

# FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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**BILL #:** [CS/HB 871](#)

**TITLE:** Virtual Instruction

**SPONSOR(S):** Giallombardo, Snyder

**COMPANION BILL:** [SB 1462](#) (Burgess)

**LINKED BILLS:** None

**RELATED BILLS:** None

## Committee References

[Education Administration](#)

16 Y, 0 N, As CS

## SUMMARY

### **Effect of the Bill:**

The bill authorizes a high-performing charter school to offer virtual courses, approved through the Florida Approved Courses and Tests Initiative, to its students in grades 9 through 12. The bill expands the authorized expenditures for a student receiving a scholarship through the Florida Tax Credit Scholarship Program to include synchronous or asynchronous virtual instruction courses and virtual courses offered by school districts.

### **Fiscal or Economic Impact:**

None

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

[BILL HISTORY](#)

## ANALYSIS

### **EFFECT OF THE BILL:**

The bill authorizes a [high-performing charter school](#) to offer virtual courses, approved through the [Florida Approved Courses and Tests \(FACT\) Initiative](#), to its students in grades 9 through 12. Students taking such courses will be funded in the same manner as students participating in a virtual instruction program and will not be included in the high-performing charter school's enrollment for determining facility capacity. (Section [1](#)).

The bill expands the authorized expenditures for a student receiving a [Florida Tax Credit Scholarship Program](#) (FTC) scholarship to include synchronous or asynchronous virtual instruction courses. Additionally, the bill clarifies that the contracted services school districts are authorized to offer to scholarship students include school district operated virtual courses and virtual courses provided by the school district through an approved virtual instruction program. (Section [2](#)).

The effective date of the bill is July 1, 2025. (Section [3](#)).

## RELEVANT INFORMATION

### **SUBJECT OVERVIEW:**

#### **Florida Tax Credit Scholarship Program**

The FTC Program was created in 2001 and allows taxpayers to make private, voluntary contributions to non-profit scholarship-funding organizations (SFO), that can then be awarded as Florida scholarships to eligible low-income students for private school tuition and fees.<sup>1</sup> Taxpayers can receive a tax credit for use against their liability for corporate income tax, insurance premium tax, severance taxes on oil and gas production; or self-accrued sales tax

<sup>1</sup> Section [1002.395, F.S.](#) See also Rule 6A-6.0960, F.A.C.

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**DATE:** 3/28/2025

liabilities of direct pay permit holders or alcoholic beverage taxes on beer, wine and spirits,<sup>2</sup> and rental or license fees.<sup>3</sup> The tax credit is equal to 100 percent of the eligible contributions made.<sup>4</sup>

In 2023, the Legislature expanded eligibility for a FTC Program scholarship for all Floridians eligible to attend public school in Florida while simultaneously turning the scholarship into an educational savings account by expanding the authorized uses for the FTC scholarship.<sup>5</sup> Also in 2023, the Legislature expanded educational options within the FTC Program by creating the PEP Scholarship, a parent directed educational choice option, that must be registered with a SFO that administers FTC scholarships.<sup>6</sup> Students enrolled in a PEP are authorized to participate in the FTC Program and the PEP satisfies mandatory school attendance requirements.<sup>7</sup> Students in PEP are provided access to the same programs and services as home education program students.<sup>8</sup>

A student is eligible for a FTC Program scholarship if the student is a resident of the state and is eligible to enroll in kindergarten through grade 12 in a public school.<sup>9</sup>

For the 2023-24 school year, SFOs funded 127,539 FTC-Private School scholarships and 19,454 PEP scholarships.

### **Authorized Expenditures Under the Florida Tax Credit Scholarship Program**

Authorized uses of FTC Program scholarship funds include:<sup>10</sup>

- Tuition and fees for enrollment in an eligible private school.
- 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 and fees associated with full-time or part-time enrollment in a home education instructional program, an eligible postsecondary educational institution or a program offered by the postsecondary educational institution,<sup>11</sup> an approved preapprenticeship program,<sup>12</sup> a private tutoring program, a virtual program offered by a department-approved private online provider, the Florida Virtual School as a private paying student, or an approved online course.
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement Examinations, industry certification examinations, assessments related to postsecondary education, or other assessments.
- Contracted services provided by a public school or school district, including classes. A student who receives services under a contract is not considered enrolled in a public school for scholarship eligibility purposes but rather attending a public school on a part-time basis.
- Tuition and fees for part-time tutoring services or fees for services by a choice navigator.

<sup>2</sup> Section [1002.395\(1\) and \(5\), F.S.](#)

<sup>3</sup> Section [212.099\(b\), F.S.](#) (2018).

<sup>4</sup> Sections [220.1875](#) and [1002.395\(5\), F.S.](#)

<sup>5</sup> Section 6, ch. 2023-16, L.O.F.

<sup>6</sup> Section [1002.01\(2\), F.S.](#)

<sup>7</sup> Sections [1002.395\(7\)\(b\)](#) and [1003.01\(16\)\(f\), F.S.](#)

<sup>8</sup> Section [1002.01\(2\), F.S.](#)

<sup>9</sup> Section [1002.395\(3\)\(b\)1., F.S.](#)

<sup>10</sup> Section [1002.395\(6\)\(d\)2., F.S.](#)

<sup>11</sup> Unless the program is subject to a statutory fee exemption or the dual enrollment scholarship. Additionally, eligible postsecondary educational institution includes approved higher education institutions which participate in distance education through reciprocity agreements. The National Council for State Authorization Reciprocity Agreements (NC-SARA) is a private nonprofit organization with the goal of improving student access to distance learning. NC-SARA helps states, institutions, policymakers, and students understand the purpose and benefits of participating in these reciprocity agreements. There are currently more than 2,200 institutions in 49 member states, including Florida, participating in such reciprocity agreements, greatly expanding access to educational options for Florida's students. NC-SARA, *About NC-SARA*, <https://www.nc-sara.org/about-nc-sara> (last visited Mar. 13, 2024).

<sup>12</sup> Unless the program is subject to a statutory fee exemption. The preapprenticeship program must also comply with all applicable requirements of the DOE pursuant to chapter 1005, F.S.

However, funds from an FTC-Private School scholarship must first be used for tuition at a participating private school prior to use on any other authorized expenditure.<sup>13</sup>

### **High-performing Charter Schools**

Charter schools and operators of systems of charter schools with a track record of academic excellence and financial stability may earn “high-performing” status.<sup>14</sup> A high-performing charter school is a charter school that during each of the 3 previous years:

- with regard to school grades:
  - received at least two school grades of “A” and no school grade below “B” or received at least two consecutive grades of “A” in the most recent 2 school years the school received a grade; or
  - receives, during its first 3 years of operation, funding through the National Fund of the Charter School Growth Fund, and has received no school grade lower than a “C,” pursuant to s. 1008.34, during each of the previous 3 school years for the years that the school received a grade;
- has received an unqualified opinion<sup>15</sup> on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.<sup>16</sup>

Initial eligibility for “high-performing” status is verified by the commissioner, upon request by a charter school. Thereafter, the commissioner must annually verify continued eligibility.<sup>17</sup>

High-performing charter schools may take advantage of various benefits. Among other benefits, the operator of a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates one of its high-performing charter schools.<sup>18</sup> The application process for such applications is streamlined to expedite approval.<sup>19</sup> A high-performing charter school may not be replicated more than twice in any given year and may not replicate again until the new charter school achieves “high-performing” status.<sup>20</sup> Systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.<sup>21</sup> Additionally, a high-performing charter school may have the term of its charter extended to up to 15 years.<sup>22</sup>

A high-performing charter school may increase the school’s enrollment once per year to more than the capacity identified in the charter, but student enrollment may not exceed the capacity of the facility at the time the enrollment increase will take effect.<sup>23</sup> A high-performing charter school may also expand grade levels within kindergarten through grade 12 to add grade levels not already served as long as the increase in enrollment in either case does not exceed the current facility capacity.<sup>24</sup>

### **Florida Approved Courses and Tests Initiative**

The FACT Initiative was established in 2013 and requires the Department of Education to annually publish a list of approved providers to offer approved courses that must be included in the online course catalog.<sup>25</sup> For the purposes of the FACT Initiative, a Florida approved course means online courses provided by individuals which include, but are not limited to, massive open online courses or remedial education courses. A Florida approved course must be annually identified, approved, published, and shared for consideration by interested students and

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<sup>13</sup> Section [1002.395\(6\)\(w\), F.S.](#)

<sup>14</sup> Section [1002.331\(1\), F.S.](#)

<sup>15</sup> An unqualified audit opinion means that the charter school’s financial statements are materially correct.

<sup>16</sup> Section [1002.331\(1\), F.S.](#); see [s. 218.503\(1\), F.S.](#) (financial emergency conditions).

<sup>17</sup> Sections [1002.331\(4\)](#) and [1002.332\(2\)\(a\), F.S.](#)

<sup>18</sup> Section [1002.331\(3\)\(a\)1., F.S.](#)

<sup>19</sup> Section [1002.331\(3\)\(a\)2., F.S.](#)

<sup>20</sup> Section [1002.331\(3\)\(b\), F.S.](#)

<sup>21</sup> Section [1002.332\(2\)\(b\), F.S.](#)

<sup>22</sup> Section [1002.331\(2\)\(e\), F.S.](#)

<sup>23</sup> Section [1002.331\(2\)\(a\), F.S.](#)

<sup>24</sup> Section [1002.331\(2\)\(b\), F.S.](#)

<sup>25</sup> Section [1003.499\(2\), F.S.](#) see Florida Department of Education, *Approved Provider Resources: List of Approved Program and Course Providers*, <https://www.fldoe.org/schools/school-choice/virtual-edu/provider-resources/approved-providers/> (last visited Mar. 24, 2025).

school districts. The Commissioner of Education must approve each Florida approved course for application in K-12 public schools in accordance with rules of the State Board of Education.<sup>26</sup>

**RECENT LEGISLATION:**

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2024	<a href="#">CS/CS/HB 1403</a>	Tomkow	Simon	Became law on July 1, 2024.
2023	<a href="#">CS/CS/CS/CS/HB 1</a>	Tuck, Plasencia	Simon	Became law on July 1, 2023.

**BILL HISTORY**

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Education Administration Subcommittee</a>	16 Y, 0 N, As CS	3/27/2028	Sleap	Wolff
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>• Authorized high performing charter schools to offer virtual courses.</li> <li>• Revised provisions for authorized expenditures for educational choice scholarship programs.</li> <li>• Removed revisions to requirements for private schools participating in scholarship programs, requirements for student attendance, and authorization to operate a hybrid model.</li> </ul>			

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**THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.**  
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<sup>26</sup> *Id.*