

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 Education Pre-K -12

BILL: SB 202

INTRODUCER: Senator Simon

SUBJECT: K-12 Education

DATE: February 20, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues, Jahnke	Bouck	ED	Pre-meeting
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

I. Summary:

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.
- 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 home education program students to participate in the FTC and FES-EO scholarships, subject to specified requirements.
- 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.
- Removing specified SBE rule authority governing student transportation.
- Adding flexibility for student transportation by allowing vehicles other than school buses to regularly transport students.
- Authorizing additional funding appropriated for the Teacher Salary Increase Allocation to be used by school districts and charter schools to provide salary increases for full-time classroom teachers, certified prekindergarten teachers funded in the Florida Education Finance Program, and other specified instructional personnel.
- Eliminating restrictions on salary schedules for instructional personnel and administrators.
- 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.
- Revising the requirements for issuing a temporary teaching certificate by requiring the applicant to have a job offer from a Florida public school and removing other specified requirements.
- 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.

Although the specific fiscal impact of the bill is indeterminate at this time, expanding the eligibility requirements of the Florida Empowerment Scholarship will have a significant negative impact on state expenditures. See Section V.

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),² the Family Empowerment Scholarship for students with disabilities (FES-UA),³ and the Hope Scholarship Program (Hope).⁴

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 *Id.*

⁴ Section 1002.40, F.S.; *see also* rule 6A-6.0951, F.A.C.

Private schools must meet specific criteria in order to be eligible to participate in Florida's scholarship programs⁵ and the Florida Department of Education (DOE)⁶ and Commissioner of Education (commissioner)⁷ 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.⁸

Currently, 71 percent of the kindergarten through grade 12 eligible student population qualifies for an FTC or FES-EO scholarship.⁹

Scholarship Funding Organizations

Florida's scholarship programs are administered by DOE-approved non-profit scholarship-funding organizations (SFO).¹⁰ 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.¹¹ There are currently two SFOs approved to administer the FES-EO, the FES-UA, the FTC, the HOPE, and the Reading Scholarship Programs.¹²

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.¹³ The FTC is funded with contributions to SFOs from taxpayers who receive a tax credit for use against their liability for specified taxes.¹⁴ The tax credit is equal to 100 percent of the eligible

⁵ Section 1002.421(1), F.S.

⁶ Section 1002.421(2), F.S.

⁷ Section 1002.421(3), F.S.

⁸ Section 1002.421(2)(a), F.S. The DOE is also authorized to conduct a site visit for any participating private school regarding a complaint or notice of noncompliance. The DOE must annually submit a report to the Governor and the Legislature, the President of the Senate, and the Speaker of the House of Representatives which describes its implementation of the accountability measures in the scholarship programs, any substantiated allegations or violations of law or rule by a private school, and the corrective action taken. Section 1002.421(2), F.S.

⁹ 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=pk+2-7-23.pdf>.

¹⁰ DOE, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Feb. 15, 2023).

¹¹ Section 1002.395(1)(f), F.S.

¹² DOE, *Scholarship Funding Organizations*, <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/sfo/> (last visited Feb. 15, 2023). 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. See A.A.A. Scholarship Foundation, *Florida Parents*, <https://www.aaascholarships.org/parents/florida/> (last visited Feb. 15, 2023) and Step Up For Students, *Scholarships to Give Florida Students Educational Options*, <https://www.stepupforstudents.org/scholarships/> (last visited Feb. 15, 2023).

¹³ Section 1002.395(1)(b), F.S.

¹⁴ See Section 1002.395(1) and (5), F.S.

contributions made.¹⁵ 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.¹⁶

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.¹⁷ Contingent upon available funds, a student is initially eligible for an FTC scholarship if he or she is:

- On the direct certification list¹⁸ 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 \$111,000¹⁹ for a family of four, for the 2022-2023 school year.²⁰
- Currently placed, or during the previous state fiscal year was placed, in foster care or in out-of-home care.²¹
- A sibling of a student participating in the FTC scholarship and the siblings reside in the same household.²²

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.²³ A scholarship recipient is not required to reapply annually, however, an SFO may require a recipient to annually confirm continued participation in the program.²⁴

¹⁵ Section 1002.395(5), F.S.

¹⁶ Section 1002.395(6)(d), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution. Section 1002.395(2)(e), F.S.

¹⁷ Section 1002.395(3)(b), F.S. Priority for an initial FTC scholarship must be given to a student whose household income level does not exceed 185 percent of the FPL (\$51,337.50 for a family of four for the 2022-2023 school year) or who is in foster care or out-of-home care. *See* 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>.

¹⁸ *See* s. 1002.395(2)(c), F.S. "Direct certification list" means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the DOE by the Department of Children and Families.

¹⁹ 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>.

²⁰ 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>.

²¹ Section 1002.395(3)(b)2., F.S.

²² Section 1002.395(3), F.S.

²³ *Id.*

²⁴ *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.

FTC Scholarship Prohibitions

A student is not eligible for a scholarship under the FTC if the student is:²⁵

- 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,²⁶ or receive a transportation scholarship to another public school.²⁷

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.²⁸ The maximum scholarship award amount for the 2021-2022 school year was \$7,408 per student.²⁹

In lieu of a scholarship for enrollment in a private school, an eligible³⁰ student may receive a scholarship for transportation to a public school other than the public school to which the student was assigned.³¹ 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.³²

²⁵ Section 1002.395(4), F.S.

²⁶ Section 1002.395(6)(d), F.S.

²⁷ Section 1002.395(11)(a)3., F.S.

²⁸ Section 1002.395(11)(a)2., F.S. (2021); *See also* section 5, ch. 2021-27, L.O.F. The calculated scholarship award amount of the full amount provided for the student, effective with the 2021-2022 school year, is for an FTC scholarship recipient initially eligible in the 2019-2020 school year and thereafter, and a student initially eligible in the 2018-2019 school year if the calculated amount is greater than the scholarship award in the 2018-2019 school year.

²⁹ DOE, *FTC Scholarship Program: Fact Sheet* (Oct. 2022), available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/FTC-Oct-2022-line.pdf>.

³⁰ 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.

³¹ Section 1002.395(11)(a)3., F.S.

³² *Id.* Effective for the 2022-2023 school year, the previous transportation scholarship amount of up to \$750 was revised to allow for the amount of the transportation expenditure by the school district for the student, or \$750, whichever is greater. Section 13, ch. 2022-154, L.O.F.

Responsibilities of FTC Scholarship Recipients

Parents and students must meet specified requirements for participation, which include enrolling in a private school, satisfying attendance requirements, taking a norm-referenced assessment, authorizing payment to the private school, and complying with income verifications.³³

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.³⁴

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.³⁵

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.³⁶ 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 education 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).³⁷ Each scholarship has specific student eligibility requirements, program requirements, award calculation methodologies, and allowable expenditures.³⁸

FES-EO Eligibility

A student is eligible for a scholarship to attend private school if the student meets the following criteria:³⁹

- The student is on the direct certification list⁴⁰ or the student's household income level does not exceed 185 percent of the federal poverty level (FPL)⁴¹ for the 2022-2023 school year;

³³ Section 1002.395(7)(a)-(g), F.S.

³⁴ Section 1002.395(11)(b), F.S.

³⁵ *Id.*

³⁶ Section 1002.394, F.S. *see also* Rule 6A-6.0952, F.A.C.

³⁷ Section 1002.394(3)(a) and (3)(b), F.S. The John M. McKay Scholarship for Students with Disabilities Program and the Gardiner Scholarship Program were previously offered as two separate scholarships for students with disabilities before the programs were consolidated under the FES-UA. The Gardiner Scholarship was repealed effective July 1, 2021, section. 2, ch. 2021-27 L.O.F. The McKay Scholarship was repealed effective July 1, 2022, section. 3, ch. 2021-27, L.O.F.

³⁸ Section 1002.394, F.S.

³⁹ Section 1002.394(3)(a)1.-6., F.S.

⁴⁰ 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).

⁴¹ 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.

- 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;⁴²
- 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;⁴³ 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.⁴⁴

FES Scholarship Prohibitions

A student is not eligible for a scholarship under the FES-EO or FES-UA if the student is:⁴⁵

- 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.

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.⁴⁶ A scholarship recipient who maintains continued eligibility is not required to reapply annually, however, an SFO may require a recipient to annually confirm their continued participation in the program.⁴⁷

⁴² Section 1002.394(3)(a)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.

⁴³ 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.

⁴⁴ Section 1002.394(3)(a), F.S.

⁴⁵ Section 1002.394(6)(a)-(f), F.S.

⁴⁶ Section 1002.394(5)(a), F.S.

⁴⁷ 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.

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.⁴⁸ 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.⁴⁹ 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 student⁵⁰ 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.⁵¹

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

For the 2019-2020 school year, a maximum program capacity for a 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.⁵² The following students are excluded from the maximum program capacity:⁵³

- 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.

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.⁵⁴

For the 2022-2023 school year, the maximum number of scholarships established for eligible students with a disability is established at 26,500 students.⁵⁵ 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.⁵⁶ The

⁴⁸ Section 1002.394(12)(a)2., F.S.

⁴⁹ *Id.*

⁵⁰ Section 1002.394(12)(a)4., F.S. The student must be on the direct certification list, the student's household income level does not exceed 185 percent of the federal poverty index, or the student is placed in foster care or in out-of-home care.

⁵¹ Section 1002.394(12)(a)4., F.S. The district expenditure per student riding a school bus is the amount determined by the DOE.

⁵² Section 1002.394(12)(a)1., F.S.

⁵³ Section 1002.394(12)(a)1.a.-b., F.S.

⁵⁴ 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>.

⁵⁵ Section 1002.394(12)(b)1., F.S. The average scholarship award is \$10,048. Step Up for Students, *Family Empowerment Scholarship for students with Unique Abilities*, available at <https://www.stepupforstudents.org/wp-content/uploads/2022.11.16-FES-UA-ESA-3.pdf>.

⁵⁶ Section 1002.394(12)(b)1., F.S.

maximum program capacity does not include the following students who meet the eligibility requirements:⁵⁷

- 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.

In the 2021-2022 school year, 26,186 FES-UA scholarships⁵⁸ 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.⁵⁹

During the 2021-2022 school year, 85,612 students were awarded an FTC scholarship.⁶⁰ However, the program did not reach capacity and had a remaining balance of \$254.8M in which to fund additional scholarships.⁶¹

FES-EO Awards

The FES-EO is funded through the Florida Education Finance Program (FEFP) with a scholarship awarded by an SFO.⁶² 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.⁶³ For the 2022-23 school year, the award will average between \$7,250 and \$7,850, depending on grade and county.⁶⁴

The DOE determines the appropriate student scholarship funding amount and cross-checks scholarship students with public school enrollment to avoid duplication.⁶⁵ Upon receiving

⁵⁷ Section 1002.394(12)(b)1.a.-c., F.S.

⁵⁸ 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>.

⁵⁹ Email, Step Up for Students, Amy Graham (Feb. 14, 2023).

⁶⁰ DOE, *Florida Tax Credit Scholarship Program: June 2022 Quarterly Report* (June 2022), available at <https://www.fldoe.org/core/fileparse.php/7558/urlt/FTC-Jun-2022-Q-Report.pdf> [hereinafter *June Quarterly Report*].

⁶¹ 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>.

⁶² Section 1002.394(8)(a)2., (11)(a)1., (11)(b)1., and (12)(a), F.S. The DOE must notify the SFO that scholarships may not be awarded in a school district in which the scholarship award will exceed 99 percent of the school district's share of the state FEFP funds as calculated by the DOE. Section 1002.394(8)(a)13., F.S.

⁶³ Section 1002.394(12)(a)2., 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.

⁶⁴ Step Up for Students, *Florida's Income-Based Scholarships*, available at <https://www.stepupforstudents.org/wp-content/uploads/2022.12.1-Income-Scholarships.pdf>.

⁶⁵ *Id.*

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.⁶⁶ 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.⁶⁷ Any scholarship 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.⁶⁸

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.⁶⁹

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.⁷⁰

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.⁷¹ 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.⁷²

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.⁷³ While the parent determines the content of the portfolio, it must, at a minimum, consist of the following:⁷⁴

- 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.

⁶⁶ Section 1002.394(12)(a)5., F.S. Scholarship payments are made to the SFO on or before September 1, November 1, February 1, and April 1 of each year. Rule 6A-6.0952, F.A.C.

⁶⁷ Section 1002.394(12)(a)6., F.S.

⁶⁸ Section 1002.394(12)(a)6., F.S. *See also* s. 1002.394(10)(a)7., F.S.

⁶⁹ 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>.

⁷⁰ DOE, *Home Education Program*, available at <https://www.fldoe.org/core/fileparse.php/5606/urlt/HomeEd-Sept-2022.pdf>.

⁷¹ Section 1002.41(1)(a), F.S.

⁷² Section 1002.41(1)(b), F.S.

⁷³ *Id.*

⁷⁴ Section 1002.41(1)(d)-(e), F.S.

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:⁷⁵

- A teacher⁷⁶ 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;
- 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;⁷⁷
- The Bright Futures Scholarship Program;⁷⁸
- Dual enrollment programs;⁷⁹
- Admission to Florida College System institutions;⁸⁰
- Admission to state universities;⁸¹ and
- An FES-UA scholarship.⁸²

School districts are prohibited from further regulating, exercising control over or requiring documentation from parents of home education students beyond the requirements of law.⁸³

Effect of Proposed Changes

Education Choice Scholarships in Florida

SB 202 expands eligibility for FTC and FES-EO scholarships to include any student that 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

⁷⁵ Section 1002.41(1)(f), F.S.

⁷⁶ Such teacher must hold a valid regular Florida certificate to teach academic subjects at the elementary or secondary level. Section 1002.41(1)(f)1., F.S.

⁷⁷ Section 1002.41(4), F.S.

⁷⁸ Section 1002.41(5), F.S.

⁷⁹ Section 1002.41(6), F.S.

⁸⁰ Section 1002.41(7), F.S.

⁸¹ Section 1002.41(8), F.S.

⁸² Section 1002.394(4)(b)4., F.S.

⁸³ Section 1002.41(13), F.S. Additional regulation, control, or documentation requirements are permissible when a home education student participates in a school district program. *Id.*

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 aligns the requirements of the FTC scholarship with the FES-EO by providing that a student is not eligible for an FTC scholarship while he or she 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 authorized under the law, or a charter school. For purposes of this paragraph, a 3- or 4-year-old child who receives services funded through the Florida Education Finance Program is considered to be a student enrolled in a public school;
- Enrolled in a school operating for the purpose of providing educational services to youth 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 teachers unless he or she is enrolled in a home education program;
- Participating in a private tutoring program unless he or she is enrolled in a home education program; or
- 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 a home education program, an eligible private school, an eligible postsecondary educational institution or a program offered by the postsecondary educational institution, 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.
- Tuition and fees for part-time tutoring services 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.

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. Additionally, the bill expands the eligibility for public school transportation scholarships to all students eligible for a scholarship.

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, no more than 10,000 scholarships for students who are enrolled in a home education program may be funded by the FTC. Once all home education students are funded in the FTC, up to 10,000 home education students may be funded by the FES-EO. In each subsequent school year, the number of home school funded scholarships may increase by 20,000 in both the FTC and FES-EO scholarships. By the 2027-2028 school year, every home education student will have access to an empowerment account to customize their education.

Home Education Students Participating in FES-EO and FTC

The bill establishes responsibilities for parents and students regarding the receipt of an FTC or FES-EO scholarship while participating in a home education program: A parent must:

- 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 parent has established and maintains a home education program in accordance with the law.
 - 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 of his or her student.
- Require the student to take a nationally norm-referenced test identified by the DOE or a statewide assessment and provide educational records and assessment results to a choice navigator prior to renewal.
- Meet with a choice navigator at least annually, prior to renewal, to:
 - Discuss the academic needs and progress of the student based on educational records submitted by the parent and annual assessment results.
 - Select educational options based on the academic needs of the student.

- Affirm that the student remains in good standing with the provider or school if those options are selected by the parent.
- Renew participation in the program each year.
- Procure 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.

The bill requires that recipients of FTC and FES-EO scholarships who are enrolled in a home 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. Beginning January 1, 2024, a choice navigator is required to do the following:

- Review educational records and assessment results to determine a student's academic needs.
- Identify educational options to address the academic needs of a student.
- Provide guidance to enable parents to choose the best educational options for their student.
- Report the scores of all participating students to a state university for annual performance reporting.

The bill requires the DOE to include coordination with and the reporting by choice navigators 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.

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, or via direct purchase.

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 scholarship.

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.

SFO Obligations for FES-UA

In an effort to relieve the FES UA wait list, the bill requires that SFOs use funds available from remaining tax credit revenue from FTC and Hope scholarship programs to fund scholarships for eligible FES UA students. Scholarships funded under such conditions are considered outside the cap of the maximum number of students eligible for participation.

The bill establishes a cap of \$50,000.00 as the maximum amount an SFO is permitted to maintain in an individual student's empowerment account for an FES-UA scholarship.

Other FES Scholarship Provisions

To assist school districts in their budgeting processes, the bill requires the DOE to report to school districts the Education Estimating Conference's annual projections for FES enrollment in the subsequent school year.

The bill defines an eligible contribution under FES to mean a monetary contribution from a taxpayer, subject to the restrictions provided in FTC, to an eligible SFOs under FTC and Hope. The taxpayer making the contribution may not designate a specific child as the beneficiary of the contribution.

Part-time Enrollment in Public Schools

Present Situation

At least 12 states expressly permit students to enroll in public school part-time.⁸⁴ 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.⁸⁵ 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.⁸⁶

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 proportional to the amount of instructional hours provided by the school divided by the minimum term.⁸⁷

Effect of Proposed Changes

SB 202 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.

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

⁸⁴ ExcelinEd, *Part-time Enrollment Policy Analysis June 2021*, at 1, available at https://excelined.org/wp-content/uploads/2021/06/ExcelinEd_PolicyAnalysis_PartTimeEnrollment_June2021.pdf.

⁸⁵ *Id.* at 3.

⁸⁶ *Id.*

⁸⁷ Section 1011.61, F.S. The minimum term is 180 actual teaching days or the equivalent on an hourly basis as set forth in rules of the SBE. A school district may alter the minimum term only as authorized in SBE rule. Section 1011.60(2), F.S.

and school initiatives with the purpose of improving student achievement and relieving school districts of burdensome regulations.⁸⁸ However the last time the early learning through 20 education code was revised was in 2001.⁸⁹

Effect of Proposed Changes

In an effort to provide more flexibility, efficiency, and reduce unnecessary regulation for public schools, SB 202 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 must consider input from teachers, 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.⁹⁰

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 average⁹¹ with limited exceptions.⁹²

The 24 required credits must be completed in the following subject areas:⁹³

- 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.

⁸⁸ See Section 58, ch. 2001-228 L.O.F., Section 565, ch.2001-228 L.O.F, and Section 1002.451, F.S for examples.

⁸⁹ 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

⁹⁰ Sections 1003.41 and 1003.4282(3), F.S.

⁹¹ Section 1003.4282(6)(a), F.S.

⁹² Section 1002.3105(5), 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.

⁹³ Section 1003.4282(3)(a)-(g), F.S.

In addition, within the 24 credits, at least one course must be completed through online learning.⁹⁴

Florida's online course requirement was established as part of the Digital Learning Now Act⁹⁵ 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.⁹⁶
- Pass an industry certification exam in information technology⁹⁷ without enrolling or completing the corresponding course.

In addition, a student who has an individual education plan which indicates that 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.⁹⁸

Effect of Proposed Changes

SB 202 removes the requirement for at least one course within the 24 credits required for a standard diploma to be completed through online learning.

Teacher Salaries

Present Situation

Compensation and Salary Schedules

As of July 1, 2014, district school boards must have a performance salary schedule, based on performance measurements, and a grandfathered salary schedule, based on seniority and degree level, for instructional personnel and school administrators.⁹⁹ Instructional personnel retain the right to collectively bargain compensation awarded under both the performance salary schedule and the grandfathered salary schedule; however, the priorities for negotiating compensation under each salary schedule differ.¹⁰⁰ While a district school board may include cost-of-living adjustments in a salary schedule, the district may not use advanced degrees as a factor in setting

⁹⁴ Section 1003.4282(4), F.S.

⁹⁵ Section 1, ch. 2011-137 L.O.F.

⁹⁶ The industry certification must be identified on the CAPE Industry Certification Funding List. Section 1003.4282(4), F.S.

⁹⁷ *Id.*

⁹⁸ DOE, *DOE Information Database Requirements Volume I, 2022.2023*, available at <https://www.fldoe.org/core/fileparse.php/20077/urlt/2223-197235.pdf>.

⁹⁹ Section 1012.22(1)(c)4. and 5., F.S.

¹⁰⁰ Section 1012.22(1)(c)4. and 5.; s. 447.309(1), F.S.

a salary schedule, unless in the area of certification and only as a supplement. Compensation for school administrators is determined by the district school board.

Under the performance salary schedule, annual salary adjustments may be given only to employees rated highly effective or effective on annual performance evaluations.¹⁰¹ The salary adjustment for highly effective performance must be greater than the highest annual salary adjustment available to an employee of the same classification on any salary schedule adopted by the school district. Once a school district reaches a minimum base salary of \$47,500, an annual increase under the performance salary schedule must be at least 150 percent of the adjustment under a grandfathered schedule, and 75 percent thereafter.¹⁰²

The grandfathered salary schedule is the salary schedule or schedules adopted by a district school board before July 1, 2014, in which compensation is generally based upon seniority and educational degree level.¹⁰³ An undefined portion of instructional personnel compensation must be based upon performance, as measured by annual performance evaluations. The grandfathered salary schedules for instructional personnel¹⁰⁴ and school administrators must include differentiated pay based upon district-determined factors, including additional responsibilities, school demographics, critical teacher shortage areas, and level of job performance difficulties.¹⁰⁵

Teacher Salary Increase Allocation

In 2020, the Teacher Salary Increase Allocation (TSIA) was established to increase compensation for full-time classroom teachers, assisting school districts in the recruitment and retention of classroom teachers and instructional personnel.¹⁰⁶ The yearly allocation is funded through the FEFP and is specified in the General Appropriations Act (GAA).

In the 2020-21 fiscal year, the TSIA was funded \$500 million with 80 percent of the allocation (\$400 million) prioritized for increasing the minimum base salary for full-time classroom teachers and certified prekindergarten teachers funded in the FEFP, to at least \$47,500, or to the maximum achievable based on each school district's or charter school's allocation.¹⁰⁷ The remaining 20 percent of the allocation (\$100 million) was prioritized to salary increases for full-time classroom and certified prekindergarten teachers funded in the FEFP who did not receive an increase or whose increase in pay was less than 2 percent of their salary, as well as any other full-time instructional personnel.¹⁰⁸

¹⁰¹ Section 1012.22(1)(c)5.b., F.S. Student performance data used in a classroom teacher's evaluation is determined by the school district pursuant to s. 1012.34(3)(a)1. and (7), F.S. It may include student learning growth calculated using a formula adopted by the Commissioner of Education. *See* s. 1012.34(7)(b), F.S.

¹⁰² Section 1012.22(1)(c)5.a.II, F.S.

¹⁰³ Section 1012.22(1)(c)4., F.S.

¹⁰⁴ Unlike the definition of "instructional personnel" in s. 1012.01(2), F.S., the definition of "instructional personnel" for salary schedule purposes excludes substitute teachers and education paraprofessionals. *See* s. 1012.22(1)(c)1.c., F.S.

¹⁰⁵ Section 1012.22(1)(c)4., F.S.

¹⁰⁶ Section 1011.62(18), F.S.

¹⁰⁷ Florida Department of Education, Memorandum, *Teacher Salary Increase Allocation* (July 17, 2020), *at available* <https://info.fldoe.org/docushare/dsweb/Get/Document-8918/dps-2020-69.pdf>.

¹⁰⁸ Section 1012.01(2)(b)-(d), F.S. Other full-time instructional personnel is defined as student personnel services, librarians/media specialists, and other instructional staff.

In the 2022-23 fiscal year, the FEFP includes \$800 million for the TSIA. Of this allocation, \$550 million is allocated for the maintenance of the salary increases provided in previous years, and the remaining \$250 million (growth allocation) is for salary increases in the 2022-23 year. Districts are now required to use 50 percent of the growth allocation (previously this was 80 percent) to increase the minimum base salary.¹⁰⁹

Before distributing the TSIA funds received, each school district and each charter school must develop and submit an approved salary distribution plan to the Department of Education (DOE) that clearly delineates the planned distribution of funds.¹¹⁰

Effect of Proposed Changes

SB 202 authorizes district school boards to use advanced degrees in setting salary schedules for instructional personnel or school administrators. Additionally, the bill removes a requirement specifying a comparative salary adjustment in personnel salaries between the performance and grandfathered salary schedules.

Beginning July 1, 2023, the bill authorizes any additional funding appropriated for the Teacher Salary Increase Allocation that is above the amount provided in the fiscal year 2022-2023, to be used by school districts and charter schools, at their discretion, to provide salary increases for full-time classroom teachers, certified prekindergarten teachers funded in the Florida Education Finance Program, student personnel services staff, librarians and media specialists, and other instructional staff. This additional funding does not apply to substitute teachers.

Educator Certification

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.¹¹¹

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.¹¹²

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.¹¹³

¹⁰⁹ Florida Department of Education, Memorandum, *2022-23 Teacher Salary Increase Allocation* (July 22, 2022), available at <https://www.fldoe.org/core/fileparse.php/5638/urlt/2223TSIAMemo.pdf>.

¹¹⁰ Section 1011.62(14), F.S.

¹¹¹ Section 1012.54, F.S.

¹¹² Section 1012.55(1)(a), F.S.

¹¹³ Section 1012.56(2), F.S., and Rule 6A-4.003, F.A.C.

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:¹¹⁴

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

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.¹¹⁵

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.¹¹⁶

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.¹¹⁷ Other means include:¹¹⁸

- 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.

¹¹⁴ Section 1012.56(2)(g)-(i), F.S.

¹¹⁵ Section 1012.56(3), F.S.; and Fla Admin. Code. R. 6A-4.004(2020).

¹¹⁶ Section 1012.56(5), F.S.

¹¹⁷ 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>.

¹¹⁸ Section 1012.56(6), F.S.

Temporary Educator Certificate

A temporary teaching certificate is valid for three school years and is nonrenewable.¹¹⁹ The DOE is required by law to issue a temporary certificate to any applicant who:¹²⁰

- 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.

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.

Effect of Proposed Changes

SB 202 revises 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 certification.

The bill also revises the requirements for acceptable means of demonstrating mastery of subject area knowledge for subjects requiring a master's or higher degree to include a passing score on a standardized examination that is directly related to the subject specified by the State Board of Education (SBE).

The bill removes the subject area competence requirement for issuance of a temporary teaching certificate to require the applicant to meet general eligibility, which includes a bachelor's degree, and have a job offer from a Florida public school.

Accordingly, the bill removes a similar subject area mastery provision for the military pathway temporary teaching certificate option.

The bill increases the length of a valid nonrenewable temporary teaching certificate from 3 years 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.¹²¹ School districts must also transport

¹¹⁹ Section 1012.56(7), F.S.

¹²⁰ Section 1012.56(7)(b), F.S.

¹²¹ Section 1006.21(3)(a), F.S.

students whose homes are more than a reasonable walking distance from the nearest appropriate school.¹²²

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.¹²³

In 2020-2021, school districts transported 508,293 students, or 18 percent of the total enrollment in traditional public schools.¹²⁴

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.¹²⁵

There are four vehicle categories that indicate the type of vehicle used to transport a student. These include:¹²⁶

- School buses meeting Florida School Bus Specifications.¹²⁷
- 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.).¹²⁸

District school boards must use school buses for all regular transportation, including to and from school or school-related activities.¹²⁹ All public school buses¹³⁰ 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.¹³¹

¹²² *Id.* Rule 6A-3.001(3), F.A.C. A reasonable walking distance for any student who is not otherwise eligible for transportation pursuant to Section 1011.68, F.S., is any distance not more than 2 miles between the home and school or 1 1/2 miles between the home and the assigned bus stop.

¹²³ See Sections 1006.21, 1006.22, 1006.23, 1006.24, 1006.25, 1006.261, and 1006.27, F.S.

¹²⁴ <https://www.fldoe.org/core/fileparse.php/7585/urlt/schtrandist2021.pdf>

¹²⁵ Section 1006.22, F.S.

¹²⁶ 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>.

¹²⁷ Rule 6A-3.003, F.A.C.

¹²⁸ Each district school board may enter into agreements with the governing body or a county or municipality in the school district or any state agency or agencies established or identified to assist in the provision of public transportation and other public purposes. Section 1006.261(1), F.S.

¹²⁹ Section 1006.22(1), F.S.

¹³⁰ A “school bus” is defined as a motor vehicle regularly used for the transportation of prekindergarten disability program and kindergarten through grade 12 students of the public schools to and from school or to and from school activities, and is owned, operated, rented, contracted or leased by any district school. Section 1006.25, F.S. The federal government defines “school bus” as a bus that is sold or introduced in interstate commerce for purposes that include carrying students to and from school or related events.” Title 49 CFR Part 571.3

¹³¹ DOE, *Florida School Bus Specifications* (January 2020), available at, <https://www.fldoe.org/core/fileparse.php/7585/urlt/2020FLSchoolBusSpec.pdf>.

In 2020-2021, 12,551 school buses were in daily service, traveling over 204 million total miles.¹³²

District school boards may use motor vehicles other than school buses only when the transportation is:¹³³

- 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.¹³⁴ Federal regulations do not prohibit the use of vans by schools, but 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.¹³⁵

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.¹³⁶

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.¹³⁷ 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.¹³⁸

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.¹³⁹

¹³² <https://www.fl DOE.org/core/fileparse.php/7585/urlt/schtrandist2021.pdf>

¹³³ *Id.*

¹³⁴ Section 1006.22(1), F.S.

¹³⁵ 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).

¹³⁷ Section 1006.222(10), F.S.

¹³⁷ Section 1006.222(10), F.S.

¹³⁸ *Id.*

¹³⁹ Section 1006.22(11)

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.¹⁴⁰

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.¹⁴¹ In addition, in that year school districts spent over \$108 million on school bus purchases.¹⁴²

Florida has allocated \$515M in funds to provide transportation to students in the 2022-2023 fiscal year.¹⁴³

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

- The Opportunity Scholarship Program¹⁴⁴ when parents choose that their student be enrolled in a higher-performing public school in the school district.¹⁴⁵
- The FES program¹⁴⁶ when parents choose another public school in the school district.¹⁴⁷

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.¹⁴⁸ 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.¹⁴⁹

Effect of Proposed Changes

SB 202 amends ss. 1006.21, 1006.22, 1006.25, 1006.261, and 1006.27, F.S. to provide flexibility for school districts to improve transportation efficiency, while maintaining student safety through

¹⁴⁰ Section 1006.27(1), F.S.

¹⁴¹ 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.

¹⁴² <https://www.fldoe.org/core/fileparse.php/7585/urlt/schtrandist2021.pdf>

¹⁴³ DOE, Florida Education Finance Program Third Calculation, 2022-2023, January 2023, available at: <https://www.fldoe.org/core/fileparse.php/7507/urlt/2223FEFPTthirdCalc.pdf>

¹⁴⁴ Section 1002.38, F.S.

¹⁴⁵ Section 1002.38(3)(e), F.S.

¹⁴⁶ Section 1002.394, F.S.

¹⁴⁷ Section 1002.394(7)(c)3., F.S.

¹⁴⁸ Section 1006.27(3), F.S. Grant proposals may include transportation resource planning, rideshare programs, options to reduce costs and personnel challenges, and expanding the use of funds to help cover the cost of transporting student to and from school. The DOE must publish an interim report by December 31, 2023.

¹⁴⁹ *Id.*

meeting federal and state law as well as school district requirements. The bill removes SBE rule-making authority or oversight from the following requirements:

- Providing maximum regard for safety and adequate protection of health of students being transported in regards to routing buses, appointing drivers, and providing and operating equipment.
- Providing limited subsistence in lieu of transportation facilities.
- Transporting students whose homes are more than a reasonable walking distance.
- Designating and adopting a specific plan for adequate examination, maintenance, and repair of transportation equipment.
- School bus specifications and standards, including occupant crash protection system requirements for vehicles owned or leased by the district.
- School bus inspections.
- Designating nontransportation zones composed of all areas in the school district from which it is unnecessary or impracticable to furnish transportation.

In addition, the bill adds flexibility to the options a school district may use to transport students by:

- Removing the specified circumstances for when a school district may use other vehicles than a school bus.
- Maintaining requirements for a school district to transport students in a privately owned motor vehicle, but removing the limited circumstances for such transport.

The bill maintains requirements that students always have a seat on a bus, except in emergency situations, but removes the requirement that the district school board relieve an emergency condition by providing additional equipment, bus rerouting, bus rescheduling, or other appropriate remedial action.

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.

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.¹⁵⁰ 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.¹⁵¹ The DOE and the Office of Economic

¹⁵⁰ Section 1013.64(6), F.S.

¹⁵¹ 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)¹⁵² are required to work together to calculate and disseminate new statutory caps.¹⁵³

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:¹⁵⁴

- \$27,212 for an elementary school;
- \$29,385 for a middle school; or
- \$38,169 for a high school.¹⁵⁵

Except for certain educational facilities and sites subject to a lease-purchase agreement that may be paid for by a district school board levy,¹⁵⁶ 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.¹⁵⁷ The cost per student station includes, for example, contract costs, fees of architects and engineers, and the cost of furniture and equipment.¹⁵⁸ 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.¹⁵⁹

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.

Parent Rights

Present Situation

Florida law provides K-12 students and their parents numerous statutory rights as it pertains to notification and consent for educational issues. Under the topic of transportation, current law requires that each parent of a public school student be notified in writing and give written consent before a student may be transported in a privately owned motor vehicle to a school function.¹⁶⁰

¹⁵² 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).

¹⁵³ Section 1013.64(6)(b)1., F.S.

¹⁵⁴ Section 1013.64(6)(b)1., F.S.

¹⁵⁵ DOE, *Cost Per Student Station (forecast for) July, 2023 (July 2022)*, available at <http://edr.state.fl.us/Content/conferences/peco/studentstation.pdf>.

¹⁵⁶ Section 1011.71(2)(e), F.S., sets forth the guidelines for authorized district school board lease-purchase agreements.

¹⁵⁷ Section 1013.64(6)(b)3., F.S.

¹⁵⁸ Section 1013.64(6)(d), F.S.

¹⁵⁹ Section 1013.64(6)(d), F.S.

¹⁶⁰ Section 1002.20(22), F.S.

Effect of the Bill

The bill removes the requirement for parents to give written consent for their student to be transported in a privately owned motor vehicle to a school function but maintains the requirement for school districts to notify parents in writing for such a situation.

The bill is effective on July 1, 2023.

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:

The increase in state funding will depend on the number of additional students for the 2023-2024 school year who are estimated to participate in the Family Empowerment Scholarship Program above the current forecast and any other funding decisions made related to the Florida Education Finance Program funding model.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.099, 1002.394, 1002.395, 1002.40, 1003.4282, 1006.21, 1006.22, 1006.25, 1006.261, 1006.27, 1011.62, 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.)

None.

B. Amendments:

None.