



Pre K - 12 Appropriations Subcommittee

Tuesday, January 30, 2018
8:00 AM - 11:00 AM
Reed Hall

Meeting Packet

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1 The Hope Scholarship Program
SPONSOR(S): Donalds
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	9 Y, 5 N	Dehmer	Healy
2) PreK-12 Appropriations Subcommittee		Selfert 	Potvin 
3) Education Committee			

SUMMARY ANALYSIS

School boards must adopt rules, policies, and procedures for addressing disciplinary issues and providing for a safe and orderly school environment. Each school board must adopt a code of student conduct that is based upon its rules governing student conduct and discipline. In addition to the code of student conduct, each school board must adopt policies prohibiting bullying and harassment, hazing, and dating violence and abuse and for emergency preparedness and response.

Bullying and violence in schools causes students to experience trauma, which lowers a student's attention, cognition, memory, grade point average and student reading ability. It also increases a student's anger, frustration, anxiety, suspensions, expulsions, absenteeism and dropout rate.

The bill establishes the Hope Scholarship Program, which provides the parent of a public school student who was subject to an incident of battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school with the opportunity to transfer the student to another public school or to receive a scholarship for the student to attend a private school. If the student enrolls in a public school outside the district, the student is eligible for a transportation scholarship limited to \$750.

The bill establishes the duties and responsibilities of the Department of Education, the Commissioner of Education, scholarship funding organizations, parents, students and the Auditor General.

The bill establishes guidelines for funding and payment of the Hope Scholarship Program.

The bill allows taxpayers to receive tax credits for eligible contributions to fund the Hope Scholarship Program.

See fiscal impact on state government.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

School Safety and Student Discipline

Florida law requires each district school board to provide for the proper accounting for all students; for the attendance and control of students at school; and for proper attention to health, safety, and other matters relating to the welfare of students. School boards must adopt rules, policies, and procedures for addressing disciplinary issues and providing for a safe and orderly school environment.¹ Each school board must adopt a code of student conduct that is based upon its rules governing student conduct and discipline.² The code of student conduct must include, but is not limited to:

- consistent policies and specific grounds for disciplinary action;
- penalties and procedures for acts requiring discipline, including in-school suspension, out-of-school suspension, expulsion, and corporal punishment;
- an explanation of the rights and responsibilities of students with regard to attendance, respect for persons and property, knowledge and observation of rules of conduct, the right to learn, free speech and student publications, assembly, privacy, and participation in school programs and activities;
- a dress code policy and penalties and procedures for addressing dress code violations;
- notice that student possession of alcohol, drugs, weapons, or firearms; violence against school district personnel; disruptive behavior on a school bus; sexual harassment; and threats or false reports made against school property, personnel, or transportation are grounds for disciplinary action and may result in the imposition of criminal penalties;
- policies for the assignment of violent or disruptive students to alternative educational programs;³ or
- student eligibility standards and related student disciplinary actions regarding student participation in extracurricular activities which must provide that:
 - a student not suspended or expelled is eligible to participate in extracurricular activities;
 - a student's eligibility to participate may not be affected by recruiting allegations until a final determination has been reached;
 - a student may not participate in a sport if the student participated in that same sport at another school during the same school year unless the student:
 - is a dependent child of active duty military personnel whose move resulted from military orders;
 - has been relocated due to a foster care placement in a different school zone;
 - has moved due to a court-ordered change in custody due to separation or divorce or the serious illness or death of a custodial parent; or
 - is authorized for good cause in district or charter school policy.

At the beginning of each school year, the code of student conduct must be:

- distributed to all teachers, school personnel, students, and parents;
- made available in the school district's student handbook or similar publication; and

¹ Section 1006.07(1)(a), F.S.

² Section 1006.07(2), F.S.

³ *Id.*

- discussed in student classes, school advisory council meetings, and parent and teacher association or organization meetings at the beginning of the school year.⁴

The law provides an extensive description of the roles, duties, and authority of each personnel classification charged with maintaining a safe and orderly school environment and enforcing disciplinary violations.⁵ Each district school superintendent must, among other things, recommend to the district school board plans for promoting the welfare of students, including attendance, discipline, health and safety, and other matters. Each superintendent must fully support the disciplinary authority of school principals, classroom teachers, and school bus drivers.⁶

In addition to the code of student conduct, each school board must adopt policies prohibiting bullying and harassment, hazing, and dating violence and abuse and for emergency preparedness and response.⁷ Current law prohibits bullying or harassment:

- of any public K-12 student or employee during a public K-12 education program or activity;
- during a school-related or school-sponsored activity;
- on a public K-12 school bus;
- using a computer system or network that is within the scope of the K-12 educational institution;⁸ or
- using technology or electronic devices that are not owned or otherwise controlled by a school if the bullying substantially interferes with the victim's ability to participate in or benefit from the activities offered by a school.⁹

Each school district's bullying and harassment policy must:

- prohibit, define and describe the behaviors that constitute bullying and harassment;
- establish procedures for reporting and investigating acts of bullying and harassment;
- establish procedures for making referrals to law enforcement;
- provide instruction to students, parents, teachers and others on recognizing behavior that leads to bullying and harassment and taking preventative action;
- establish procedures for including incidents of bullying or harassment in the school's required report of data concerning school safety and discipline;¹⁰ and
- establish procedures for referring victims and perpetrators to counseling.¹¹

Each school principal must ensure that standardized forms prescribed by the rule of the State Board of Education are used to report data concerning school safety and discipline to the department. The school principal must develop a plan to verify the accuracy of reported incidents.¹²

The Department of Education (DOE) uses the School Environmental Safety Incident Reporting (SESIR) System to compile data on incidents of crime, violence, and disruptive behaviors that occur on school

⁴ *Id.*

⁵ See ss. 1003.32 (classroom teachers and school principals), 1006.08 (superintendents), 1006.09 (school principals), and 1006.10, F.S. (school bus drivers).

⁶ Section 1006.08(1), F.S.

⁷ See ss. 1006.07(4) and (6), 1006.135, 1006.14, 1006.147, and 1006.148, F.S.

⁸ "Within the scope of a public K-12 educational institution" means, regardless of ownership, any computer, computer system, or computer network that is physically located on school property or at a school-related or school-sponsored program or activity. Section 1006.147(3)(d), F.S.

⁹ Section 1006.147(2), F.S.

¹⁰ Section 1006.147(4)(f), (h), (k), and (l), F.S. The School Environmental Safety Incident Reporting (SESIR) System is used by the DOE to compile data on incidents of crime, violence, and disruptive behaviors that occur on school grounds, on school transportation, and at off-campus, school-sponsored events. Florida Department of Education, *Statewide Report on School Safety and Discipline Data*, <http://www.fl.gov/education/school-safety/SESIR.asp> (last visited October 27, 2017).

¹¹ Section 1006.147(4)(j), F.S.

¹² Section 1006.09(6), F.S.

grounds, on school transportation, and at off-campus, school-sponsored events. In the 2015-16 school year, over 47,000 Florida public school students reported incidents that include battery, bullying, harassment, hazing, physical attacks, and sexual assault, battery and harassment.¹³

BATTERY	2,516
BULLYING	2,867
FIGHTING	21,957
HARASSMENT	1,832
HAZING	6
PHYSICAL ATTACK	10,342
SEXUAL ASSAULT	25
SEXUAL BATTERY	28
SEXUAL HARASSMENT	1,805
SEX OFFENSES	1,581
THREAT/INTIMIDATION	4,314

However, there is evidence to suggest that the number of reported incidents through SESIR is much lower than actual incidents. The Department of Health, in collaboration with the DOE, administers the Youth Risk Behavior Survey (YRBS) that is a statewide, school-based confidential survey of Florida's public high school students. The purpose of the YRBS is to monitor priority health-risk behaviors that contribute substantially to the leading causes of death, disability, and social problems among youth, which contribute to patterns in adulthood. In 2015, 123,500 high school students reported being bullied on school property during the past 12 months.¹⁴ In addition, 8.1 percent of high school students did not go to school because they felt unsafe at school or on their way to or from school.¹⁵

Florida Tax Credit Scholarship Program

The Florida Tax Credit Scholarship Program (FTC Program)¹⁶ was established to encourage taxpayers to make private, voluntary contributions to non-profit scholarship-funding organizations (SFOs), expand educational opportunities for families that have limited financial resources, and enable Florida's children to achieve a greater level of excellence in their education.¹⁷ The FTC Program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine, and spirits.¹⁸ The tax credit is equal to 100 percent of the eligible contributions made.¹⁹

SFOs use these contributions to award scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides.²⁰

¹³ Florida Department of Education, *Statewide Report on School Safety and Discipline Data*, <http://www.fldoe.org/safe-schools/sesir.aspx> (last visited October 27, 2017).

¹⁴ Presentation by Department of Health to the PreK-12 Innovation Subcommittee, Oct. 25, 2017, available at <http://www.myfloridawatch.gov/Sections/Documents/LoadDoc.aspx?PublicationType=Committee&CommitteeID=999&Session=2017&DocumentIDType=Meeting%20Packets&FileName=pk%2010-25-17.pdf>

¹⁵ Department of Health, *Youth Risk Behavior Survey*, available at <http://www.floridadealth.gov/statistics-and-data/survey-data/florida-youth-survey/youth-risk-behavior-survey--documents/2015-yrbs-summary-fd-fs.pdf>

¹⁶ Section 1002.395, F.S.

¹⁷ Section 1002.395(1)(b), F.S.

¹⁸ Section 1002.395(1) and (5), F.S.

¹⁹ Sections 220.1875 and 1002.395(5), F.S.

²⁰ Section 1002.395(3)(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.

To participate, a charitable organization must submit an initial application for approval or renewal to the Office of Independent Education and Parental Choice by September 1st of each year before the school year for which the SFO intends to offer scholarships. Among other things, the application for initial approval must include a:

- copy of the organization's incorporation documents and registration with the Division of Corporations of the Department of State and IRS determination letter as a not-for-profit corporation;
- description of the organization's financial plan and the geographic region it will serve.
- description of the criteria and methodology it will use to evaluate scholarship eligibility and application process including deadlines and fees; and
- copy of a surety bond or letter of credit in an amount equal to 25 percent of the scholarship funds anticipated for each school year or \$100,000, whichever is greater.²¹

An application for renewal must include all items listed above for initial approval as well as:

- A surety bond or letter of credit equal to the amount of undisbursed donations held by the organization, which must be at least \$100,000, not to exceed \$25 million.
- The organization's completed IRS Form 990.
- A copy of its audit reports.²²
- An annual report documenting the number of applications received, applications approved, funds received, scholarships funded, and expenditures of administrative funds.²³

Within 30 days of receipt of the finalized application the Commissioner of Education must recommend approval or disapproval of the application to the State Board of Education. The state board must then consider the application and recommendation at the next scheduled meeting.²⁴

State universities and independent colleges and universities are exempt from the SFO application process, including its surety bond requirements. Instead, they must register with the DOE.²⁵

SFOs must:

- Comply with federal law²⁶ prohibiting discrimination based on race, color, or national origin by any program receiving federal financial assistance.
- Require owners and operators to undergo Level 2 background screening²⁷ upon employment or engagement of services and every five years thereafter. Owners and operators must also be screened against an additional list of financial crimes. Owners or operators that fail the Level 2 background screening are ineligible to provide scholarships.
- Not own or operate a private school that is participating in the FTC Program.
- Provide scholarships from eligible contributions to eligible students on a first-come, first-served basis unless the student qualifies for priority.
- Allow a student in foster or out-of-home care to apply for a scholarship at any time.
- Not restrict or reserve scholarships for use at a particular private school or provide a scholarship to the child of an owner or operator.
- Allow an eligible student to attend any eligible private school and allow a parent to transfer a scholarship during the academic year to another eligible private school.

²¹ Section 1002.395(16)(a), F.S.

²² Section 1002.395(6)(m), F.S.

²³ Section 1002.395(16)(b), F.S.

²⁴ Section 1002.395(16)(d), F.S.

²⁵ Section 1002.395(16)(i), F.S. .

²⁶ See 42 U.S.C. s. 2000d.

²⁷ Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 53 offenses. See s. 435.04, F.S.

- Maintain separate accounts for scholarship and operating funds.
- Expend for annual or partial-year scholarships an amount equal to or greater than 75 percent of the net eligible contributions remaining after administrative expenses during the state fiscal year in which such contributions are collected. Remaining net eligible contributions in excess of 25 percent shall be transferred to other eligible nonprofit scholarship-funding organizations to provide scholarships for eligible students.
- Allow for the transfer of funds to another eligible SFO, limited to the greater of \$500,000 or 20 percent of the total contributions received by the SFO making the transfer, if additional funds are required to meet scholarship demands. Such a transfer must be approved by the DOE beforehand.
- Maintain a surety bond or letter of credit equal to the amount of undispersed donations, which may be adjusted quarterly to equal the actual amount of undisbursed funds. This requirement is waived if the cost of acquiring a surety bond or letter of credit exceeds the average 10-year cost of acquiring a surety bond or letter of credit by 200 percent. This requirement is also waived for a state university. The surety bond or letter of credit must specify that any claim against the bond or letter of credit may be made only by an eligible nonprofit SFO.
- Provide the Auditor General and the DOE with an annual financial audit of its accounts and records conducted by an independent certified public accountant.
- Submit to an annual operational audit of its accounts and records by the Auditor General, including any contracts for services with related entities, to determine compliance with program requirements.
- Prepare and submit quarterly reports to the DOE.²⁸

A SFO may use up to three percent of eligible contributions received during the state fiscal year for administrative expenses if the SFO has operated as an eligible nonprofit scholarship-funding organization for at least the preceding three years and did not have any findings of material weakness or material noncompliance in its most recent audit. Administrative funds may not be used for lobbying or political activity.²⁹

Motor Vehicle Taxes

Florida sales and use tax, plus any applicable discretionary sales surtax, is due on all new or used motor vehicles sold, leased, delivered into, imported into, or used in Florida, unless a specific exemption applies. Florida sales and use tax is due on the sales price of the motor vehicle, including any separately itemized charge or fee for items, such as:

- any accessory sold with the vehicle;
- preparation, settlement, or closing fees;
- freight, handling, or delivery of the motor vehicle to the dealer;
- commission; and
- any other expense or cost of the dealer that the dealer requires the purchaser to pay.

Any separately itemized fee or charge mandated by a state law for titling, licensing, or registering the motor vehicle, or for recording a lien on the motor vehicle, is not subject to tax.³⁰

Florida collects a 6 percent state sales tax rate on the purchase of all vehicles.³¹

²⁸ Section 1002.395(6)(a)-(c), (f), (h)-(q), F.S.; s. 11.45(2)(k), F.S. (operational audit).

²⁹ Section 1002.395(6)(j)1., F.S.

³⁰ Florida Department of Revenue, Sales and Use Tax on Motor Vehicles, available at <http://floridarevenue.com/Florida%20Sales%20and%20Use%20Tax%20on%20Motor%20Vehicles.pdf>

³¹ Florida: Sales Tax Handbook at <http://www.gale.com/handbook/cr/florida-sales-tax-vehicles>

Effect of Proposed Changes

The bill establishes the Hope Scholarship Program (HSP), which provides the parent of a public school student subjected to an incident at school the opportunity to transfer the student to a public school within the school district, receive a scholarship to transport the student to a public school in another school district, or receive a scholarship for the student to attend a private school. For purposes of the program an incident includes battery; harassment; hazing; bullying; kidnapping; physical attack; robbery; sexual offenses, harassment, assault, or battery; threat or intimidation; or fighting at school. School means any educational program or activity conducted by a public K-12 educational institution, any school-related or school-sponsored program or activity, and riding on a school bus, as defined in s. 1006.25(1), including waiting at a school bus stop.

Beginning with the 2018-2019 school year, contingent on funds, scholarships are awarded on a first-come, first-served basis.

A student is ineligible for the HSP if the student is:

- enrolled in a public school, including, but not limited to, the Florida School for the Deaf and the Blind, the College-Preparatory Boarding Academy, a developmental research school or a charter school;
- enrolled in a Department of Juvenile Justice commitment program;
- enrolled in a virtual school, correspondence school or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to two courses per school year; or
- receiving any other state sponsored K-12 educational scholarship.

Once an incident is reported to the school principal, the school principal must provide a copy of the incident report to the parent and investigate the incident to determine if the incident must be reported to the DOE. Upon conclusion of the investigation or within 15 days after receipt of the report of the incident, whichever occurs first, the school district must notify the parent of the HSP and offer that parent an opportunity to enroll their student in another public school or to receive a Hope Scholarship to attend an eligible private school. If the student enrolls in a public school outside the district, the student is eligible for a transportation scholarship limited to \$750.

The Department of Education (DOE) must contract with an independent entity to conduct an annual evaluation of the program. The entity must review the school climate and code of student conduct at each public school at which 10 or more reported incidents occurred to determine areas for improvement. The review must include an assessment of the investigation of incidents; analysis of school incident and discipline data; the effectiveness of communication with students, parents, and personnel; and challenges and obstacles to implementing recommendations. The entity must also identify best practices from the schools to which students transferred.

The entity will also review the performance of participating students enrolled in private schools at which at least 51 percent of total enrolled students are program participants. Parents of participating students will be surveyed to determine academic, safety, and school climate satisfaction and to identify any challenges or obstacles in addressing the incident or use of the scholarship.

The bill requires school districts to notify scholarship students in private schools who wish to participate in the statewide student assessment program or the Florida Alternate Assessment of the locations and times to take all statewide assessments.

Private schools that participate in the HSP must meet the same requirements for participation established by Florida Tax Credit Scholarship Program.

Likewise, the commissioner has the same duties and responsibilities over private schools established in the Florida Tax Credit Program.

A participating SFO will be governed by the same statutory requirements as outlined in the Florida Tax Credit Scholarship Program.

The bill specifically requires the SFO to:

- receive applications and determine student eligibility;
- notify parents of their receipt of a scholarship on a first-come, first-served basis, based upon the funds provided; and
- notify the DOE of any violations regarding the program.

The bill requires the Auditor General (AG) to conduct an annual operational audit of accounts of each participating SFO, which must include a verification of students served and transmission of that information to the DOE. The AG also must notify the DOE of any SFO that fails to comply with a request for information.

The scholarship amount is calculated as a percentage of the unweighted FTE as follows:

- Eighty-eight percent for students in grades K-5.
- Ninety-two percent for students in grades 6-8.
- Ninety-six percent for students enrolled in grades 9-12.

The HSP is funded by taxpayers who make an eligible contribution to a scholarship funding organization. The eligible contribution provides the taxpayer with a credit against any tax due as a result of the purchase or acquisition of a motor vehicle. The credit may not exceed the amount of taxes owed. Each eligible contribution is limited to a single payment of \$20 at the time of purchase of a motor vehicle or at the time of registration of a motor vehicle that was not purchased from a dealer. The purchaser elects whether or not to contribute at the time of the purchase or registration of the vehicle. Contributions must be made to a dealer at the time of purchase or to an agent of the Department of Revenue (DOR) at the time of registration, if the vehicle was not purchased from a dealer.

The bill provides that a tax collector or any person or firm authorized to sell or issue a motor vehicle license who is designated as an agent of the DOR or who is a dealer must:

- provide the purchaser a contribution election form, as prescribed by the DOR, at the time of purchase or at the time of registration if the vehicle is not purchased from a dealer;
- collect eligible contributions;
- remit to the SFO on or before the 20th day of each month the total amount of contributions made to the SFO and collected during the preceding calendar month; and
- report on each return filed with the DOR the total amount of credits allowed under during the preceding calendar month.

The SFO must report to the DOR, on or before the 20th day of each month, the total amount of contributions received in the preceding calendar month. The report must include the federal employer identification number of each tax collector, authorized agent of the DOR or dealer who remitted contributions to the SFO during that reporting period.

A person who, with intent to unlawfully deprive or defraud the program of money, fails to remit HSP contributions is guilty of theft of charitable funds and is punishable as follows:

- If the amount stolen is less than \$300, the offense is a second-degree misdemeanor. Upon a second conviction, the offender is guilty of a first-degree misdemeanor. Upon a third or subsequent conviction, the offender is guilty of a third degree felony.
- If the amount stolen is \$300 or more, but less than \$20,000, the offense is a third-degree felony.
- If the amount stolen is \$20,000 or more, but less than \$100,000, then offense is a second-degree felony.
- If the amount stolen is \$100,000 or more, the offense is a first-degree felony.

The sentencing judge must order an offender to make restitution to the SFO in the amount stolen.

B. SECTION DIRECTORY:

Section 1. Creates s. 1002.40, F.S., establishing the Hope Scholarship Program.

Section 2. Creates s. 212.1832, F.S., establishing the tax credits for contributions to the Hope Scholarship Program.

Section 3. Allows the Department of Revenue to adopt emergency rules to administer this act.

Section 4. Provides that this act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Section 1 of the bill delineates the Department of Education's obligations for the administration of the Hope Scholarship Program to include contracting with an independent entity to provide an annual evaluation of the program. At this time, the fiscal impact to the department is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated the bill for revenue impacts. However, the tax credits in the bill will have a negative annual impact on General Revenue collections in an amount that is unknown at this time.

Also, see the FISCAL COMMENTS section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Staff estimates that in Fiscal Year 2016-17 there were between 3.4 million and 4 million purchases of new and used cars and light trucks in Florida. If half of those purchases resulted in contributions to the Hope Scholarship Program, the impact on General Revenue would have been between -\$34 million and -\$40 million in that year.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the Hope Scholarship Program;
 3 creating s. 1002.40, F.S.; establishing the Hope
 4 Scholarship Program; providing the purpose of the
 5 program; providing definitions; providing eligibility
 6 requirements; prohibiting the payment of a scholarship
 7 under certain circumstances; requiring a school
 8 principal to investigate a report of physical violence
 9 or emotional abuse; requiring a school district to
 10 notify an eligible student's parent of the program;
 11 requiring a school district to provide certain
 12 information relating to the statewide assessment
 13 program; providing requirements and obligations for
 14 eligible private schools; providing Department of
 15 Education obligations relating to participating
 16 students and private schools and program requirements;
 17 providing Commissioner of Education obligations;
 18 requiring the commissioner to deny, suspend, or revoke
 19 a private school's participation in the program or the
 20 payment of scholarship funds under certain
 21 circumstances; providing a process for review of a
 22 decision from the commissioner under certain
 23 circumstances; providing for the release of personally
 24 identifiable student information under certain
 25 circumstances; providing parent and student

26 | responsibilities for initial and continued
 27 | participation in the program; providing nonprofit
 28 | scholarship-funding organization obligations;
 29 | providing for the calculation of the scholarship
 30 | amount; providing the scholarship amount for students
 31 | transferred to certain public schools; requiring
 32 | verification of specified information before a
 33 | scholarship may be disbursed; providing requirements
 34 | for the scholarship payments; providing funds for
 35 | administrative expenses for certain nonprofit
 36 | scholarship-funding organizations; providing
 37 | requirements for administrative expenses; prohibiting
 38 | a nonprofit scholarship-funding organization from
 39 | charging an application fee; providing Auditor General
 40 | obligations; providing requirements for taxpayer
 41 | elections to contribute to the program; requiring the
 42 | Department of Revenue to adopt forms to administer the
 43 | program; providing reporting requirements for
 44 | nonprofit scholarship-funding organizations relating
 45 | to taxpayer contributions; providing requirements for
 46 | certain agents of the Department of Revenue and motor
 47 | vehicle dealers; providing penalties; providing for
 48 | the restitution of specified funds under certain
 49 | circumstances; providing the state is not liable for
 50 | the award or use of program funds; prohibiting

51 additional regulations for private schools
 52 participating in the program beyond those necessary to
 53 enforce program requirements; requiring the State
 54 Board of Education to adopt rules to administer the
 55 program; creating s. 212.1832, F.S.; authorizing
 56 certain persons to elect to direct certain state sales
 57 and use tax revenue to be transferred to a nonprofit
 58 scholarship-funding organizations for the Hope
 59 Scholarship Program; authorizing the Department of
 60 Revenue to adopt emergency rules for specified
 61 purposes; providing an effective date.

62

63 Be It Enacted by the Legislature of the State of Florida:

64

65 Section 1. Section 1002.40, Florida Statutes, is created
 66 to read:

67 1002.40 The Hope Scholarship Program.-

68 (1) PURPOSE.-The Hope Scholarship Program is established
 69 to provide the parent of a public school student who was
 70 subjected to an incident listed in subsection (3) an opportunity
 71 to transfer the student to another public school or to request
 72 and receive from the state a scholarship for the student to
 73 enroll in and attend an eligible private school.

74 (2) DEFINITIONS.-As used in this section, the term:

75 (a) "Department" means the Department of Education.

76 (b) "Eligible contribution" or "contribution" means a
 77 monetary contribution from a person required to pay sales and
 78 use tax on the purchase or acquisition of a motor vehicle,
 79 subject to the restrictions provided in this section, to an
 80 eligible nonprofit scholarship-funding organization. The
 81 taxpayer making the contribution may not designate a specific
 82 student as the beneficiary of the contribution.

83 (c) "Eligible nonprofit scholarship-funding organization"
 84 or "organization" has the same meaning as provided in s.
 85 1002.395(2)(f).

86 (d) "Eligible private school" has the same meaning as
 87 provided in s. 1002.395(2)(g).

88 (e) "Motor vehicle" has the same meaning as provided in s.
 89 320.01(1)(a), but does not include heavy trucks, truck tractors,
 90 trailers, and motorcycles.

91 (f) "Parent" means a resident of this state who is a
 92 parent, as defined in s. 1000.21, and whose student was
 93 subjected to an incident listed in subsection (3).

94 (g) "Program" means the Hope Scholarship Program.

95 (h) "School" includes any educational program or activity
 96 conducted by a public K-12 educational institution, any school-
 97 related or school-sponsored program or activity, and riding on a
 98 school bus, as defined in s. 1006.25(1), including waiting at a
 99 school bus stop.

100 (i) "Unweighted FTE funding amount" means the statewide

101 average total funds per unweighted full-time equivalent funding
 102 amount that is incorporated by reference in the General
 103 Appropriations Act, or by a subsequent special appropriations
 104 act, for the applicable state fiscal year.

105 (3) PROGRAM ELIGIBILITY.—Beginning with the 2018-2019
 106 school year, contingent upon available funds, and on a first-
 107 come, first-served basis, a student enrolled in a Florida public
 108 school in kindergarten through grade 12 is eligible for a
 109 scholarship under this program if the student has been subjected
 110 to an incident of battery; harassment; hazing; bullying;
 111 kidnapping; physical attack; robbery; sexual offenses,
 112 harassment, assault, or battery; threat or intimidation; or
 113 fighting at school.

114 (4) PROGRAM PROHIBITIONS.—Payment of a scholarship may not
 115 be made if a student is:

116 (a) Enrolled in a public school, including, but not
 117 limited to, the Florida School for the Deaf and the Blind; the
 118 College-Preparatory Boarding Academy; a developmental research
 119 school authorized under s. 1002.32; or a charter school
 120 authorized under s. 1002.33, s. 1002.331, or s. 1002.332;

121 (b) Enrolled in a school operating for the purpose of
 122 providing educational services to youth in the Department of
 123 Juvenile Justice commitment programs;

124 (c) Participating in a virtual school, correspondence
 125 school, or distance learning program that receives state funding

126 pursuant to the student's participation unless the participation
 127 is limited to no more than two courses per school year; or

128 (d) Receiving any other educational scholarship pursuant
 129 to this chapter.

130 (5) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.-

131 (a) Upon receipt of a report of an incident listed in
 132 subsection (3), the school principal shall provide a copy of the
 133 report to the parent and investigate the incident to determine
 134 if the incident must be reported as required by s. 1006.09(6).

135 Upon conclusion of the investigation or within 15 days after the
 136 incident was reported, whichever occurs first, the school
 137 district shall notify the parent of the program and offer that
 138 parent an opportunity to enroll his or her student in another
 139 public school or to request and receive a scholarship to attend
 140 an eligible private school, subject to available funding. A
 141 parent who chooses to enroll his or her student in a Florida
 142 public school located outside the district in which the student
 143 resides pursuant to s. 1002.31 shall be eligible for a
 144 scholarship to transport the student as provided in paragraph
 145 (11) (b).

146 (b) For each student participating in the program in a
 147 private school who chooses to participate in the statewide
 148 assessments under s. 1008.22 or the Florida Alternate
 149 Assessment, the school district in which the student resides
 150 must notify the student and his or her parent about the

151 locations and times to take all statewide assessments.

152 (6) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
 153 eligible private school may be sectarian or nonsectarian and
 154 shall:

155 (a) Comply with all requirements for private schools
 156 participating in state school choice scholarship programs
 157 pursuant to this section and s. 1002.421.

158 (b) Provide to the organization, upon request, all
 159 documentation required for the student's participation,
 160 including the private school's and the student's fee schedules.

161 (c) Be academically accountable to the parent for meeting
 162 the educational needs of the student by:

163 1. At a minimum, annually providing to the parent a
 164 written explanation of the student's progress.

165 2. Annually administering or making provision for students
 166 participating in the program in grades 3 through 10 to take one
 167 of the nationally norm-referenced tests identified by the
 168 department or the statewide assessments pursuant to s. 1008.22.
 169 Students with disabilities for whom standardized testing is not
 170 appropriate are exempt from this requirement. A participating
 171 private school shall report a student's scores to his or her
 172 parent.

173 3. Cooperating with the student whose parent chooses to
 174 have the student participate in the statewide assessments
 175 pursuant to s. 1008.22 or, if a private school chooses to offer

176 the statewide assessments, administering the assessments at the
 177 school.

178 a. A participating private school may choose to offer and
 179 administer the statewide assessments to all students who attend
 180 the private school in grades 3 through 10.

181 b. A participating private school shall submit a request
 182 in writing to the department by March 1 of each year in order to
 183 administer the statewide assessments in the subsequent school
 184 year.

185 (d) Employ or contract with teachers who have regular and
 186 direct contact with each student receiving a scholarship under
 187 this section at the school's physical location.

188 (e) Maintain in this state a physical location where a
 189 scholarship student regularly attends classes.

190 (f) Provide a report from an independent certified public
 191 accountant who performs the agreed-upon procedures developed
 192 under s. 1002.395(6)(o) if the private school receives more than
 193 \$250,000 in funds from scholarships awarded under this section
 194 in a state fiscal year. A private school subject to this
 195 paragraph must annually submit the report by September 15 to the
 196 organization that awarded the majority of the school's
 197 scholarship funds. The agreed-upon procedures must be conducted
 198 in accordance with attestation standards established by the
 199 American Institute of Certified Public Accountants.

200

201 If a private school is unable to meet the requirements of this
 202 subsection, the commissioner may determine that the private
 203 school is ineligible to participate in the program.

204 (7) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 205 shall:

206 (a) Establish a toll-free hotline that provides parents
 207 and private schools with information on participation in the
 208 program.

209 (b) Annually verify the eligibility of private schools
 210 that meet the requirements of subsection (6).

211 (c) Require an annual notarized and sworn compliance
 212 statement by participating private schools certifying compliance
 213 with state laws and retain such records.

214 (d) Cross-check the list of participating students with
 215 the public school enrollment lists and participation lists in
 216 other scholarship programs established under this chapter before
 217 each scholarship payment to avoid duplication.

218 (e) Maintain a list of nationally norm-referenced tests
 219 identified for purposes of satisfying the testing requirement in
 220 paragraph (9)(f). The tests must meet industry standards of
 221 quality in accordance with State Board of Education rule.

222 (f) Require quarterly reports by an eligible nonprofit
 223 scholarship-funding organization regarding the number of
 224 students participating in the scholarship program, the private
 225 schools in which the students are enrolled, and other

226 information deemed necessary by the department.
 227 (g) Contract with an independent entity to provide an
 228 annual evaluation of the program by:
 229 1. Reviewing the school climate and code of student
 230 conduct of each public school at which 10 or more reported
 231 incidents occurred to determine areas in the school or school
 232 district procedures involving reporting, investigating, and
 233 communicating a parent's and student's rights that are in need
 234 of improvement. At a minimum, the review must include:
 235 a. An assessment of the investigation time and quality of
 236 the response of the school and the school district.
 237 b. An assessment of the effectiveness of communication
 238 procedures with the students involved in an incident, the
 239 students' parents, and the school and school district personnel;
 240 c. An analysis of school incident and discipline data;
 241 d. The challenges and obstacles relating to implementing
 242 recommendations from this review.
 243 2. Reviewing the school climate and code of student
 244 conduct of each public school a student transferred to if the
 245 student was from a school identified in subparagraph 1. in order
 246 to identify best practices and make recommendations to a public
 247 school at which the incidents occurred.
 248 3. Reviewing the performance of participating students
 249 enrolled in a private school in which at least 51 percent of the
 250 total enrolled students in the prior school year participated in

251 the program and in which there are at least 10 participating
252 students who have scores for tests administered.

253 4. Surveying the parents of participating students to
254 determine academic, safety, and school climate satisfaction and
255 to identify any challenges or obstacles in addressing the
256 incident or relating to the use of the scholarship.

257 (h) Upon the request of a participating private school,
258 provide at no cost to the school the statewide assessments
259 administered under s. 1008.22 and any related materials for
260 administering the assessments. Students at a private school may
261 be assessed using the statewide assessments if the addition of
262 those students and the school does not cause the state to exceed
263 its contractual caps for the number of students tested and the
264 number of testing sites. The state shall provide the same
265 materials and support to a private school that it provides to a
266 public school. A private school that chooses to administer
267 statewide assessments under s. 1008.22 shall follow the
268 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
269 by the State Board of Education to implement those sections, and
270 district-level testing policies established by the district
271 school board.

272 (i) Establish a process by which individuals may notify
273 the department of any violation by a parent, private school, or
274 school district of state laws relating to program participation.
275 The department shall conduct an inquiry or make a referral to

276 the appropriate agency for an investigation of any written
 277 complaint of a violation of this section if the complaint is
 278 signed by the complainant and is legally sufficient. A complaint
 279 is legally sufficient if such complaint contains ultimate facts
 280 that show that a violation of this section or any rule adopted
 281 by the State Board of Education pursuant to this section has
 282 occurred. In order to determine legal sufficiency, the
 283 department may require supporting information or documentation
 284 from the complainant. A department inquiry is not subject to the
 285 requirements of chapter 120.

286 (j)1. Conduct site visits to participating private
 287 schools. The purpose of the site visits is solely to verify the
 288 information reported by the schools concerning the enrollment
 289 and attendance of students, the credentials of teachers,
 290 background screening of teachers, and teachers' fingerprinting
 291 results. The department may not make more than seven site visits
 292 each year; however, the department may make additional site
 293 visits at any time to a school that has received a notice of
 294 noncompliance or a notice of proposed action within the previous
 295 2 years.

296 2. Annually, by December 15, report to the Governor, the
 297 President of the Senate, and the Speaker of the House of
 298 Representatives the department's actions with respect to
 299 implementing accountability in the program under this section
 300 and s. 1002.421, any substantiated allegations or violations of

301 law or rule by an eligible private school under this program and
 302 the corrective action taken by the department.

303 (8) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

304 (a) The Commissioner of Education:

305 1. Shall deny, suspend, or revoke a private school's
 306 participation in the program if it is determined that the
 307 private school has failed to comply with the provisions of this
 308 section. However, if the noncompliance is correctable within a
 309 reasonable amount of time and if the health, safety, or welfare
 310 of the students is not threatened, the commissioner may issue a
 311 notice of noncompliance which provides the private school with a
 312 timeframe within which to provide evidence of compliance before
 313 taking action to suspend or revoke the private school's
 314 participation in the program.

315 2. May deny, suspend, or revoke a private school's
 316 participation in the program if the commissioner determines that
 317 an owner or operator of the private school is operating or has
 318 operated an educational institution in this state or in another
 319 state or jurisdiction in a manner contrary to the health,
 320 safety, or welfare of the public.

321 a. In making such a determination, the commissioner may
 322 consider factors that include, but are not limited to, acts or
 323 omissions by an owner or operator which led to a previous denial
 324 or revocation of participation in an education scholarship
 325 program; an owner's or operator's failure to reimburse the

326 department for scholarship funds improperly received or retained
 327 by a school; imposition of a prior criminal sanction related to
 328 an owner's or operator's management or operation of an
 329 educational institution; imposition of a civil fine or
 330 administrative fine, license revocation or suspension, or
 331 program eligibility suspension, termination, or revocation
 332 related to an owner's or operator's management or operation of
 333 an educational institution; or other types of criminal
 334 proceedings in which an owner or operator was found guilty of,
 335 regardless of adjudication, or entered a plea of nolo contendere
 336 or guilty to, any offense involving fraud, deceit, dishonesty,
 337 or moral turpitude.

338 b. For purposes of this subparagraph, the term "owner or
 339 operator" includes an owner, operator, superintendent, or
 340 principal of, or a person who has equivalent decisionmaking
 341 authority over, a private school participating in the
 342 scholarship program.

343 (b) The commissioner's determination is subject to the
 344 following:

345 1. If the commissioner intends to deny, suspend, or revoke
 346 a private school's participation in the program, the department
 347 shall notify the private school of such proposed action in
 348 writing by certified mail and regular mail to the private
 349 school's address of record with the department. The notification
 350 shall include the reasons for the proposed action and notice of

351 the timelines and procedures set forth in this paragraph.

352 2. The private school that is adversely affected by the
 353 proposed action shall have 15 days after receipt of the notice
 354 of proposed action to file with the department's agency clerk a
 355 request for a proceeding pursuant to ss. 120.569 and 120.57. If
 356 the private school is entitled to a hearing under s. 120.57(1),
 357 the department shall refer the request to the Division of
 358 Administrative Hearings.

359 3. Upon receipt of a request referred pursuant to this
 360 paragraph, the director of the Division of Administrative
 361 Hearings shall expedite the hearing and assign an administrative
 362 law judge who shall commence a hearing within 30 days after the
 363 receipt of the formal written request by the division and enter
 364 a recommended order within 30 days after the hearing or within
 365 30 days after receipt of the hearing transcript, whichever is
 366 later. Each party shall be allowed 10 days in which to submit
 367 written exceptions to the recommended order. A final order shall
 368 be entered by the agency within 30 days after the entry of a
 369 recommended order. The provisions of this subparagraph may be
 370 waived upon stipulation by all parties.

371 (c) The commissioner may immediately suspend payment of
 372 scholarship funds if it is determined that there is probable
 373 cause to believe that there is:

374 1. An imminent threat to the health, safety, or welfare of
 375 the students; or

376 2. Fraudulent activity on the part of the private school.
 377 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
 378 activity pursuant to this section, the department's Office of
 379 Inspector General is authorized to release personally
 380 identifiable records or reports of students to the following
 381 persons or organizations:

382 a. A court of competent jurisdiction in compliance with an
 383 order of that court or the attorney of record in accordance with
 384 a lawfully issued subpoena, consistent with the Family
 385 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

386 b. A person or entity authorized by a court of competent
 387 jurisdiction in compliance with an order of that court or the
 388 attorney of record pursuant to a lawfully issued subpoena,
 389 consistent with the Family Educational Rights and Privacy Act,
 390 20 U.S.C. s. 1232g.

391 c. Any person, entity, or authority issuing a subpoena for
 392 law enforcement purposes when the court or other issuing agency
 393 has ordered that the existence or the contents of the subpoena
 394 or the information furnished in response to the subpoena not be
 395 disclosed, consistent with the Family Educational Rights and
 396 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

397
 398 The commissioner's suspension of payment pursuant to this
 399 paragraph may be appealed pursuant to the same procedures and
 400 timelines as the notice of proposed action set forth in

401 paragraph (b).

402 (9) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
403 PARTICIPATION.—A parent who applies for a Hope Scholarship is
404 exercising his or her parental option to place his or her
405 student in an eligible private school.

406 (a) The parent must select an eligible private school and
407 apply for the admission of his or her student.

408 (b) The parent must inform the student's school district
409 when the parent withdraws his or her student to attend an
410 eligible private school.

411 (c) Any student participating in the program must remain
412 in attendance throughout the school year unless excused by the
413 school for illness or other good cause.

414 (d) Each parent and each student has an obligation to the
415 private school to comply with the private school's published
416 policies.

417 (e) Upon reasonable notice to the department and the
418 school district, the parent may remove the student from the
419 private school and place the student in a public school in
420 accordance with this section.

421 (f) The parent must ensure that the student participating
422 in the program takes the norm-referenced assessment offered by
423 the private school. The parent may also choose to have the
424 student participate in the statewide assessments pursuant to s.
425 1008.22. If the parent requests that the student participating

426 in the program take the statewide assessments pursuant to s.
 427 1008.22 and the private school has not chosen to offer and
 428 administer the statewide assessments, the parent is responsible
 429 for transporting the student to the assessment site designated
 430 by the school district.

431 (g) Upon receipt of a scholarship warrant, the parent to
 432 whom the warrant is made must restrictively endorse the warrant
 433 to the private school for deposit into the account of the
 434 private school. The parent may not designate any entity or
 435 individual associated with the participating private school as
 436 the parent's attorney in fact to endorse a scholarship warrant.
 437 A parent who fails to comply with this paragraph forfeits the
 438 scholarship.

439 (10) OBLIGATIONS OF NONPROFIT SCHOLARSHIP-FUNDING
 440 ORGANIZATIONS.—An organization may establish scholarships for
 441 eligible students by:

442 (a) Receiving applications and determining student
 443 eligibility in accordance with the requirements of this section.

444 (b) Notifying parents of their receipt of a scholarship on
 445 a first-come, first-served basis, based upon available funds.

446 (c) Preparing and submitting quarterly and annual reports
 447 to the department pursuant to paragraphs (7) (f) and (g). In
 448 addition, an eligible nonprofit scholarship-funding organization
 449 must submit in a timely manner any information requested by the
 450 department relating to the scholarship program.

451 (d) Notifying the department of any violation of this
 452 section.

453 (11) FUNDING AND PAYMENT.—

454 (a) The maximum amount awarded to a student enrolled in an
 455 eligible private school shall be determined as a percentage of
 456 the unweighted FTE funding amount for that state fiscal year and
 457 thereafter as follows:

458 1. Eighty-eight percent for a student enrolled in
 459 kindergarten through grade 5.

460 2. Ninety-two percent for a student enrolled in grade 6
 461 through grade 8.

462 3. Ninety-six percent for a student enrolled in grade 9
 463 through grade 12.

464 (b) The maximum amount awarded to a student enrolled in a
 465 Florida public school located outside of the district in which
 466 the student resides shall be \$750.

467 (c) When a student enters the program, the organization
 468 must receive all documentation required for the student's
 469 participation, including a copy of the report of the incident
 470 received pursuant to subsection (5) and the private school's and
 471 the student's fee schedules. The initial payment shall be made
 472 after verification of admission acceptance, and subsequent
 473 payments shall be made upon verification of continued enrollment
 474 and attendance at the private school.

475 (d) Payment of the scholarship by the eligible nonprofit

476 scholarship-funding organization shall be by individual warrant
 477 made payable to the student's parent. If the parent chooses that
 478 his or her student attend an eligible private school, the
 479 warrant must be delivered by the eligible nonprofit scholarship-
 480 funding organization to the private school of the parent's
 481 choice, and the parent shall restrictively endorse the warrant
 482 to the private school.

483 (e) An eligible nonprofit scholarship-funding organization
 484 shall obtain verification from the private school of a student's
 485 continued attendance at the school for each period covered by a
 486 scholarship payment.

487 (f) Payment of the scholarship shall be made by the
 488 eligible nonprofit scholarship-funding organization no less
 489 frequently than on a quarterly basis.

490 (g) An organization may use up to 3 percent of eligible
 491 contributions received during the state fiscal year in which
 492 such contributions are collected for administrative expenses if
 493 the organization has operated as an eligible nonprofit
 494 scholarship-funding organization for at least the preceding 3
 495 fiscal years and did not have any findings of material weakness
 496 or material noncompliance in its most recent audit under s.
 497 1002.395(6)(m). Such administrative expenses must be reasonable
 498 and necessary for the organization's management and distribution
 499 of eligible contributions under this section. No funds
 500 authorized under this paragraph shall be used for lobbying or

501 political activity or expenses related to lobbying or political
 502 activity. Up to one-third of the funds authorized for
 503 administrative expenses under this paragraph may be used for
 504 expenses related to the recruitment of contributions from
 505 taxpayers. An eligible nonprofit scholarship-funding
 506 organization may not charge an application fee.

507 (h) Moneys received pursuant to this section do not
 508 constitute taxable income to the qualified student or his or her
 509 parent.

510 (12) OBLIGATIONS OF THE AUDITOR GENERAL.-

511 (a) The Auditor General shall conduct an annual
 512 operational audit of accounts and records of each organization
 513 that participates in the program. As part of this audit, the
 514 Auditor General shall verify, at a minimum, the total number of
 515 students served and transmit that information to the department.
 516 The Auditor General shall provide the commissioner with a copy
 517 of each annual operational audit performed pursuant to this
 518 subsection within 10 days after the audit is finalized.

519 (b) The Auditor General shall notify the department of any
 520 organization that fails to comply with a request for
 521 information.

522 (13) SCHOLARSHIP FUNDING TAX CREDITS-

523 (a) A tax credit is available under s. 212.1832 for use by
 524 a taxpayer that makes an eligible contribution to the program.
 525 Each eligible contribution is limited to a single payment of \$20

526 at the time of purchase of a motor vehicle or a single payment
 527 of \$20 at the time of registration of a motor vehicle that was
 528 not purchased from a dealer. An eligible contribution shall be
 529 accompanied by an election to contribute to the program and
 530 shall be made by the purchaser at the time of purchase or at the
 531 time of registration on a form provided by the Department of
 532 Revenue. Payments of contributions shall be made to a dealer, as
 533 defined in chapter 212, at the time of purchase of a motor
 534 vehicle or to an agent of the Department of Revenue, as
 535 designated by s. 212.06(10), at the time of registration of a
 536 motor vehicle that was not purchased from a dealer.

537 (b) A tax collector or any person or firm authorized to
 538 sell or issue a motor vehicle license who is designated as an
 539 agent of the Department of Revenue pursuant to s. 212.06(10) or
 540 who is a dealer shall:

541 1. Provide the purchaser the contribution election form,
 542 as prescribed by the Department of Revenue, at the time of
 543 purchase of a motor vehicle or at the time of registration of a
 544 motor vehicle that was not purchased from a dealer.

545 2. Collect eligible contributions.

546 3. Using a form provided by the Department of Revenue,
 547 which shall include the dealer's or agent's federal employer
 548 identification number, remit to an organization on or before the
 549 20th day of each month the total amount of contributions made to
 550 that organization and collected during the preceding calendar

551 month.

552 4. Report on each return filed with the Department of
 553 Revenue the total amount of credits allowed under s. 212.1832
 554 during the preceding calendar month.

555 (c) An organization shall report to the Department of
 556 Revenue, on or before the 20th day of each month, the total
 557 amount of contributions received pursuant to paragraph (b) in
 558 the preceding calendar month on a form provided by the
 559 Department of Revenue. Such report shall include the federal
 560 employer identification number of each tax collector, authorized
 561 agent of the Department of Revenue, or dealer who remitted
 562 contributions to the organization during that reporting period.

563 (d) A person who, with intent to unlawfully deprive or
 564 defraud the program of its moneys or the use or benefit thereof,
 565 fails to remit a contribution collected under this section is
 566 guilty of theft of charitable funds, punishable as follows:

567 1. If the total amount stolen is less than \$300, the
 568 offense is a misdemeanor of the second degree, punishable as
 569 provided in s. 775.082 or s. 775.083. Upon a second conviction,
 570 the offender is guilty of a misdemeanor of the first degree,
 571 punishable as provided in s. 775.082 or s. 775.083. Upon a third
 572 or subsequent conviction, the offender is guilty of a felony of
 573 the third degree, punishable as provided in s. 775.082, s.
 574 775.083, or s. 775.084.

575 2. If the total amount stolen is \$300 or more, but less

576 than \$20,000, the offense is a felony of the third degree,
 577 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

578 3. If the total amount stolen is \$20,000 or more, but less
 579 than \$100,000, the offense is a felony of the second degree,
 580 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

581 4. If the total amount stolen is \$100,000 or more, the
 582 offense is a felony of the first degree, punishable as provided
 583 in s. 775.082, s. 775.083, or s. 775.084.

584 (e) A person convicted of an offense under paragraph (d)
 585 shall be ordered by the sentencing judge to make restitution to
 586 the organization in the amount that was stolen from the program.

587 (14) LIABILITY.—The state is not liable for the award or
 588 any use of awarded funds under this section.

589 (15) SCOPE OF AUTHORITY.—This section does not expand the
 590 regulatory authority of this state, its officers, or any school
 591 district to impose additional regulation on participating
 592 private schools beyond those reasonably necessary to enforce
 593 requirements expressly set forth in this section.

594 (16) RULES.—The State Board of Education shall adopt rules
 595 to administer this section.

596 Section 2. Section 212.1832, Florida Statutes, is created
 597 to read:

598 212.1832 Credit for contributions to the Hope Scholarship
 599 Program.—

600 (1) There is allowed a credit of 100 percent of an

601 eligible contribution made to an eligible nonprofit scholarship-
 602 funding organization under s. 1002.40 against any tax imposed by
 603 the state and due under this chapter as a result of the purchase
 604 or acquisition of a motor vehicle. The credit may not exceed the
 605 tax otherwise owed.

606 (2) For purposes of the distributions of tax revenue under
 607 s. 212.20, the department shall disregard any tax credits
 608 allowed under this section to ensure that any reduction in tax
 609 revenue received that is attributable to the tax credits results
 610 only in a reduction in distributions to the General Revenue
 611 Fund. The provisions of s. 1002.40 apply to the credit
 612 authorized by this section.

613 Section 3. The Department of Revenue may, and all
 614 conditions are deemed met to, adopt emergency rules pursuant to
 615 ss. 120.536(1) and 120.54, Florida Statutes, to administer this
 616 act.

617 Section 4. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1 (2018)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations
2 Subcommittee
3 Representative Donalds offered the following:
4

5 **Amendment**

6 Remove lines 72-129 and insert:
7 a scholarship for the student to enroll in and attend an
8 eligible private school.

9 (2) DEFINITIONS.- As used in this section, the term:

10 (a) "Department" means the Department of Education.

11 (b) "Dealer" has the same meaning as provided in s.

12 212.06(10)

13 (c) "Designated agent" has the same meaning as provided in
14 s. 212.06(10).

15 (d) "Eligible contribution" or "contribution" means a
16 monetary contribution from a person purchasing a motor vehicle,

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Amendment No. 1

17 subject to the restrictions provided in this section, to an
18 eligible nonprofit scholarship-funding organization. The person
19 making the contribution may not designate a specific student as
20 the beneficiary of the contribution.

21 (e) "Eligible nonprofit scholarship-funding organization"
22 or "organization" has the same meaning as provided in s.
23 1002.395(2) (f).

24 (f) "Eligible private school" has the same meaning as
25 provided in s. 1002.395(2) (g).

26 (g) "Motor vehicle" has the same meaning as provided in s.
27 320.01(1) (a), but does not include heavy trucks, truck tractors,
28 trailers, and motorcycles.

29 (h) "Parent" means a resident of this state who is a
30 parent, as defined in s. 1000.21, and whose student was
31 subjected to an incident listed in subsection (3).

32 (i) "Program" means the Hope Scholarship Program.

33 (j) "School" includes any educational program or activity
34 conducted by a public K-12 educational institution, any school-
35 related or school-sponsored program or activity, and riding on a
36 school bus, as defined in s. 1006.25(1), including waiting at a
37 school bus stop.

38 (k) "Unweighted FTE funding amount" means the statewide
39 average total funds per unweighted full-time equivalent funding
40 amount that is incorporated by reference in the General

Amendment No. 1

41 Appropriations Act, or by a subsequent special appropriations
42 act, for the applicable state fiscal year.

43 (3) PROGRAM ELIGIBILITY.—Beginning with the 2018-2019
44 school year, contingent upon available funds, and on a first-
45 come, first-served basis, a student enrolled in a Florida public
46 school in kindergarten through grade 12 is eligible for a
47 scholarship under this program if the student has been subjected
48 to an incident of battery; harassment; hazing; bullying;
49 kidnapping; physical attack; robbery; sexual offenses,
50 harassment, assault, or battery; threat or intimidation; or
51 fighting at school.

52 (4) PROGRAM PROHIBITIONS.—Payment of a scholarship to a
53 student enrolled in a private school may not be made if a
54 student is:

55 (a) Enrolled in a public school, including, but not
56 limited to, the Florida School for the Deaf and the Blind; the
57 College-Preparatory Boarding Academy; a developmental research
58 school authorized under s. 1002.32; or a charter school
59 authorized under s. 1002.33, s. 1002.331, or s. 1002.332;

60 (b) Enrolled in a school operating for the purpose of
61 providing educational services to youth in the Department of
62 Juvenile Justice commitment programs;

63 (c) Participating in a virtual school, correspondence
64 school, or distance learning program that receives state funding

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1 (2018)

Amendment No. 1

65 pursuant to the student's participation unless the participation
66 is limited to no more than two courses per school year; or

67 (d) Receiving any other educational scholarship pursuant
68 to this chapter.

69 (5) TERM OF HOPE SCHOLARSHIP.- For purposes of continuity
70 of educational choice, a Hope scholarship shall remain in force
71 until the student returns to public school or graduates from
72 high school, whichever occurs first. A scholarship student who
73 enrolls in a public school of public school program is
74 considered to have returned to a public school for the purpose
75 of determining the end of the scholarship's term.
76

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations
 2 Subcommittee

3 Representative Donalds offered the following:

4

5 **Amendment**

6 Remove lines 434-482 and insert:

7 private school. If payment is made by funds transfer in
 8 accordance with subsection (11)(d), the parent must approve each
 9 payment before the scholarship funds may be deposited. The
 10 parent may not designate any entity or individual associated
 11 with the participating private school as the parent's attorney
 12 in fact to endorse a scholarship warrant or approve a funds
 13 transfer. A parent who fails to comply with this paragraph
 14 forfeits the scholarship.

Amendment No. 2

15 (10) OBLIGATIONS OF NONPROFIT SCHOLARSHIP-FUNDING

16 ORGANIZATIONS.—An organization may establish scholarships for
17 eligible students by:

18 (a) Receiving applications and determining student
19 eligibility in accordance with the requirements of this section.

20 (b) Notifying parents of their receipt of a scholarship on
21 a first-come, first-served basis, based upon available funds.

22 (c) Establishing a date by which the parent of a
23 participating student must confirm continuing participation in
24 the program.

25 (d) Awarding scholarship funds to eligible students,
26 giving priority to renewing students from the previous year.

27 (e) Preparing and submitting quarterly and annual reports
28 to the department pursuant to paragraphs (7)(f) and (g). In
29 addition, an eligible nonprofit scholarship-funding organization
30 must submit in a timely manner any information requested by the
31 department relating to the scholarship program.

32 (f) Notifying the department of any violation of this
33 section.

34 (11) FUNDING AND PAYMENT.—

35 (a) The maximum amount awarded to a student enrolled in an
36 eligible private school shall be determined as a percentage of
37 the unweighted FTE funding amount for that state fiscal year and
38 thereafter as follows:

Amendment No. 2

39 1. Eighty-eight percent for a student enrolled in
40 kindergarten through grade 5.

41 2. Ninety-two percent for a student enrolled in grade 6
42 through grade 8.

43 3. Ninety-six percent for a student enrolled in grade 9
44 through grade 12.

45 (b) The maximum amount awarded to a student enrolled in a
46 Florida public school located outside of the district in which
47 the student resides shall be \$750.

48 (c) When a student enters the program, the organization
49 must receive all documentation required for the student's
50 participation, including a copy of the report of the incident
51 received pursuant to subsection (5) and the private school's and
52 the student's fee schedules. The initial payment shall be made
53 after verification of admission acceptance, and subsequent
54 payments shall be made upon verification of continued enrollment
55 and attendance at the private school.

56 (d) Payment of the scholarship by the eligible nonprofit
57 scholarship-funding organization may be by individual warrant
58 made payable to the student's parent or by funds transfer,
59 including but not limited to, debit cards, electronic payment
60 cards, or any other means of payment that the department deems to
61 be commercially viable or cost-effective. If payment is made by
62 warrant, the warrant must be delivered by the eligible nonprofit
63 scholarship-funding organization to the private school of the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1 (2018)

Amendment No. 2

64 parent's choice, and the parent shall restrictively endorse the
65 warrant to the private school. If payments are made by funds
66 transfer, the parent must approve each payment before the
67 scholarship funds may be deposited. The parent may not designate
68 any entity or individual associated with the participating
69 private school as the parent's attorney in fact to endorse a
70 scholarship warrant or approve a funds transfer.

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations
2 Subcommittee

3 Representative Donalds offered the following:

4
5 **Amendment (with title amendment)**

6 Remove lines 504-612 and insert:

7 expenses related to the recruitment of contributions. An
8 eligible nonprofit scholarship-funding organization may not
9 charge an application fee.

10 (h) Moneys received pursuant to this section do not
11 constitute taxable income to the qualified student or his or her
12 parent.

13 (12) OBLIGATIONS OF THE AUDITOR GENERAL.-

14 (a) The Auditor General shall conduct an annual
15 operational audit of accounts and records of each organization
16 that participates in the program. As part of this audit, the

Amendment No. 3

17 Auditor General shall verify, at a minimum, the total number of
18 students served and transmit that information to the department.
19 The Auditor General shall provide the commissioner with a copy
20 of each annual operational audit performed pursuant to this
21 paragraph within 10 days after the audit is finalized.

22 (b) The Auditor General shall notify the department of any
23 organization that fails to comply with a request for
24 information.

25 (13) SCHOLARSHIP FUNDING TAX CREDITS-

26 (a) A tax credit is available under s. 212.1832(1) for use
27 by a person that makes an eligible contribution. Each eligible
28 contribution is limited to a single payment of \$105 per motor
29 vehicle purchased at the time of purchase of a motor vehicle or
30 a single payment of \$105 per motor vehicle purchased at the time
31 of registration of a motor vehicle that was not purchased from a
32 dealer. Payments of contributions shall be made to a dealer at
33 the time of purchase of a motor vehicle or to a designated agent
34 or private tag agent at the time of registration of a motor
35 vehicle that was not purchased from a dealer. An eligible
36 contribution shall be accompanied by a contribution election
37 form provided by the Department of Revenue. The form shall
38 include, at a minimum, a brief description of the Hope
39 Scholarship Program and a section allowing the consumer to
40 designate, from all participating scholarship funding
41 organizations, which organization will receive the donation. For

Amendment No. 3

42 purposes of this subsection, the term "purchase" does not
43 include the lease or rental of a motor vehicle.

44 (b) A dealer, designated agent, or private tag agent
45 shall:

46 1. Provide the purchaser the contribution election form,
47 as provided by the Department of Revenue, at the time of
48 purchase of a motor vehicle or at the time of registration of a
49 motor vehicle that was not purchased from a dealer.

50 2. Collect eligible contributions.

51 3. Using a form provided by the Department of Revenue,
52 which shall include the dealer's or agent's federal employer
53 identification number, remit to an organization no later than
54 the date the return filed pursuant to s. 212.11 is due the total
55 amount of contributions made to that organization and collected
56 during the preceding reporting period. The dealer shall also
57 report this information to the Department of Revenue no later
58 than the date the return filed pursuant to s. 212.11 is due.

59 4. Report to the Department of Revenue on each return
60 filed pursuant to s. 212.11 the total amount of credits granted
61 under s. 212.1832 for the preceding reporting period.

62 (c) An organization shall report to the Department of
63 Revenue, on or before the 20th day of each month, the total
64 amount of contributions received pursuant to paragraph (b) in
65 the preceding calendar month, on a form provided by the
66 Department of Revenue. Such report shall include:

Amendment No. 3

67 1. The federal employer identification number of each
68 designated agent, private tag agent, or dealer who remitted
69 contributions to the organization during that reporting period.

70 2. The amount of contributions received from each
71 designated agent, private tag agent, or dealer during that
72 reporting period.

73 (d) A person who, with intent to unlawfully deprive or
74 defraud the program of its moneys or the use or benefit thereof,
75 fails to remit a contribution collected under this section is
76 guilty of theft, punishable as follows:

77 1. If the total amount stolen is less than \$300, the
78 offense is a misdemeanor of the second degree, punishable as
79 provided in s. 775.082 or s. 775.083. Upon a second conviction,
80 the offender is guilty of a misdemeanor of the first degree,
81 punishable as provided in s. 775.082 or s. 775.083. Upon a third
82 or subsequent conviction, the offender is guilty of a felony of
83 the third degree, punishable as provided in s. 775.082, s.
84 775.083, or s. 775.084.

85 2. If the total amount stolen is \$300 or more, but less
86 than \$20,000, the offense is a felony of the third degree,
87 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

88 3. If the total amount stolen is \$20,000 or more, but less
89 than \$100,000, the offense is a felony of the second degree,
90 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Amendment No. 3

91 4. If the total amount stolen is \$100,000 or more, the
92 offense is a felony of the first degree, punishable as provided
93 in s. 775.082, s. 775.083, or s. 775.084.

94 (e) A person convicted of an offense under paragraph (d)
95 shall be ordered by the sentencing judge to make restitution to
96 the organization in the amount that was stolen from the program.

97 (f) Upon a finding that a dealer failed to remit a
98 contribution under subparagraph(b)3. for which the dealer
99 claimed a credit pursuant to s. 212.1832(2), the Department of
100 Revenue shall notify the dealer of such finding and request
101 evidence from the dealer that demonstrates the remittance
102 obligation was met within 30 days after such notice is issued.
103 If, 30 days after the notice is issued, the dealer fails to
104 provide evidence to the Department of Revenue that the
105 contribution in question was remitted, the Department of Revenue
106 may impose a civil fine in an amount equal to twice the amount
107 of contributions the dealer failed to remit, which fine shall be
108 transferred into the General Revenue Fund. If the fine is not
109 paid within 60 days after the fine is imposed, the Department of
110 Revenue may bring a civil action under s. 120.69 to recover the
111 fine.

112 (g) Any dealer, designated agent, private tag agent, or
113 organization that fails to timely submit reports to the
114 Department of Revenue required in paragraphs (b) and (c) is
115 subject to a penalty of \$1,000 for every month, or part thereof,

Amendment No. 3

116 the report is not provided, up to a maximum amount of \$10,000.
117 This penalty shall be collected by the Department of Revenue and
118 shall be transferred into the General Revenue Fund. This penalty
119 must be settled or compromised if it is determined by the
120 Department of Revenue that the noncompliance is due to
121 reasonable cause and not to willful negligence, willful neglect,
122 or fraud.

123 (14) LIABILITY.—The state is not liable for the award or
124 any use of awarded funds under this section.

125 (15) SCOPE OF AUTHORITY.—This section does not expand the
126 regulatory authority of this state, its officers, or any school
127 district to impose additional regulation on participating
128 private schools beyond those reasonably necessary to enforce
129 requirements expressly set forth in this section.

130 (16) RULES.—The State Board of Education shall adopt rules
131 to administer this section, except the Department of Revenue
132 shall adopt rules to administer subsection (13).

133 Section 2. Section 212.1832, Florida Statutes, is created
134 to read:

135 212.1832 Credit for contributions to the Hope Scholarship
136 Program.—

137 (1) Upon adoption of rules, the purchaser of a motor
138 vehicle shall be granted a credit of 100 percent of an eligible
139 contribution made to an eligible nonprofit scholarship-funding
140 organization under s. 1002.40 against any tax imposed by the

Amendment No. 3

141 state and collected from the purchaser by a dealer, designated
142 agent, or private tag agent as a result of the purchase or
143 acquisition of a motor vehicle. For purposes of this subsection,
144 the term "purchase" does not include the lease or rental or a
145 motor vehicle.

146 (2) A dealer shall take a credit against any tax imposed by
147 the state under this chapter on the purchase of a motor vehicle
148 in an amount equal to the credit granted to the purchaser under
149 (1).

150 (3) For purposes of the distributions of tax revenue under
151 s. 212.20, the department shall disregard any tax credits
152 allowed under this section to ensure that any reduction in tax
153 revenue received that is attributable to the tax credits results
154 only in a reduction in distributions to the General Revenue
155 Fund. The provisions of s. 1002.40 apply to the credit
156 authorized by this section.

157 Section 3. Subsection (21) is added to section 213.053,
158 Florida Statutes, to read:

159 213.053 Confidentiality and information sharing.-

160 (21) (a) The department may provide to an eligible nonprofit
161 scholarship-funding organization, as defined in s. 1004.20, a
162 dealer's name, address, federal employer identification number,
163 and information related to differences between credits taken by
164 the dealer pursuant to s. 212.1832(2) and amounts remitted to
165 the scholarship-funding organization under s. 1002.40(13)(b)3.

Amendment No. 3

166 The scholarship-funding organization may use the information for
167 purposes of recovering eligible contributions designated for
168 that organization that were collected by the dealer but never
169 remitted to the organization.

170 (b) Nothing in this subsection authorizes the disclosure of
171 information if such disclosure is prohibited by federal law. The
172 eligible nonprofit scholarship-funding organization are bound by
173 the same requirements of confidentiality and the same penalties
174 for violation of the requirements as the department.

175 -----
176
177 **T I T L E A M E N D M E N T**

178 Remove lines 40-45 and insert:
179 obligations; providing requirements for elections to contribute
180 to the program; requiring the Department of Revenue to adopt
181 forms to administer the program; providing reporting
182 requirements for nonprofit scholarship-funding organizations
183 relating to contributions; providing requirements for

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: PreK-12 Appropriations Subcommittee

Representative Diaz, M. offered the following:

Amendment (with title amendment)

Remove line 617 and insert:

Section 4. For the 2018-2019 fiscal year, the sum of \$2 million in recurring funds from the General Revenue Fund is hereby appropriated to the Department of Education to implement the provisions of this act and is contingent upon PCS for HB 7055 or similar legislation not being law.

Section 5. This act shall take effect upon becoming a law.

T I T L E A M E N D M E N T

Remove line 61 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1 (2018)

Amendment No. 4

17 | Purposes; proving an appropriation; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 591 Missing Persons With Special Needs
SPONSOR(S): Criminal Justice Subcommittee; Porter
TIED BILLS: None **IDEN./SIM. BILLS:** 1156

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N, As CS	MacNamara	Sumner
2) PreK-12 Appropriations Subcommittee		Seifert	Potvin
3) Judiciary Committee			

SUMMARY ANALYSIS

Elopement, also referred to as wandering, is a safety issue that affects some individuals with disabilities, their families, and the community. Wandering occurs when a person leaves a safe area or a responsible caregiver. It is prevalent among individuals with certain special needs and may expose them to dangerous situations. Anti-wandering and global-positioning systems can be worn or attached to an individual and are specially designed to aid in search-and-rescue efforts for individuals with special needs who are prone to wandering.

In 2016, the Legislature created three "Project Leo" pilot projects at the Center for Autism and Related Disabilities at the University of Florida, University of South Florida, and Florida Atlantic University. Each pilot project provides personal devices to aid in search-and-rescue efforts for persons with special needs in cases of elopement. Furthermore, each project is required to submit a report and recommendations annually to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The pilot projects expire on June 30, 2018.

HB 591 expands Project Leo statewide and permits a Center for Autism and Related Disabilities at any state university to participate in a program providing personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement. The bill makes the University of Florida responsible for developing criteria for the selection of participants in the project and removes the requirement that Florida Atlantic University and University of South Florida develop similar criteria.

The bill also removes the requirement that each participating center submit a preliminary and final report to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Lastly, the bill extends the project to June 30, 2019.

See fiscal impact on state government.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Elopement and Personal Devices

Elopement, also referred to as wandering, is prevalent among individuals with certain special needs and may expose them to dangerous situations. Elopement occurs when an individual leaves a safe area or responsible caregiver. Elopement is a concern particularly with children and adults who have autism and seniors who have Alzheimer's disease.¹ Approximately half of children with autism have a tendency to elope at least once after the age of four.² Families report that about a quarter of the children who have a tendency to elope have gone missing long enough to cause serious concern.³ A substantial portion of those children who wander are at risk of bodily harm; 24% were in danger of drowning and 65% were in danger of a traffic injury.⁴

Anti-wandering and global-positioning system (GPS) can be used to track persons with special needs in the event they wander away from a safe area or a responsible caregiver. These tracking devices can be worn as a bracelet, attached to an individual's shoe or belt loop, or sewn into clothing. If an individual goes missing, a caregiver can pinpoint the wearer's location. There are a number of anti-wandering and GPS tracking devices which are specially designed to aid in search-and-rescue efforts for individuals with special needs who are prone to wandering. Two examples are the Protect and Locate (PAL) tracking system through Project Lifesaver and the Amber Alert GPS.

The PAL is a tracking device that is worn as a watch by the individual at risk of wandering and has a companion portable receiver that notifies the caregiver of a wandering event. Through the use of cell ID location and GPS technologies, it provides the location of a wearer accurate to nine feet. If an individual wearing a PAL device wanders outside of a set perimeter, the caregiver receives an alert, and email and text alerts with the date and location of the wandering event.⁵ The PAL tracking system costs \$549 per unit and requires a monitoring/service plan of \$29.95 per month.

The Amber Alert GPS is a small disk that can be put in an individual's purse or backpack or, with the purchase of an accessory, can be attached to the individual. The Amber Alert GPS syncs with an online tracking portal and mobile application for iPhone, Blackberry, and Droid cellular phones to provide the real-time location of the wearer. The Amber Alert GPS costs \$135, has a one-time activation fee of \$20, and requires a \$15 per month service plan.⁶

The Center for Autism and Related Disabilities

Centers for Autism and Related Disabilities (CARD) work with families, caregivers, and professionals to optimize the potential of individuals who have autism and related disabilities. CARD serves children and adults of all levels of intellectual functioning who have autism, autistic-like disabilities, pervasive developmental disorder, dual sensory impairments (deaf-blindness), or a vision or hearing loss with another disabling condition. CARD centers provide individualized assistance, technical assistance to

¹ *Autism & Wandering*, AWAARE COLLABORATION, <http://awaare.nationalautismassociation.org/autism-wandering/> (last visited January 5, 2018).

² Connie Anderson, et al., *Occurrence and Family Impact of Elopement in Children With Autism Spectrum Disorders*, PEDIATRICS, (October 8, 2012), available at <http://pediatrics.aappublications.org/content/early/2012/10/02/peds.2012-0762.full.pdf+html> (last visited January 5, 2018).

³ Id.

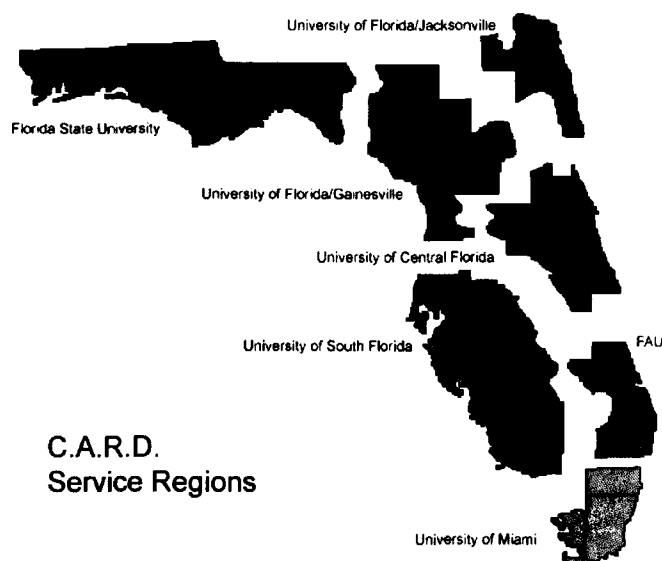
⁴ Id.

⁵ *About PAL*, Project Lifesaver, <http://www.projectlifesaver.org/Pal-info/about-pal/> (last visited January 5, 2018).

⁶ *Amber Alert GPS*, <https://amberalertgps.com/> (last visited January 5, 2018).

schools and school districts, and assist individuals seeking a diagnosis with finding qualified professionals.⁷

Currently, there are seven non-residential CARD centers across the state: Florida State University, University of Florida-Jacksonville, University of Florida-Gainesville, University of Central Florida, University of South Florida, Florida Atlantic University, and University of Miami.⁸ Together, these seven CARD centers serve every county in the state.⁹



Project Leo

In 2016, the Legislature created three “Project Leo” pilot projects. Each pilot project provides personal devices to aid in search-and-rescue efforts for persons with special needs in cases of elopement.¹⁰ The first pilot project was developed by the CARD at the University of Florida (UF) and serves Alachua, Baker, Columbia, Hamilton, and Suwannee Counties. The second pilot project was developed by the CARD at Florida Atlantic University (FAU) and serves Palm Beach County. The third pilot project was developed by the CARD at the University of South Florida (USF) and serves Hillsborough County.¹¹

Participants are selected based on criteria developed by CARD UF, CARD FAU, or CARD USF. Each center's criteria is required to, at a minimum, consider the individual's risk of elopement. For instance, both CARD UF and CARD USF require that the individual:

- Resides in a county served by the university's CARD;
- Has documentation of a diagnosis of autism spectrum disorder or a related disability;
- Has wandered or is at risk of wandering; and
- Is under constant supervision and monitoring of a responsible adult, who can prevent wandering and can contact 911 in the event the individual is missing.¹²

⁷ *University of Florida*, Center for Autism and Related Disabilities, www.card.ufl.edu/about-card/faq/ (last visited January 5, 2018).

⁸ Each of these universities is a “state university” as defined under s. 1000.21(6), F.S., with the exception of the University of Miami. However, nothing under current law prevents the University of Miami from continuing to offer devices to assist in search-and-rescue efforts in the same or similar manner as other universities participating in Project Leo.

⁹ *Find Your Card*, <http://card.ufl.edu/about-card/find-your-card/> (last visited January 5, 2018).

¹⁰ S. 937.041(1), F.S.

¹¹ Ch. 2016-186, L.O.F.

¹² *University of Florida*, Project Leo FAQs, <http://card.ufl.edu/project-leo-faqs/> (last visited January 5, 2018), and *University of South Florida*, Project Leo brochure, http://cfs.cbcs.usf.edu/docs/news/CARD_SafetyNet_Brochure.pdf (last visited January 5, 2018).

The number of participants is determined based on available funding within each center's existing resources, and participation in the project is voluntary and free of charge.¹³ Participants are provided with a personal device to aid in search-and-rescue efforts which is attachable to clothing or otherwise wearable. The respective county sheriff's offices distribute the devices to the project participants. CARD UF, CARD FAU, and CARD USF are tasked with funding any cost associated with the monitoring of the devices.¹⁴

Project Leo further requires CARD UF, CARD FAU, and CARD USF to submit preliminary and final reports to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Both reports are required to include:

- The criteria used to select the participants;
- The number of participants;
- The nature of the participants' special needs;
- The number of participants who elope;
- The amount of time taken to rescue a participant following elopement; and
- The outcome of any rescue attempts.

Additionally, the final report must include recommendations for modifications or continued implementation of the program.¹⁵

Each of the three CARDS received \$100,000 when the project was implemented in 2016.¹⁶ The projects continued operation is subject to available funding within the existing resources of CARD UF, CARD FAU, and CARD USF. The project expires on June 30, 2018.¹⁷

Effect of Proposed Changes

HB 591 expands Project Leo statewide and provides that a CARD at any state university, as defined under s. 1000.21, F.S., may participate in a program providing personal devices to aid search-and-rescue efforts for persons with special needs in the case of elopement. The bill makes the University of Florida responsible for developing criteria for the selection of participants in the project and removes the requirement that Florida Atlantic University and University of South Florida develop similar criteria.

The bill also removes the requirement that each CARD participating in the project submit a preliminary and final report to the Governor, the Speaker of the House of Representatives, and the President of the Senate. Lastly, the bill extends the project to June 30, 2019.

B. SECTION DIRECTORY:

Section 1: Amending s. 937.041, F.S., related to missing persons with special needs pilot projects.

Section 2: Providing an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹³ S. 937.041(2), F.S.

¹⁴ S. 937.041(3), F.S.

¹⁵ S. 937.041(4), F.S.

¹⁶ Ch. 2016-186, L.O.F.

¹⁷ S. 937.041(5)-(6), F.S.

2. Expenditures:

Specific Appropriation 105 in PCB APC 18-01 appropriates the nonrecurring sum of \$700,000 to fund HB 3335, Project Leo, as described in Appropriations Project Request 1296; which is to expand the Project Leo Pilot Program that was created in 2016 to all the Centers for Autism and Related Disabilities programs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Removes the term "pilot" from the bill as the project is now statewide, and
- Amends the term "institutions in the state university system" to read "state university," and provides a reference to s. 1000.21, F.S., for a definition of "state university."

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

1 A bill to be entitled
 2 An act relating to missing persons with special needs;
 3 amending s. 937.041, F.S.; expanding a project for
 4 missing persons with special needs to all centers for
 5 autism and related disabilities at state universities;
 6 providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Section 937.041, Florida Statutes, is amended
 11 to read:

12 937.041 Missing persons with special needs pilot
 13 projects.-

14 (1) ~~(a)~~ There is created a statewide ~~pilot~~ project ~~in~~
 15 ~~Alachua, Baker, Columbia, Hamilton, and Suwannee Counties,~~ to be
 16 known as "Project Leo," to provide personal devices to aid
 17 search-and-rescue efforts for persons with special needs in the
 18 case of elopement through a center for autism and related
 19 disabilities at any state university listed in s. 1000.21(6).

20 ~~(b) There is created an additional pilot project in Palm~~
 21 ~~Beach County to provide personal devices to aid search-and-~~
 22 ~~rescue efforts for persons with special needs in the case of~~
 23 ~~elopement.~~

24 ~~(c) There is created an additional pilot project in~~
 25 ~~Hillsborough County to provide personal devices to aid search-~~

26 ~~and rescue efforts for persons with special needs in the case of~~
 27 ~~elopement.~~

28 (2) ~~(a) 1.~~ Participants for the pilot project ~~specified in~~
 29 ~~paragraph (1)(a)~~ shall be selected based on criteria developed
 30 by the Center for Autism and Related Disabilities at the
 31 University of Florida.

32 ~~2.~~ ~~Participants for the pilot project specified in~~
 33 ~~paragraph (1)(b) shall be selected based on criteria developed~~
 34 ~~by the Center for Autism and Related Disabilities at Florida~~
 35 ~~Atlantic University.~~

36 ~~3.~~ ~~Participants for the pilot project specified in~~
 37 ~~paragraph (1)(c) shall be selected based on criteria developed~~
 38 ~~by the Center for Autism and Related Disabilities at the~~
 39 ~~University of South Florida.~~

40 ~~(b)~~ Criteria for participation in the project ~~pilot~~
 41 ~~projects~~ must include, at a minimum, the person's risk of
 42 elopement. The qualifying participants shall be selected on a
 43 first-come, first-served basis by the respective centers to the
 44 extent of available funding within their existing resources. The
 45 ~~Each~~ project must be voluntary and free of charge to
 46 participants.

47 (3) Under the ~~each pilot~~ project, personal devices to aid
 48 search-and-rescue efforts which are attachable to clothing or
 49 otherwise worn shall be provided by the respective center to the
 50 sheriff's offices of the participating counties. The devices

51 shall be distributed to project participants by the county
 52 sheriff's offices in conjunction with the respective center. The
 53 respective center shall fund any costs associated with
 54 monitoring the devices.

55 ~~(4) Each center shall submit a preliminary report by~~
 56 ~~December 1, 2016, and a final report by December 15, 2017, to~~
 57 ~~the Governor, the President of the Senate, and the Speaker of~~
 58 ~~the House of Representatives describing the implementation and~~
 59 ~~operation of its pilot project. At a minimum, each report must~~
 60 ~~include the criteria used to select participants, the number of~~
 61 ~~participants, the nature of the participants' special needs, the~~
 62 ~~number of participants who elope, the amount of time taken to~~
 63 ~~rescue such participants following elopement, and the outcome of~~
 64 ~~any rescue attempts. Each final report shall also provide~~
 65 ~~recommendations for modification or continued implementation of~~
 66 ~~the project.~~

67 (4)(5) The ~~Each~~ project shall operate to the extent of
 68 available funding within the respective center's existing
 69 resources.

70 (5)(6) This section expires June 30, 2019 ~~2018~~.

71 Section 2. This act shall take effect July 1, 2018.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations
 2 Subcommittee
 3 Representative Porter offered the following:

Amendment (with title amendment)

Remove lines 15-49 and insert:

7 ~~Alachua, Baker, Columbia, Hamilton, and Suwannee Counties,~~ to be
 8 known as "Project Leo," through a center for autism and related
 9 disabilities established under section 1004.55. Each center that
 10 opts to join the project shall distribute to provide personal
 11 devices to aid search-and-rescue efforts for persons with
 12 special needs in the case of elopement.

13 ~~(b) There is created an additional pilot project in Palm~~
 14 ~~Beach County to provide personal devices to aid search-and-~~
 15 ~~rescue efforts for persons with special needs in the case of~~
 16 ~~elopement.~~

Amendment No. 1

17 ~~(c) There is created an additional pilot project in~~
18 ~~Hillsborough County to provide personal devices to aid search~~
19 ~~and rescue efforts for persons with special needs in the case of~~
20 ~~elopement.~~

21 (2)(a)1. Participants for the ~~pilot~~ project specified in
22 ~~paragraph (1)(a)~~ shall be selected based on criteria developed
23 by the Center for Autism and Related Disabilities based on the
24 specific needs of each center's service area counties prescribed
25 under s. 1004.55 at the University of Florida.

26 ~~2. Participants for the pilot project specified in~~
27 ~~paragraph (1)(b) shall be selected based on criteria developed~~
28 ~~by the Center for Autism and Related Disabilities at Florida~~
29 ~~Atlantic University.~~

30 ~~3. Participants for the pilot project specified in~~
31 ~~paragraph (1)(c) shall be selected based on criteria developed~~
32 ~~by the Center for Autism and Related Disabilities at the~~
33 ~~University of South Florida.~~

34 ~~(b)~~ Criteria for participation in the project ~~pilot~~
35 ~~projects~~ must include, at a minimum, the person's risk of
36 elopement. The qualifying participants shall be selected on a
37 first-come, first-served basis by the respective centers to the
38 extent of available funding within their existing resources. The
39 ~~Each~~ project must be voluntary and free of charge to
40 participants.

Amendment No. 1

41 (3) Under the ~~each pilot~~ project, personal devices to aid
 42 search-and-rescue efforts ~~which are attachable to clothing or~~
 43 ~~otherwise worn~~ shall be provided by the respective center to the

44
 45 -----

T I T L E A M E N D M E N T

46 Between lines 5 and 6, insert:
 47 revising requirements for personal devices used in the
 48 project;
 49

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 731 Home Education
SPONSOR(S): PreK-12 Innovation Subcommittee and Sullivan
TIED BILLS: None **IDEN./SIM. BILLS:** SB 732

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	12 Y, 0 N, As CS	Dehmer	Healy
2) PreK-12 Appropriations Subcommittee		Seifert	Potvin
3) Education Committee			

SUMMARY ANALYSIS

Home education is a parent-directed educational option that satisfies the requirement for regular school attendance. Parents have the freedom to determine their child's educational path and the plan for reaching their goals. Students have the opportunity to explore and learn at their own pace, in any location or at any time. Home education students are able to enter institutions of higher learning and are eligible to participate in the Florida Bright Futures Scholarship Program.

The bill:

- clarifies the definition of "parent," the home education registration process and the home education notice requirements;
- authorizes school districts to provide a home education student access to career and technical courses and programs;
- authorizes districts to offer industry certifications, national assessments and statewide, standardized assessments to home education students;
- prohibits school superintendents from requiring evidence of a child's age if the child meets regular attendance requirements by attending certain educational institutions or programs;
- authorizes school superintendents to refer student nonenrollment cases to a child study team in order to conduct intervention services;
- clarifies the court procedures and penalties for enforcement of compulsory school attendance; and
- exempts a home education student from the grade point average requirement for admission to dual enrollment programs if the student meets the minimum score on a college placement test.

The bill has no fiscal impact to the state.

The bill is effective on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Home Education Programs

Present Situation

Home education is a parent-directed educational option that satisfies the requirement for regular school attendance. Florida laws protecting home education became effective in 1985. Parents have the freedom to determine their child's educational path and the plan for reaching their goals. Students have the opportunity to explore and learn at their own pace, in any location or at any time. Home education students are able to enter institutions of higher learning and are eligible to participate in the Florida Bright Futures Scholarship Program. More than 84,000 students in approximately 58,000 families are in home education programs throughout Florida.¹

Parents of home education students are required to provide a signed, written notice of intent that includes the names of the students who will be home schooled to the district school superintendent in the parent's county of residence.²

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.³

Effect of Proposed Changes

The bill clarifies that a home education program is not a school district program and clarifies that the program must register with the district superintendent for compliance with Florida's school attendance requirements.

The bill defines the term "parent" to mean either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent and maintains a home education program. The bill clarifies that the notice to establish a home education program must include the full legal names of the students and requires the district superintendent to accept the notice and immediately register the program.

The bill prohibits the district from requiring additional information from the parent of a home education student unless the student participates in a school district program or service. The bill also prohibits district superintendents from assigning a grade level to the home education student or including a social security number or any other personal information of the student in any school district or state database unless the student chooses to participate in a school district program or service.

The bill clarifies that the parent determines the content of a home education student's portfolio. The bill also authorizes, but does not require, a school district to provide access to career and technical courses and programs to a home education student and to report those students as full-time equivalent students (FTE) for funding in the Florida Education Finance Program (FEFP).

The bill requires school districts to notify home education students of the date, time and availability of industry certifications, national assessments and statewide standardized assessments. A home

¹ The Florida Department of Education, *Home Education*, available at: <http://www.fldoe.org/schools/school-choice/other-school-choice-options/home-edu/> (last visited December 18, 2017).

² Section 1002.41(1)(a), F.S.

³ Section 1002.41(b), F.S.

education student must notify the school district of the intent to take the available certificates or assessments.

The bill also prohibits a school district from further regulating, exercising control over or requiring documentation from parents of home education students beyond the requirements of law.

School Attendance

Present Situation

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.⁴ The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.⁵

When there is no valid reason for a student to not to be enrolled in school, a designated school representative must give written notice to the parent that requires student enrollment or attendance within 3 days after the date of notice. If the notice and requirement are ignored, the designated school representative must report the case to the district superintendent, and may refer the case to the case staffing committee. The district school superintendent must take the necessary steps to bring criminal prosecution against the parent.⁶

With few exceptions, all children who will be six years of age on February 1, of each school year and are less than 16 years of age are required to attend school regularly. Children who will be five years of age by September 1, of each school year are eligible for public kindergarten.⁷

A principal may request evidence that a child has attained the appropriate age for kindergarten before admitting the student. The district superintendent may require evidence of the age of any child believed to be within the limits of compulsory attendance.⁸

Effect of Proposed Changes

The bill authorizes the district superintendent to refer student nonenrollment cases to a child study team or a case staffing committee. The child study team is required to diligently facilitate intervention services and report to the district superintendent when all reasonable efforts to resolve the nonenrollment are exhausted.

The bill prohibits district school superintendents from requiring evidence of a child's age, prior to admitting the child to kindergarten, when the child meets regular attendance requirements by attending a:

- parochial, religious or denominational school;
- private school supported by tuition charges, endowments or gifts;
- home education program; or
- private tutoring program.

The bill also clarifies that school district superintendents may only request age information of a child who enrolls in a public school.

⁴ Section 1003.24, F.S. (flush-left provisions at end of section).

⁵ Section 1003.26, F.S.

⁶ Section 1003.26(2), F.S.

⁷ Section 1003.21(1)(a), F.S.

⁸ Section 1003.21(4), F.S.

Court Procedure and Penalties

Present Situation

Florida law defines "habitual truant" as a student who has 15 or more unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent or guardian and who is subject to compulsory school attendance.⁹

In cases where an unexcused student does not enroll or attend school as required by law, the district school superintendent must initiate a criminal prosecution against the student's parent.¹⁰ Each public school principal or designee must notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days.¹¹

Effect of Proposed Changes

The bill clarifies that court procedures and penalties for the enforcement of compulsory school attendance may not be instituted against a student's parent until the school and district comply with the steps to promote and enforce regular school attendance.

Interscholastic Athletic Participation

Present Situation

Students enrolled in a home education program may participate in interscholastic athletics at a traditional public school, if certain requirements are met.¹² Such eligibility is provided because home education programs do not field athletic teams. In order to participate, home education students must:

- demonstrate educational progress or meet grade point average (GPA) requirements;
- meet the same residency requirements as other students in the school;
- meet the same standards of acceptance, behavior, and performance required of other participating students; and
- register their intent to participate in interscholastic extracurricular activities with the school before the beginning date of the season for the activity for which the student wishes to participate.¹³

Effect of Proposed Changes

The bill requires home education students to register their intent to participate prior to participation instead of prior to the beginning date of the season.

⁹ Section 984.03(27)(a), F.S.

¹⁰ Section 1003.27(2)(a), F.S.

¹¹ Section 1003.27(2)(b), F.S.

¹² Section 1006.15(3)(c), F.S.

¹³ *Id.* Generally speaking, the student must be allowed to participate in curricular activities if such participation is a requirement for an extracurricular activity. Section 1006.15(3)(c)5., (d)5., and (e)5., F.S.

Dual Enrollment Program

Present Situation

The dual enrollment program is an acceleration mechanism that authorizes an eligible secondary¹⁴ or home education student to enroll in a postsecondary course creditable toward high school completion and an associate or baccalaureate degree or career certificate.¹⁵ Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college, university or career certificate credit.¹⁶

Students must demonstrate readiness for college-level or career-level coursework. The student must have a 3.0 GPA for enrollment in college-level courses and a 2.0 unweighted GPA for enrollment in career certificate courses. Students must demonstrate adequate pre-collegiate preparation on a basic computation and communication skills assessment through the common placement examination when enrolling in a college credit course. Exceptions to the required GPAs may be granted if the participating educational entities agree and the terms of such agreement are contained in the dual enrollment interinstitutional articulation agreement.¹⁷

Home education students can participate in the dual enrollment program. To participate in dual enrollment, a home education student must:¹⁸

- provide proof of enrollment in a home education program that meets statutory requirements;¹⁹
- be responsible for his or her own instructional materials unless provided for in the articulation agreement; and
- sign a home education articulation agreement²⁰ with the postsecondary institution in which the student plans to enroll.

Each postsecondary institution eligible to participate in the dual enrollment program is required to enter into a home education articulation agreement with each eligible home education student seeking enrollment in a dual enrollment course and the student's parent. Initial and continued eligibility requirements for home education students may not exceed those required of other dually enrolled students. Articulation agreements must be annually submitted by the postsecondary institution to the Department of Education on or before August 1.²¹

Effect of Proposed Changes

The bill permits a home education program student to participate in a dual enrollment course without a high school GPA if the home school program student meets a minimum score on a common placement test. The home education program student is required to maintain a minimum GPA for continued enrollment.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.41, F.S., relating to home education programs.

¹⁴ For purposes of dual enrollment, "secondary" is defined as a student who is enrolled in grades 6-12 in a Florida public school or Florida private school. Section 1007.271(2), F.S.

¹⁵ Section 1007.271(1), F.S.

¹⁶ Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, available at <http://fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf> (last visited December 19, 2017).

¹⁷ Section 1007.271(3), F.S.

¹⁸ Section 1007.271(13), F.S.

¹⁹ Requirements for home education programs are outlined in s. 1002.41, F.S.

²⁰ Section 1007.271(13)(b), F.S.

²¹ *Id.*

Section 2. Amends s. 1003.21, F.S., relating to school attendance.

Section 3. Amends s. 1003.26, F.S., relating to enforcement of school attendance.

Section 4. Amends s. 1003.27, F.S., relating to court procedures and penalties.

Section 5. Amends s. 1006.15, F.S., relating to student participation in interscholastic and intrascholastic extracurricular activities.

Section 6. Amends s. 1007.271, F.S., relating to dual enrollment programs.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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:

If a school district elects to implement the provision of Section 1 that allows a school district to provide access to career and technical courses and programs for home education program students; there may likely be a fiscal impact; which is indeterminate at this time.

A school district may provide access to career and 144 technical courses and programs for a home education program 145 student who enrolls in a public school solely for the career and 146 technical courses or programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the PreK-12 Innovation Subcommittee adopted a substitute amendment and reported the bill favorably as a committee substitute. The amendment restored current statutory language so participation in extracurricular activities at public schools, the acceptance requirements, and the residency requirements for home education students are consistent with traditional public school students.

1 A bill to be entitled
2 An act relating to home education; amending s.
3 1002.41, F.S.; specifying that a home education
4 program is not a school district program and is
5 registered with the district school superintendent
6 only for the purpose of complying with the state's
7 attendance requirements; revising the content
8 requirements of a notice of enrollment of a student in
9 a home education program; requiring the district
10 school superintendent to immediately register a home
11 education program upon receipt of the notice;
12 prohibiting a school district from requiring
13 additional information or verification of a home
14 education student except in specified circumstances;
15 authorizing a school district to provide home
16 education program students with access to certain
17 courses and programs offered by the school district;
18 requiring reporting and funding through the Florida
19 Education Finance Program; requiring home education
20 program students be provided access to certain
21 certifications and assessments offered by the school
22 district; prohibiting a school district from taking
23 certain actions against a home education program
24 student's parent unless such action is necessary for a
25 school district program; amending s. 1003.21, F.S.;

26 prohibiting a district school superintendent from
 27 requiring certain evidence relating to a child's age
 28 from children enrolling in specified schools and
 29 programs; amending s. 1003.26, F.S.; authorizing a
 30 school district superintendent to refer certain cases
 31 relating to student nonenrollment to the child study
 32 team of certain schools; requiring the child study
 33 team to provide specified services in such instances;
 34 conforming cross-references; amending s. 1003.27,
 35 F.S.; requiring a school and school district to comply
 36 with specified provisions before instituting criminal
 37 prosecution against certain parents relating to
 38 compulsory school attendance; amending s. 1006.15,
 39 F.S.; revising the standards required for a home
 40 education student to participate in extracurricular
 41 activities; amending s. 1007.271, F.S.; prohibiting
 42 dual enrollment course and program limitations for
 43 home education students from exceeding limitations for
 44 other students; providing an exemption from the grade
 45 point average requirement for initial enrollment in a
 46 dual enrollment program for certain home education
 47 students; amending s. 1002.385, F.S.; conforming
 48 cross-references; providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (1) and (2) of section 1002.41, Florida Statutes, are amended, and subsections (11), (12), and (13) are added to that section, to read:

1002.41 Home education programs.—

(1) As used in this section, the term a "home education program" has the same meaning as is defined in s. 1002.01. A home education program is not a school district program and is registered with the district school superintendent only for the purpose of complying with the state's attendance requirements under s. 1003.21(1). The parent is not required to hold a valid regular Florida teaching certificate.

(a) The parent, as defined in s. 1000.21, who establishes and maintains a home education program shall notify the district school superintendent of the county in which the parent resides of her or his intent to establish and maintain a home education program. The notice must ~~shall~~ be in writing, signed by the parent, and ~~shall~~ include the full legal names, addresses, and birthdates of all children who shall be enrolled as students in the home education program. The notice must ~~shall~~ be filed in the district school superintendent's office within 30 days of the establishment of the home education program.

(b) The district school superintendent shall accept the notice and immediately register the home education program upon receipt of the notice. The district may not require any

76 additional information or verification from the parent unless
 77 the student chooses to participate in a school district program
 78 or service. The district school superintendent may not assign a
 79 grade level to the home education student or include a social
 80 security number or any other personal information of the student
 81 in any school district or state database unless the student
 82 chooses to participate in a school district program or service.

83 (c) The parent shall file a written notice of termination
 84 upon completion of the home education program with shall be
 85 filed in the district school superintendent, along with the
 86 annual evaluation required in paragraph (f), within
 87 superintendent's office within 30 days of after said
 88 termination.

89 (d) (b) The parent shall maintain a portfolio of records
 90 and materials. The portfolio must shall consist of the
 91 following:

92 1. A log of educational activities that is made
 93 contemporaneously with the instruction and that designates by
 94 title any reading materials used.

95 2. Samples of any writings, worksheets, workbooks, or
 96 creative materials used or developed by the student.

97 (e) The parent shall determine the content of the
 98 portfolio, preserve it shall be preserved by the parent for 2
 99 years, and make it shall be made available for inspection, if
 100 requested, by the district school superintendent, or the

101 district school superintendent's agent, upon 15 days' written
 102 notice. Nothing in this section shall require the district
 103 school superintendent to inspect the portfolio.

104 (f)~~(e)~~ The parent shall provide for an annual educational
 105 evaluation in which is documented the student's demonstration of
 106 educational progress at a level commensurate with her or his
 107 ability. The parent shall select the method of evaluation and
 108 shall file a copy of the evaluation annually with the district
 109 school superintendent's office in the county in which the
 110 student resides. The annual educational evaluation shall consist
 111 of one of the following:

112 1. A teacher selected by the parent shall evaluate the
 113 student's educational progress upon review of the portfolio and
 114 discussion with the student. Such teacher shall hold a valid
 115 regular Florida certificate to teach academic subjects at the
 116 elementary or secondary level;

117 2. The student shall take any nationally normed student
 118 achievement test administered by a certified teacher;

119 3. The student shall take a state student assessment test
 120 used by the school district and administered by a certified
 121 teacher, at a location and under testing conditions approved by
 122 the school district;

123 4. The student shall be evaluated by an individual holding
 124 a valid, active license pursuant to the provisions of s.
 125 490.003(7) or (8); or

126 5. The student shall be evaluated with any other valid
 127 measurement tool as mutually agreed upon by the district school
 128 superintendent of the district in which the student resides and
 129 the student's parent.

130 (2) The district school superintendent shall ~~review and~~
 131 accept the results of the annual educational evaluation of the
 132 student in a home education program. If the student does not
 133 demonstrate educational progress at a level commensurate with
 134 her or his ability, the district school superintendent shall
 135 notify the parent, in writing, that such progress has not been
 136 achieved. The parent shall have 1 year from the date of receipt
 137 of the written notification to provide remedial instruction to
 138 the student. At the end of the 1-year probationary period, the
 139 student shall be reevaluated as specified in paragraph (1)(f)
 140 ~~(1)(e)~~. Continuation in a home education program shall be
 141 contingent upon the student demonstrating educational progress
 142 commensurate with her or his ability at the end of the
 143 probationary period.

144 (11) A school district may provide access to career and
 145 technical courses and programs for a home education program
 146 student who enrolls in a public school solely for the career and
 147 technical courses or programs. The school district that provides
 148 the career and technical courses and programs shall report each
 149 student as a full-time equivalent student in the class and in a
 150 manner prescribed by the department, and funding shall be

151 provided through the Florida Education Finance Program pursuant
 152 to s. 1011.62.

153 (12) Industry certifications, national assessments, and
 154 statewide, standardized assessments offered by a school district
 155 shall be available to home education program students. Each
 156 school district shall notify home education program students of
 157 the available certifications and assessments; the date, time,
 158 and locations for the administration of each certification and
 159 assessment; and the deadline for notifying the school district
 160 of the student's intent to participate and the student's
 161 preferred location.

162 (13) A school district may not further regulate, exercise
 163 control over, or require documentation from parents of home
 164 education program students beyond the requirements of this
 165 section unless the regulation, control, or documentation is
 166 necessary for participation in a school district program.

167 Section 2. Subsection (4) of section 1003.21, Florida
 168 Statutes, is amended to read:

169 1003.21 School attendance.—

170 (4) Before admitting a child to kindergarten, the
 171 principal shall require evidence that the child has attained the
 172 age at which he or she should be admitted in accordance with the
 173 provisions of subparagraph (1)(a)2. The district school
 174 superintendent may require evidence of the age of any child who
 175 is being enrolled in public school and who the district school

176 superintendent ~~whom he or she~~ believes to be within the limits
 177 of compulsory attendance as provided for by law; however, the
 178 district school superintendent may not require evidence from any
 179 child who meets regular attendance requirements by attending a
 180 school or program listed in s. 1003.01(13)(b)-(e). If the first
 181 prescribed evidence is not available, the next evidence
 182 obtainable in the order set forth below shall be accepted:

183 (a) A duly attested transcript of the child's birth record
 184 filed according to law with a public officer charged with the
 185 duty of recording births;

186 (b) A duly attested transcript of a certificate of baptism
 187 showing the date of birth and place of baptism of the child,
 188 accompanied by an affidavit sworn to by the parent;

189 (c) An insurance policy on the child's life that has been
 190 in force for at least 2 years;

191 (d) A bona fide contemporary religious record of the
 192 child's birth accompanied by an affidavit sworn to by the
 193 parent;

194 (e) A passport or certificate of arrival in the United
 195 States showing the age of the child;

196 (f) A transcript of record of age shown in the child's
 197 school record of at least 4 years prior to application, stating
 198 date of birth; or

199 (g) If none of these evidences can be produced, an
 200 affidavit of age sworn to by the parent, accompanied by a

201 certificate of age signed by a public health officer or by a
 202 public school physician, or, if these are not available in the
 203 county, by a licensed practicing physician designated by the
 204 district school board, which states that the health officer or
 205 physician has examined the child and believes that the age as
 206 stated in the affidavit is substantially correct. Children and
 207 youths who are experiencing homelessness and children who are
 208 known to the department, as defined in s. 39.0016, shall be
 209 given temporary exemption from this section for 30 school days.

210 Section 3. Paragraph (f) of subsection (1) and paragraph
 211 (a) of subsection (2) of section 1003.26, Florida Statutes, are
 212 amended to read:

213 1003.26 Enforcement of school attendance.—The Legislature
 214 finds that poor academic performance is associated with
 215 nonattendance and that school districts must take an active role
 216 in promoting and enforcing attendance as a means of improving
 217 student performance. It is the policy of the state that each
 218 district school superintendent be responsible for enforcing
 219 school attendance of all students subject to the compulsory
 220 school age in the school district and supporting enforcement of
 221 school attendance by local law enforcement agencies. The
 222 responsibility includes recommending policies and procedures to
 223 the district school board that require public schools to respond
 224 in a timely manner to every unexcused absence, and every absence
 225 for which the reason is unknown, of students enrolled in the

226 schools. District school board policies shall require the parent
 227 of a student to justify each absence of the student, and that
 228 justification will be evaluated based on adopted district school
 229 board policies that define excused and unexcused absences. The
 230 policies must provide that public schools track excused and
 231 unexcused absences and contact the home in the case of an
 232 unexcused absence from school, or an absence from school for
 233 which the reason is unknown, to prevent the development of
 234 patterns of nonattendance. The Legislature finds that early
 235 intervention in school attendance is the most effective way of
 236 producing good attendance habits that will lead to improved
 237 student learning and achievement. Each public school shall
 238 implement the following steps to promote and enforce regular
 239 school attendance:

240 (1) CONTACT, REFER, AND ENFORCE.—

241 (f)1. If the parent of a child who has been identified as
 242 exhibiting a pattern of nonattendance enrolls the child in a
 243 home education program pursuant to chapter 1002, the district
 244 school superintendent shall provide the parent a copy of s.
 245 1002.41 and the accountability requirements of this paragraph.
 246 The district school superintendent shall also refer the parent
 247 to a home education review committee composed of the district
 248 contact for home education programs and at least two home
 249 educators selected by the parent from a district list of all
 250 home educators who have conducted a home education program for

251 at least 3 years and who have indicated a willingness to serve
 252 on the committee. The home education review committee shall
 253 review the portfolio of the student, as defined by s. 1002.41,
 254 every 30 days during the district's regular school terms until
 255 the committee is satisfied that the home education program is in
 256 compliance with s. 1002.41(1)(d) ~~s. 1002.41(1)(b)~~. The first
 257 portfolio review must occur within the first 30 calendar days of
 258 the establishment of the program. The provisions of subparagraph
 259 2. do not apply once the committee determines the home education
 260 program is in compliance with s. 1002.41(1)(d) ~~s. 1002.41(1)(b)~~.

261 2. If the parent fails to provide a portfolio to the
 262 committee, the committee shall notify the district school
 263 superintendent. The district school superintendent shall then
 264 terminate the home education program and require the parent to
 265 enroll the child in an attendance option that meets the
 266 definition of "regular school attendance" under s.
 267 1003.01(13)(a), (b), (c), or (e), within 3 days. Upon
 268 termination of a home education program pursuant to this
 269 subparagraph, the parent shall not be eligible to reenroll the
 270 child in a home education program for 180 calendar days. Failure
 271 of a parent to enroll the child in an attendance option as
 272 required by this subparagraph after termination of the home
 273 education program pursuant to this subparagraph shall constitute
 274 noncompliance with the compulsory attendance requirements of s.
 275 1003.21 and may result in criminal prosecution under s.

276 1003.27(2). Nothing contained herein shall restrict the ability
 277 of the district school superintendent, or the ability of his or
 278 her designee, to review the portfolio pursuant to s.
 279 1002.41(1)(e) ~~s. 1002.41(1)(b)~~.

280 (2) GIVE WRITTEN NOTICE.—

281 (a) Under the direction of the district school
 282 superintendent, a designated school representative shall give
 283 written notice that requires enrollment or attendance within 3
 284 days after the date of notice, in person or by return-receipt
 285 mail, to the parent when no valid reason is found for a
 286 student's nonenrollment in school. If the notice and requirement
 287 are ignored, the designated school representative shall report
 288 the case to the district school superintendent, who ~~and~~ may
 289 refer the case to the child study team in paragraph (1)(b) at
 290 the school the student would be assigned according to district
 291 school board attendance area policies or to the case staffing
 292 committee, established pursuant to s. 984.12. The child study
 293 team shall diligently facilitate intervention services and shall
 294 report the case back to the district school superintendent only
 295 when all reasonable efforts to resolve the nonenrollment
 296 behavior are exhausted. If the parent still refuses to cooperate
 297 or enroll the child in school, the district school
 298 superintendent shall take such steps as are necessary to bring
 299 criminal prosecution against the parent.

300 Section 4. Subsection (2) of section 1003.27, Florida

301 Statutes, is amended to read:

302 1003.27 Court procedure and penalties.—The court procedure
 303 and penalties for the enforcement of the provisions of this
 304 part, relating to compulsory school attendance, shall be as
 305 follows:

306 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

307 (a) In each case of nonenrollment or of nonattendance upon
 308 the part of a student who is required to attend some school,
 309 when no valid reason for such nonenrollment or nonattendance is
 310 found, the district school superintendent shall institute a
 311 criminal prosecution against the student's parent. However,
 312 criminal prosecution may not be instituted against the student's
 313 parent until the school and school district have complied with
 314 s. 1003.26.

315 (b) Each public school principal or the principal's
 316 designee shall notify the district school board of each minor
 317 student under its jurisdiction who accumulates 15 unexcused
 318 absences in a period of 90 calendar days. ~~Each designee of the~~
 319 ~~governing body of each private school, and each parent whose~~
 320 ~~child is enrolled in a home education program, may provide the~~
 321 ~~Department of Highway Safety and Motor Vehicles with the legal~~
 322 ~~name, sex, date of birth, and social security number of each~~
 323 ~~minor student under his or her jurisdiction who fails to satisfy~~
 324 ~~relevant attendance requirements and who fails to otherwise~~
 325 ~~satisfy the requirements of s. 322.091.~~ The district school

326 superintendent must provide the Department of Highway Safety and
 327 Motor Vehicles the legal name, sex, date of birth, and social
 328 security number of each minor student who has been reported
 329 under this paragraph and who fails to otherwise satisfy the
 330 requirements of s. 322.091. The Department of Highway Safety and
 331 Motor Vehicles may not issue a driver license or learner's
 332 driver license to, and shall suspend any previously issued
 333 driver license or learner's driver license of, any such minor
 334 student, pursuant to the provisions of s. 322.091.

335 (c) Each designee of the governing body of each private
 336 school and each parent whose child is enrolled in a home
 337 education program may provide the Department of Highway Safety
 338 and Motor Vehicles with the legal name, sex, date of birth, and
 339 social security number of each minor student under his or her
 340 jurisdiction who fails to satisfy relevant attendance
 341 requirements and who fails to otherwise satisfy the requirements
 342 of s. 322.091. The Department of Highway Safety and Motor
 343 Vehicles may not issue a driver license or learner's driver
 344 license to, and shall suspend any previously issued driver
 345 license or learner's driver license of, any such minor student
 346 pursuant to s. 322.091.

347 Section 5. Paragraph (c) of subsection (3) of section
 348 1006.15, Florida Statutes, is amended to read:

349 1006.15 Student standards for participation in
 350 interscholastic and intrascholastic extracurricular student

351 activities; regulation.—

352 (3)

353 (c) An individual home education student is eligible to
 354 participate at the public school to which the student would be
 355 assigned according to district school board attendance area
 356 policies or which the student could choose to attend pursuant to
 357 s. 1002.31, or may develop an agreement to participate at a
 358 private school, in the interscholastic extracurricular
 359 activities of that school, provided the following conditions are
 360 met:

361 1. The home education student must meet the requirements
 362 of the home education program pursuant to s. 1002.41.

363 2. During the period of participation at a school, the
 364 home education student must demonstrate educational progress as
 365 required in paragraph (b) in all subjects taken in the home
 366 education program by a method of evaluation agreed upon by the
 367 parent and the school principal which may include: review of the
 368 student's work by a certified teacher chosen by the parent;
 369 grades earned through correspondence; grades earned in courses
 370 taken at a Florida College System institution, university, or
 371 trade school; standardized test scores above the 35th
 372 percentile; or any other method designated in s. 1002.41.

373 3. The home education student must meet the same residency
 374 requirements as other students in the school at which he or she
 375 participates.

376 4. The home education student must meet the same standards
 377 of acceptance, behavior, and performance as required of other
 378 students in extracurricular activities.

379 5. The student must register with the school his or her
 380 intent to participate in interscholastic extracurricular
 381 activities as a representative of the school before
 382 participation ~~the beginning date of the season for the activity~~
 383 ~~in which he or she wishes to participate.~~ A home education
 384 student must be able to participate in curricular activities if
 385 that is a requirement for an extracurricular activity.

386 6. A student who transfers from a home education program
 387 to a public school before or during the first grading period of
 388 the school year is academically eligible to participate in
 389 interscholastic extracurricular activities during the first
 390 grading period provided the student has a successful evaluation
 391 from the previous school year, pursuant to subparagraph 2.

392 7. Any public school or private school student who has
 393 been unable to maintain academic eligibility for participation
 394 in interscholastic extracurricular activities is ineligible to
 395 participate in such activities as a home education student until
 396 the student has successfully completed one grading period in
 397 home education pursuant to subparagraph 2. to become eligible to
 398 participate as a home education student.

399 Section 6. Paragraph (b) of subsection (13) of section
 400 1007.271, Florida Statutes, is amended to read:

401 1007.271 Dual enrollment programs.—

402 (13)

403 (b) Each postsecondary institution eligible to participate
 404 in the dual enrollment program pursuant to s. 1011.62(1)(i) must
 405 enter into a home education articulation agreement with each
 406 home education student seeking enrollment in a dual enrollment
 407 course and the student's parent. By August 1 of each year, the
 408 eligible postsecondary institution shall complete and submit the
 409 home education articulation agreement to the Department of
 410 Education. The home education articulation agreement must
 411 include, at a minimum:

412 1. A delineation of courses and programs available to
 413 dually enrolled home education students. Courses and programs
 414 may be added, revised, or deleted at any time by the
 415 postsecondary institution. Any course or program limitations may
 416 not exceed the limitations for other dually enrolled students.

417 2. The initial and continued eligibility requirements for
 418 home education student participation, not to exceed those
 419 required of other dually enrolled students. A high school grade
 420 point average may not be required for home education students
 421 who meet the minimum score on a common placement test adopted by
 422 the State Board of Education which indicates that the student is
 423 ready for college-level coursework; however, home education
 424 student eligibility requirements for continued enrollment in
 425 dual enrollment courses must include the maintenance of the

426 minimum postsecondary grade point average established by the
 427 postsecondary institution.

428 3. The student's responsibilities for providing his or her
 429 own instructional materials and transportation.

430 4. A copy of the statement on transfer guarantees
 431 developed by the Department of Education under subsection (15).

432 Section 7. Paragraph (1) of subsection (5) and paragraph
 433 (a) of subsection (11) of section 1002.385, Florida Statutes,
 434 are amended to read:

435 1002.385 The Gardiner Scholarship.—

436 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must
 437 be used to meet the individual educational needs of an eligible
 438 student and may be spent for the following purposes:

439 (1) Fees for an annual evaluation of educational progress
 440 by a state-certified teacher under s. 1002.41(1)(f) ~~s.~~
 441 ~~1002.41(1)(e)~~, if this option is chosen for a home education
 442 student.

443

444 A provider of any services receiving payments pursuant to this
 445 subsection may not share, refund, or rebate any moneys from the
 446 Gardiner Scholarship with the parent or participating student in
 447 any manner. A parent, student, or provider of any services may
 448 not bill an insurance company, Medicaid, or any other agency for
 449 the same services that are paid for using Gardiner Scholarship
 450 funds.

451 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 452 PARTICIPATION.—A parent who applies for program participation
 453 under this section is exercising his or her parental option to
 454 determine the appropriate placement or the services that best
 455 meet the needs of his or her child. The scholarship award for á
 456 student is based on a matrix that assigns the student to support
 457 Level III services. If a parent receives an IEP and a matrix of
 458 services from the school district pursuant to subsection (7),
 459 the amount of the payment shall be adjusted as needed, when the
 460 school district completes the matrix.

461 (a) To satisfy or maintain program eligibility, including
 462 eligibility to receive and spend program payments, the parent
 463 must sign an agreement with the organization and annually submit
 464 a notarized, sworn compliance statement to the organization to:

465 1. Affirm that the student is enrolled in a program that
 466 meets regular school attendance requirements as provided in s.
 467 1003.01(13)(b)-(d).

468 2. Affirm that the program funds are used only for
 469 authorized purposes serving the student's educational needs, as
 470 described in subsection (5).

471 3. Affirm that the parent is responsible for the education
 472 of his or her student by, as applicable:

473 a. Requiring the student to take an assessment in
 474 accordance with paragraph (8)(c);

475 b. Providing an annual evaluation in accordance with s.

476 1002.41(1)(f) ~~s. 1002.41(1)(e)~~; or

477 c. Requiring the child to take any preassessments and
 478 postassessments selected by the provider if the child is 4 years
 479 of age and is enrolled in a program provided by an eligible
 480 Voluntary Prekindergarten Education Program provider. A student
 481 with disabilities for whom a preassessment and postassessment is
 482 not appropriate is exempt from this requirement. A participating
 483 provider shall report a student's scores to the parent.

484 4. Affirm that the student remains in good standing with
 485 the provider or school if those options are selected by the
 486 parent.

487

488 A parent who fails to comply with this subsection forfeits the
 489 Gardiner Scholarship.

490 Section 8. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 887 Reading Instruction

SPONSOR(S): Harrell

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1306

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N	Brink	DavisGreene
2) PreK-12 Appropriations Subcommittee		Seifert	Potvin
3) Education Committee			

SUMMARY ANALYSIS

Florida law provides for a multitude of programs, initiatives, and requirements to assist in implementing effective reading instruction and interventions for struggling readers, particularly in early grades. To further increase the quality of reading interventions, the bill:

- beginning with the 2020-2021 school year, requires teachers who provide reading interventions under a school district's K-12 comprehensive reading plan to be certified or endorsed in reading;
- requires the Florida Department of Education (DOE), as part of its review of certain certification and endorsement requirements, to consider awarding a reading endorsement to teachers who are certified by an internationally recognized reading intervention organization or who complete a program accredited by the organization; and
- requires school districts to provide teachers access to training for a reading endorsement consistent with the DOE's review of endorsement requirements.

The bill does not appear to have a fiscal impact.

The bill takes effect on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Educator Certification Coverage Areas and Endorsements

Present Situation

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the Florida Department of Education (DOE).¹ Persons seeking employment at a public school as a school supervisor, school principal, teacher, library media specialist, school counselor, athletic coach, or in another instructional capacity must be certified.² The purpose of certification is to require school-based personnel to “possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools.”³

Each educator certificate has subject area “coverage”--a designation on the certificate that indicates the field in which the educator has content knowledge (e.g., Mathematics, grades 6-12). An “endorsement” is a “rider” shown on an educator certificate that signifies the educator has knowledge of instructional strategies that target particular levels, stages of development, or circumstances (e.g., Reading Endorsement or Endorsement in English for Speakers of Other Languages).⁴

To add subject area coverage or an endorsement to a professional certificate or temporary certificate, an educator must submit an application and the required fee and complete requirements as specified in state board rule.

The specialization requirements for a K-12 reading certification are:

- a master’s or higher degree with a graduate major in reading; or
- a bachelor’s or higher degree with 30 semester hours in reading to include the following areas:
 - Six semester hours in foundations of reading instruction to include the elementary and secondary levels
 - Six semester hours in diagnosis of reading disabilities and techniques of corrective or remedial reading
 - Three semester hours in educational measurement
 - Three semester hours in literature for children or adolescents
 - Three semester hours in methods of teaching language arts at the elementary or secondary level
 - Three semester hours in administration and interpretation of instructional assessments with instructional strategies and materials based upon scientifically based reading research for the prevention and remediation of reading difficulties
 - Three semester hours in a supervised reading practicum to obtain practical experience in increasing the reading performance of a student(s) with the prescription and utilization

¹ Sections 1012.55(1) and 1002.33(12)(f), F.S.

² Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certificated individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

³ Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

⁴ See Florida Department of Education, *Certificate Additions*, <http://www.fldoe.org/teaching/certification/additions/> (last visited Jan. 11, 2018).

of appropriate strategies and materials based upon scientifically based reading research to address the prevention, identification, and intervention of reading difficulties⁵

The specialization requirements for a reading endorsement are a bachelor's or higher degree with certification in an academic, degreed vocational, administrative, or specialty class coverage and 15 semester hours in reading coursework, based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties, to include the following:

- Six semester hours in understanding reading as a process of student engagement in both fluent decoding of words and construction of meaning
- Three semester hours in the administration and interpretation of instructional assessments to include screening, diagnosis, and progress monitoring with purposes of prevention, identification, and remediation of reading difficulties
- Three semester hours in understanding how to prescribe, differentiate instruction, and utilize appropriate strategies and materials based upon scientifically based reading research in order to address the prevention, identification, and remediation of reading difficulties in order to increase reading performance
- Three semester hours in a supervised practicum to obtain practical experience in increasing the reading performance of a student(s) with the prescription and utilization of appropriate strategies and materials based upon scientifically based reading research to address the prevention, identification, and remediation of reading difficulties⁶

By July 1, 2018, and at least once every five years thereafter, the DOE must review specialization and coverage area requirements in the elementary, reading, and exceptional student educational areas. At the conclusion of each review, the DOE must recommend to the State Board of Education changes to the specialization and coverage area requirements based upon any instructional or intervention strategies identified by the DOE that are proven to improve student reading performance.⁷

Effect of Proposed Changes

The bill requires the DOE's review of specialization and endorsement coverage areas to consider the award of an endorsement to an individual who holds a certificate issued by an internationally recognized organization that establishes standards for providing evidence-based interventions to struggling readers or who completes a postsecondary program that is accredited by such an organization. The bill specifies that any such certificate must require an individual who completes the certificate or accredited program to demonstrate competence in reading intervention strategies through clinical experience.

Research-Based Reading Allocation

Present Situation

The Florida Education Finance Program (FEFP), which is used to provide equalized funding for all school districts across the state, includes a research-based reading allocation for districts to provide a K-12 comprehensive system of research-based reading instruction.⁸ The Legislature appropriates the allocation each year. In 2017, the Legislature appropriated \$130 million for the allocation for the 2017-18 school year.⁹ Among other things, funds from the allocation may be used to provide intensive interventions for students in kindergarten through grade 12 who have been identified as having a

⁵ Rule 6A-4.0291, F.A.C.

⁶ Rule 6A-4.0292, F.A.C.

⁷ Section 1012.586(1)(b), F.S., as amended by s. 12, ch. 2017-116, L.O.F.

⁸ See s. 1011.62(9)(d), F.S.; s. 6, ch. 2017-234, L.O.F. See also Florida Department of Education, *2017-18 Funding for Florida School Districts* (2017) at 18, available at www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf.

⁹ See s. 6, ch. 2017-234, L.O.F.

reading deficiency or who are reading below grade level as determined by the statewide, standardized English Language Arts assessment.¹⁰

In order to be eligible to receive funds from the allocation, a school district must annually submit a K-12 comprehensive reading plan for review and approval by the Just Read, Florida! Office (JRFO) within the DOE.¹¹ The plan is deemed approved unless the JRFO rejects the plan on or before June 1. The plan format must be developed with input from school district personnel and must allow courses in core, career, and alternative programs that deliver intensive reading remediation through integrated curricula by a teacher who is deemed “highly qualified to teach reading or working toward that status.”¹²

The DOE must release a school district’s allocation of appropriated funds no later than July 1 if its plan is deemed approved. The DOE may withhold funds if it determines that the reading allocation funds are not being used to implement the school district’s approved plan. The DOE must monitor implementation of each district’s plan, including through site visits and collecting data on expenditures and reading improvement results.¹³

The JRFO was established by the Legislature in 2006 to implement the Just Read, Florida! initiative, which aimed to help students become successful, independent readers.¹⁴ Among other things, the office must:

- work with the Lanning Center for Learning at the University of Florida to develop training for K-12 teachers, reading coaches, and school principals on effective content-area-specific reading strategies and the integration of content-rich curriculum from other core subject areas into reading instruction;
- develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students’ background knowledge and literacy skills; and
- work with the Florida Center for Reading Research to identify scientifically researched and evidence-based reading instructional and intervention programs that incorporate explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and incorporate decodable or phonetic text instructional strategies.¹⁵

Effect of Proposed Changes

The bill requires that, beginning with the 2020-2021 school year, intensive reading interventions provided pursuant to a school district’s reading plan must be delivered by a teacher who is certified or endorsed in reading. The intensive interventions must incorporate the evidence-based intervention strategies identified by the JRFO.

Professional Development

Present Situation

Florida law requires a number of entities, including the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations, to work collaboratively to develop a coordinated system of professional development. The purpose of the system is to increase student achievement, enhance classroom

¹⁰ See s. 1011.62(9)(c)7., F.S. Section 1008.22, F.S. establishes requirements related to statewide, standardized assessments.

¹¹ Section 1011.62(9)(d)1., F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ Section 8, ch. 2006-74, L.O.F. The initiative was established by Governor Jeb Bush in 2001. See Exec. Order No. 01-260 (2001).

¹⁵ See s. 1001.215(3), (4), and (8), F.S. Reading intervention includes evidence-based strategies frequently used to remediate reading deficiencies and includes, but is not limited to, individual instruction, multisensory approaches, tutoring, mentoring, or the use of technology that targets specific reading skills and abilities. Section 1001.215(8), F.S.

instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.¹⁶

Each school district is required to develop a professional development system in consultation with teachers, teacher-educators of Florida College System institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations.¹⁷

Currently, each school district's system must provide training to reading coaches, classroom teachers, and school administrators in effective methods of identifying characteristics of conditions such as dyslexia and other causes of diminished phonological processing skills; incorporating instructional techniques into the general education setting which are proven to improve reading performance for all students; and using predictive and other data to make instructional decisions based on individual student needs.¹⁸ The training must help teachers integrate phonemic awareness; phonics, word study, and spelling; reading fluency; vocabulary, including academic vocabulary; and text comprehension strategies into an explicit, systematic, and sequential approach to reading instruction, including multisensory intervention strategies.¹⁹ Each district must provide all elementary grades instructional personnel access to training sufficient to meet certain certification renewal requirements.²⁰

Effect of Proposed Changes

The bill requires each district school board professional development system to provide all elementary grades instructional personnel access to training sufficient to earn a reading endorsement consistent with any changes made as a result of the DOE's review of certification subject area and endorsement requirements.

B. SECTION DIRECTORY:

- Section 1. Amends s. 1011.62, F.S.; requiring K-12 comprehensive reading plans to provide for intensive reading interventions that are delivered by teachers who meet certain criteria beginning with a specified school year; providing requirements for such interventions.
- Section 2. Amends s. 1012.586, F.S.; requiring the Department of Education to consider the award of endorsements for a teaching certificate to individuals who hold specified certifications or who complete specified programs that meet certain criteria in a specified review.
- Section 3. Amends s. 1012.98, F.S.; requiring school districts to provide access to training sufficient to earn an endorsement in reading.
- Section 4. Provides an effective date of July 1, 2018.

¹⁶ Section 1012.98(1), F.S.

¹⁷ Section 1012.98(4)(b), F.S.

¹⁸ Section 1012.98(4)(b)11., F.S.

¹⁹ *Id.*

²⁰ *Id.* Section 1012.585(3)(f), F.S., requires that an applicant for renewal of a professional certificate in any area of certification identified by State Board of Education rule that includes reading instruction or intervention for any students in kindergarten through grade 6, with a beginning validity date of July 1, 2020, or thereafter, must earn a minimum of 2 college credits or the equivalent inservice points in the use of explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies. Such training must be provided by teacher preparation programs or approved school district professional development systems.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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:

There may be a fiscal impact associated with the provision of the bill that requires teachers who provide reading interventions under a district's comprehensive teaching plan to be certified or endorsed.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to reading instruction; amending s.
 3 1011.62, F.S.; requiring K-12 comprehensive reading
 4 plans to provide for intensive reading interventions
 5 that are delivered by teachers who meet certain
 6 criteria beginning with a specified school year;
 7 providing requirements for such interventions;
 8 amending s. 1012.586, F.S.; requiring the Department
 9 of Education to consider the award of endorsements for
 10 a teaching certificate to individuals who hold
 11 specified certifications or who complete specified
 12 programs that meet certain criteria in a specified
 13 review; amending s. 1012.98, F.S.; requiring school
 14 districts to provide access to training sufficient to
 15 earn an endorsement in reading; providing an effective
 16 date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

19
 20 Section 1. Paragraph (d) of subsection (9) of section
 21 1011.62, Florida Statutes, is amended to read:

22 1011.62 Funds for operation of schools.—If the annual
 23 allocation from the Florida Education Finance Program to each
 24 district for operation of schools is not determined in the
 25 annual appropriations act or the substantive bill implementing

26 | the annual appropriations act, it shall be determined as
 27 | follows:

28 | (9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

29 | (d)1. Annually, by a date determined by the Department of
 30 | Education but before May 1, school districts shall submit a K-12
 31 | comprehensive reading plan for the specific use of the research-
 32 | based reading instruction allocation in the format prescribed by
 33 | the department for review and approval by the Just Read,
 34 | Florida! Office created pursuant to s. 1001.215. The plan
 35 | annually submitted by school districts shall be deemed approved
 36 | unless the department rejects the plan on or before June 1. If a
 37 | school district and the Just Read, Florida! Office cannot reach
 38 | agreement on the contents of the plan, the school district may
 39 | appeal to the State Board of Education for resolution. School
 40 | districts shall be allowed reasonable flexibility in designing
 41 | their plans and shall be encouraged to offer reading
 42 | intervention through innovative methods, including career
 43 | academies. The plan format shall be developed with input from
 44 | school district personnel, including teachers and principals,
 45 | and shall provide for ~~allow courses in core, career, and~~
 46 | ~~alternative programs that deliver~~ intensive reading
 47 | interventions ~~remediation~~ through integrated curricula, provided
 48 | that, beginning with the 2020-2021 school year, the
 49 | interventions are delivered by a teacher who is certified or
 50 | endorsed in reading. Such interventions must incorporate

51 strategies identified by the Just Read, Florida! Office pursuant
 52 to s. 1001.215(8) ~~deemed highly qualified to teach reading or~~
 53 ~~working toward that status.~~ No later than July 1 annually, the
 54 department shall release the school district's allocation of
 55 appropriated funds to those districts having approved plans. A
 56 school district that spends 100 percent of this allocation on
 57 its approved plan shall be deemed to have been in compliance
 58 with the plan. The department may withhold funds upon a
 59 determination that reading instruction allocation funds are not
 60 being used to implement the approved plan. The department shall
 61 monitor and track the implementation of each district plan,
 62 including conducting site visits and collecting specific data on
 63 expenditures and reading improvement results. By February 1 of
 64 each year, the department shall report its findings to the
 65 Legislature.

66 2. Each school district that has a school designated as
 67 one of the 300 lowest-performing elementary schools as specified
 68 in paragraph (a) shall specifically delineate in the
 69 comprehensive reading plan, or in an addendum to the
 70 comprehensive reading plan, the implementation design and
 71 reading intervention strategies that will be used for the
 72 required additional hour of reading instruction. The term
 73 "reading intervention" includes evidence-based strategies
 74 frequently used to remediate reading deficiencies and also
 75 includes individual instruction, tutoring, mentoring, or the use

76 | of technology that targets specific reading skills and
 77 | abilities.

78 | Section 2. Paragraph (b) of subsection (1) of section
 79 | 1012.586, Florida Statutes, is amended to read:

80 | 1012.586 Additions or changes to certificates; duplicate
 81 | certificates.—A school district may process via a Department of
 82 | Education website certificates for the following applications of
 83 | public school employees:

84 | (1) Addition of a subject coverage or endorsement to a
 85 | valid Florida certificate on the basis of the completion of the
 86 | appropriate subject area testing requirements of s.
 87 | 1012.56(5)(a) or the completion of the requirements of an
 88 | approved school district program or the inservice components for
 89 | an endorsement.

90 | (b) By July 1, 2018, and at least once every 5 years
 91 | thereafter, the department shall conduct a review of existing
 92 | subject coverage or endorsement requirements in the elementary,
 93 | reading, and exceptional student educational areas. The review
 94 | must include reciprocity requirements for out-of-state
 95 | certificates and requirements for demonstrating competency in
 96 | the reading instruction professional development topics listed
 97 | in s. 1012.98(4)(b)11. The review must also consider the award
 98 | of an endorsement to an individual who holds a certificate
 99 | issued by an internationally recognized organization that
 100 | establishes standards for providing evidence-based interventions

101 to struggling readers or who completes a postsecondary program
 102 that is accredited by such organization. Any such certificate or
 103 program must require an individual who completes the certificate
 104 or program to demonstrate competence in reading intervention
 105 strategies through clinical experience. At the conclusion of
 106 each review, the department shall recommend to the state board
 107 changes to the subject coverage or endorsement requirements
 108 based upon any identified instruction or intervention strategies
 109 proven to improve student reading performance. This paragraph
 110 does not authorize the state board to establish any new
 111 certification subject coverage.

112
 113 The employing school district shall charge the employee a fee
 114 not to exceed the amount charged by the Department of Education
 115 for such services. Each district school board shall retain a
 116 portion of the fee as defined in the rules of the State Board of
 117 Education. The portion sent to the department shall be used for
 118 maintenance of the technology system, the web application, and
 119 posting and mailing of the certificate.

120 Section 3. Paragraph (b) of subsection (4) of section
 121 1012.98, Florida Statutes, is amended to read:

122 1012.98 School Community Professional Development Act.—
 123 (4) The Department of Education, school districts,
 124 schools, Florida College System institutions, and state
 125 universities share the responsibilities described in this

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

126 section. These responsibilities include the following:

127 (b) Each school district shall develop a professional
 128 development system as specified in subsection (3). The system
 129 shall be developed in consultation with teachers, teacher-
 130 educators of Florida College System institutions and state
 131 universities, business and community representatives, and local
 132 education foundations, consortia, and professional
 133 organizations. The professional development system must:

134 1. Be approved by the department. All substantial
 135 revisions to the system shall be submitted to the department for
 136 review for continued approval.

137 2. Be based on analyses of student achievement data and
 138 instructional strategies and methods that support rigorous,
 139 relevant, and challenging curricula for all students. Schools
 140 and districts, in developing and refining the professional
 141 development system, shall also review and monitor school
 142 discipline data; school environment surveys; assessments of
 143 parental satisfaction; performance appraisal data of teachers,
 144 managers, and administrative personnel; and other performance
 145 indicators to identify school and student needs that can be met
 146 by improved professional performance.

147 3. Provide inservice activities coupled with followup
 148 support appropriate to accomplish district-level and school-
 149 level improvement goals and standards. The inservice activities
 150 for instructional personnel shall focus on analysis of student

151 achievement data, ongoing formal and informal assessments of
152 student achievement, identification and use of enhanced and
153 differentiated instructional strategies that emphasize rigor,
154 relevance, and reading in the content areas, enhancement of
155 subject content expertise, integrated use of classroom
156 technology that enhances teaching and learning, classroom
157 management, parent involvement, and school safety.

158 4. Provide inservice activities and support targeted to
159 the individual needs of new teachers participating in the
160 professional development certification and education competency
161 program under s. 1012.56(8)(a).

162 5. Include a master plan for inservice activities,
163 pursuant to rules of the State Board of Education, for all
164 district employees from all fund sources. The master plan shall
165 be updated annually by September 1, must be based on input from
166 teachers and district and school instructional leaders, and must
167 use the latest available student achievement data and research
168 to enhance rigor and relevance in the classroom. Each district
169 inservice plan must be aligned to and support the school-based
170 inservice plans and school improvement plans pursuant to s.
171 1001.42(18). Each district inservice plan must provide a
172 description of the training that middle grades instructional
173 personnel and school administrators receive on the district's
174 code of student conduct adopted pursuant to s. 1006.07;
175 integrated digital instruction and competency-based instruction

176 and CAPE Digital Tool certificates and CAPE industry
177 certifications; classroom management; student behavior and
178 interaction; extended learning opportunities for students; and
179 instructional leadership. District plans must be approved by the
180 district school board annually in order to ensure compliance
181 with subsection (1) and to allow for dissemination of research-
182 based best practices to other districts. District school boards
183 must submit verification of their approval to the Commissioner
184 of Education no later than October 1, annually. Each school
185 principal may establish and maintain an individual professional
186 development plan for each instructional employee assigned to the
187 school as a seamless component to the school improvement plans
188 developed pursuant to s. 1001.42(18). An individual professional
189 development plan must be related to specific performance data
190 for the students to whom the teacher is assigned, define the
191 inservice objectives and specific measurable improvements
192 expected in student performance as a result of the inservice
193 activity, and include an evaluation component that determines
194 the effectiveness of the professional development plan.

195 6. Include inservice activities for school administrative
196 personnel that address updated skills necessary for
197 instructional leadership and effective school management
198 pursuant to s. 1012.986.

199 7. Provide for systematic consultation with regional and
200 state personnel designated to provide technical assistance and

201 evaluation of local professional development programs.

202 8. Provide for delivery of professional development by
 203 distance learning and other technology-based delivery systems to
 204 reach more educators at lower costs.

205 9. Provide for the continuous evaluation of the quality
 206 and effectiveness of professional development programs in order
 207 to eliminate ineffective programs and strategies and to expand
 208 effective ones. Evaluations must consider the impact of such
 209 activities on the performance of participating educators and
 210 their students' achievement and behavior.

211 10. For middle grades, emphasize:

212 a. Interdisciplinary planning, collaboration, and
 213 instruction.

214 b. Alignment of curriculum and instructional materials to
 215 the state academic standards adopted pursuant to s. 1003.41.

216 c. Use of small learning communities; problem-solving,
 217 inquiry-driven research and analytical approaches for students;
 218 strategies and tools based on student needs; competency-based
 219 instruction; integrated digital instruction; and project-based
 220 instruction.

221


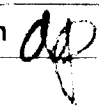
222 Each school that includes any of grades 6, 7, or 8 must include
 223 in its school improvement plan, required under s. 1001.42(18), a
 224 description of the specific strategies used by the school to
 225 implement each item listed in this subparagraph.

226 11. Provide training to reading coaches, classroom
 227 teachers, and school administrators in effective methods of
 228 identifying characteristics of conditions such as dyslexia and
 229 other causes of diminished phonological processing skills;
 230 incorporating instructional techniques into the general
 231 education setting which are proven to improve reading
 232 performance for all students; and using predictive and other
 233 data to make instructional decisions based on individual student
 234 needs. The training must help teachers integrate phonemic
 235 awareness; phonics, word study, and spelling; reading fluency;
 236 vocabulary, including academic vocabulary; and text
 237 comprehension strategies into an explicit, systematic, and
 238 sequential approach to reading instruction, including
 239 multisensory intervention strategies. Each district must provide
 240 all elementary grades instructional personnel access to training
 241 sufficient to meet the requirements of s. 1012.585(3)(f) and to
 242 earn an endorsement in reading consistent with s.
 243 1012.586(1)(b).

244 Section 4. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1279 School District Accountability
SPONSOR(S): PreK-12 Quality Subcommittee; Sullivan
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N, As CS	Dehmer	DavisGreene
2) PreK-12 Appropriations Subcommittee		Seifer 	Potvin 
3) Education Committee			

SUMMARY ANALYSIS

School districts provide detailed budget information to the public. However, this information does not include summary financial performance or efficiency data that allows a comparison of expenditure trends of other schools and districts over time. Combining student outcome data with per pupil expenditures will provide new information to drive productivity at the school, district and state level. To increase fiscal transparency of educational spending, the bill:

- requires school boards to provide financial efficiency data and fiscal trend information;
- requires the Department of Education to develop a web-based tool that identifies schools and districts with high academic achievement based on per pupil expenditures; and
- requires school boards to provide a full explanation of, and approve, any budget amendment at the boards' next public meeting.

Generally, school districts have sufficient monetary reserves to recover from financial difficulties and emergencies. However, some school districts do not promptly correct audit findings or reduce expenditures in response to a decrease in revenue. To increase fiscal accountability of districts, the bill:

- requires school districts with revenues over \$500 million to employ an internal auditor;
- requires school districts with low ending fund balances to reduce administrative costs and other expenditures;
- requires districts in a financial emergency to withhold the salaries of superintendents and school board members until the emergency is addressed;
- requires an investigation of school districts who are unable to timely pay current debts and liabilities;
- clarifies that the Department of Education's Office of Inspector General must investigate allegations and reports of fraud and abuse from certain government officials; and
- requires school districts with previous operational audit findings to initiate and complete corrective action within a certain period of time.

The bill also:

- prohibits appointed, along with elected superintendents, from lobbying school districts for a period of two years after vacating the position;
- aligns school board member salaries with beginning teacher salary or the amount calculated by statute, whichever is less;
- requires prior school board approval for reimbursement of out-of-district travel expenses;
- requires school boards to withhold a portion of an employee's salary who owes a public financial disclosure fine;
- repeals s. 1011.64, F.S., relating to school district minimum classroom expenditure requirements; and
- prohibits superintendents, along with school board members, from employing or appointing a relative to work under their direct supervision.

This bill has an indeterminate fiscal impact on state or local governments.

This bill takes effect July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

FISCAL ACCOUNTABILITY

Auditor General

Present Situation

The Auditor General (AG) or a Certificated Public Accountant (CPA) is required to perform annual financial audits of district school boards.¹ If the AG does not perform a financial audit of a district school board, the school board must have a financial audit completed within nine months of its fiscal year end by an independent CPA.² The scope of financial audits include an examination of the financial statements, the issuance of a report on compliance and internal control in accordance with generally accepted government auditing standards, and the issuance of a report on compliance and internal control for each major Federal program.³

The AG also conducts operational audits of district school boards in accordance with Government Auditing Standards at least every 3 years.⁴ Operational audits must include an evaluation of management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities. The examination of internal controls is designed to promote and encourage the achievement of management's control objectives in economic and efficient operations, reliability of records and reports, and safeguarding of assets.⁵

The AG is required to report material weaknesses in internal control and significant control deficiencies that are disclosed during the course of a financial audit. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the financial statements would not be prevented or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention. The AG must report material noncompliance or abuse that has a material effect on a financial statement audit. The classification of an audit finding is dependent upon its potential impact on the specific school district under audit. Therefore, the classification of an audit finding could vary from school district to school district.⁶

The AG must annually compile and transmit a summary of significant findings and financial trends to the Senate President, the Speaker of the House of Representatives, and the Legislative Auditing Committee (LAC).⁷ If an audit contains any significant findings, district school boards, must conduct an audit overview during a public meeting.⁸

¹ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 1, available at https://auditor.a.gov/pages/pdf_files/2018_030.pdf. Section 11.45(2), F.S. and s. 218.39(1), F.S.

² Section 218.39(1), F.S.

³ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 1, available at https://auditor.a.gov/pages/pdf_files/2018_030.pdf. Section 11.45(1)(c), F.S.

⁴ *Id.* Section 11.45(2)(f), F.S.

⁵ *Id.* Section 11.45(1)(g), F.S.

⁶ *Id.* at 2.

⁷ Section 11.45(7)(f), F.S. See also s. 11.40, F.S.

⁸ Section 1010.30(2), F.S.

The AG has authority to perform follow-up procedures necessary to determine a district school board's progress in addressing the findings and recommendations in the previous audit report.⁹ The AG must also notify the LAC of any financial or operational audit report which indicates that a district school board failed to take full corrective action in response to a finding included in the two preceding financial or operational audits.¹⁰

Upon notification, the LAC may direct a school board to provide a written statement explaining the reason the school board failed to take corrective action or, if the school board intends to take full corrective action, describing the corrective action and state when it will occur.¹¹ If the LAC determines that the written statement is not sufficient, it may require the chair of the school board to appear before the committee. If the LAC determines that the school board has failed to take full corrective action for which there is no justifiable reason or has failed to comply with committee requests, the committee must refer the matter to the State Board of Education (SBE) to proceed in accordance with its oversight enforcement authority.¹²

On February 2, 2014, the LAC conducted a workshop on Financial Oversight for District School Boards. As part of its presentation, the AG's office recommended that operational audits include testing for previous operational audit findings with questionable costs. Individual members of the Manatee County School Board submitted written comments and suggested the following:

- Require districts with audit findings to implement an immediate compliance process.
- Shorten the timeframe to comply with audit findings.
- Increase the frequency of the AG's financial and operational audits when audit findings occur.
- Expand the scope of AG audits to include all management areas.¹³

Effect of Proposed Changes

The bill requires the AG to contact district school boards with previous operational audit findings. The school boards must provide evidence of initiation of corrective action within 45 days and evidence of completion of corrective action within 180 days. If districts fail to comply with the AG's request, the AG must notify the LAC.

The bill requires district school boards, the Florida College System institution board of trustees, and the university board of trustees to conduct an audit overview when an audit contains a finding classified as a material weakness or significant deficiency instead of any significant finding, which is not defined in statute. The audit overview must describe the corrective action to be taken and the timeline for completion.

Inspector General

Present Situation

Each state agency is required to have an Inspector General (IG),¹⁴ including the Department of Education (DOE), to provide a central point for the coordination of activities that promote accountability, integrity, and efficiency in government.¹⁵ The Office of the Chief Inspector General (CIG) is within the Executive Office of the Governor. The CIG monitors the activities of the agency inspectors general under the Governor's jurisdiction, including the DOE's IG.

⁹ Section 11.45(2)(j), F.S.

¹⁰ Section 11.45(7)(j)1., F.S.

¹¹ *Id.*

¹² Sections 11.45(7)(j)3. and 1008.32, F.S.

¹³ Joint Legislative Auditing Committee, *Meeting Packet, February 10, 2014*, available at <http://www.leg.state.fl.us/Data/Committees/Joint/CLJ/MeetingPackets/021014.pdf>.

¹⁴ Section 20.055(2), F.S. The Department of Education is created pursuant to s. 20.15, F.S.

¹⁵ Section 20.005(2), F.S.

The IG:

- advises in the development of performance measures, standards, and procedures for the evaluation of state agency programs;
- assesses the reliability and validity of information provided by the agency on performance measures and standards;
- reviews the actions taken by the agency to improve agency performance, and making recommendations, if necessary;
- supervises and coordinates audits, investigations, and reviews relating to the operations of the state agency;
- conducts, supervises, or coordinates other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in its programs and operations;
- provides central coordination of efforts to identify and remedy waste, abuse, and deficiencies to the CIG; recommends corrective action concerning fraud, abuses, and deficiencies; and reports on the progress made in implementing corrective action;
- coordinates agency-specific audit activities between the AG, federal auditors, and other governmental bodies to avoid duplication;
- reviews rules relating to the programs and operations of the agency and makes recommendations concerning their impact.
- maintains an appropriate balance between audit, investigative, and other accountability activities; and
- complies with the General Principles and Standards for Offices of Inspector General as published and revised by the Association of Inspectors General.¹⁶

The inspector general for the DOE is appointed by the CIG.¹⁷ The DOE inspector general must report to and be under the general supervision of the Commissioner of Education (commissioner) and is not subject to supervision by any other employee of the DOE. The DOE inspector general must report to the CIG, and may hire and remove staff within the IG in consultation with the CIG but independently of the DOE.¹⁸

The DOE's IG is responsible for promoting accountability, efficiency, and effectiveness and detects fraud and abuse within school districts. If the commissioner determines that the district school board is unwilling or unable to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement, the office must conduct, coordinate, or request investigations into such substantiated allegations.¹⁹

Effect of Proposed Change

The bill requires the DOE's IG to investigate allegations and reports of possible fraud or abuse made by:

- any member of the Cabinet;
- any presiding officer of the Senate or House;
- a chair of a substantive or appropriations committee with appropriate jurisdiction; or
- a member of the board for which investigation is sought.

¹⁶ Section 20.055(2)(a)-(j), F.S.

¹⁷ Section 20.055(3)(a), F.S.

¹⁸ *Id.*

¹⁹ Section 1001.20(4)(e), F.S.

Internal Auditor

Present Situation

An internal audit is an independent and objective assurance and consulting activity that provides information on how financial systems and processes are working. Internal audits result in findings and recommendations that help improve processes and mitigate risks surrounding those processes. An internal audit is different from an external audit, which expresses an opinion on the reasonableness of financial statements within materiality limits. Internal audits focus on processes to determine if they are compliant, effective, and efficient.²⁰

Currently, district school boards are permitted, but not required to employ an internal auditor to perform ongoing financial verification of the financial records of the school district. The internal auditor reports directly to the district school board or its designee.²¹

Bay, Brevard, Broward, Clay, Duval, Escambia, Hillsborough, Lake, Lee, Leon, Marion, Martin, Miami Dade, Orange, Palm Beach, Pasco, Pinellas, and Polk district school boards employ internal auditors. However, according to the Office of the Auditor General, the internal auditors in Bay, Clay, Lee and Marion counties only perform audits of school internal funds and are not required to comply with externally established auditing standards.²²

On February 2, 2014, as part of its presentation to the LAC, the AG's office recommended that school districts of a specified size employ internal auditors to periodically report on the effectiveness of budgetary control procedures. The AG's office also recommended laws requiring internal controls designed to:

- prevent and detect fraud, waste and abuse;
- promote and encourage economic and efficient operations;
- ensure the reliability of financial records and reports; and
- safeguard assets.²³

Effect of Proposed Changes

The bill requires school districts with revenues over \$500 million to employ an internal auditor. The internal auditors must perform a comprehensive risk assessment every five years and conduct other audits and reviews as the district school board directs to determine:

- the adequacy of internal controls;
- compliance with applicable laws;
- the efficiency of operation;
- the reliability of financial records;
- financial solvency;
- projected revenues and expenditures; and
- the rate of change in the ending fund balance.

The bill also requires the internal auditor to prepare audit reports and establishes penalties for failure to produce financial records to the internal auditor.²⁴

²⁰ Gibson Consulting Group, *Phase II: Operational Efficiency Audit – Comprehensive Report for Hillsborough County Public Schools*, available at <http://www.sdhc.ctf.fl.us/docs/09/0017/86/HCG%20PhaseII%20Final%20Report.pdf>.

²¹ Section 1001.42(12)(l), F.S.

²² Email, Auditor General, Deputy Auditor General – Educational Entities and Local Government Audits, (Oct. 26, 2017).

²³ Joint Legislative Auditing Committee, *Meeting Packet, February 10, 2014*, at 110 and 114, available at <http://www.jlsc.state.fl.com/Committees/Joining%20of%20Meetingpackets/021014.pdf>.

²⁴ Section 11.47(3), F.S. Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit or examination which the Auditor General or the Office of Program Policy Analysis

As a result, in fiscal year 2015-16, five districts (Seminole, Volusia, Osceola, Collier, and Sarasota) would have been required to employ an internal auditor and the scope of Lee county's internal auditor would have been increased.²⁵

Cost Accounting and Reporting

Present Situation

Currently, school districts are required to account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis including:

- expenditures for in-service training (district level only);
- expenditures for categorical programs (district level only); and
- expenditures for basic programs.

The commissioner must present to the Legislature a district-by-district report of the expenditures reported.²⁶

Districts must spend at least the percent of the funds generated by each of the programs listed on the aggregate total school costs for such programs:

- Ninety percent for kindergarten and grades 1, 2, and 3.
- Eighty percent for grades 4, 5, 6, 7, and 8.
- Eighty percent for grades 9, 10, 11, and 12.
- Ninety percent for programs for exceptional students, on an aggregate program basis.
- Eighty percent for grades 7 through 12 career education programs, on an aggregate program basis.
- Eighty percent for students-at-risk programs, on an aggregate program basis.
- Ninety percent for Juvenile justice programs, on an aggregate program basis.²⁷

Each state is required to calculate the per-pupil expenditures of Federal, State, and local funds, including actual personnel expenditures and actual nonpersonnel expenditures of Federal, State, and local funds, disaggregated by source of funds, for each local educational agency and each school in the state.²⁸

and Government Accountability is by law authorized to perform is guilty of a misdemeanor of the first degree. Section 11.47(4), F.S. Any officer who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit or examination which the Auditor General or the Office of Program Policy Analysis and Government Accountability is by law authorized to perform, is subject to removal from office.

²⁵ Florida Department of Education, *Bureau of School Business Services, Office of Funding and Financial Reporting, Financial Profiles of Florida School Districts, 2015-16 Financial Data Statistical Report, June 2017*, at 15, available at

<http://wwwfldoe.org/cont/finance/pfp/Stat%20rpt%2015-16%20Profiles.pdf>, *Id.*

²⁶ Section 1010.20(1) and (2), F.S.

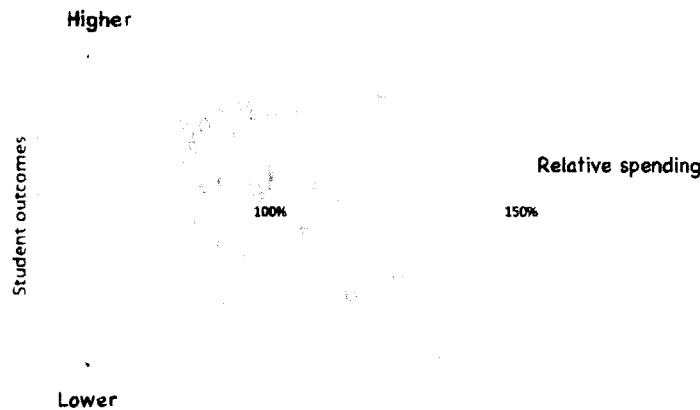
²⁷ Section 1010.20(1)-(3), F.S.

²⁸ 20 U.S.C. s. 6311(h)(1)(C)(x).

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Relative Spending vs Relative Student Outcomes



Other states use expenditure data, together with student performance data to determine school efficiency.²⁹

Effect of Proposed Changes

The bill requires school districts to report to the DOE total operating costs and classroom instructional expenditures on a school-by-school and aggregate district basis. The bill requires the DOE to calculate the percentage of classroom expenditures to total operating expenditures at school, district and state level. The results must be categorized into peer groups based on the size of each school and district. The DOE must also calculate the average percentage of classroom expenditures to total operating expenditures at the school, district and state level.

The bill also requires the DOE to develop a fiscal transparency tool that identifies public schools and districts that produce high academic achievement by comparing the ratio of classroom instructional expenditures to total expenditures to student performance measures. The results must be displayed on the DOE website in an easy to use format that allows comparison between schools and districts. Each school district is authorized to post a link to the fiscal transparency tool on the district's webpage.

FISCAL TRANSPARENCY

Budget Transparency

Present Situation

It is important for school districts to provide budgetary transparency to enable taxpayers, parents, and education advocates to obtain school district budget and related information in a manner that is easy to understand. Budgetary transparency leads to more responsible spending, more citizen involvement, and improved accountability. A budget that is not transparent, accessible, or accurate cannot be properly analyzed, its implementation thoroughly monitored, or its outcomes evaluated.³⁰

²⁹ Building State Capacity and Productivity Center, *Understanding the Productivity Landscape in Your State*, available at http://www.bscpcenter.org/productivity/pdf/bscp_productivity_webinar2_7_25_13.pdf. Texas Comptroller of Public Accounts, *Financial Allocation Study for Texas 2010*, available at <https://www.heartland.org/publications/resources/publications/tast-financial-allocation-study-for-texas-2010>. Ohio Department of Education, *Expenditure & Revenue Data*, available at http://education.ohio.gov/Topics/Finance_and_Funding/Finance_Related_Data/Expenditure_and_Revenue/Expenditure_Revenue_Data.

³⁰ Section 1011.035(1), F.S.

District school boards are required to post a plain language version of each proposed, tentative, and official budget on their website. The budget must describe each budget item in easily understandable terms. The information must be prominently posted on the school district's website in a manner that is readily accessible to the public. However, these budgets do not have understandable summary financial performance or efficiency information that allows a comparison of expenditure trends.³¹

Effect of Proposed Changes

The bill changes the section title to "school district fiscal transparency" to reflect the additional information that must be provided and authorizes individual school board members to request and receive all budget information. The bill also requires district school boards to increase fiscal transparency by providing graphical representations of summary financial efficiency data and fiscal trend information. The data must provide fiscal trend information for the previous three years at the school and district level and must provide calculations on the:

- ratio of students to teachers and administrators;
- total operating and instructional expenditures per student;
- general administrative expenditures as a percentage of total budget; and
- rate of change in the general fund's ending fund balance not classified as restricted.

General Funds Guidelines

Present Situation

District school boards must maintain a general fund ending balance that is sufficient to address normal contingencies.³² If a district school board's general fund's ending fund balance not classified as restricted, committed, or nonspendable in the approved operating budget is projected to fall below 3 percent of projected general fund revenues during the current fiscal year, the district superintendent must provide a written notification to the district school board and the commissioner.³³

If the same ending fund balance is projected to fall below 2 percent of projected general fund revenues during the current fiscal year, the district superintendent must provide written notification to the district school board and the commissioner. Within 14 days after receiving the notification, if the commissioner determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency, the commissioner must appoint a financial emergency board that must operate under the requirements, powers, and duties specified in law.³⁴

As of June 30, 2016, only the Jefferson County School District had a financial condition ratio below 3 percent. Jefferson County School District's financial condition ratio was negative 0.43 percent and the District's financial condition ratio was below 3 percent in the prior two consecutive fiscal years.³⁵

Effect of Proposed Changes

The bill requires districts with ending fund balances that fall below the 3 percent threshold for two consecutive years to reduce administration expenditures in proportion to the reduction in the general fund's ending balance or the reduction in student enrollment, whichever is greater. The bill also prohibits any district school board with an ending fund balance below the 3 percent threshold from making expenditures on out-of-district travel and cellular phones.

³¹ Section 1011.035(2), F.S.

³² Section 1011.051, F.S.

³³ Section 1011.051(1), F.S.

³⁴ Section 1011.051(2), F.S., s. 218.503(3)(g), F.S.

³⁵ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 11, available at https://flauditor.gov/pages/pdfs/ass/2016_030.pdf.

Financial Emergency

Present Situation

District school boards are subject to review and oversight by the commissioner when the district is unable to timely pay current debts and liabilities. A district school board is in a state of financial emergency when the district is unable to timely pay current debts and liabilities and state assistance is needed for corrective action.³⁶ While in a state of financial emergency, the commissioner may implement measures which:

- requires commissioner approval of the district school board's budget;
- prohibits a district school board from issuing debt;
- requires inspections and reviews of district school board records, reports and information;
- establishes a financial emergency board to oversee the activities of the district school board; and
- requires a plan of action that will cause the district school board to no longer be in a financial emergency.³⁷

Effect of Proposed Changes

The bill requires the DOE to contract with an independent third party to conduct an investigation of the accounts and records of any district school board that failed to timely pay any current debt or liability during the 2015-16 fiscal year, or thereafter. The investigation must determine the cause of the deficit, steps taken to avoid the deficit and whether school board members violated the law. The investigation must also include an analysis of:

- budget reports;
- journal entries;
- budget methodologies;
- staff emails;
- financial statements; and
- meeting minutes.

The investigation results must include a recommendation for corrective action and controls to avoid future budget shortfalls. The district school board, the DOE, the LAC and the district's financial emergency board, if applicable, must receive the results of the investigation.

The bill also requires the withholding of district school board member's and superintendent's salaries when the district fails to timely pay current debts and liabilities. The salary of each district school board member and superintendent must be withheld until the issue is addressed.

District School Board Budget Transparency

Present Situation

District school boards must prepare, adopt, and submit an annual budget to the commissioner.³⁸ Estimated expenditures in a school district's tentative budget cannot exceed estimated income.³⁹ District expenditures must be limited to amounts budgeted and no expenditures can be authorized or

³⁶ Section 218.503(1) and (3), F.S.

³⁷ Section 218.503(3), F.S.

³⁸ Section 1011.01(3)(a), F.S.

³⁹ Section 1011.02(4), F.S.

obligations incurred in excess of the budgetary appropriation.⁴⁰ However, a district school board may establish policies that allow expenditures to exceed amounts budgeted if the district school board approves the expenditure and amends the budget.⁴¹

District school boards are required to post a plain language version of each proposed, tentative, and official budget on its website. The budget must describe each item in terms that are easily understandable. A school district must prominently post budget information on its website in a manner that is readily accessible to the public.⁴²

Effect of Proposed Changes

The bill requires district budget amendments to occur at the district school board's next scheduled public meeting. The district school board must also provide a full explanation of any budget amendments.

The Department of Education Reporting Requirements

Present Situation

The Legislature may require school districts failing to meet prescribed academic performance standards to increase emphasis on classroom instruction activities by meeting certain classroom expenditure requirements. In determining the classroom expenditure requirement, the DOE is required to calculate the total K-12 operating and classroom instruction expenditures for each district and the percentage of classroom expenditures to total operating expenditures for each district and the state. School districts required to increase emphasis on classroom activities must submit a final report to the DOE explaining proposed budget actions and the district's level of compliance with spending requirements.⁴³

Effect of Proposed Changes

The bill repeals s. 1011.64, F.S., removing the requirement that school districts failing to meet minimum academic performance standards increase emphasis on classroom instruction activities and removing the minimum classroom expenditure calculation. The bill also removes cross-references to s. 1011.64, F.S. Section 1011.64, F.S. has not been implemented because the legislature has not prescribed the minimum academic performance standards required.⁴⁴

OTHER FISCAL ISSUES

Lobbying

Present Situation

Currently, an individual elected to a school district office is prohibited from lobbying the school district for a period of two years after leaving the position; however, current law does not prohibit an appointed superintendent from lobbying immediately after leaving the position.⁴⁵

⁴⁰ Section 1011.06, F.S. It is the duty of the superintendent and district school board to take whatever action is necessary during the fiscal year to keep expenditures and obligations within the budgeted income. Rules 6A-1.007(1) and 6A-1.007(2), F.A.C. The school board must approve amendments to the budget whenever budget changes occur.

⁴¹ Section 1011.06(2), F.S.

⁴² Section 1011.035(3), F.S.

⁴³ Section 1011.64(1)-(4), F.S.

⁴⁴ Email, Florida Department of Education, Governmental Relations (January 12, 2018).

⁴⁵ Section 112.313(14), F.S.

Effect of Proposed Changes

The bill prohibits appointed, along with elected superintendents, from lobbying school districts for a period of two years after vacating the position.

District School Board Member Salary

Present Situation

Each district school board member receives a salary based on the population of the county served. In addition, district school board members receive additional compensation for population increments over the minimum for each population group as follows: ⁴⁶

<u>Pop. Group</u>	<u>County Pop. Range</u>		<u>Base Salary</u>	<u>Group Rate</u>
	Minimum	Maximum		
I	-0-	9,999	\$5,000	\$0.08330
II	10,000	49,999	5,833	0.020830
III	50,000	99,999	6,666	0.016680
IV	100,000	199,999	7,500	0.008330
V	200,000	399,999	8,333	0.004165
VI	400,000	999,999	9,166	0.001390
VII	1,000,000		10,000	0.000000

Effect of Proposed Changes

The bill aligns district school board member salaries with beginning teacher salary or the amount calculated by statute, whichever is less. In fiscal year 2016-17, average district school board member salary exceeded the average beginning teacher salary in the following districts:

- Alachua (\$782)
- Broward (\$739)
- Dade (\$850).
- Duval (\$1,810).
- Hillsborough (\$3,554).
- Lee (\$1,525).
- Leon (\$435).
- Marion (\$528).
- Orange (\$1,091).
- Palm Beach (\$747).
- Pinellas (\$2,605)
- Putnam (\$3,875).
- Santa Rosa (\$1,263).
- Walton (\$870).⁴⁷

⁴⁶ Section 1001.395, F.S.

⁴⁷ Florida Department of Education, Florida District Staff Salaries of Selected Positions, 2016-17, available at

<http://wwwfldoe.org/about/affairs/communications/accountability-services/public-records/data-public-reports-reports-and>

Email, House Education Committee (January 11, 2018).

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DATE: 1/26/2018

District School Board Member Travel Expenses

Present Situation

Each district school board member is reimbursed for authorized travel expenses. Any travel outside the district must also be governed by the rules of the State Board of Education.⁴⁸

Effect of Proposed Changes

The bill requires prior district school board approval for reimbursement of out-of-district travel expenses. Any request for out-of-state travel must also include an itemized list of all anticipated expenses, including, but not limited to, the anticipated costs of all means of travel, lodging, and subsistence. The public must have an opportunity to comment on the travel agenda item.

Financial Disclosure Fines

Present Situation

Currently, the Commission on Ethics (COE) determines whether a person owing a public financial disclosure fine is a public officer or public employee.⁴⁹ If the COE determines that the person is a current public officer or public employee, it may notify the Chief Financial Officer (CFO) or governing body of the amount owed. After receipt and verification of the notice, the CFO or governing body must withhold the lesser of 10 percent, or the maximum allowable under federal law, of any payment made from public money to satisfy outstanding fines. Additionally, the CFO or governing body may withhold an amount to compensate for administrative costs.⁵⁰

Effect of Proposed Changes

The bill includes district school boards as a governing body with the authority to withhold a portion of an employee's salary to pay public financial disclosure fines and permits district school boards to withhold a portion of the salary to cover administrative costs.

School District Personnel Policies

Present Situation

District school board members are prohibited from employing or appointing a relative to work under their direct supervision.⁵¹

Effect of Proposed Change

The bill prohibits superintendents, along with district school board members, from employing or appointing a relative to work under their direct supervision. However, employees employed prior to the election or appointment of a family member are exempt from this restriction.

⁴⁸ Section 1001.39, F.S.

⁴⁹ Sections 112.3144(5) and (7), and 112.3145(7), F.S.

⁵⁰ Section 112.31455(1)-(4), F.S.

⁵¹ Section 1012.23(2), F.S. The term "relative" includes father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.

Standards of Ethical Conduct

Present Situation

District school boards are required to adopt policies establishing standards of ethical conduct for instructors and administrators. The policies require instructors and administrators to complete specific training and establish a duty and procedure for reporting misconduct. Current law prohibits district school boards, instructors and administrators from entering into confidentiality agreements regarding termination, dismissal or resignation based on misconduct. District school boards are prohibited from providing references or discussing the performance of instructors or administrators without disclosing misconduct. Any part of an agreement that conceals instructor or administrator misconduct is unenforceable.⁵²

Effect of Proposed Change

The bill clarifies that school officers and administrative personnel are subject to ethics standards, including training, reporting procedures, reference requirements and contract requirements.

The bill also clarifies educational staff disqualified from employment for conviction of certain criminal acts by changing the term "school administrators" to administrative personnel.

B. SECTION DIRECTORY:

Section 1. Amends s. 11.45, F.S., relating to the Florida Auditor General.

Section 2. Amends s. 112.313, F.S., relating to the prohibition of lobbying by former local officials.

Section 3. Amends s. 112.31455, F.S., relating to the collection of unpaid financial disclosure fines.

Section 4. Amends s. 1001.20, F.S., relating to the Department of Education's Office of Inspector General.

Section 5. Amends s. 1001.39, F.S., relating to district school board member's travel expenses.

Section 6. Amends s. 1001.395, F.S., relating to school board member's compensation.

Section 7. Amends s. 1001.42, F.S., relating to the powers and duties of the school board.

Section 8. Amends s. 1010.20, F.S., relating to cost accounting and reporting for school districts.

Section 9. Amends s. 1010.30, F.S., relating to audits.

Section 10. Amends s. 1011.01, F.S., relating to budget systems.

Section 11. Amends s. 1011.03, F.S., relating to public hearings and budgets submitted to the Department of Education.

Section 12. Amends s. 1011.035, F.S., relating to school district fiscal transparency.

Section 13. Amends s. 1011.051, F.S., relating to guidelines for general funds.

Section 14. Amends s. 1011.06, F.S., relating to school district budget expenditures.

Section 15. Amends s. 1011.09, F.S., relating to expenditures of funds by district school boards.

⁵² Section 1001.42(6), F.S.
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Section 16. Amends s. 1011.10, F.S., relating to penalties for district school board members.

Section 17. Amends s. 1011.60, F.S., relating to requirements of the Florida Education Finance Program.

Section 18. Repeals s. 1011.64, F.S., relating to school district minimum classroom expenditure requirements.

Section 19. Amends s. 1012.23, F.S., relating to school district personnel policies.

Section 20. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The DOE has not yet provided information regarding the fiscal impact to the department to (a) develop and maintain the web-based fiscal transparency tool and (b) contract for the completion of a forensic audit. As a result, the fiscal impacts are indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

School districts that receive \$500 million or more in revenues and do not currently employ an internal auditor may incur additional costs in hiring an internal auditor; however, cost savings provided as a result of action taken based on findings of the internal auditor may offset the additional costs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the PreK-12 Quality Subcommittee adopted six amendments and reported the bill favorably as a committee substitute. The amendments:

- require school district's with previous operational audit findings to provide evidence of corrective action;
- require a district school board member's request for out-of-state travel to include an itemized list of all anticipated expenses and provide an opportunity for public comment on the travel request agenda item;
- authorize individual district school board members to request and receive budget information;
- specify that districts must reduce administrative costs in proportion to the reduction in their general funds ending balance or the reduction in student enrollment, whichever is greater, when the district's ending fund balance is below the 3 percent threshold for two consecutive years;
- require an investigation, instead of a forensic audit, when school districts are unable to timely pay current debts and liabilities; and
- correct a scrivener's error.

The analysis is drafted to the committee substitute passed by the PreK-12 Quality Subcommittee.

1 A bill to be entitled
 2 An act relating to school district accountability;
 3 amending s. 11.45, F.S.; revising the duties of the
 4 Auditor General; amending s. 112.313, F.S.;
 5 prohibiting former appointed district school
 6 superintendents from conducting certain lobbying
 7 activities; amending s. 112.31455, F.S.; requiring the
 8 governing body of a district school board be notified
 9 if an officer or employee of the body owes a certain
 10 fine; requiring the governing body of a district
 11 school board to take specified actions under such
 12 circumstances; amending s. 1001.20, F.S.; requiring
 13 the Office of Inspector General to investigate certain
 14 allegations and reports made by specified individuals;
 15 amending s. 1001.39, F.S.; requiring a district school
 16 board member's travel outside of the school district
 17 to be preapproved and meet certain criteria; providing
 18 requirements for a school board member's request for
 19 travel outside of the state; providing an opportunity
 20 for the public to speak on such travel; amending s.
 21 1001.395, F.S.; providing that certain requirements
 22 for the salaries of district school board members
 23 apply every fiscal year, rather than one specific
 24 fiscal year; amending s. 1001.42, F.S.; providing that
 25 the standards of ethical conduct apply to

26 administrative personnel and school officers;
 27 authorizing district school board members to request
 28 and receive specified budget information; requiring
 29 employment of internal auditors in certain school
 30 districts; revising provisions relating to the duties
 31 of such internal auditors; amending s. 1010.20, F.S.;
 32 requiring each school district to report certain
 33 expenditures to the Department of Education; providing
 34 department responsibilities; amending s. 1010.30,
 35 F.S.; requiring certain entities to provide an audit
 36 overview under certain circumstances; providing the
 37 contents of the overview; amending ss. 1011.01 and
 38 1011.03, F.S.; conforming cross-references; amending
 39 s. 1011.035, F.S.; requiring each district school
 40 board to post on its website certain graphical
 41 representations and a link to a certain web-based tool
 42 on the department's website; providing requirements
 43 for such graphical representations; amending s.
 44 1011.051, F.S.; requiring a district school board to
 45 limit certain expenditures by a specified amount if
 46 certain financial conditions exist for a specified
 47 period of time; requiring the department to contract
 48 with a third party to conduct an investigation under
 49 certain circumstances; providing requirements for such
 50 investigation; requiring the results of such

51 investigation to include certain information and be
 52 provided to certain entities; amending s. 1011.06,
 53 F.S.; requiring each district school board to approve
 54 certain expenditures by amending its budget and
 55 provide a public explanation for such budget
 56 amendments; amending s. 1011.09, F.S.; providing
 57 certain expenditure limitations for a school district
 58 that meets specified criteria; amending s. 1011.10,
 59 F.S.; requiring certain school districts to withhold
 60 district school board member and school district
 61 superintendent salaries until certain conditions are
 62 met; amending s. 1011.60, F.S.; conforming cross-
 63 references; repealing s. 1011.64, F.S., relating to
 64 school district minimum classroom expenditure
 65 requirements; amending s. 1012.23, F.S.; prohibiting a
 66 school district superintendent and district school
 67 board from appointing or employing certain individuals
 68 in certain positions; providing an exception;
 69 requiring the Commission on Ethics to investigate
 70 alleged violations; amending s. 1002.395, F.S.;
 71 conforming a cross-reference; providing an effective
 72 date.

74 Be It Enacted by the Legislature of the State of Florida:
 75

76 Section 1. Paragraph (k) of subsection (2) of section
 77 11.45, Florida Statutes, is redesignated as paragraph (l), and a
 78 new paragraph (k) is added to that subsection, to read:

79 11.45 Definitions; duties; authorities; reports; rules.—

80 (2) DUTIES.—The Auditor General shall:

81 (k) Contact each district school board, as defined in s.
 82 1003.01(1), with the findings and recommendations contained
 83 within the Auditor General's previous operational audit report.
 84 The district school board shall provide the Auditor General with
 85 evidence of the initiation of corrective action within 45 days
 86 after the date it is requested by the Auditor General and
 87 evidence of completion of corrective action within 180 days
 88 after the date it is requested by the Auditor General. If the
 89 district school board fails to comply with the Auditor General's
 90 request or is unable to take corrective action within the
 91 required timeframe, the Auditor General shall notify the
 92 Legislative Auditing Committee.

93
 94 The Auditor General shall perform his or her duties
 95 independently but under the general policies established by the
 96 Legislative Auditing Committee. This subsection does not limit
 97 the Auditor General's discretionary authority to conduct other
 98 audits or engagements of governmental entities as authorized in
 99 subsection (3).

100 Section 2. Subsection (14) of section 112.313, Florida

101 Statutes, is amended to read:

102 112.313 Standards of conduct for public officers,
 103 employees of agencies, and local government attorneys.—

104 (14) LOBBYING BY FORMER LOCAL OFFICERS; PROHIBITION.—A
 105 person who has been elected to any county, municipal, special
 106 district, or school district office or appointed superintendent
 107 of a school district may not personally represent another person
 108 or entity for compensation before the government body or agency
 109 of which the person was an officer for a period of 2 years after
 110 vacating that office. For purposes of this subsection:

111 (a) The "government body or agency" of a member of a board
 112 of county commissioners consists of the commission, the chief
 113 administrative officer or employee of the county, and their
 114 immediate support staff.

115 (b) The "government body or agency" of any other county
 116 elected officer is the office or department headed by that
 117 officer, including all subordinate employees.

118 (c) The "government body or agency" of an elected
 119 municipal officer consists of the governing body of the
 120 municipality, the chief administrative officer or employee of
 121 the municipality, and their immediate support staff.

122 (d) The "government body or agency" of an elected special
 123 district officer is the special district.

124 (e) The "government body or agency" of an elected school
 125 district officer is the school district.

126 Section 3. Subsection (1) of section 112.31455, Florida
 127 Statutes, is amended to read:

128 112.31455 Collection methods for unpaid automatic fines
 129 for failure to timely file disclosure of financial interests.—

130 (1) Before referring any unpaid fine accrued pursuant to
 131 s. 112.3144(5) or s. 112.3145(7) to the Department of Financial
 132 Services, the commission shall attempt to determine whether the
 133 individual owing such a fine is a current public officer or
 134 current public employee. If so, the commission may notify the
 135 Chief Financial Officer or the governing body of the appropriate
 136 county, municipality, district school board, or special district
 137 of the total amount of any fine owed to the commission by such
 138 individual.

139 (a) After receipt and verification of the notice from the
 140 commission, the Chief Financial Officer or the governing body of
 141 the county, municipality, district school board, or special
 142 district shall begin withholding the lesser of 10 percent or the
 143 maximum amount allowed under federal law from any salary-related
 144 payment. The withheld payments shall be remitted to the
 145 commission until the fine is satisfied.

146 (b) The Chief Financial Officer or the governing body of
 147 the county, municipality, district school board, or special
 148 district may retain an amount of each withheld payment, as
 149 provided in s. 77.0305, to cover the administrative costs
 150 incurred under this section.

151 Section 4. Paragraph (e) of subsection (4) of section
 152 1001.20, Florida Statutes, is amended to read:
 153 1001.20 Department under direction of state board.—
 154 (4) The Department of Education shall establish the
 155 following offices within the Office of the Commissioner of
 156 Education which shall coordinate their activities with all other
 157 divisions and offices:
 158 (e) Office of Inspector General.—Organized using existing
 159 resources and funds and responsible for promoting
 160 accountability, efficiency, and effectiveness and detecting
 161 fraud and abuse within school districts, the Florida School for
 162 the Deaf and the Blind, and Florida College System institutions
 163 in Florida. If the Commissioner of Education determines that a
 164 district school board, the Board of Trustees for the Florida
 165 School for the Deaf and the Blind, or a Florida College System
 166 institution board of trustees is unwilling or unable to address
 167 substantiated allegations made by any person relating to waste,
 168 fraud, or financial mismanagement within the school district,
 169 the Florida School for the Deaf and the Blind, or the Florida
 170 College System institution, the office shall conduct,
 171 coordinate, or request investigations into such substantiated
 172 allegations. The office shall investigate allegations or reports
 173 of possible fraud or abuse against a district school board made
 174 by any member of the Cabinet; the presiding officer of either
 175 house of the Legislature; a chair of a substantive or

176 appropriations committee with jurisdiction; or a member of the
 177 board for which an investigation is sought. The office shall
 178 have access to all information and personnel necessary to
 179 perform its duties and shall have all of its current powers,
 180 duties, and responsibilities authorized in s. 20.055.

181 Section 5. Subsection (1) of section 1001.39, Florida
 182 Statutes, is amended to read:

183 1001.39 District school board members; travel expenses.—

184 (1) In addition to the salary provided in s. 1001.395,
 185 each member of a district school board shall be allowed, from
 186 the district school fund, reimbursement of travel expenses as
 187 authorized in s. 112.061, ~~except as provided that in subsection~~
 188 ~~(2).~~ any travel outside the district requires prior approval by
 189 the district school board to confirm that such travel is for
 190 official business of the school district and complies with ~~shall~~
 191 ~~also be governed by the rules of the State Board of Education.~~
 192 Any request for travel outside the state must include an
 193 itemized list detailing all anticipated travel expenses,
 194 including, but not limited to, the anticipated costs of all
 195 means of travel, lodging, and subsistence. Immediately preceding
 196 a request, the public must have an opportunity to speak on the
 197 specific travel agenda item.

198 Section 6. Subsection (3) of section 1001.395, Florida
 199 Statutes, is amended to read:

200 1001.395 District school board members; compensation.—

201 (3) Notwithstanding the provisions of this section and s.
 202 145.19, ~~for the 2010-2011 fiscal year,~~ the salary of each
 203 district school board member shall be the amount calculated
 204 pursuant to subsection (1) or the district's beginning salary
 205 for teachers who hold baccalaureate degrees, whichever is less.

206 Section 7. Subsections (6) and (7), paragraphs (b) and (1)
 207 of subsection (12), and paragraph (b) of subsection (17) of
 208 section 1001.42, Florida Statutes, are amended to read:

209 1001.42 Powers and duties of district school board.—The
 210 district school board, acting as a board, shall exercise all
 211 powers and perform all duties listed below:

212 (6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL
 213 PERSONNEL, ADMINISTRATIVE PERSONNEL, AND SCHOOL OFFICERS
 214 ~~ADMINISTRATORS~~.—Adopt policies establishing standards of ethical
 215 conduct for instructional personnel, administrative personnel,
 216 and school officers ~~administrators~~. The policies must require
 217 all instructional personnel, administrative personnel, and
 218 school officers ~~administrators~~, as defined in s. 1012.01, to
 219 complete training on the standards; establish the duty of
 220 instructional personnel, administrative personnel, and school
 221 officers ~~administrators~~ to report, and procedures for reporting,
 222 alleged misconduct by other instructional or administrative
 223 personnel and school officers ~~school administrators~~ which
 224 affects the health, safety, or welfare of a student; and include
 225 an explanation of the liability protections provided under ss.

226 39.203 and 768.095. A district school board, or any of its
 227 employees, may not enter into a confidentiality agreement
 228 regarding terminated or dismissed instructional or
 229 administrative personnel or school officers ~~administrators, or~~
 230 ~~personnel or administrators~~ who resign in lieu of termination,
 231 based in whole or in part on misconduct that affects the health,
 232 safety, or welfare of a student, and may not provide
 233 instructional personnel, administrative personnel, or school
 234 officers ~~administrators~~ with employment references or discuss
 235 the personnel's or officers' ~~administrators'~~ performance with
 236 prospective employers in another educational setting, without
 237 disclosing the personnel's or officers' ~~administrators'~~
 238 misconduct. Any part of an agreement or contract that has the
 239 purpose or effect of concealing misconduct by instructional
 240 personnel, administrative personnel, or school officers
 241 ~~administrators~~ which affects the health, safety, or welfare of a
 242 student is void, is contrary to public policy, and may not be
 243 enforced.

244 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
 245 instructional personnel and administrative personnel ~~school~~
 246 ~~administrators~~, as defined in s. 1012.01, from employment in any
 247 position that requires direct contact with students if the
 248 personnel ~~or administrators~~ are ineligible for such employment
 249 under s. 1012.315. An elected or appointed school board official
 250 forfeits his or her salary for 1 year if:

251 (a) The school board official knowingly signs and
 252 transmits to any state official a report of alleged misconduct
 253 by instructional personnel or administrative personnel ~~school~~
 254 ~~administrators~~ which affects the health, safety, or welfare of a
 255 student and the school board official knows the report to be
 256 false or incorrect; or

257 (b) The school board official knowingly fails to adopt
 258 policies that require instructional personnel and administrative
 259 personnel ~~school administrators~~ to report alleged misconduct by
 260 other instructional personnel and administrative personnel
 261 ~~school administrators~~, or that require the investigation of all
 262 reports of alleged misconduct by instructional personnel and
 263 administrative personnel ~~school administrators~~, if the
 264 misconduct affects the health, safety, or welfare of a student.

265 (12) FINANCE.—Take steps to assure students adequate
 266 educational facilities through the financial procedure
 267 authorized in chapters 1010 and 1011 and as prescribed below:

268 (b) Annual budget.—

269 1. Cause to be prepared, adopt, and have submitted to the
 270 Department of Education as required by law and rules of the
 271 State Board of Education, the annual school budget, such budget
 272 to be so prepared and executed as to promote the improvement of
 273 the district school system.

274 2. An individual school board member may request and shall
 275 receive any proposed, tentative, and official budget documents,

276 including all supporting and background information.

277 (1) Internal auditor.—May or, in the case of a school
 278 district receiving annual federal, state, and local funds in
 279 excess of \$500 million, shall employ an internal auditor. The
 280 duties of the internal auditor shall include oversight of every
 281 functional and program area of the school system.

282 1. The internal auditor shall ~~to~~ perform ongoing financial
 283 verification of the financial records of the school district, a
 284 comprehensive risk assessment of all areas of the school system
 285 every 5 years, and other audits and reviews as the district
 286 school board directs for determining:

287 a. The adequacy of internal controls designed to prevent
 288 and detect fraud, waste, and abuse.

289 b. Compliance with applicable laws, rules, contracts,
 290 grant agreements, district school board-approved policies, and
 291 best practices.

292 c. The efficiency of operations.

293 d. The reliability of financial records and reports.

294 e. The safeguarding of assets.

295 f. Financial solvency.

296 g. Projected revenues and expenditures.

297 h. The rate of change in the general fund balance.

298 2. The internal auditor shall prepare audit reports of his
 299 or her findings and report directly to the district school board
 300 or its designee.

301 3. Any person responsible for furnishing or producing any
 302 book, record, paper, document, data, or sufficient information
 303 necessary to conduct a proper audit or examination which the
 304 internal auditor is by law authorized to perform is subject to
 305 the provisions of s. 11.47(3) and (4).

306 (17) PUBLIC INFORMATION AND PARENTAL INVOLVEMENT PROGRAM.—

307 (b) Adopt rules to strengthen family involvement and
 308 empowerment pursuant to s. 1002.23. The rules shall be developed
 309 in collaboration with administrative personnel ~~school~~
 310 ~~administrators~~, parents, teachers, and community partners.

311 Section 8. Subsection (2) of section 1010.20, Florida
 312 Statutes, is amended to read:

313 1010.20 Cost accounting and reporting for school
 314 districts.—

315 (2) COST REPORTING.—

316 (a) Each district shall report on a district-aggregate
 317 basis expenditures for inservice training pursuant to s.
 318 1011.62(3) and for categorical programs as provided in s.
 319 1011.62(6).

320 (b) Each district shall report to the department on a
 321 school-by-school and on an aggregate district basis expenditures
 322 for:

323 1. Each program funded in s. 1011.62(1)(c).

324 2. Total operating costs as reported pursuant to s.
 325 1010.215.

326 3. Expenditures for classroom instruction pursuant to the
 327 calculation in s. 1010.215(4)(b)1. and 2.

328 (c) The department shall:

329 1. Categorize all public schools and districts into
 330 appropriate groups based primarily on average full-time
 331 equivalent student enrollment as reported on the most recent
 332 student membership survey under s. 1011.62 and in state board
 333 rule to determine groups of peer schools and districts.

334 2. Annually calculate for each public school, district,
 335 and for the entire state, the percentage of classroom
 336 expenditures to total operating expenditures reported in
 337 subparagraphs (b)2. and 3. The results shall be categorized
 338 pursuant to this paragraph.

339 3. Annually calculate for all public schools, districts,
 340 and the state, the average percentage of classroom expenditures
 341 to total operating expenditures reported in subparagraphs (b)2.
 342 and 3. The results shall be categorized pursuant to this
 343 paragraph.

344 4. Develop a web-based fiscal transparency tool that
 345 identifies public schools and districts that produce high
 346 academic achievement based on the ratio of classroom instruction
 347 expenditures to total expenditures. The fiscal transparency tool
 348 shall combine the data calculated pursuant to this paragraph
 349 with the student performance measurements calculated pursuant to
 350 s. 1012.34(7) to determine the financial efficiency of each

351 public school and district. The results shall be displayed in an
 352 easy to use format that enables the user to compare performance
 353 among public schools and districts.

354 (d)~~(e)~~ The Commissioner of Education shall present to the
 355 Legislature, prior to the opening of the regular session each
 356 year, a district-by-district report of the expenditures reported
 357 pursuant to paragraphs (a) and (b). The report shall include
 358 total expenditures, a detailed analysis showing expenditures for
 359 each program, and such other data as may be useful for
 360 management of the education system. The Commissioner of
 361 Education shall also compute cost factors relative to the base
 362 student allocation for each funded program in s. 1011.62(1)(c).

363 Section 9. Subsection (2) of section 1010.30, Florida
 364 Statutes, is amended to read:

365 1010.30 Audits required.—

366 (2) If an audit contains a significant deficiency or
 367 material weakness ~~finding~~, the district school board, the
 368 Florida College System institution board of trustees, or the
 369 university board of trustees shall conduct an audit overview
 370 during a public meeting. The audit overview shall describe the
 371 corrective action to be taken and a timeline for completion of
 372 such action.

373 Section 10. Paragraph (a) of subsection (3) of section
 374 1011.01, Florida Statutes, is amended to read:

375 1011.01 Budget system established.—

376 (3) (a) Each district school board and each Florida College
 377 System institution board of trustees shall prepare, adopt, and
 378 submit to the Commissioner of Education an annual operating
 379 budget. Operating budgets shall be prepared and submitted in
 380 accordance with the provisions of law, rules of the State Board
 381 of Education, the General Appropriations Act, and for district
 382 school boards in accordance with the provisions of s. 200.065
 383 ~~ss. 200.065 and 1011.64.~~

384 Section 11. Subsection (2) of section 1011.03, Florida
 385 Statutes, is amended to read:

386 1011.03 Public hearings; budget to be submitted to
 387 Department of Education.-

388 ~~(2) The advertisement of a district that has been required
 389 by the Legislature to increase classroom expenditures pursuant
 390 to s. 1011.64 must include the following statement:~~

391 ~~"This proposed budget reflects an increase in classroom
 392 expenditures as a percent of total current operating
 393 expenditures of XX percent over the (previous fiscal year)
 394 fiscal year. This increase in classroom expenditures is required
 395 by the Legislature because the district has performed below the
 396 required performance standard on XX of XX student performance
 397 standards for the (previous school year) school year. In order
 398 to achieve the legislatively required level of classroom
 399 expenditures as a percentage of total operating expenditures,
 400 the proposed budget includes an increase in overall classroom~~

401 ~~expenditures of \$XX,XXX,XXX above the amount spent for this same~~
 402 ~~purpose during the (previous fiscal year) fiscal year. In order~~
 403 ~~to achieve improved student academic performance, this proposed~~
 404 ~~increase is being budgeted for the following activities:~~
 405 ~~...(list activities and amount budgeted)...."~~

406 Section 12. Subsection (2) of section 1011.035, Florida
 407 Statutes, is amended, and paragraph (d) is added to subsection
 408 (4) of that section, to read:

409 1011.035 School district fiscal budget transparency.-

410 (2) Each district school board shall post on its website a
 411 plain language version of each proposed, tentative, and official
 412 budget which describes each budget item in terms that are easily
 413 understandable to the public and includes graphical
 414 representations, for each public school within district and for
 415 the school district, of the following:

- 416 (a) Summary financial efficiency data.
- 417 (b) Fiscal trend information for the previous 3 years on:
 - 418 1. The ratio of full-time equivalent students to full-time
 419 equivalent instructional personnel.
 - 420 2. The ratio of full-time equivalent students to full-time
 421 equivalent administrative personnel.
 - 422 3. The total operating expenditures per full-time
 423 equivalent student.
 - 424 4. The total instructional expenditures per full-time
 425 equivalent student.

426 5. The general administrative expenditures as a percentage
 427 of total budget.

428 6. The rate of change in the general fund's ending fund
 429 balance not classified as restricted.

430

431 This information must be prominently posted on the school
 432 district's website in a manner that is readily accessible to the
 433 public.

434 (4) The website should contain links to:

435 (d) The web-based fiscal transparency tool developed by
 436 the department pursuant to s. 1010.20 to enable taxpayers to
 437 evaluate the financial efficiency of the school district and
 438 compare the financial efficiency of the school district with
 439 other similarly situated school districts.

440 Section 13. Subsections (1) and (2) of section 1011.051,
 441 Florida Statutes, are amended to read:

442 1011.051 Guidelines for general funds.—The district school
 443 board shall maintain a general fund ending fund balance that is
 444 sufficient to address normal contingencies.

445 (1) If at any time the portion of the general fund's
 446 ending fund balance not classified as restricted, committed, or
 447 nonspendable in the district's approved operating budget is
 448 projected to fall below 3 percent of projected general fund
 449 revenues during the current fiscal year, the superintendent
 450 shall provide written notification to the district school board

451 and the Commissioner of Education. If such financial condition
 452 exists for 2 consecutive fiscal years, the superintendent shall
 453 reduce the district's administration expenditures reported
 454 pursuant to s. 1010.215(4)(a) in proportion to the reduction in
 455 the general fund's ending balance or the reduction in student
 456 enrollment, whichever is greater.

457 (2) (a) If at any time the portion of the general fund's
 458 ending fund balance not classified as restricted, committed, or
 459 nonspendable in the district's approved operating budget is
 460 projected to fall below 2 percent of projected general fund
 461 revenues during the current fiscal year, the superintendent
 462 shall provide written notification to the district school board
 463 and the Commissioner of Education. Within 14 days after
 464 receiving such notification, if the commissioner determines that
 465 the district does not have a plan that is reasonably anticipated
 466 to avoid a financial emergency as determined pursuant to s.
 467 218.503, the commissioner shall appoint a financial emergency
 468 board that shall operate under the requirements, powers, and
 469 duties specified in s. 218.503(3)(g).

470 (b) If any of the conditions identified in s. 218.503(1)
 471 existed in the 2015-2016 school year or thereafter, the
 472 department shall contract with an independent third party to
 473 conduct an investigation of all accounts and records to
 474 determine the cause of the deficit, what efforts, if any, were
 475 made to avoid the deficit, and whether any of the conditions

476 identified in s. 1011.10 have occurred. The investigation must
 477 include a detailed review and analysis of documents and records,
 478 including, but not limited to, budget reports, journal entries,
 479 budget methodologies, staff emails, hard copy records, monthly
 480 financial statements, quarterly revenue and expenditure reports,
 481 finance staff job descriptions, and minutes from meetings. The
 482 results of the investigation must include recommendations for
 483 corrective action and controls to avoid a reoccurrence of a
 484 future budget shortfall. A final report shall be provided to the
 485 district school board, the department, the Legislative Auditing
 486 Committee, and the district's financial emergency board, if
 487 applicable.

488 Section 14. Subsection (2) of section 1011.06, Florida
 489 Statutes, is amended to read:

490 1011.06 Expenditures.—

491 (2) EXPENDITURES FROM DISTRICT AND OTHER FUNDS.—

492 Expenditures from district and all other funds available for the
 493 public school program of any district shall be authorized by law
 494 and must be in accordance with procedures prescribed by the
 495 district school board. A district school board may establish
 496 policies that allow expenditures to exceed the amount budgeted
 497 by function and object, provided that the district school board
 498 complies with s. 1011.09(4) and approves the expenditure by
 499 amending and amends the budget at the next scheduled public
 500 meeting. The district school board must provide a full

501 explanation of any amendments at the public meeting within
 502 ~~timelines established by school board policies.~~

503 Section 15. Subsection (4) of section 1011.09, Florida
 504 Statutes, is amended to read:

505 1011.09 Expenditure of funds by district school board.—All
 506 state funds apportioned to the credit of any district constitute
 507 a part of the district school fund of that district and must be
 508 budgeted and expended under authority of the district school
 509 board subject to the provisions of law and rules of the State
 510 Board of Education.

511 (4) If the financial conditions in s. 1011.051 exist, a
 512 district school board ~~During the 2009-2010 fiscal year, unless~~
 513 ~~otherwise specifically approved by the district school board,~~
 514 ~~public funds~~ may not make expenditures be expended for out-of-
 515 state travel outside of the district or cellular phones,
 516 cellular phone service, personal digital assistants, or any
 517 other mobile wireless communication device or service, including
 518 text messaging, whether through purchasing, leasing,
 519 contracting, or any other method, while the financial conditions
 520 exist. The expenditure of public funds for art programs, music
 521 programs, sports programs, and extracurricular programs for
 522 students is a higher priority than expending funds for employee
 523 travel and cellular phones.

524 Section 16. Subsection (3) is added to section 1011.10,
 525 Florida Statutes, to read:

526 1011.10 Penalty.—

527 (3) If any of the conditions identified in s. 218.503(1)
 528 exist within a school district, the salary of each district
 529 school board member and district superintendent, calculated
 530 pursuant to ss. 1001.395 and 1001.47, shall be withheld until
 531 the conditions are corrected.

532 Section 17. Subsection (8) of section 1011.60, Florida
 533 Statutes, is amended to read:

534 1011.60 Minimum requirements of the Florida Education
 535 Finance Program.—Each district which participates in the state
 536 appropriations for the Florida Education Finance Program shall
 537 provide evidence of its effort to maintain an adequate school
 538 program throughout the district and shall meet at least the
 539 following requirements:

540 ~~(8) MINIMUM CLASSROOM EXPENDITURE REQUIREMENTS.—Comply~~
 541 ~~with the minimum classroom expenditure requirements and~~
 542 ~~associated reporting pursuant to s. 1011.64.~~

543 Section 18. Section 1011.64, Florida Statutes, is
 544 repealed.

545 Section 19. Section 1012.23, Florida Statutes, is amended
 546 to read:

547 1012.23 School district personnel policies.—

548 (2) Neither the district school superintendent nor a
 549 district school board member may appoint or ~~not~~ employ ~~or~~
 550 ~~appoint~~ a relative, as defined in s. 112.3135, to work under the

551 | direct supervision of that district school board member or
 552 | district school superintendent. The limitations of this
 553 | subsection do not apply to employees appointed or employed
 554 | before the election or appointment of a school board member or
 555 | district school superintendent. The Commission on Ethics shall
 556 | accept and investigate any alleged violations of this section
 557 | pursuant to the procedures contained in ss. 112.322-112.3241.

558 | Section 20. Paragraph (d) of subsection (9) of section
 559 | 1002.395, Florida Statutes, is amended to read:

560 | 1002.395 Florida Tax Credit Scholarship Program.—

561 | (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 562 | Education shall:

563 | (d) Annually verify the eligibility of expenditures as
 564 | provided in paragraph (6)(d) using the audit required by
 565 | paragraph (6)(m) and s. 11.45(2)(l) ~~s. 11.45(2)(k)~~.

566 | Section 21. This act shall take effect July 1, 2018.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1279 (2018)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: PreK-12 Appropriations
2 Subcommittee

3 Representative Diaz, M. offered the following:
4

5 **Amendment (with title amendment)**

6 Remove line 566 and insert:

7 Section 21. For the 2018-2019 fiscal year, the sum of
8 \$850,000 in nonrecurring funds from the General Revenue Fund is
9 hereby appropriated to the Department of Education to implement
10 the provisions of this act and is contingent upon PCS for HB
11 7055 or similar legislation not being law.

12 Section 22. This act shall take effect July 1, 2018.
13

14 -----
15 **T I T L E A M E N D M E N T**

16 Remove lines 71-72 and insert:

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1279 (2018)

Amendment No. 1

17 conforming a cross-reference; providing an appropriation;
18 providing an effective date.