to attend a private school was established at 18,000 students. Beginning in the 2020-2021 school year, the maximum number of students participating in the scholarship program increases by one percent of the state's total K-12 full-time equivalent student membership each year. The following students are excluded from the maximum program capacity:

- Students who are a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child; or
- Students who meet the eligibility requirements of being on the direct certification list or meet household income requirements or students placed in foster care or out-of-home care and either 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.³¹

In the 2021-2022 school year, 77,721 FES-EO scholarships were awarded to eligible students seeking a scholarship to attend a private school. However, the program did not reach full capacity and had the ability to fund an additional 22,078 scholarships.³²

For the 2022-2023 school year, the maximum number of scholarships for eligible students with a disability is established at 26,500 students. Beginning with the 2023-2023 school year, and annually thereafter, the maximum number of students participating in the scholarship program annually increases by one percent of the state's total exceptional student education full-time equivalent student membership, not including gifted students. The maximum program capacity does not include the following students who meet the eligibility requirements:

³⁰ See Step Up for Students, *2022-2023 Family Empowerment Scholarship for Educational Options Parent Handbook* (July 2022), at 12-13, available at <https://www.stepupforstudents.org/wp-content/uploads/2022-2023-FES-EO-Parent-Handbook-Final-Draft.pdf>; AAA Scholarship Foundation, *2021-2022 Parent and School Handbook-Florida Income-Based Scholarship Program*, at 5, available at https://www.aaascholarships.org/wp-content/uploads/2022/06/Parent-and-School-Handbook_FL_2021-22_v3_rev20220616.pdf.

³¹ Section 1002.394, F.S.

³² Florida House of Representatives, *Presentation to the PreK-12 Appropriations Committee, Overview on Florida's K-12 Choice Scholarship Programs* (Feb. 7, 2023), available at <https://myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=3209&Session=2023&DocumentType=Meeting+Packets&FileName=pka+2-7-23.pdf>.

- Students who received specialized instructional services under the Voluntary Prekindergarten Education Program during the previous school year;
- Students who are a dependent child of a law enforcement officer or a member of the United States Armed Forces, a foster child, or an adopted child; or
- Students who spent the prior school year in attendance at a Florida public school or received a McKay Scholarship in the 2021-2022 school year.³³

In the 2021-2022 school year, 26,186 FES-UA scholarships³⁴ were awarded to eligible students with a disability. However the program is unable to serve all eligible students and had 5,443 students on the wait list during the 2021-2022 school year. Currently, for 2022-2023 there are 10,356 eligible students on the wait list.³⁵

During the 2021-2022 school year, 85,612 students were awarded an FTC scholarship.³⁶ However, the program did not reach capacity and had a remaining balance of \$254.8M in which to fund additional scholarships.³⁷

FES-EO Awards

The FES-EO is funded through the Florida Education Finance Program (FEFP) with a scholarship awarded by an SFO. An FES-EO scholarship award amount for a student to attend an eligible private school is calculated as 100 percent of the school districts funding per student, including all categorical funds, except for the exceptional student education (ESE) guaranteed allocation.³⁸ For the 2022-2023 school year, the award will average between \$7,250 and \$7,850, depending on grade and county.³⁹

The DOE determines the appropriate student scholarship funding amount and cross-checks scholarship students with public school enrollment to avoid duplication. Upon receiving documentation which verifies a student's participation in the scholarship from the SFO, the DOE must transfer scholarship funds to the SFO for disbursement to parents of participating FES-EO students. Initial scholarship payments are made after the SFO verifies the student's admission acceptance to an eligible private school, with all subsequent scholarship payments occurring upon verification of continued enrollment and attendance at the private school. Any scholarship

³³ Section 1002.394, F.S.

³⁴ Florida House of Representatives, *Presentation to the PreK-12 Appropriations Committee, Overview on Florida's K-12 Choice Scholarship Programs* (Feb. 7, 2023), available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3209&Session=2023&DocumentType=Meeting+Packets&FileName=pka+2-7-23.pdf>.

³⁵ Email, Step Up for Students, Amy Graham (Feb. 14, 2023) (on file with Senate Education).

³⁶ DOE, *Florida Tax Credit Scholarship Program: June 2022 Quarterly Report* (June 2022), available at <https://www.fl DOE.org/core/fileparse.php/7558/urlt/FTC-Jun-2022-Q-Report.pdf> [hereinafter *June Quarterly Report*].

³⁷ Florida House of Representatives, *Presentation to the PreK-12 Appropriations Committee, Overview on Florida's K-12 Choice Scholarship Programs* (Feb. 7, 2023), available at <https://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3209&Session=2023&DocumentType=Meeting+Packets&FileName=pka+2-7-23.pdf>.

³⁸ Section 1002.394, F.S. See also Step Up For Students, *Income-Based Scholarship Programs Basic Scholarship Amounts for 2022-23*, available at https://www.stepupforstudents.org/wp-content/uploads/Step-Up-For-Students_Income-Based-Scholarship-Amounts.pdf.

³⁹ Step Up for Students, *Florida's Income-Based Scholarships*, available at <https://www.stepupforstudents.org/wp-content/uploads/2022.12.1-Income-Scholarships.pdf>.

payment made by warrant must be delivered by the SFO to the private school of the parent's choice, and the parent must restrictively endorse the payment.⁴⁰

For each FES-EO scholarship, the DOE must cross-check the list of participating scholarship students with public school enrollment and adjust payments to an SFO and school districts based upon these results when the FEFP is recalculated.⁴¹

Home Education Programs

Home education is a parent-directed educational option that satisfies the requirement for regular school attendance. Parents may determine their child's educational path and the plan for reaching their goals. For the 2021-2022 school year 152,109 students participated in home education programs throughout Florida.⁴²

Parents of home education students are required to provide a signed, written notice of intent to establish and maintain a home education program that includes specified information within 30 days of establishing the program. The district school superintendent must accept the notice and immediately register the home education program upon receipt of the notice and may not require any additional information or verification from the parent unless the student chooses to participate in a school district program or service.

Parents of home education students are also required to maintain a portfolio of a student's records and educational materials for two years which must be available for inspection. While the parent determines the content of the portfolio, it must, at a minimum, consist of the following:

- A log of educational activities that is made contemporaneously with the instruction and that designates by title any reading materials used.
- Samples of any writings, worksheets, workbooks, or creative materials used or developed by the student.

The parent must also provide for an annual educational evaluation which documents the student's demonstration of educational progress at a level commensurate with her or his ability. The parent may select one of the following options for the evaluation and must submit the results to the district school superintendent:

- A teacher selected by the parent evaluates the student's educational progress upon review of the portfolio and discussion with the student;
- The student takes any nationally normed student achievement test administered by a certified teacher;
- The student takes a state student assessment test used by the school district and administered by a certified teacher, at a location and under testing conditions approved by the school district;

⁴⁰ Section 1002.394, F.S.

⁴¹ Section 1002.391(8)(a)14., F.S. The FEFP is calculated five times throughout the year to arrive at each year's final appropriations. See DOE, *2021-22 Funding for Florida School Districts*, at 25, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>.

⁴² DOE, *Home Education Program*, available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/HomeEd-Sept-2022.pdf>.

- The student is evaluated by an individual holding a valid, active license as a psychologist or school psychologist; or
- The student is evaluated with any other valid measurement tool as mutually agreed upon by the district school superintendent of the district in which the student resides and the student's parent.

Home education students are eligible, as provided by law, to participate in a number of district and state programs such as:

- Interscholastic extracurricular student activities;
- The Bright Futures Scholarship Program;
- Dual enrollment programs;
- Admission to Florida College System institutions;
- Admission to state universities;⁴³ and
- An FES-UA scholarship.⁴⁴

School districts are prohibited from further regulating, exercising control over or requiring documentation from parents of home education students beyond the requirements of law.⁴⁵

Effect of Proposed Changes

Private School Participation in Scholarship Programs

The bill requires additional information be provided to parents of students with disabilities considering private schools by requiring that a private school participating in any of the state's scholarship programs provide parents, either by publishing on the school's website or in writing, a statement that a parentally placed private school student with a disability does not have an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school under the Individuals with Disabilities Education Act.

The bill expands the commissioner's oversight powers by allowing her or him to permanently deny or revoke the authority of an owner, officer, or director to establish or operate a private school in the state, and include such individual on the disqualification list maintained by the DOE, if the commissioner determines that the owner, officer, or director has operated an educational institution that closed during the school year. An individual may be removed from the disqualification list if the individual reimburses the department or eligible SFO the amount of scholarship funds received by the educational institution during the school year in which it closed.

Eligibility for Education Choice Scholarships in Florida

The bill expands eligibility for FTC and FES-EO scholarships to include any student who is a resident of Florida and is eligible to enroll in kindergarten through grade 12 in a public school. The parent of an eligible student will receive an empowerment account to take education dollars

⁴³ Section 1002.41, F.S.

⁴⁴ Section 1002.394, F.S.

⁴⁵ Section 1002.41, F.S.

earmarked for their child in the public education system and choose among a variety of options to customize their child's k-12 education.

Scholarship Prohibitions for FES-EO and FTC

The bill modifies FES-EO and FTC scholarship prohibitions by providing that a student is not eligible for an FTC scholarship while he or she is participating in virtual instruction that receives state-funding pursuant to the student's participation.

Authorized uses for FES-EO and FTC Awards

The bill expands the authorized uses of FTC and FES-EO scholarship funds in an empowerment account to include:

- Instructional materials, including digital materials and Internet resources.
- Curriculum, which is a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction.
- Tuition or fees associated with full-time or part-time enrollment in an eligible postsecondary educational institution or a program offered by the postsecondary educational institution unless exempt from paying fees for dual enrollment programs, an approved preapprenticeship program, a private tutoring program, a virtual program offered by a DOE-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes, but rather attending a public school on a part-time basis.
- Tuition and fees for part-time tutoring services or fees and services provided by a choice navigator. Such services must be provided by a person who holds a valid Florida educator's certificate, a person who holds an adjunct teaching certificate, a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given, a person who has demonstrated a mastery of subject area knowledge, or a person certified by a nationally or internationally recognized research-based training program as approved by the DOE. "Part-time tutoring services" does not qualify as regular school attendance.

The bill clarifies that for a scholarship awarded to students enrolled full-time in a private school, a parent agrees to have the SFO commit scholarship funds for tuition and fees at a private school before using account funds for any other authorized use and that a parent is responsible for all eligible expenses in excess of the amount of the scholarship.

The bill expands the definition of eligible postsecondary educational institution to include approved high education institutions which participate in distance education through reciprocity agreements.

To reflect the expanded authorized uses beyond just tuition and fees at a private school, the bill provides that the scholarship amount must be the calculated amount the student would have

generated through the FEFP, rather than the lesser amount of either the calculated funds or the cost of tuition and fees.

Award Priority for FES-EO and FTC

The bill retains the requirement that priority for FTC and FES-EO scholarships be given to those students whose household income does not exceed 185 percent of the federal poverty level or who are in foster care or out-of-home care. The bill adds a second priority group for students whose household income is greater than 185 percent of the federal poverty level, but less than or equal to 400 percent of the federal poverty level. Additionally, the bill expands the eligibility for public school transportation scholarships to all students eligible for a scholarship.

The bill requires FES-EO scholarships be awarded once all FTC scholarships have been funded.

Personalized Education Programs

The bill establishes the personalized education program as a parent directed educational choice option that must be registered with a SFO that administers FTC scholarships. The bill authorizes students in personalized educational programs to participate in the FTC scholarship program and establishes personalized education programs as a mechanism to satisfy mandatory school attendance requirements. Students in a personalized education program are provided access to the same programs and services as home education program students.

The bill establishes the following responsibilities for parents and students receiving a FTC scholarship while participating in a personalized education program:

- Apply to an eligible SFO to participate in the program by a date set by the organization. The request must be communicated directly to the organization in a manner that creates a written or electronic record of the request and the date of receipt of the request.
- Sign an agreement with the SFO and annually submit a sworn compliance statement to the organization to satisfy or maintain program eligibility, including eligibility to receive and spend program payments, by:
 - Affirming that the program funds are used only for authorized purposes serving the student's educational needs and that they will not receive a payment, refund, or rebate of any funds provided under this section.
 - Affirming that the parent is responsible for all eligible expenses in excess of the amount of the scholarship and for the education for his or her student.
 - Submitting a student learning plan to the SFO and revising the plan, at least annually before program renewal.
 - Requiring the student to take a nationally norm-referenced test identified by the DOE or a statewide assessment and provide assessment results to the SFO before renewal.
 - Renewing participation in the program each year.
 - Procuring the services necessary to educate the student. When the student receives a scholarship, the district school board is not obligated to provide the student with a free appropriate public education.

For a scholarship student participating in a personalized education program, a SFO must:

- Maintain a signed agreement from the parent which constitutes as complying with the state's attendance requirements.

- Receive eligible student test scores or assessments administered for review by the DOE selected university. Beginning in the 2027-2028 school year, the university must include the personalized education students in their annual performance report to the DOE.
- Provide parents with information, guidance, and support necessary to create and annually update a customized student learning plan for their student. The SFO must maintain the plan and allow parents to electronically submit, access, and revise the plan continuously.
- Upon submission by the parent of an annual student learning plan, fund a scholarship for a student determined eligible.

With regard to personalized education program students, the bill prohibits the SFO from further regulating, exercising control over, or requiring documentation beyond the requirements required by law.

The bill updates the parent and student participation responsibilities for the scholarship by requiring the parent to meet with the private school's principal or the principal's designee to review the school's academic programs and policies, specialized services, code of student conduct, and attendance policies prior to enrollment. The bill also requires a public school to post on their website a statement regarding specified services for students with disabilities.

Number of Available FES-EO and FTC Awards

The bill removes the existing FES-EO scholarship growth provisions and provides a schedule for funding the FTC and FES-EO scholarships to eligible students that are enrolled in a home education program. For the 2023-2024 school year, up to 20,000 personalized education program scholarships may be funded by the FTC. In each subsequent school year, the number of funded scholarships may increase by 40,000 in the FTC scholarships. By the 2027-2028 school year, every personalized education program student will have access to an empowerment account to customize their education.

The bill provides the option for recipients of FTC and FES-EO scholarships who are enrolled in a personal education program, and their parents, work with choice navigators. The bill defines a choice navigator to mean an individual who assists parents with the selection, application, and enrollment in educational options that address the academic needs of their student. The choice navigator must be a person who:

- Holds a valid Florida educator's certificate;
- Holds an adjunct teaching certificate;
- Has a bachelor's degree or graduate degree in the subject area in which instruction is given;
- Has demonstrated a mastery of subject area knowledge; or
- Is certified by a nationally or internationally recognized research-based training program as approved by the department.

The bill requires any consultation between a choice navigator and a parent to be at a mutually agreed upon location and prohibits a choice navigator from overseeing or exercising control over the curricula or academic program of a personalized education program student.

The bill requires the DOE to include coordination with and the reporting by SFOs of personalized education student assessment data in the grant award issued to a state university for

the compiling and analysis of scholarship recipient assessment data. The bill expands the required report under this grant to cover all private schools at which a scholarship student attended rather than only those schools where 51 percent or more of the students received scholarships. Additionally, the bill requires the report to include performance on an individual school basis for both FTC and FES-EO scholarships. Beginning with the 2027-2028 school year report, and annually thereafter, the report must include assessment data from personalized education students on a statewide basis reported by the SFOs.

Additionally, the bill requires the DOE to:

- Report, as part of the determination of full-time equivalent membership, all students who are receiving a FES scholarship program and funded in the FEFP. The DOE must inform SFOs that students may not be submitted for FES funding after February 1 of each year;
- Annually publish its list of nationally norm-referenced tests identified for purposes of satisfying scholarship program assessment requirements;
- Assist school districts in their budgeting processes, requiring the DOE to report to school districts the consensus estimate of FTC and FES-EO enrollment in the subsequent school year; and
- Have at least two application periods for charitable organizations to apply to be SFOs in Florida.

The bill retains current law for home education families not participating in the FTC and FES programs.

Scholarship Term for FES-EO and FTC

The bill requires an FTC and FES-EO scholarship to remain in force until:

- The SFO determines that the student is not eligible for program renewal;
- The Commissioner of Education (commissioner) suspends or revokes program participation or use of funds;
- The student's parent has forfeited participation in the program for failure to comply with statutorily required parental and student responsibilities;
- The student enrolls in a public school, however, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school on a full-time basis for that purpose; or
- The student graduates from high school or attains 21 years of age, whichever occurs first.

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

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

The bill permits reimbursements for program expenditures to continue until the account balance is expended or remaining funds have reverted to the state.

SFO Obligations for FES-EO and FTC

For both FTC and FES-EO scholarship recipients, the bill requires that an SFO establish and maintain an empowerment account for each eligible student and maintain records of accrued interest retained in the student's account. The parent of an eligible student must approve each payment prior to the SFO transferring funds and all dispersals to the account must be made by funds transfer. The SFO may permit eligible students to use program funds by paying for the authorized use directly, then submitting a reimbursement request to the eligible SFO. However, a SFO is authorized to require the use of an online curriculum or academic programs. If a parent purchases an identical product offered by the SFO's online platform for a lower price, the SFO must reimburse the parent for the cost of the product.

For both the FTC and FES-EO scholarships, the SFO is required to verify a student's eligibility each fiscal year, prior to granting a scholarship for that fiscal year. A student whose participation in the program is not renewed may continue to spend scholarship funds that are in his or her account from prior years unless the account must be closed. The bill establishes a cap of \$24,000.00 as the maximum amount an SFO is permitted to maintain in an individual student's empowerment account for an FES-EO or FTC scholarship.

The bill requires the DOE to transfer eligible student scholarship funds, beginning August 1, to an SFO. The bill maintains the quarterly disbursement of funds to a student's empowerment account.

The bill requires that a SFO must award for annual or partial-year scholarships an amount equal to or greater than 75 percent of all estimated eligible contributions and all funds carried forward from the prior fiscal year remaining after administrative expenses, before funding any scholarships to students determined eligible for an FES-EO scholarship. The bill requires a SFO to submit to the DOE, beginning September 30, 2023, quarterly reports that provide estimated actual amounts of the net eligible contributions and all funds carried forward from the prior state fiscal year.

To provide guidance to scholarship recipients on allowable expenditures under FTC, FES-EO, FES-UA, and all of Florida's scholarship programs, the bill requires SFOs to participate in a joint development of agreed-upon purchasing guidelines. The jointly developed purchasing guidelines must be provided to the commissioner and published to the SFO's website by December 31, 2023, and annually thereafter.

The bill requires SFOs to notify parents that participation in the FTC or FES-EO scholarship programs does not guarantee enrollment at any particular private school.

Number of Available FES-UA Awards

To increase the number of eligible students with disabilities served by the scholarship, the bill increases the scholarship capacity from 1 to 3 percent of the state's total exceptional student education student membership annually.

The bill also expands the authorized uses of a FES-UA scholarship to include preapprenticeship programs or fees for services provided by a choice navigator. Additionally, FES-UA students may now use scholarship funds for distance learning at postsecondary educational institutions

with reciprocity agreements. The bill clarifies that a FES-UA recipient receiving contracted services provided by a public school or school district are considered to be attending public school on a part-time basis.

The bill requires that private schools accepting FES-UA scholarships discuss with the parent, before enrollment, the school's academic programs, and policies and specialized services which may meet the student's individual needs.

The bill provides schools districts with additional flexibility when developing a matrix of services for a nonpublic school student receiving an FES-UA scholarship, by authorizing the school district to rely on the evaluation reports and plans of care developed by a licensed professional when completing the matrix of services.

The bill establishes a cap of \$50,000 as the maximum amount a SFO is permitted to maintain in an individual student's empowerment savings account for a FES-UA scholarship.

Other Scholarship Provisions

The bill revises the definition of an eligible contribution under FTC to mean a monetary contribution from a taxpayer, subject to the restrictions provided in s. 1002.395, F.S., to an eligible SFO pursuant to ss. 212.099, 212.1832, 1002.395, and 1002.40, F.S.

The bill removes the requirement that the school district in which a scholarship student resides must provide the student information about locations and times for statewide, standardized assessment. The bill retains the requirement that the school district in which the private school student attends is located provide locations and times for a student to take statewide, standardized assessments, upon the parent's request.

Part-time Enrollment in Public Schools

Present Situation

At least 12 states expressly permit students to enroll in public school part-time. These states vary greatly in the scope of the authorization for part-time enrollment, specifically, six permit both home school students and private school students to enroll part-time in public schools while three permit only home school students and three permit only private school students to enroll part-time. Additionally in the funding provided to school districts when a student enrolls part-time varies between these states with some providing funding based on instructional time while others provide only a flat rate for part-time students.⁴⁶

Florida law does not expressly authorize or prohibit part-time enrollment in public schools. However, for the purpose of funding Florida's school districts, the FEFP does provide a definition of a "part-time student" and authorizes a district to receive funding for the student

⁴⁶ ExcelinEd, *Part-time Enrollment Policy Analysis June 2021*, available at https://excelined.org/wp-content/uploads/2021/06/ExcelinEd_PolicyAnalysis_PartTimeEnrollment_June2021.pdf.

proportional to the amount of instructional hours provided by the school divided by the minimum term.⁴⁷

Effect of Proposed Changes

The bill expressly authorizes any public school in the state, including charter schools, to enroll a student on a part-time basis, subject to space and availability. Students that attend public school part-time generate FTE student membership consistent with the definition of “part-time student” currently in law. The bill clarifies that students enrolled in public school part-time are not considered to be in regular attendance at a public school. However, such students attending a public school on a part-time basis and receiving a scholarship may not be reported for funding.

State School Choice Scholarship Program Accountability and Oversight

Present Situation

The Commissioner of Education (commissioner) is the chief educational officer of the state, and is responsible for giving full assistance to the State Board of Education (SBE) in enforcing compliance with the mission and goals of the K-20 education system except for the State University System. The commissioner’s office operates all statewide functions necessary to support the SBE, including strategic planning and budget development, general administration, assessment, and accountability.⁴⁸ The commissioner may revoke the authority of an owner or operator to establish or operate a private school for various reasons and shall include such individuals on the disqualification list.⁴⁹

The DOE is required to maintain the disqualification list that includes all of the following:

- The person has been permanently denied an educator certificate or whose educator certificate has been permanently revoked.
- Has been permanently disqualified from owning or operating a private school that participates in the scholarship program.
- Has been terminated, or has resigned in lieu of termination as a result of sexual misconduct with a student.
- Is ineligible for an educator certification or employment for not meeting the Screening Standards pursuant to s. 1012.315, F.S.⁵⁰

An individual may be removed from the disqualification list if the person:

- Completes a law enforcement investigation that results in an exoneration or no conviction or finding of guilt and a completes an investigation and proceeding, as applicable, by the responsible education agency resulting in a finding that the person did not commit disqualifying conduct;
- Was not the subject of the report of disqualifying conduct and was included on the disqualification list in error or as a result of mistaken identity; or

⁴⁷ Section 1011.61, F.S.

⁴⁸ Section 1001.10, F.S.

⁴⁹ Section 1001.10(4), F.S.

⁵⁰ Section 1002.421(3), F.S.

- The employer that submitted the person for inclusion on the disqualification list requests that the person be removed and submits documentation to support the request.

To participate in the State Scholarship Programs a private school must:

- Comply with antidiscrimination provisions;⁵¹
- Demonstrate fiscal soundness;
- Meet applicable state and local health, safety, and welfare laws, codes, and rules;
- Employ or contract teachers with certain qualifications such as baccalaureate or higher degrees, have at least 3 years of teaching experience, or have special skills knowledge or expertise that qualifies them to provide instruction in subjects taught;
- Cooperate with a student whose parent chooses to participate in the statewide assessments; and
- May not employ a person who appears on the disqualification list.⁵²

Effect of Proposed Changes

The bill authorizes the Commissioner of Education to deny an owner, officer or director to participate in the state school scholarship program if the individual has operated an educational institution that closed during the school year. Provides that such an individual may be removed from the disqualification list (as currently required) if the individual reimburses the DOE or eligible nonprofit scholarship-funding organization the amount of the scholarship funds received by the educational institution during the school year in which it closed.

Deregulation of Public Schools

Present Situation

Florida has provided opportunities for public schools to have similar flexibility and accountability requirements as charter schools in the past by establishing various pilot programs and school initiatives with the purpose of improving student achievement and relieving school districts of burdensome regulations.⁵³ However the last time the early learning through 20 education code was revised was in 2001.⁵⁴

Effect of Proposed Changes

In an effort to provide more flexibility, efficiency, and reduce unnecessary regulation for public schools, the bill requires the SBE, no later than November 1, 2023, to develop and recommend to the Governor and Legislature for adoption during the 2024 legislative session repeals and revisions to the Florida Early Learning-20 Education Code, chapters 1000-1013, Florida Statutes.

The SBE musts make recommendations addressing repeals and revisions to the statutes governing the transportation of students. The SBE must consider input from teachers,

⁵¹ 42 U.S.C. s. 2000d

⁵² Section 1002.421(1), F.S.

⁵³ Section 228.058, F.S., Section 228.0565 (2001) and Section 1002.451, F.S for examples.

⁵⁴ Section 4, ch2001-170, L.O.F. *See also, Florida School Laws 2001 Edition*, LexisNexis (2001) and *Florida School Laws 2022 Edition*, LexisNexis (2022). Education code chapters increased from 636 pages in 2001 to 944 pages in 2022

superintendents, administrators, school boards, public and private postsecondary institutions, home educators, and other entities identified by the SBE in undertaking this effort.

Requirements for a Standard High School Diploma

Present Situation

Florida law requires the adoption of standards for core curricula content taught in public schools and specifies the requirements that students must meet to earn a standard high school diploma.⁵⁵

In order to receive a standard high school diploma, a student must successfully complete 24 credits in core-curricula and extracurricular courses with a 2.0 or higher cumulative grade point average⁵⁶ with limited exceptions.⁵⁷

The 24 required credits must be completed in the following subject areas:

- Four credits in English Language Arts (ELA) I, II, III, and IV.
- Four credits in mathematics, including one in Algebra I and one in Geometry.
- Three credits in science, two of which must have a laboratory component and one of which must include Biology I.
- Three credits in social studies including one credit in United States History, one credit in World History, one-half credit in economics, and one-half credit in United States Government.
- One credit in fine or performing arts, speech and debate, or practical arts.
- One credit in physical education which includes the integration of health.
- One-half credit in personal financial literacy for students entering grade 9 in the 2022-2023 school year.
- Eight credits in electives for students entering grade 9 prior to the 2022-2023 and 7.5 credits in electives for students entering grade 9 in the 2022-2023 school year.

In addition, within the 24 credits, at least one course must be completed through online learning.⁵⁸

Florida's online course requirement was established as part of the Digital Learning Now Act⁵⁹ passed by the legislature in 2011; however, additional options have been added to satisfy the requirement. Currently, a student may:

- Complete an online or blended learning course in grades 6-12 that is within the 24 credits required for graduation.
- Complete a course in which the student earns a nationally recognized industry certification in information technology identified on the CAPE Industry Certification Funding List.

⁵⁵ Sections 1003.41 and 1003.4282(3), F.S.

⁵⁶ Section 1003.4282, F.S.

⁵⁷ Section 1002.3105, F.S. A student may graduate with a minimum of 18 credit hours through the Academically Challenging Curriculum to Enhance Learning option if the student meets core course credit, assessment, and GPA requirements and completes three electives.

⁵⁸ Section 1003.4282, F.S.

⁵⁹ Section 1, ch. 2011-137 L.O.F.

- Pass an industry certification exam in information technology without enrolling or completing the corresponding course.⁶⁰

In addition, a student who has an individual education plan which indicates than an online or blended learning course would be inappropriate is exempt from the requirement as well as an out-of-state transfer student enrolled in a Florida high school and has one academic year or less remaining in high school.

A school district must report to the DOE when a student takes an online course and indicate if the student took the course under conditions that meet the online course graduation requirement.⁶¹

Effect of Proposed Changes

The bill removes the requirement for at least one course within the 24 credits required for a standard diploma to be completed through online learning.

Educator Certification

Present Situation

Educational personnel in public schools must possess appropriate skills in reading, writing, and mathematics; adequate pedagogical knowledge; and relevant subject matter competence so as to demonstrate an acceptable level of professional performance.⁶²

The SBE designates the certification subject areas, establishes competencies, and adopts rules in accordance with which education certificates are issued by the DOE to qualified applicants.⁶³

General Eligibility

In order to seek educator certification, a person must attest to uphold the principles of the United States (U.S.) and meet other general eligibility requirements, which include receipt of a bachelor's or higher degree from an approved postsecondary institution and minimum age, background screening, moral character, and competence requirements.

Professional Educator Certificate

A professional teaching certificate is valid for five school fiscal years and is renewable. A professional certificate is awarded to an applicant who meets the basic eligibility requirements for certification and demonstrates mastery of:

- General knowledge, only if serving as a classroom teacher
- Subject area knowledge
- Professional preparation and education competence

⁶⁰ Section 1003.4282(4), F.S.

⁶¹ DOE, *DOE Information Database Requirements Volume I, 2022.2023*, available at <https://www.fldoe.org/core/fileparse.php/20077/urlt/2223-197235.pdf>.

⁶² Section 1012.54, F.S.

⁶³ Section 1012.55(1), F.S.

Acceptable means of demonstrating mastery of general knowledge are specified in law and include passing one of several different examinations identified by the SBE, having a valid teaching certificate from another state, having a valid certificate from the National Board for Professional Teaching Standards (NBPTS), teaching a minimum of two semesters in either full-time or part-time status at a state college or university or at the private college level, or having a master's or higher degree from an accredited postsecondary education institution.

The acceptable means of demonstrating mastery of subject area knowledge are specified in law and include passing a subject area or other alternative examination as approved by the SBE, having a valid teaching certificate from another state, having a valid certificate from the NBPTS, or a passing score or program completion of a specified defense language proficiency test or program.⁶⁴

A candidate for a professional certificate may demonstrate professional preparation and education competence through the completion of a teacher preparation program and a passing score on the corresponding professional education competency exam required by the SBE.⁶⁵ Other means include:

- Documentation of a valid professional standard teaching certificate issued by another state, the NBPTS, or a national educator credentialing board approved by the SBE.
- Passing the professional education competency examination and documentation of two semesters of successful, full-time or part-time teaching in a state college or university or a private college or university approved by the DOE.
- Successful completion of professional preparation courses, successful completion of a professional preparation and education competence program, and achievement of a passing score on the professional education competency examination;
- Successful completion of a professional development certification and education competency program.
- Successful completion of a competency-based certification program and achievement of a passing score on the professional education competency examination.

Temporary Educator Certificate

A temporary teaching certificate is valid for three school years and is nonrenewable. The DOE is required by law to issue a temporary certificate to any applicant who:

- Completes applicable subject area content requirements or demonstrates mastery of subject area knowledge by, for example, successful completion of an approved exam; and
- Holds an accredited degree or a degree approved by the DOE at the level required for the subject area specialization in state board rule.⁶⁶

A classroom teacher under a temporary certificate has the validity period of the certificate to complete the remaining requirements of general knowledge and professional preparation and education competence in preparation for application for a professional certificate.

⁶⁴ Section 1012.56, F.S.

⁶⁵ Florida Department of Education, *Competencies and Skills Required for Teacher Certification in Florida* (Oct. 1, 2020), incorporated by reference in rule 6A-4.0021, F.A.C., available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-10344>.

⁶⁶ Section 1012.56, F.S.

Effect of Proposed Changes

Upon becoming a law, the bill provides a waiver of the mastery of general knowledge requirement for an individual who has been provided 3 years of supports and instruction by the school district and who has been rated effective or highly effective for each of the last 3 years.

The bill allows for an individual to demonstrate mastery of subject area knowledge, for subjects only requiring a baccalaureate degree for which a Florida subject area examination has been developed, through documentation of receipt of a master's or higher degree from an accredited postsecondary educational institution that the DOE has identified as having a quality program resulting in a baccalaureate degree or higher in the certificate subject area as identified by the SBE. The bill clarifies that demonstrating mastery of subject area knowledge for a subject requiring a master's or higher degree is achieved by passing a subject area exam or a standardized exam that is directly related to the subject.

The bill permits an individual to demonstrate mastery of professional preparation and education competence by documentation of 3 years of being rated effective or highly effective and successful completion of professional preparations courses or a professional preparation and education competence program.

The bill extends the duration of a nonrenewable temporary certificate from 3 to 5 years.

Student Transportation

Present Situation

District school boards, after considering recommendations of the district school superintendent, must provide transportation for each student in prekindergarten disability programs and in K-12 public schools when transportation is necessary to provide adequate educational facilities and opportunities which otherwise would not be available. School districts must also transport students whose homes are more than a reasonable walking distance from the nearest appropriate school.⁶⁷

Federal law, Florida law, rules of the SBE, and rules of the district school board specify the responsibilities and requirements of district school superintendents and district school boards in regards to the transportation of students to and from school and school activities.⁶⁸

In 2020-2021, school districts transported 508,293 students, or 18 percent of the total enrollment in traditional public schools.⁶⁹

⁶⁷ Section 1006.21(3), F.S.

⁶⁸ See Sections 1006.21, 1006.22, 1006.23, 1006.24, 1006.25, 1006.261, and 1006.27, F.S.

⁶⁹ <https://www.fldoe.org/core/fileparse.php/7585/urlt/schtrandist2021.pdf>

Safety and Health of Students Being Transported.

School districts are responsible for the safety and health of students being transported that must be observed by district school boards in routing buses, appointing drivers, and providing operating equipment, in accordance with law and SBE rules.⁷⁰

There are four vehicle categories that indicate the type of vehicle used to transport a student. These include:

- School buses meeting Florida School Bus Specifications.
- Passenger car or allowable multipurpose passenger vehicle owned, operated, or contracted by the school board or charter school, transporting fewer than 10 students.
- Privately owned motor vehicle or boat (for certain students with disabilities or isolated students).
- General-purpose transportation (city buses, trains, etc.).⁷¹

District school boards must use school buses for all regular transportation, including to and from school or school-related activities.⁷² All public school buses owned, operated, rented, leased and contracted for by any public school board or charter school, used to transport children to and from school or school-related events must meet certain requirements.⁷³

In 2020-2021, 12,551 school buses were in daily service, traveling over 204 million total miles.⁷⁴

District school boards may use motor vehicles other than school buses only when the transportation is:

- For physically handicapped or isolated students and the district school board has elected to provide for the transportation of the student.
- A part of a comprehensive contract for a specialized educational program.
- Provided through a public transit system.
- For trips to and from school sites or agricultural education sites but not the customary transportation between the student's residence and such sites.
- For trips to and from school sites but is not for customary transportation between a student's residence and such sites.

Transportation provided in a vehicle other than a school bus owned, operated, or contracted by the school board or charter school must meet statutory and federal requirements related to the size of the vehicle, and must meet requirements regarding licensed adult drivers and board procedures for liability.⁷⁵ Federal regulations do not prohibit the use of vans by schools, but

⁷⁰ Section 1006.22, F.S.

⁷¹ DOE Bureau of PK-20 Education Data Warehouse and Office of Funding and Financial Reporting, *Full-time Equivalent (FTE) General Instructions 2020-21*, at 72, available at, <https://www.fldoe.org/core/fileparse.php/7507/urlt/2021FTEGeneralInstruct.pdf>.

⁷² Section 1006.22(1), F.S.

⁷³ DOE, *Florida School Bus Specifications* (January 2020), available at, <https://www.fldoe.org/core/fileparse.php/7585/urlt/2020FLSchoolBusSpec.pdf>.

⁷⁴ <https://www.fldoe.org/core/fileparse.php/7585/urlt/schtrandist2021.pdf>

⁷⁵ Section 1006.22, F.S.

require any van, with a capacity of more than 10, sold or leased for use as a school bus, to meet the safety standards applicable to school buses.⁷⁶

District school boards may authorize the transportation of students in privately owned motor vehicles on a case-by-case basis only in the case of illness or for isolated events as long as each student's parent is notified in writing and gives written consent before a student is transported in a privately owned motor vehicle.

The district school superintendent must notify the district school board or any school bus or other vehicle used to transport students that does not meet all the requirements of law and the rules of the SBE. If the school bus is in an unsafe condition, the district school board must withdraw it from use until it meets specified requirements to be deemed safe for operation. The DOE may inspect any school bus to determine whether the bus meets the requirement of law and rules of the SBE.

In an emergency situation, as defined by district school board policy, a school district may temporarily require transporting students in excess of the rated seat capacity adhering to certain conditions. Each district school board is responsible for prompt relief of the emergency condition by providing additional specified actions maintained in district school board policies.⁷⁷

School Buses

The DOE must assist district school boards in securing school buses, contractual needs, equipment, and supplies at as reasonable prices as possible by providing a ply under which district school boards may pool their bids for such purchases.⁷⁸

The State Board of Education is authorized to adopt rules regarding school bus safety standards, standards for leased vehicles, and passenger protection systems.

Transportation Costs and Expenditures

In the 2020-2021 fiscal year, Florida provided \$449.9M to transport students, however total transportation expenditures reported by school districts exceeded \$964M. In addition, in that year school districts spent over \$108 million on school bus purchases.⁷⁹

Florida has allocated \$515M in funds to provide transportation to students in the 2022-2023 fiscal year.⁸⁰

School districts are also responsible for transportation costs for students participating in:

⁷⁶ 49 U.S.C. s. 30101 and National Highway Traffic Safety Administration, *Use of Nonconforming Vehicles for School Transportation*, <https://one.nhtsa.gov/people/injury/buses/pub/noncom.hmp.html> (last visited Feb. 14, 2023).

⁷⁷ Section 1006.22, F.S.

⁷⁸ Section 1006.27(1), F.S.

⁷⁹ DOE, Florida School District 2020-21 Transportation Profiles, March 2022, available at <https://www.fldoe.org/core/fileparse.php/7585/urlt/schtrandist2021.pdf> at 4.

⁸⁰ DOE, Florida Education Finance Program Third Calculation, 2022-2023, January 2023, available at: <https://www.fldoe.org/core/fileparse.php/7507/urlt/2223FEFPTthirdCalc.pdf>

- The Opportunity Scholarship Program when parents choose that their student be enrolled in a higher-performing public school in the school district.⁸¹
- The FES program when parents choose another public school in the school district.⁸²

In an effort to improve access to reliable and safe transportation for students participating in public education school choices and to support innovative solutions that increase the efficiency of public school transportation, the Driving Choice Grant Program was passed during the 2022 legislative session. The DOE must publish on its website, by December 31, 2023, an interim report and by December 31, 2024, a final report that includes best practices used by grant recipients to increase transportation options for students and the number of students served by grant recipients.⁸³

Effect of Proposed Changes

The bill provides additional flexibility to district school boards in the transportation of student by removing the blanket requirement that all regular transportation occur on school buses and authorizing the use of other vehicles.

The bill removes the circumstances by which students may be transported in privately owned vehicles, allowing broader authority to district school board to use such transportation. However, the district school board must still authorize such transport on a case-by-case basis and with the authorization of each student's parent.

The bill requires district school superintendents to notify the district school board of any other vehicle used to transport students that does not meet all statutory requirements.

The bill adds to the requirement that the SBE assist school districts in securing school buses through pooling bids, to include other vehicles used for transporting students.

The bill maintains SBE authority to adopt rules relating to transportation of students necessary to protect student health and safety.

Educational Facilities

Present Situation

Funds for Comprehensive Educational Plant Needs

In Florida, construction costs for traditional K-12 public school facilities are reported based on the cost per student station.⁸⁴ In 2005, the DOE conducted a study on overall inflation of school construction costs, including the Consumer Price Index (CPI) and other factors. The cost per student station levels adopted in 2006 were based on the DOE's study recommendations and is adjusted to reflect increases and decreases in the CPI.⁸⁵ The DOE and the Office of Economic

⁸¹ Section 1002.38, F.S.

⁸² Section 1002.394, F.S.

⁸³ Section 1006.27(3), F.S.

⁸⁴ Section 1013.64(6), F.S.

⁸⁵ Office of Economic and Demographic Research, *Review of Florida's Cost Per Student Station* (January 2017), available at <http://edr.state.fl.us/content/special-research-projects/education/CostPerStudentStation.pdf> at 6.

and Demographic Research (EDR)⁸⁶ are required to work together to calculate and disseminate new statutory caps.

Current law prohibits a district school board from using funds from specified sources for any new construction of educational plant space with a total cost per student station exceeding:

- \$27,212 for an elementary school;
- \$29,385 for a middle school; or
- \$38,169 for a high school.⁸⁷

Except for certain educational facilities and sites subject to a lease-purchase agreement that may be paid for by a district school board levy,⁸⁸ or funded solely through local impact fees, a district school board may not use funds from any sources for new construction of educational plant space with a total cost per student station that exceeds these amounts. The cost per student station includes, for example, contract costs, fees of architects and engineers, and the cost of furniture and equipment. The cost per student station specifically does not include the cost of purchasing or leasing the site for the construction, legal and administrative costs, the cost of related site or offsite improvements, and costs for school safety and hardening items and other capital construction items approved by the school safety specialist to ensure building security for new educational, auxiliary, or ancillary facilities.⁸⁹

Effect of Proposed Changes

The bill amends s. 1013.64, F.S., to provide relief for school district construction projects by authorizing an unfinished construction project for new construction of educational plant space started on or before July 1, 2026, as exempt from the total cost per student station requirements.

Maintenance and Transfer of School Records

Present Situation

Each principal is responsible for maintaining a permanent cumulative record for each student enrolled in a public K-12 school. The required form and content of the cumulative records is established in SBE rule. The cumulative record is confidential and exempt from Florida's public records laws and is open to inspection only as provided law.⁹⁰

The procedure for transferring and maintaining records of students who transfer from school to school shall be proscribed by rules of the SBE. The transfer of records shall occur within 3 school days. The records shall include:

- Verified reports of serious or recurrent behavior patterns, including threat assessment evaluations and intervention services; and

⁸⁶ The Office of Economic and Demographic Research is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. Office of Economic and Demographic Research, *Welcome*, <http://edr.state.fl.us/Content/> (last visited January 26, 2023).

⁸⁷ Section 1013.64, F.S. and DOE, *Cost Per Student Station (forecast for) July. 2023 (July 2022)*, available at <http://edr.state.fl.us/Content/conferences/peco/studentstation.pdf>.

⁸⁸ Section 1011.71(2), F.S., sets forth the guidelines for authorized district school board lease-purchase agreements.

⁸⁹ Section 1013.64(6), F.S.

⁹⁰ Section 1003.25(1), F.S.; see rule 6A-1.0955, F.A.C.

- Psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by school district or charter school staff, as appropriate.⁹¹

Effect of Proposed Changes

To lessen the administrative burden on school districts while also ensuring the records are transferred in a timely manner, the bill requires that the transfer of records must occur within 5 school days.

District School Tax

Present Situation

In order to receive funds under the Florida Education Finance Program for the operation of schools, a district school board must levy the millage⁹² set for its required local effort from property taxes.⁹³ A school district's millage rate may not exceed the amount certified by the Commissioner of Education as the minimum millage rate necessary to provide the district required local effort for the current year.⁹⁴

In addition to the required local effort, each school district may levy a discretionary nonvoted current operating millage.⁹⁵ The Legislature proscribes annually in the General Appropriations Act (GAA) the maximum amount of millage a district may levy. For the 2022-2023 Fiscal Year (FY), the Legislature set a maximum levy of 0.748 mills.⁹⁶

In addition to the maximum discretionary levy of nonvoted current operating millage, a school board may also levy no more than 1.5 mills for charter schools and for district schools to fund:⁹⁷

- New construction, remodeling projects, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.
- Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies.
- The purchase, lease-purchase, or lease of school buses.
- The purchase, lease-purchase, or lease of new and replacement equipment, including computer and device hardware and enterprise resource software.
- Lease and lease-purchase agreements for educational facilities.
- Costs related to compliance with state and federal environmental requirements.
- Costs of opening day collection for the library media center of a new school.

⁹¹ Section 1003.25(2) F.S.; see rule 6A-1.0955, F.A.C.

⁹² Section 200.001(3)(a)-(e), F.S. School millage is composed of five categories: nonvoted required school operating millage, nonvoted discretionary school operating millage, voted district school operating millage, nonvoted district school capital improvement millage, and voted district school debt service millage.

⁹³ Section 1011.71(1), F.S.

⁹⁴ *Id.* The state average millage was set at 3.262; for the 67 school districts, the certified required millage varied from 3.355 mills (Miami Dade County) to 1.249 mills (Monroe County). See Florida Department of Education, *2022-23 Funding for Florida School Districts*, at 7, available at <https://www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf>.

⁹⁵ Section 1011.71(1), F.S.

⁹⁶ Specific Appropriation 86, s. 2, ch. 2022-156, L.O.F.

⁹⁷ Section 1011.71(2)(a)-(i), F.S.

- Costs of school buses when a school district contracts with a private entity to provide transportation services.
- Specified loans.

Effect of Proposed Changes

The bill adds payment of salaries and benefits for employees whose job duties support activities funded by the district school tax as an authorized use for district school tax funds.

The bill is effective on July 1, 2023, except as otherwise expressly provided.

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:

None.

C. Government Sector Impact:

CS/CS/SB 202 will have a negative impact on state expenditures. In addition to maximizing the capacity of estimated tax credits and assuming the use of a carryforward or reserve balance available under the Florida Tax Credit Scholarship (FTC) the bill will require an additional \$217.2 million state appropriation for Fiscal Year 2023-2024. The

impact on state expenditures will increase or decrease depending on the average awards for the scholarships and if more or less students participate than forecasted.

In Fiscal Year 2024-2025, the impact on state expenditures is expected to grow as additional home school students may participate in the program due to increases in the caps in the bill.

Eligible Students

In Fiscal Year 2021-2022, there were 372,632 students enrolled in kindergarten through 12th grade in a Florida private school. Of this, 302,491 (81.2%) were enrolled in a private school that is participating in either the Florida Tax Credit or the Family Empowerment - Education Opportunity (FES-EO) program. Based on a projected growth rate of approximately 4 percent, it is forecasted that overall private school enrollment will grow to 393,207 for the 2023-2024 school year, with 315,702 students enrolled in a participating school and the remaining 77,505 enrolled in a private school not participating in a state scholarship program.

Based on the February 6, 2023, PreK-12 Enrollment Estimating Conference, 257,717 students are forecasted to be enrolled at a private school on a state scholarship for the 2023-2024 school year. This leaves 57,985 of the 315,702 students estimated to be enrolled in a participating private school who are not on a state scholarship.

Of the 77,505 students enrolled in a private school not currently participating in a state scholarship program, it is assumed that approximately 20 percent would participate in a state scholarship program under the bill in Fiscal Year 2023-2024.

In addition, the bill authorizes home school students to participate in FES-EO and FTC scholarships, with a cap of 20,000 students total across both programs in Fiscal Year 2023-2024. The bill authorizes an additional 40,000 home school students per year to participate in the program beginning in the Fiscal Year 2024-2025 through Fiscal Year 2026-2027.

The table below shows the total number of additional students (70,656) estimated to enroll in a Florida Tax Credit Scholarship or a Florida Empowerment Scholarship (Education Opportunity).

**Total Eligible Students – FES-EO Program
Fiscal Year 2023-2024**

Students	Eligible Students Not on Scholarship	Participation Rate	Additional Students
Enrolled in a Participating School	57,985	60.43%	35,043
Enrolled in a Non-Participating School	77,505	20.14%	15,613
Home School Students	168,759		20,000
TOTAL	304,249		70,656

For the Florida Empowerment Scholarship for students with disabilities (FES-UA), the bill increases the cap from 1 percent to 3 percent of the total eligible exceptional student education (ESE) full-time equivalent students. Based on an ESE population this change in policy will allow an additional 9,628 students to receive a scholarship.

Funding Scholarships

Since the eligibility requirements are the same for FTC and FES-EO scholarships, the additional 70,656 students who are estimated to participate in these scholarship programs may be funded from either FTC tax credit contributions or general revenue in the FEFP. At the March 13, 2023 Revenue Estimating Conference, it was forecasted that the tax credit contributions for FTC would be \$850 million for fiscal year 2023-2024. The last estimate for the 2022-2023 school year showed that a total of 92,980 students were funded on a FTC scholarship, with a total cost of \$701.9 million. The \$126 million remaining tax credit contributions would fund an estimated 16,338 additional FTC scholarships at an average award of \$7,714, after administrative fees are deducted. Additionally, it is estimated that the scholarship funding organizations have a carryforward or reserve balance of approximately \$370 million, which, in part, may be used to fund approximately 39,318 additional scholarships for fiscal year 2023-2024. The remaining 15,000 students not funded by FTC would receive an FES-EO scholarship, which is funded with general revenue funds in the FEFP.

The table below details the bill’s total estimated fiscal impact for FTC, FES-EO, and the FES-UA. Similar to the FES-EO scholarship, the 9,628 additional FES-UA scholarships would be funded with general revenue funds in the FEFP.

Total Additional Scholarship Funding – Fiscal Year 2023-2024

Scholarship Program	Additional Students	Average Awards 2022-2023	Estimated Total Cost
Florida Tax Credit Scholarship	55,656	\$7,714	\$429.3 M
Florida Empowerment Scholarship (FES) – Education Opportunity	15,000	\$7,714	\$115.7 M
Florida Empowerment Scholarship (FES) – Unique Ability	9,628	\$10,544	\$101.5 M
Subtotal FES Scholarships (General Revenue)	24,628		\$217.2 M
TOTAL	80,284		\$646.5 M

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.45, 212.099, 327.371, 1001.10, 1002.01, 1002.20, 1002.394, 1002.395, 1002.40, 1002.421, 1003.25, 1003.27, 1003.4282, 1003.4851006.21, 1006.22, 1006.25, 1006.261, 1006.27, 1009.30, 1011.62, 1011.71, 1012.22, 1012.56, 1013.64, 1002.321, 1003.5716, 1002.20, 1003.01, and 1003.499.

This bill creates section 1002.44 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Appropriations on March 16, 2023:

The committee substitute made the following modifications to the bill:

- Establishes the priority for FTC and FES-ES scholarships for students whose household income does not exceed 185 percent of the FPL and it creates a second priority for households with an income not exceeding 400 percent of the FPL.
- Maintains the choice navigator and redefines it as an option that parents may choose and requires the choice navigator to meet the requirements of a part-time tutor.

- Maintains that all students must take a nationally norm-referenced test or statewide assessment and adds reporting provisions for personalized education students beginning in 2027-2028.
- Maintains flexibility for traditional public schools with the following differences:
 - Continues to authorize other vehicles for student transportation but pulls back in specified SBE rule-making authority.
 - Continues to address teacher certification requirements through additional options to earn an educator certificate.

The committee substitute adds the following to the bill:

- Addresses home education concerns by authorizing a “personalized education program” as an additional way to meet attendance requirements.
- Defines a “personalized education student” as a student whose parent applies to an SFO for participation in a personalized education program through FTC and authorizes these students as eligible to be reimbursed for dual enrollment expenses.
- Authorizes up to 20,000 (rather than 10,000) FTC scholarships to students enrolled as personalized education students and increases the amount by 40,000 rather than 20,000 in subsequent years until 2027. This number incorporates the scholarships previously set aside for home education students in FES.
- Adds SFO and parent requirements similar to FES-UA for an FTC personalized education student.
- Requires the parent opting for a private school to use all scholarship funds for tuition and fees before using funds for additional authorized uses and requires parents to be reimbursed for program expenses purchased at a lower cost.
- Requires FES-EO scholarships to be funded once all FTC scholarships have been funded.
- Requires the SFO to submit quarterly reports to the DOE providing the estimated and actual amounts of all FTC funds.
- Requires a private school to publish on the school’s website a statement regarding specified services for students with disabilities.
- Extends the timeline to transfer student records from three to five school days.
- Authorizes the district school tax to be used for payment of salaries and benefits for employees whose job duties support related activities.

The committee substitute deletes the following from the bill:

- Provisions authorizing the funding of eligible FES-UA students on the wait-list from remaining tax credit revenue from the FTC or Hope Scholarship Programs.
- Provisions regarding teacher salary allocation flexibility.

CS by Appropriations Committee on Education on March 8, 2023:

The committee substitute authorizes the Commissioner of Education to deny an owner, officer or director to participate in the state school scholarship program if the individual has operated an educational institution that closed during the school year. Such individual may be removed from the disqualification list if the individual reimburses the DOE or eligible nonprofit scholarship-funding organization the amount of the scholarship funds received by the educational institution during the school year in which it closed.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
