

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 3C Family Empowerment Scholarship Program

**SPONSOR(S):** Tomkow and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 4-C

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**FINAL HOUSE FLOOR ACTION:** 111 Y's 0 N's **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

HB 3C passed the House on November 7, 2023, and subsequently passed the Senate on November 8, 2023.

Established in 2021, the Family Empowerment Scholarship (FES) program offers families of students with disabilities the opportunity to request and receive from the state a scholarship to cover the cost of a variety of educational expenses. The Department of Education (DOE) refers to this scholarship as the FES – Unique Abilities or FES UA scholarship. Current law provides a formula to calculate the maximum number (*or cap*) of FES UA scholarships each year. The calculated maximum number of scholarships for the 2023-2024 school year is 40,913 scholarships.

The bill revises the maximum number of students participating in the FES UA scholarship program established pursuant to s. 1002.394(3)(b), F.S., in the 2023-2024 school year to be the number of students that the approved scholarship funding organizations (SFO) and the DOE determine eligible pursuant to the requirements of s. 1002.394, F.S.

The bill clarifies that beginning in the 2024-2025 school year, the maximum number of students participating in the FES UA scholarship program shall annually increase by three percent of the state's total exceptional student education full-time equivalent student membership, not including gifted students.

The bill has an indeterminate fiscal impact. See Fiscal Comments.

The bill was approved by the Governor on November 13, 2023, ch. 2023-350, L.O.F., and became effective on that date.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Background

Established in 2021, the FES program offers families of students with disabilities the opportunity to request and receive from the state a scholarship to cover the cost of a variety of approved items including: contracted services, curriculum, instructional materials, tutoring, specified education programs, and specialized services.<sup>1</sup> The DOE refers to this scholarship as the FES – Unique Abilities or FES UA scholarship.<sup>2</sup>

To be eligible for the FES UA scholarship, a student must be:

- A resident of the state;
- Is 3 or 4 years of age on or before September 1 of the year in which the student applies for program participation or is eligible to enroll in kindergarten through grade 12 in a public school in the state;
- Has a disability as defined in s. 1002.394(2), F.S.; and
- Is the subject of an individual education plan (IEP) or has received a diagnosis of a disability from a licensed physician, psychologist, or a physician who holds an active license issued by another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.<sup>3</sup>

Parents must (1) apply for the FES UA scholarship to one of the two currently approved SFOs by the date set by the SFO and in a manner that creates a written or electronic record of the request and the date of receipt of the request and (2) sign an agreement and annually submit a sworn compliance statement to satisfy and maintain program eligibility.<sup>4</sup>

A FES UA scholarship may be used to cover the following authorized expenses:

- Instructional materials, including digital devices, digital periphery devices, and assistive technology devices that allow a student to access instruction or instructional content and training on the use of and maintenance agreements for these devices;
- Curriculum as defined in s. 1002.394(2), F.S.;
- Specialized services by approved providers or by a hospital in this state which are selected by the parent;
- Tuition and 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, an approved preapprenticeship program, a private tutoring program, a virtual program offered by an approved virtual provider, the Florida Virtual School as a private paying student, or an approved online course provider;
- Fees for national standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments;
- Contributions to the Stanley G. Tate Florida Prepaid College Program or the Florida College Savings Program for the benefit of the eligible student;
- Contracted services provided by a public school or school district including classes;

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<sup>1</sup> Section 1002.394(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, Laws of Florida. The John M. McKay Scholarship was repealed effective July 1, 2022, section 3, ch. 2021-27, Laws of Florida.

<sup>2</sup> See <https://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/fes/index.stml>.

<sup>3</sup> Section 1002.394(3)(b)1.- 4., F.S.

<sup>4</sup> Section 1002.394(10)(b), F.S.

- Tuition and fees for part-time tutoring services or fees for services provided by a choice navigator;
- Fees for specialized summer education programs;
- Fees for specialized after-school education programs;
- Transition services provided by job coaches;
- Fees for a home education student's annual evaluation of educational progress by a state certified teacher;
- Tuition and fees associated with a Voluntary Prekindergarten Program (VPK) or school readiness program;
- Fees for services provided at a center that is a member of the Professional Association of Therapeutic Horsemanship International; or
- Fees for services provided by a therapist who is certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.<sup>5</sup>

For the 2022-2023 school year, the maximum number (*or cap*) of FES UA scholarships was statutorily established at 26,500 students and beginning with the 2023-2024 school year, the maximum number of FES UA scholarships is authorized to annually increase by three percent of the state's total exceptional student education (ESE) student membership, not including gifted students.<sup>6</sup>

While eligible to participate in the FES UA scholarship program, the following types of students are excluded from the maximum program capacity (*or cap*):

- Students who received specialized instructional services under the VPK 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 John M. McKay scholarship in the 2021-2022 school year.<sup>7</sup>

Based on the statutorily-defined annual increase provision, the maximum program capacity (*or cap*) for Fiscal Year 2023-2024 was calculated as follows:

<b>2023-2024* Total ESE Student Membership (minus gifted students)</b>	<b>3% Increase</b>	<b>2022-2023 Maximum Program Capacity (<i>or cap</i>)</b>	<b>2023-2024 Maximum Program Capacity (<i>or cap</i>)</b>
480,421	14,413	26,500	40,913

\*Based on Fiscal Year 2022-2023 FEFP 4<sup>th</sup> Calc

### **Effect of the Bill**

The bill revises the maximum number of students participating in the FES UA scholarship program for the 2023-2024 school year to be the number of students determined eligible by the SFOs and the DOE pursuant to the requirements of s. 1002.394, Florida Statutes.

The bill clarifies that beginning in the 2024-2025 school year, the maximum number of students participating in the FES UA scholarship program shall annually increase by three percent of the state's total ESE student membership, not including gifted students.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

<sup>5</sup> Section 1002.394(4)(b)1.-15., Florida Statutes.

<sup>6</sup> Section 1002.394(12)(b), Florida Statutes.

<sup>7</sup> *Id.*

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill has an indeterminate fiscal impact on state expenditures within the Florida Education Finance Program (FEFP).

Section 1011.62(18), Florida Statutes, establishes the Educational Enrollment Stabilization program which provides supplemental state funds, to the extent such funds are appropriated, to maintain the stability of the operations of public schools as a result of changes in full-time equivalent (FTE) student enrollment throughout the school year.

The Fiscal Year 2023-2024 General Appropriations Act (GAA) provides \$350 million in nonrecurring funds from the General Revenue Fund for the Educational Enrollment Stabilization program. These funds may be used to ensure that following each recalculation of the FEFP, a school district's funds per unweighted FTE student are not less than the greater of either the school district's funds per unweighted FTE as appropriated in the GAA or as recalculated based upon receipt of the certified taxable value for school purposes.