



Education Committee

Thursday, January 25, 2018

10:00 AM

Reed Hall (102 HOB)

Meeting Packet

Richard Corcoran
Speaker

Michael Bileca
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

(AMENDED 1/23/2018 5:02:41PM)

Amended(1)

Education Committee

Start Date and Time: Thursday, January 25, 2018 10:00 am
End Date and Time: Thursday, January 25, 2018 12:00 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

CS/HB 63 Students with Disabilities in Public Schools by PreK-12 Quality Subcommittee, Edwards-Walpole, Rodrigues
CS/HB 1175 Early Learning Coalitions by PreK-12 Quality Subcommittee, Sullivan

Consideration of the following proposed committee bill(s):

PCB EDC 18-01 -- Education

NOTICE FINALIZED on 01/23/2018 5:02PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 63 Students with Disabilities in Public Schools
SPONSOR(S): PreK-12 Quality Subcommittee; Edwards-Walpole; Rodrigues and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	15 Y, 0 N, As CS	McAlarney	DavisGreene
2) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

Section 1003.573, F.S., establishes standards and procedures regarding the use, monitoring, documentation, and reporting of seclusion and restraint on students with disabilities. The use of manual restraint or seclusion is required to be monitored at the classroom, building, district, and state levels. The Florida Department of Education (DOE) is required to develop standards for and provides guidance to school districts. School districts must develop policies and procedures regarding incident-reporting, data collection, and monitoring. Each school district is required to provide its policies and procedures to DOE.

The bill amends the use of restraint on students with disabilities. Specifically, the bill:

- Defines terms related to seclusion and restraint.
- Provides that physical restraint may be used only to protect students, school personnel or others, but not for disciplining a student. Restraints should be used only when all other strategies and techniques have been exhausted. A student may only be physically restrained for the time necessary for protection.
- Prohibits physical restraint techniques, such as:
 - Pain inducement to obtain compliance.
 - Bone locks.
 - Hyperextension of joints;
 - Peer restraint.
 - Pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression.
 - Straddling or sitting on any part of the body or a maneuver that places pressure, weight, or leverage on the neck or throat, on an artery, or on the back of the student's head or neck or that otherwise obstructs or restricts the circulation of blood or obstructs an airway.
 - Any type of choking, including hand chokes, and any type of neck or head hold.
 - Prone or supine restraint.
- Requires school districts to develop policies and procedures to ensure the physical safety and security of all students and school personnel; and requires that students be treated with dignity and respect.
- Outlines under what circumstances restraint may not be used.
- Describes the circumstance when time-outs may be used and prohibits certain areas.
- Prohibits student from being placed in seclusion.
- Requires the school to review a student's functional behavioral assessment and individualized behavior intervention plan when a student is placed in time-out, physically restrained or secluded more than twice in a semester.
- Includes emotional and behavioral disabilities in the list of disabilities for which certain school personnel must be trained to identify for early intervention.
- Adds to staff training effective classroom behavior management strategies such as differential reinforcement, precision commands, minimizing attention or access to other reinforcers, and time-out methods.
- Directs DOE to publish data and analysis relating to incidents of seclusion and restraint on its website.

The bill does not appear to have a fiscal impact.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Guidance on the Use of Seclusion and Restraint on Students with Disabilities

U.S. Department of Education Guidance

On May 15, 2012, the U.S. Department of Education published the *Restraint and Seclusion: Resource Document*. The goal was to encourage each state to review its current policies and guidelines on the use of restraint and seclusion in schools to help ensure that every student is safe and protected, and, if appropriate, to develop or revise its policies and guidelines.¹

The document described 15 principles to consider when developing or revising policies and procedures on the use of restraint and seclusion. The principles stress that every effort should be made to prevent the need for the use of restraint and seclusion and that any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse. It stated that restraint or seclusion should never be used except in situations where a child's behavior poses imminent danger of serious physical harm to self or others, and restraint and seclusion should be avoided to the greatest extent possible without endangering the safety of students and staff.²

The document states that the use of restraint and seclusion can have very serious consequences, including, most tragically, death. Furthermore, there is no evidence that using restraint or seclusion is effective in reducing the occurrence of the problem behaviors. Schools are encouraged to make every effort to structure safe environments and provide a behavioral framework, such as the use of positive behavior interventions and supports, which applies to all children, staff, and places in the school so that restraint and seclusion techniques are unnecessary.³

Specifically, the 15 Principles are as follows:⁴

1. Every effort should be made to prevent the need for the use of restraint and for the use of seclusion.
2. Schools should never use mechanical restraints to restrict a child's freedom of movement, and schools should never use a drug or medication to control behavior or restrict freedom of movement (except as authorized by a licensed physician or other qualified health professional).
3. Physical restraint or seclusion should not be used except in situations where the child's behavior poses imminent danger of serious physical harm to self or others and other interventions are ineffective and should be discontinued as soon as imminent danger of serious physical harm to self or others has dissipated.
4. Policies restricting the use of restraint and seclusion should apply to all children, not just children with disabilities.
5. Any behavioral intervention must be consistent with the child's rights to be treated with dignity and to be free from abuse.
6. Restraint or seclusion should never be used as punishment or discipline (e.g., placing in seclusion for out-of-seat behavior), as a means of coercion or retaliation, or as a convenience.

¹ U.S. Department of Education, *Restraint and Seclusion: Resource Document*, May 2012, <https://www2.ed.gov/policy/seclusion/restraints-and-seclusion-resources.pdf> (last visited Dec. 13, 2017).

² *Id.*

³ *Id.*

⁴ *Id.*

7. Restraint or seclusion should never be used in a manner that restricts a child's breathing or harms the child.
8. The use of restraint or seclusion, particularly when there is repeated use for an individual child, multiple uses within the same classroom, or multiple uses by the same individual, should trigger a review and, if appropriate, revision of strategies currently in place to address dangerous behavior; if positive behavioral strategies are not in place, staff should consider developing them.
9. Behavioral strategies to address dangerous behavior that results in the use of restraint or seclusion should address the underlying cause or purpose of the dangerous behavior.
10. Teachers and other personnel should be trained regularly on the appropriate use of effective alternatives to physical restraint and seclusion, such as positive behavioral interventions and supports and, only for cases involving imminent danger of serious physical harm, on the safe use of physical restraint and seclusion.
11. Every instance in which restraint or seclusion is used should be carefully and continuously and visually monitored to ensure the appropriateness of its use and safety of the child, other children, teachers, and other personnel.
12. Parents should be informed of the policies on restraint and seclusion at their child's school or other educational setting, as well as applicable federal, state, or local laws.
13. Parents should be notified as soon as possible following each instance in which restraint or seclusion is used with their child.
14. Policies regarding the use of restraint and seclusion should be reviewed regularly and updated as appropriate.
15. Policies regarding the use of restraint and seclusion should provide that each incident involving the use of restraint or seclusion should be documented in writing and provide for the collection of specific data that would enable teachers, staff, and other personnel to understand and implement the preceding principles.

Florida Law and the Use of Restraint and Seclusion on Students with Disabilities

Section 1003.573, F.S., governs the use of restraint and seclusion on students with disabilities. The Florida Department of Education (DOE) is required to develop standards for documenting, reporting, and monitoring the use of restraint and seclusion.

Prohibited Restraint & Seclusion

School personnel are prohibited from:

- using a mechanical physical restraint on a student or manual physical restraint that restricts a student's breathing; and
- from closing, locking, or physically blocking a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.⁵

Reporting an Incident

A school must prepare an incident report within 24 hours after a student is released from a restraint or seclusion, which must include:⁶

- The name, age, grade, ethnicity and disability of the student restrained or secluded.
- The date, time, and location of the incident and the duration and type of the restraint or seclusion.
- The names of the persons restraining or assisting in the restraint of the student.
- The names of any nonstudent who was present to witness the restraint or seclusion.
- The context in which the seclusion or restraint occurred.
- The student's behavior leading up to and precipitating the decision to use restraint or seclusion.

⁵Section 1003.573(4) and (5), F.S.

⁶Section 1003.573(1), F.S.

- The specific positive behavioral strategies used to prevent and deescalate the behavior.
- Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion and documented according to district policies.
- Steps taken to notify the parent or guardian.

Schools must notify the parent or guardian of the student in writing before the end of the school day each time restraint or seclusion is used and reasonable efforts must be made to also notify the parent or guardian by telephone or email. Parents must also be provided a complete incident report in writing by mail within three days after a student was manually or physically restrained or secluded. The school must maintain documentation of the parent or guardian's acknowledgement of receipt of notification of his or her child's restraint or seclusion.⁷

Monitoring

The use of manual restraint or seclusion on students must be monitored at the classroom, building, district, and state levels. Documentation related to any incidents reported must be provided to the principal, the school district's director of Exceptional Student Education, and the DOE's Bureau of Exceptional Education and Student Services each month that the school is in session.⁸

District Policies and Procedures

School districts must develop policies and procedures regarding:⁹

- Incident reporting.
- Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the prone or mechanical restraint that is most used.
- Monitoring and reporting of data collected.
- Training programs relating to manual or physical restraint and seclusion.
- The district's plan for selecting personnel to be trained.
- The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs frequently or with students who are restrained repeatedly, and for reducing the use of prone restraint and mechanical restraint. The plan must include a goal for reducing the use of restraint and seclusion and must include activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:
 - additional training in positive behavioral support and crisis management;
 - parental involvement;
 - data review;
 - updates of students' functional behavioral analysis and positive behavior intervention plans;
 - additional student evaluations;
 - debriefing with staff;
 - use of schoolwide positive behavior support; and
 - changes to the school environment.

⁷Section 1003.573(1)(c) and (d), F.S.

⁸Section 1003.573(2), F.S.

⁹Section 1003.573(3), F.S.

DOE Guidance to School Districts Regarding Restraint, Seclusion, and Time-Out

In response to legislation enacted in 2011,¹⁰ DOE issued Technical Assistance Paper Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities (TAP 2011-165) to guide school districts regarding the use of restraint and seclusion with students with disabilities.¹¹

Specifically, the document covers:¹²

- when restraint and/or seclusion might be used;
- considerations when selecting a training program for restraint;
- what should be documented;
- parent notification and reporting; and
- monitoring use.

As provided in TAP 2011-165, schools should ensure that students are treated with respect and dignity in an environment that provides for the physical safety and security of students and staff. There are instances in which students pose a threat to the safety of themselves or others. The purpose of restraint and seclusion is to prevent injury to self and/or others; these procedures are not to be used to punish a student, as a deterrent, or to “teach a student a lesson.” It is important to recognize that the use of restraint and seclusion may have an emotional impact on students. Such interventions should only be used in emergency situations when an imminent risk of serious injury or death to the student or others exists and in a manner that conveys respect for the dignity of the student.¹³

In 2011, DOE also issued Technical Assistance Paper Guidelines for the Use of Time-out (TAP 2011-145),¹⁴ to provide guidance and information to school districts in the development of effective time-out procedures. According to TAP 2011-145, time-out uses intervention strategies to decrease the frequency of problematic behaviors. Although time-out can be an effective intervention, it is also an aversive procedure that may adversely impact the classroom learning environment. Of particular concern is its focus primarily on inappropriate, rather than appropriate, behavior and the impact on a student’s access to instruction. The use of time-out has also been the subject of litigation, specifically concerning its use with students with behavior disorders.¹⁵

A non-exclusionary time-out occurs when a student does not have the opportunity to receive reinforcement for an inappropriate behavior for a specified period of time without removing the student from the setting or the activity. The advantage of this type of time-out is that it attempts to keep the student engaged in the ongoing activity in the classroom.¹⁶

An exclusionary time-out involves removing a student from an activity for a period of time but not from the room or area of activity. Unlike contingent observation, the student is not allowed to view or be involved in any activity for a specified amount of time. The student may sit in a study carrel or in some other excluded area of the educational setting but remains in full view of instructional staff.¹⁷

There are no current State Board of Education Rules that define time-out procedures or requirements. Each district that uses time-out as an intervention strategy should develop procedures that are educationally appropriate and ensure a safe educational learning environment at all times.

¹⁰ Chapter 2011-175, L.O.F.

¹¹ Florida Department of Education, Technical Assistance Paper, *Guidelines for the Use, Documentation, Reporting, and Monitoring of Restraint and Seclusion with Students with Disabilities*, <https://info.fl DOE.org/docushare/dsweb/Get/Document-6212/dps-2011-165.pdf> (last visited Dec. 13, 2017).

¹² *Id.*

¹³ *Id.* at A-1.

¹⁴ Florida Department of Education, Technical Assistance Paper, *Guidelines for the Use of Time-out*, <https://info.fl DOE.org/docushare/dsweb/Get/Document-6219/dps-2011-145.pdf> (last visited Dec. 13, 2017).

¹⁵ *Id.* at A-1.

¹⁶ *Id.* at B-1.

¹⁷ *Id.* at B-1.

Consequently, the information in TAP 2011-145 is a guide for the development of time-out procedures and strategies based on best practices.¹⁸

DOE Seclusion and Restraint Data

Florida school districts began reporting incidents of seclusion in the 2010-2011 school year. Since that time and up to the 2016-2017 school year there have been a total of 19,354 incidents of seclusion¹⁹ and 63,652 incidents of restraint²⁰ reported. However, the number of incidents have decreased every school year since the enactment of the law.²¹

Seclusion Incident Data

School Year Reported	# of Students ²²	Seclusion Incidents
2010-11	1321	4,637
2011-12	1448	4,245
2012-13	1237	3,024
2013-14	885	2,272
2014-15	732	2,262
2015-16	638	1,563
2016-17	503	1,351
Total	6,621	19,354

Restraint Incident Data

School Year Reported	# of Students ²³	Restraint Incidents
2010-11	3580	10,683
2011-12	4369	9,789
2012-13	4096	9,551
2013-14	3479	8,964
2014-15	3229	8,199
2015-16	3437	7,696
2016-17	3239	8,770
Total	22,190	63,652

Effect of Proposed Changes

This bill amends s. 1003.573, F.S., regarding the restraint of public school students who have a functional behavioral assessment and an individualized behavioral intervention plan.

¹⁸ *Id* at A-1.

¹⁹ Florida Department of Education, Bureau of Exceptional Education, *Seclusion Incident Reports by District*, 2011-12 through 2015-16.

²⁰ Florida Department of Education, Bureau of Exceptional Education, *Restraint Incident Reports by District*, 2011-12 through 2015-16.

²¹ Florida Department of Education, *2018 Agency Legislative Bill Analysis*, SB 2600 (Companion to HB 63), pp. 4.

<http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=20960&yr=2018> (last visited Dec. 18, 2017).

²² Email, Florida Department of Education, December 18, 2017.

²³ *Id.*

Definitions

The bill defines the following terms:

- "Department" means Department of Education.
- "Exclusionary time" means the period during which a student is removed from an event, activity, or instructional environment to encourage reflection on behavior and allow space and time for the understanding of choices and consequences.
- "Nonexclusionary time" means a period during which the student remains in the event or instructional environment but is redirected from the activities so that he or she has an opportunity to reflect on the behavior and is given space and time for the understanding of choices and consequences.
- "Imminent risk of serious injury or death" means the impending risk of a significant injury, such as a laceration, bone fracture, substantial hematoma, or injury to an internal organ, or death.
- "Medical protective equipment" means health-related protective devices prescribed by a physician or dentist for use as student protection in response to an existing medical condition.
- "Restraint" means the use of a mechanical or physical restraint which may be used only when all other behavioral strategies and intervention techniques have been exhausted.
- "Mechanical restraint" means the use of a physical device that restricts a student's freedom of movement. However, the definition does not include the use of:
 - Medical protective equipment;
 - Devices such as helmets, gloves, wraps, and other behavioral protective equipment that is temporarily used to prevent severe tissue damage;
 - Physical equipment or orthopedic appliances, surgical dressings or bandages, or supportive body bands or other restraints;
 - Devices used to support functional body position or proper balance, or to prevent a person from falling out of a bed or a wheelchair; and
 - Equipment used for safety during transportation.
- "Physical restraint" means the use of manual restraint techniques that involve significant physical force applied by a teacher or other staff member to restrict the movement of all or part of a student's body.
- "Seclusion" means the removal of a student from an educational environment, involuntarily confining the student in a room or area, and preventing the student from leaving the area by locking or artificially blocking the door. The term does not include exclusionary time.
- "Student" means a student with a functional behavioral assessment and a behavioral intervention plan.²⁴

Physical Restraint

Section 1003.32, F.S., authorizes district school boards, each teacher, or other member of the staff of any school to control and discipline students as assigned to him or her by the principal or the principal's designated representative. Teachers are also required to keep order in the classroom and in other places in which he or she is assigned to be in charge of students.

The bill provides that notwithstanding the authority granted under s. 1003.32, F.S., physical restraint may be used only to protect students, school personnel or others. Restraints may not be used to discipline a student and should be used only when all other strategies and techniques have been exhausted. A student may be restrained only for the time necessary for protection. The degree of force

²⁴ A functional behavioral assessment is a process for developing a useful understanding of how behavior relates to the environment. By knowing the function (or purpose) that the behavior serves for the student, one is able to develop an intervention (plan) that also serves that purpose, but does so through positive student behaviors. Intervention strategies may include effective prevention, remediation, or development of alternative behaviors (replacement behaviors). Florida Department of Education, Technical Assistance Paper FY 1999-3, *Functional Behavioral Assessment and Behavioral Intervention Plans*, Dec. 1999, available at <http://www.fldoe.org/core/fileparse.php/7590/urlt/0107234-tap99-3.pdf> (last visited Dec. 13, 2017).

applied may not exceed the degree of force necessary to protect the restrained student and others from serious injury or death.

While current law requires school districts to develop policies and procedures for training staff in the use of restraint and seclusion, the bill requires school personnel such as a former law enforcement officer to receive training in the specific district-approved techniques.

The bill prohibits school personnel from using the following techniques on a student:

- Pain inducement to obtain compliance.
- Bone locks.
- Hyperextension of joints.
- Peer restraint.
- Pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen, causing chest compression.
- Straddling or sitting on any part of the body or a maneuver that places pressure, weight, or leverage on the neck or throat, on an artery, or on the back of the student's head or neck or that otherwise obstructs or restricts the circulation of blood or obstructs an airway.
- Any type of choking, including hand chokes, and any type of neck or head hold.
- A technique that involves spraying or pushing anything on or into the student's mouth, nose, eyes, or any part of the face or that involves covering the face or body with anything, including soft objects such as pillows or washcloths.
- A maneuver that involves punching, hitting, poking, pinching, or shoving.
- Prone or supine restraint.

Exclusionary and Nonexclusionary Time

The bill provides that a student may be placed in exclusionary or nonexclusionary time only if the following conditions are met:

- It is part of a positive behavior intervention plan developed for the student from a functional behavioral assessment and it is referenced in the student's individualized behavior intervention plan.
- It is documented that it was preceded by positive behavioral supports that were not effective.
- It takes place in a classroom or in another environment where educational class activities are available.
- The student is not physically prevented from leaving the exclusionary or nonexclusionary time area. The student is observed on a constant basis by an adult for the entire duration.
- The area and process are free of actions that embarrass or humiliate the student.
- The exclusionary or nonexclusionary time does not exceed 1 minute for each year of a student's age or until the student is calm enough to return to his or her seat.
- The exclusionary or nonexclusionary time is not used as a punishment or negative consequence.

Training

The bill requires that each school district report its procedures for restraint training to the DOE by publishing the procedures in the district's special policies and procedures manual. Restraint training must include all of the following:

- Procedures for deescalating a problem behavior before the problem behavior increases to a level or intensity necessitating physical intervention.
- Information regarding the risks associated with restraint and procedures for assessing individual situations and students in order to determine whether the use of restraint is appropriate and sufficiently safe.
- The actual use of specific techniques that range from the least to most restrictive, with ample opportunity for trainees to demonstrate proficiency in the use of such techniques.

- Techniques for implementing restraint with multiple staff members working as a team.
- Techniques for assisting a student in reentering the instructional environment and reengaging in learning.
- Instruction in the district's documentation and reporting requirements.
- Procedures to identify and deal with possible medical emergencies arising during the use of restraint.
- Cardiopulmonary resuscitation.

Student-Centered Followup

In those instances where a student is restrained more than twice during a semester, the school must review:

- The incidents in which restraint was used and an analysis of how future incidents may be avoided;
- The student's functional behavioral assessment and positive behavior intervention plan by the school personnel and parent within two weeks before the end of the semester; and
- The training provided to school personnel concerning the use of restraint.

Documentation and Reporting Requirements

The bill requires school districts at the beginning of each school year to post its policies on emergency procedures and the posting must include restraint and seclusion policies.

Additionally, the bill states that school district policies must provide for the physical safety and security of students and school personnel and promote a positive culture and climate in which all students are treated with dignity and respect.

Schools are required to prepare incident reports within 24 hours of a student being restrained. The reports must include information such as the student's name, age, grade, ethnicity, disability, date and time of event, restraint duration, location, individuals involved, witnesses, and a description of the incident. Also, the report must include the date the person restraining the student was last trained in the use of restraints on students.

Prohibited Restraint and Seclusion

School personnel are prohibited from using straitjackets or restraint techniques that restricts a student's breathing. School personnel are also prohibited from placing a student in seclusion.

Continuing Education and Inservice Training for Teaching Students with Disabilities

The bill adds emotional and behavioral disabilities to the list of disabilities on which school personnel must be trained in order to increase early identification and intervention. The training must also include effective classroom behavior management strategies, such as differential reinforcement, precision commands, minimizing attention or access to other reinforcers, and exclusionary or nonexclusionary time methods.

Also, the DOE is required to publish data and analysis relating to incidents of restraint on its website beginning October 1, 2018.

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

B. SECTION DIRECTORY:

- Section 1.** Amends s. 1003.573, F.S., defining terms; prohibiting certain physical restraint techniques; adding provisions relating to the use of exclusionary and nonexclusionary time; requiring a student's functional behavioral assessment and individualized behavior intervention plan to be reviewed; and adding emotional and behavioral disabilities to the list of disabilities on which school personnel who teach student with disabilities must be trained in order to increase early identification and intervention.
- Section 2.** Amends s. 1012.582 (1) – (2), F.S., regarding the Commissioner of Education's recommendations to incorporate instruction into continuing education or inservice training requirements for instruction personnel by:
- Adding emotional or behavioral disabilities to the current list of disabilities;
 - Removing the term "manual" from "manual physical restraints"; and
 - Adding a list of effective classroom behavior management strategies.
- Section 3:** 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:
None.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the PreK-12 Quality Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment prohibits school personnel from using the technique of prone or supine restraint.

The analysis has been drafted to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to students with disabilities in
 3 public schools; amending s. 1003.573, F.S., relating
 4 to the seclusion and restraint of students with
 5 disabilities; providing definitions; providing
 6 requirements for the use of restraint; prohibiting
 7 specified physical restraint techniques; providing
 8 requirements for the use of exclusionary and
 9 nonexclusionary time; providing requirements for
 10 school districts to report and publish training
 11 procedures; providing for student-centered followup;
 12 providing requirements for documenting, reporting, and
 13 monitoring the use of restraint and seclusion;
 14 revising school district policies and procedures
 15 relating to restraint and seclusion; amending s.
 16 1012.582, F.S.; requiring continuing education and
 17 inservice training for teaching students with
 18 emotional or behavioral disabilities; conforming
 19 provisions; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 1003.573, Florida Statutes, is amended
 24 to read:

25 1003.573 Seclusion and Use of restraint of and seclusion

26 ~~on~~ students with disabilities in public schools.-

27 (1) DEFINITIONS.-As used in this section, the term:

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

29 (b) "Exclusionary time" means the period during which a
 30 student is removed from an event, activity, or instructional
 31 environment to encourage reflection on behavior and allow space
 32 and time for understanding of choices and consequences.

33 (c) "Imminent risk of serious injury or death" means the
 34 impending risk of a significant injury, such as a laceration,
 35 bone fracture, substantial hematoma, or injury to an internal
 36 organ, or death.

37 (d) "Medical protective equipment" means health-related
 38 protective devices prescribed by a physician or dentist for use
 39 as student protection in response to an existing medical
 40 condition.

41 (e) "Nonexclusionary time" means a period during which a
 42 student remains in the event or instructional environment but is
 43 redirected from the activities so that he or she has an
 44 opportunity to reflect on the behavior and is given space and
 45 time for understanding of choices and consequences.

46 (f) "Restraint" means the use of a mechanical or physical
 47 restraint which may be used only when all other behavioral
 48 strategies and intervention techniques have been exhausted.

49 1. "Mechanical restraint" means the use of a device that
 50 restricts a student's freedom of movement. The term does not

- 51 include the use of any of the following:
- 52 a. Medical protective equipment.
 - 53 b. Behavioral protective equipment, including helmets,
54 gloves, wraps, and other devices that are used temporarily to
55 prevent severe tissue damage caused by behavioral excesses.
 - 56 c. Physical equipment or orthopedic appliances, surgical
57 dressings or bandages, or supportive body bands or other
58 restraints necessary for ongoing medical treatment in the
59 educational setting.
 - 60 d. Devices used to support functional body position or
61 proper balance, or to prevent a person from falling out of a bed
62 or a wheelchair, except when such a device is used for a purpose
63 other than supporting a body position or proper balance, such as
64 coercion, discipline, convenience, or retaliation, to prevent
65 imminent risk of serious injury or death of the student or
66 others, or for any other behavior management reason.
 - 67 e. Equipment used for safety during transportation, such
68 as seatbelts or wheelchair tie-downs.
- 69 2. "Physical restraint" means the use of manual restraint
70 techniques that involve significant physical force applied by a
71 teacher or other staff member to restrict the movement of all or
72 part of a student's body.
- 73 (g) "Seclusion" means the removal of a student from an
74 educational environment, involuntarily confining the student in
75 a room or area, and preventing the student from leaving the area

76 by locking or artificially blocking the door. The term does not
 77 include exclusionary time.

78 (h) "Student" means a student with a functional behavioral
 79 assessment and an individualized behavior intervention plan.

80 (2) PHYSICAL RESTRAINT.—

81 (a) Physical restraint may be used only when there is an
 82 imminent risk of serious injury or death to the student or
 83 others and only for the period of time necessary to eliminate
 84 such risk.

85 (b) Notwithstanding the authority provided in s. 1003.32,
 86 physical restraint shall be used only to protect the safety of
 87 students, school personnel, or others and may not be used for
 88 student discipline, to correct student noncompliance, or for the
 89 convenience of school district staff. Physical restraint shall
 90 be used only for the period needed to provide such protection.

91 (c) The degree of force applied during physical restraint
 92 must be only that degree of force necessary to protect the
 93 student or others from serious injury or death.

94 (d) School personnel who have received training that is
 95 not associated with their employment with the school district,
 96 such as a former law enforcement officer who is now a teacher,
 97 shall receive training in the specific district-approved
 98 techniques and may not apply techniques or procedures acquired
 99 elsewhere.

100 (e) School personnel may not use any of the following

101 physical restraint techniques on a student:
 102 1. Pain inducement to obtain compliance.
 103 2. Bone locks.
 104 3. Hyperextension of joints.
 105 4. Peer restraint.
 106 5. Pressure or weight on the chest, lungs, sternum,
 107 diaphragm, back, or abdomen causing chest compression.
 108 6. Straddling or sitting on any part of the body or any
 109 maneuver that places pressure, weight, or leverage on the neck
 110 or throat, on an artery, or on the back of the head or neck or
 111 that otherwise obstructs or restricts the circulation of blood
 112 or obstructs an airway.
 113 7. Any type of choking, including hand chokes, and any
 114 type of neck or head hold.
 115 8. A technique that involves spraying or pushing anything
 116 on or into the mouth, nose, eyes, or any part of the face or
 117 that involves covering the face or body with anything, including
 118 soft objects such as pillows or washcloths.
 119 9. Any maneuver that involves punching, hitting, poking,
 120 pinching, or shoving.
 121 10. Prone or supine restraint.
 122 (3) EXCLUSIONARY AND NONEXCLUSIONARY TIME.—
 123 (a) School personnel may place a student in exclusionary
 124 or nonexclusionary time if all of the following conditions are
 125 met:

126 1. The exclusionary or nonexclusionary time is part of a
 127 positive behavioral intervention plan developed for the student
 128 from a functional behavioral assessment and referenced in the
 129 student's individualized behavior intervention plan.

130 2. There is documentation that the exclusionary or
 131 nonexclusionary time was preceded by the use of other positive
 132 behavioral supports that were not effective.

133 3. The exclusionary or nonexclusionary time takes place in
 134 a classroom or in another environment where class educational
 135 activities are taking place.

136 4. The student is not physically prevented from leaving
 137 the exclusionary or nonexclusionary time area.

138 5. The student is observed on a constant basis by an adult
 139 for the duration of the exclusionary or nonexclusionary time.

140 6. The exclusionary or nonexclusionary time area and
 141 process are free of any action that is likely to embarrass or
 142 humiliate the student.

143 (b) Exclusionary or nonexclusionary time may not be used
 144 for a period that exceeds 1 minute for each year of a student's
 145 age or until the student is calm enough to return to his or her
 146 seat.

147 (c) Exclusionary or nonexclusionary time may not be used
 148 as a punishment or negative consequence of a student's behavior.

149 (4) TRAINING.—

150 (a) Each school district shall report its procedures for
 151 training in the use of restraint to the department by publishing
 152 the procedures in the district's special policies and procedures
 153 manual.

154 (b) Training in the use of restraint must include all of
 155 the following:

156 1. Procedures for deescalating a problem behavior before
 157 the problem behavior increases to a level or intensity
 158 necessitating physical intervention.

159 2. Information regarding the risks associated with
 160 restraint and procedures for assessing individual situations and
 161 students in order to determine whether the use of restraint is
 162 appropriate and sufficiently safe.

163 3. The actual use of specific techniques that range from
 164 the least to most restrictive, with ample opportunity for
 165 trainees to demonstrate proficiency in the use of such
 166 techniques.

167 4. Techniques for implementing restraint with multiple
 168 staff members working as a team.

169 5. Techniques for assisting a student in reentering the
 170 instructional environment and reengaging in learning.

171 6. Instruction in the district's documentation and
 172 reporting requirements.

173 7. Procedures to identify and deal with possible medical
 174 emergencies arising during the use of restraint.

175 8. Cardiopulmonary resuscitation.
 176 (5) STUDENT-CENTERED FOLLOWUP.--If a student is restrained
 177 more than twice during a semester, the school shall conduct a
 178 review of:

179 (a) The incidents in which restraint was used and an
 180 analysis of how future incidents may be avoided;

181 (b) The student's functional behavioral assessment and
 182 positive behavioral intervention plan by the school personnel
 183 and parent within two weeks before the end of the semester; and

184 (c) The training provided to school personnel concerning
 185 the use of restraint.

186 (6)~~(1)~~ DOCUMENTATION AND REPORTING.--

187 (a) At the beginning of each school year, a school
 188 district shall publicly post its policies on all emergency
 189 procedures, including its policies on the use of restraint and
 190 seclusion.

191 (b)~~(a)~~ A school shall prepare an incident report within 24
 192 hours after a student is released from restraint ~~or seclusion.~~
 193 If the student's release occurs on a day before the school
 194 closes for the weekend, a holiday, or another reason, the
 195 incident report must be completed by the end of the school day
 196 on the day the school reopens.

197 (c)~~(b)~~ The following must be included in the incident
 198 report:

199 1. The name of the student restrained ~~or secluded.~~

- 200 2. The age, grade, ethnicity, and disability of the
 201 student restrained ~~or secluded~~.
- 202 3. The date and time of the event and the duration of the
 203 restraint ~~or seclusion~~.
- 204 4. The location at which the restraint ~~or seclusion~~
 205 occurred.
- 206 5. A description of the type of restraint used in terms
 207 established by the department ~~of Education~~.
- 208 6. The name of the person using or assisting in the
 209 restraint ~~or seclusion~~ of the student and the date the person
 210 was last trained in the use of restraint on students.
- 211 7. The name of any nonstudent who was present to witness
 212 the restraint ~~or seclusion~~.
- 213 8. A description of the incident, including all of the
 214 following:
- 215 a. The context in which the restraint ~~or seclusion~~
 216 occurred.
- 217 b. The student's behavior leading up to and precipitating
 218 the decision to use ~~manual or physical~~ restraint ~~or seclusion~~,
 219 including an indication as to why there was an imminent risk of
 220 serious injury or death to the student or others.
- 221 c. The specific positive behavioral strategies used to
 222 prevent and deescalate the behavior.
- 223 d. What occurred with the student immediately after the
 224 termination of the restraint ~~or seclusion~~.

225 e. Any injuries, visible marks, or possible medical
 226 emergencies that may have occurred during the restraint ~~or~~
 227 ~~seclusion~~, documented according to district policies.

228 f. Evidence of steps taken to notify the student's parent
 229 or guardian.

230 (d)~~(e)~~ A school shall notify the parent or guardian of a
 231 student each time ~~manual or physical~~ restraint ~~or seclusion~~ is
 232 used. Such notification must be in writing and provided before
 233 the end of the school day on which the restraint ~~or seclusion~~
 234 occurs. Reasonable efforts must also be taken to notify the
 235 parent or guardian by telephone or ~~computer~~ e-mail, or both, and
 236 these efforts must be documented. The school shall obtain, and
 237 keep in its records, the parent's or guardian's signed
 238 acknowledgment that he or she was notified of his or her child's
 239 restraint ~~or seclusion~~.

240 (e)~~(d)~~ A school shall also provide the parent or guardian
 241 with the completed incident report in writing by mail within 3
 242 school days after a student was ~~manually or physically~~
 243 restrained ~~or secluded~~. The school shall obtain, and keep in its
 244 records, the parent's or guardian's signed acknowledgment that
 245 he or she received a copy of the incident report.

246 (7)~~(2)~~ MONITORING.—

247 (a) ~~Monitoring of~~ The use of ~~manual or physical~~ restraint
 248 ~~or seclusion~~ on students shall be monitored ~~occur~~ at the
 249 classroom, building, district, and state levels.

250 (b) Any documentation prepared by a school pursuant to as
 251 ~~required in subsection (6) (1)~~ shall be provided to the school
 252 principal, the district director of Exceptional Student
 253 Education, and the bureau chief of the Bureau of Exceptional
 254 Education and Student Services electronically each month that
 255 the school is in session.

256 (c) The department shall maintain aggregate data of
 257 incidents of ~~manual or physical restraint and seclusion~~ and
 258 disaggregate the data for analysis by county, school, student
 259 exceptionality, and other variables, including the type and
 260 method of restraint ~~or seclusion~~ used. This information shall be
 261 updated monthly and made available to the public through the
 262 department's website beginning no later than October 1, 2018.

263 (d) The department shall establish standards for
 264 documenting, reporting, and monitoring the use of ~~manual or~~
 265 ~~physical restraint or mechanical restraint, and occurrences of~~
 266 ~~seclusion~~. These standards shall be provided to school districts
 267 ~~by October 1, 2011.~~

268 (8)(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.-

269 (a) School districts shall develop policies and procedures
 270 that provide for the physical safety and security of all
 271 students and school personnel and which treat all students with
 272 respect and dignity in an environment that promotes a positive
 273 school culture and climate. Such ~~Each school district shall~~
 274 ~~develop~~ policies and procedures must be that are consistent with

275 | this section and must ~~that~~ govern the following:

276 | 1. A description of escalating behavioral strategies that
 277 | may be used.

278 | 2. Allowable use of restraint on students.

279 | 3. Training procedures.

280 | 4.1. Incident-reporting procedures.

281 | 5.2. Data collection and monitoring, including when,
 282 | where, and why students are restrained and ~~or secluded;~~ the
 283 | frequency of occurrences of such restraint ~~or seclusion;~~ and the
 284 | ~~prone or mechanical restraint that is most used.~~

285 | 6.3. Monitoring and reporting of data collected.

286 | 7.4. Training programs and procedures relating to ~~manual~~
 287 | ~~or physical~~ restraint ~~and seclusion.~~

288 | 8.5. The district's plan for selecting personnel to be
 289 | trained and the timeframe for completing such training pursuant
 290 | to subsection (4).

291 | 9.6. The district's plan for reducing the use of
 292 | restraint, ~~and seclusion~~ particularly in settings in which it
 293 | occurs frequently or with students who are restrained
 294 | repeatedly, ~~and for reducing the use of prone restraint and~~
 295 | ~~mechanical restraint.~~ The plan must include a goal for reducing
 296 | the use of restraint ~~and seclusion~~ and must include activities,
 297 | skills, and resources needed to achieve that goal. Activities
 298 | may include, but are not limited to, all of the following:

299 | a. Additional training in positive behavioral support and

- 300 crisis management.†
- 301 b. Parental involvement.†
- 302 c. Data review.†
- 303 d. Updates of students' functional behavioral analysis and
- 304 positive behavior intervention plans.†
- 305 e. Additional student evaluations.†
- 306 f. Debriefing with staff.†
- 307 g. Use of schoolwide positive behavior support.† and
- 308 h. Changes to the school environment.
- 309 10. Analysis of data to determine trends.
- 310 11. Ongoing reduction of the use of restraint.

311 (b) Any revisions a school district makes to its ~~to the~~
 312 ~~district's~~ policies and procedures, which must be prepared as
 313 part of the school district's ~~its~~ special policies and
 314 procedures, must be filed with the bureau chief of the Bureau of
 315 Exceptional Education and Student Services ~~no later than January~~
 316 ~~31, 2012.~~

317 (9)(4) PROHIBITED RESTRAINT.—School personnel may not use
 318 straitjackets or a mechanical restraint or a manual or physical
 319 restraint that restricts a student's breathing.

320 (10)(5) SECLUSION.—School personnel may not place a
 321 student in seclusion ~~close, lock, or physically block a student~~
 322 ~~in a room that is unlit and does not meet the rules of the State~~
 323 ~~Fire Marshal for seclusion time-out rooms.~~

324 Section 2. Subsections (1) and (2) of section 1012.582,

325 Florida Statutes, are amended to read:

326 1012.582 Continuing education and inservice training for
 327 teaching students with developmental and emotional or behavioral
 328 disabilities.-

329 (1) The Commissioner of Education shall develop
 330 recommendations to incorporate instruction regarding autism
 331 spectrum disorder, Down syndrome, ~~and~~ other developmental
 332 disabilities, and emotional or behavioral disabilities into
 333 continuing education or inservice training requirements for
 334 instructional personnel. These recommendations shall address:

335 (a) Early identification of, and intervention for,
 336 students who have autism spectrum disorder, Down syndrome, ~~or~~
 337 other developmental disabilities, or emotional or behavioral
 338 disabilities.

339 (b) Curriculum planning and curricular and instructional
 340 modifications, adaptations, and specialized strategies and
 341 techniques.

342 (c) The use of available state and local resources.

343 (d) The use of positive behavioral supports to deescalate
 344 problem behaviors.

345 (e) Appropriate use of ~~manual~~ physical restraint and
 346 seclusion techniques and effective classroom behavior management
 347 strategies, including, but not limited to, differential
 348 reinforcement, precision commands, minimizing attention or
 349 access to other reinforcers, and exclusionary and

350 nonexclusionary time methods.

351 (2) In developing the recommendations, the commissioner
352 shall consult with the State Surgeon General, the Director of
353 the Agency for Persons with Disabilities, representatives from
354 the education community in the state, and representatives from
355 entities that promote awareness about autism spectrum disorder,
356 Down syndrome, ~~and~~ other developmental disabilities, and
357 emotional or behavioral disabilities and provide programs and
358 services to persons with ~~developmental~~ disabilities, including,
359 but not limited to, regional autism centers pursuant to s.
360 1004.55.

361 Section 3. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1175 Early Learning Coalitions
SPONSOR(S): PreK-12 Quality Subcommittee; Sullivan
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1532

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	13 Y, 0 N, As CS	Dehmer	DavisGreene
2) Education Committee		Dehmer	Hassell

SUMMARY ANALYSIS

The School Readiness Program provides subsidies for childcare services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities. The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Office of Child Care of the United States Department of Health and Human Services. It is administered by early learning coalitions (ELCs) at the county or regional level. Florida's OEL administers the program at the state level, including statewide coordination of the ELCs.

In order to be eligible to deliver the School Readiness program, a provider must be properly licensed, meet basic health and safety requirements for its premises and comply with the age-appropriate immunizations of children enrolled in the school readiness program.

Provider responsibilities include, but are not limited, to:

- employing childcare personnel who have satisfied background screening and training requirements;
- providing instruction to enhance progress of children to attain child development standards;
- providing activities to foster brain development in infants and toddlers;
- executing the standard statewide provider contract adopted by OEL;
- implementing a character development program;
- maintaining general liability, worker's compensation and unemployment insurance coverage; and
- administering approved assessments.

If a school readiness program provider fails or refuses to comply with any contractual obligation of the statewide provider contract, the ELC may revoke the provider's eligibility to deliver the school readiness program or receive state or federal funds for a period of 5 years.

The bill authorizes the ELC to refuse to contract with, or revoke the eligibility of, a school readiness program provider if the provider has been cited for a Class I violation. Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.

The bill does not have a fiscal impact on state or local governments.

This bill takes effect July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Established in 1999,¹ the School Readiness Program provides subsidies for childcare services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness Program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, and the Voluntary Prekindergarten Education (VPK) Program.³

The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL)⁴ and the Office of Child Care of the United States Department of Health and Human Services.⁵ It is administered by early learning coalitions (ELCs) at the county or regional level.⁶

Florida's OEL administers the program at the state level, including statewide coordination of the ELCs.⁷ The OEL administers the federal Child Care and Development Fund, which funds are used to implement the School Readiness Program. Florida law requires the OEL to focus on improving the educational quality of all program providers participating in the School Readiness Program while preserving parental choice by permitting parents to choose from a variety of child care categories.⁸ The OEL must adopt, in rule, a statewide provider contract to be used by each School Readiness Program provider, review and approve each ELC's school readiness plan every 2 years, and monitor and evaluate the performance of each ELC in administering the School Readiness Program and the VPK.⁹

The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's childcare provider licensing program, inspects licensed and license exempt childcare providers that provide the School Readiness Program for specified health and safety standards.¹⁰ The law authorizes a county to designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards. Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. Thus, in these five counties the local licensing

¹ Section 1, ch. 99-357, L.O.F.

² Section 1002.87, F.S.

³ Florida Office of Early Learning, *Parents*,

http://www.floridaearlylearning.com/parents/early_learning_programs_and_services/school_readiness.aspx (last visited January 10, 2018).

⁴ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness Program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified as s.* 1002.213, F.S.

⁵ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/occ/fact-sheet-occ> (last visited January 10, 2018).

⁶ Section 1002.83, F.S.

⁷ Section 1001.213(3), F.S.

⁸ Section 1002.82(1) and (2)(a)-(b), F.S. Care and curriculum by a faith-based provider must not be limited or excluded in any of these categories. Section 435.07(4)(c), F.S.

⁹ Section 1002.82(2)(e), (m), and (p), F.S.

¹⁰ See ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

agency, not DCF, inspects childcare providers that provide the School Readiness Program¹¹ for health and safety standards.

In order to be eligible to deliver the School Readiness program, a provider must be:

- a licensed child care facility;
- a licensed or registered family day care home (FDCH);
- a licensed large family child care home (LFCCH);
- a public school or nonpublic school;
- a license-exempt faith-based child care provider;
- a before-school or after-school program; or
- an informal childcare provider authorized in the state's Child Care and Development Fund plan.¹²

All school readiness providers must be inspected¹³ to ensure compliance with basic health and safety for its premises and comply with the age-appropriate immunizations of children enrolled in the school readiness program. For licensed providers, compliance with the requirements for licensure meets these requirements. DCF or the local licensing agency verify compliance with the specified health and safety requirements. School Readiness registered family day care homes and providers not subject to licensure by the DCF must also meet these requirements as verified by inspection by DCF or the local licensing agency.¹⁴ In addition, each childcare facility, family day care home, and large family day care home must annually submit an affidavit of compliance with the requirement to report instances of child abuse, abandonment, or neglect.¹⁵

Provider responsibilities include, but are not limited, to:

- employing childcare personnel who have satisfied background screening and training requirements;
- providing instruction and activities to enhance the age-appropriate progress of each child to attain the child development standards adopted by OEL;
- providing activities to foster brain development in infants and toddlers in an environment rich in language and music and visual, tactile, auditory, and linguistic stimulation and including 30 minutes of reading to children each day;
- executing the standard statewide provider contract adopted by OEL;
- implementing a character development program;
- maintaining minimum general liability insurance coverage;
- maintaining any required worker's compensation insurance and any required unemployment compensation insurance;
- administering pre-assessments and post-assessments that have been approved by the OEL, but only if the provider chooses to administer such assessments;¹⁶

If a school readiness program provider fails or refuses to comply with any contractual obligation of the statewide provider contract, the ELC may revoke the provider's eligibility to deliver the school readiness program or receive state or federal funds for a period of 5 years.¹⁷

¹¹ Section 402.306(1), F.S.; Department of Children and Families, *Licensing Information*, <http://www.myflfamilies.com/service-programs/child-care/licensing-information> (last visited January 10, 2018).

¹² Section 1002.88(1)(a), F.S. Generally speaking, informal childcare is care provided by a relative. See *CCDF State Plan*, *supra* note 10.

¹³ Rule 6M-4.620, F.A.C. The Department of Children and Families or the local licensing agency (whichever is applicable) is authorized to inspect school readiness providers.

¹⁴ Section 1002.88(1)(c), F.S.

¹⁵ Section 402.319(3), F.S.

¹⁶ Section 1002.88(1), F.S.

¹⁷ Section 1002.88(2), F.S.

Currently, ELCs may terminate a provider's contract if the provider has one or more Class I violations, five or more Class II violations or six or more Class III violation, and the violation(s) pose an immediate and serious danger to the health, safety or welfare of the children in care.¹⁸

Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child. Class II violations are less serious than Class I violations, and could pose a threat to the health, safety or well-being of a child, although the threat is not imminent. Class III violations are less serious than either Class I or Class II violations, and pose a low potential for harm to children.¹⁹ A list of Class I, II and III violations are provided in the Office of Early Learning, School Readiness Program, Health and Safety Checklist.²⁰

Effect of Proposed Changes

The bill authorizes ELCs to refuse to contract with, or revoke the eligibility of, a school readiness program provider if the provider has been cited for a Class I violation.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.88, F.S., relating to school readiness program provider standards and eligibility to deliver the school readiness program.

Section 2. Provides and effective date of July 1, 2018.

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.

¹⁸ The Office of Early Learning, *School Readiness Program Health and Safety Standards Handbook, February 2017*, at 51-51, available at

http://www.floridacarlylearning.com/sites/www/Uploads/files/Statewide%20Initiatives/Health%20and%20Safety/HS%20Handbook%20Facilities_OEL-SR-6202_ADA.pdf (last visited January 10, 2018).

¹⁹ *Id.* at 50.

²⁰ Office of Early Learning, *School Readiness Program, Health and Safety Checklist, Licensed /Registered Family Child Care Homes and Informal Provides*, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-07457> (last visited January 10, 2018).

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 one amendment and reported the bill favorably as a committee substitute. The amendment authorizes ELCs to revoke the eligibility of school readiness program providers who have been cited for a Class I violation.

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 early learning coalitions; amending
3 s. 1002.88, F.S.; authorizing an early learning
4 coalition to refuse to contract with or revoke the
5 eligibility of certain school readiness program
6 providers; providing an effective date.

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

9
10 Section 1. Subsection (2) of section 1002.88, Florida
11 Statutes, is amended to read:

12 1002.88 School readiness program provider standards;
13 eligibility to deliver the school readiness program.-

14 (2) (a) If a school readiness program provider fails or
15 refuses to comply with this part or any contractual obligation
16 of the statewide provider contract under s. 1002.82(2)(m), the
17 coalition may revoke the provider's eligibility to deliver the
18 school readiness program or receive state or federal funds under
19 this chapter for a period of 5 years.

20 (b) Notwithstanding any other provision of law, if a
21 school readiness program provider has been cited for a class I
22 violation, as defined by rule, the coalition may refuse to
23 contract with the provider or revoke the provider's eligibility
24 to deliver the school readiness program.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDC 18-01 Education
SPONSOR(S): Education Committee
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Brink	Hassell

SUMMARY ANALYSIS

The bill expands school choice options for parents and strengthens accountability by:

- Establishing the Reading Education Scholarship Account to provide students who scored Level I or II on 3rd grade English Language Arts (ELA) assessment with a scholarship toward services such as tutoring, summer school, and curriculum
- Streamlines monitoring and oversight provisions for scholarship programs and adds new accountability measures regarding site visits, parental notifications, and fiscal mismanagement
- Expands allowable uses of the Gardiner scholarship to include tutoring by a person with a baccalaureate degree in the subject matter area

The bill revises provisions related to curriculum and assessments by:

- Requiring the Florida Department of Education (DOE) to disseminate templates to assist schools in developing ELA and math curricula
- Requiring paper-based assessments for grades 7-8 in ELA and Math
- Incorporating Social Studies content into reading and writing prompts on state assessments
- Requiring released assessment items to be in an electronic format that facilitates sharing of assessment items
- Requiring school districts to provide Florida Virtual School (FLVS) students with access to district testing facilities for national assessments and industry certification exams

The bill revises certain provisions related to charter schools to:

- Allow charter schools to provide school administrator and principal preparation programs that lead to certification upon approval by DOE
- Allow charter schools to delay opening from 2 years to 3 years
- Require school districts to provide charter schools with access to surplus property on the same basis as public schools
- Require school districts to provide background screening results within 14 days for charter school employees or waive the fees for screening
- Revise eligibility for high performing schools to two consecutive "A" grades and allow high performing schools to replicate two schools
- Clarifies provisions relating to charter school terminations

The bill also:

- Expands the Principal Autonomy Pilot Program Initiative to a statewide program and allows trained principals to manage multiple district schools that operate under an independent governing board
- Expands a superintendent's duties to recommend specific schools to operate under a governing board
- Revises requirements related to home education and private school articulation agreements

See Fiscal Comments, *infra*.

The bill takes effect on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Private Educational Choice Scholarship Programs

Present Situation

Current law allows parents of public school students to seek private school choice options under the John M. McKay Scholarships for Students with Disabilities Program (McKay), the Florida Tax Credit Scholarship Program (FTC), and the Gardiner Scholarship Program (GSP).¹

Under the McKay program, the parent of a public school student with a disability may request and receive a McKay Scholarship for the student to attend a private school.² Under the FTC, the parent of a student who qualifies for free or reduced-price school lunch or who is currently placed, or during the previous state fiscal year was placed, in foster care may seek a scholarship from an eligible nonprofit scholarship-funding organization.³

The GSP is available to students who are 3 or 4 years of age or are eligible to enroll in kindergarten through grade 12 in a public school, have an eligible disability,⁴ and are the subject of an IEP or have a diagnosis of an eligible disability from a physician or psychologist. Under the GSP, a parent may exercise his or her "parental option to determine the appropriate placement or the services that best meet the needs of his or her child."⁵ GSP funds may be used to reimburse purchases of the following items or services:⁶

- Instructional materials
- Curriculum
- Specialized services including, but not limited to, applied behavior analysis services and services provided by speech-language pathologists, occupational therapists, physical therapists, and listening and spoken language specialists
- Enrollment in, or tuition or fees associated with enrollment in, an eligible private school, an eligible postsecondary educational institution, a private tutoring program, a virtual program offered by a department-approved private online provider, or a department-approved online course
- Fees for standardized assessments
- Contributions to the Stanley G. Tate Prepaid College Program
- Contracted services provided by a public school or school district⁷
- Tuition and fees for part-time tutoring services provided by a person who holds a valid Florida educator's certificate or who has demonstrated a mastery of subject area knowledge
- Fees for specialized summer education program

¹ Section 1002.20(6)(b), F.S.

² Section 1002.20(6)(b)1., F.S.; *see s. 1002.39, F.S.*

³ Section 1002.20(6)(b)2., F.S.; *see s. 1002.395, F.S.*

⁴ Eligible disabilities are autism; cerebral palsy; Down syndrome; an intellectual disability; Prader-Willi syndrome; Spina bifida; Williams syndrome; for a student ages 3-5, being a high-risk child; muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; deaf; visually impaired; traumatic brain injured; hospital or homebound; or identification as dual sensory impaired, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term "hospital or homebound" includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months. Section 1002.385(2)(d), F.S.

⁵ Section 1002.385(11), F.S.

⁶ *See s. 1002.385(5), F.S.*

⁷ A student who receives contracted public school services is not considered to be enrolled in a public school for eligibility purposes.

Section 1002.385(5)(g), F.S.

- Fees for specialized after-school education programs
- Transition services provided by job coaches
- For home education students, fees for an annual evaluation of educational progress by a state-certified teacher
- Tuition and fees for approved Voluntary Prekindergarten Education Program and school readiness providers
- Fees for services provided at a member center of the Professional Association of Therapeutic Horsemanship International
- Fees for services provided by a therapist certified by the Certification Board for Music Therapists or credentialed by the Art Therapy Credentials Board, Inc.

Effect of Proposed Changes

The bill establishes the Reading Scholarship Program to provide funds for public school students who score a Level 1 or Level 2 on the Grade 3 statewide, standardized English language arts (ELA) assessment to purchase certain programs or services that will assist them in improving their reading skills. The scholarship must be offered on a first-come, first-served basis, contingent upon available funds.

In order to participate, the parent and student must:

- submit an application to an eligible scholarship funding organization by the deadline established by the scholarship funding organization;
- submit eligible expenses to the scholarship funding organization for reimbursement of qualifying expenditures, which may include:
 - instructional materials;
 - curriculum, which means a complete course of study for a particular content area or grade level, including any required supplemental materials and associated online instruction;
 - tuition and fees for part-time tutoring services provided by a person who holds a baccalaureate degree in the subject area; a person who holds an adjunct teaching certificate;⁸ or a person who has demonstrated a mastery of subject area knowledge;⁹
 - fees for summer education programs;
 - fees for after-school education programs;
 - specialized services by approved providers or by a hospital in this state which are selected by the parent and may include, but are not limited to:
 - applied behavior analysis services;¹⁰
 - services provided by speech-language pathologists;¹¹
 - occupational therapy services;¹²
 - services provided by physical therapists;¹³
 - services provided by listening and spoken language specialists and an appropriate acoustical environment for a child who is deaf or hard of hearing and who has received an implant or assistive hearing device; and
 - contributions to the Florida College Savings Program;¹⁴
- be responsible for the payment of all eligible expenses in excess of the amount in the account and the terms agreed to between the parent and the providers; and
- not receive any refund or rebate of any expenditures made in accordance with the purchase of allowable services.

⁸ See s. 1012.57, F.S.

⁹ See s. 1012.56(5), F.S.

¹⁰ See ss. 627.6686 and 641.31098, F.S.

¹¹ See s. 468.1125, F.S.

¹² See s. 468.203, F.S.

¹³ See s. 486.021, F.S.

¹⁴ See s. 1009.981, F.S.

The program must be administered by a scholarship funding organization (SFO) that is eligible to participate in the FTC.¹⁵ The organization may establish reading scholarship accounts for eligible students in accordance with current requirements of such organization, including but not limited to:

- Verification of eligible students
- Verification of eligible expenditures
- Applications for scholarships
- Issuing scholarships on a first-come, first-serve basis
- Complying with annual expenditure requirements¹⁶

Additionally, a participating SFO:

- may develop a system for payment of benefits by funds transfer, including, but not limited to, debit cards, electronic payment cards, or any other means of payment that the department deems to be commercially viable or cost-effective;
- provide payments no less frequently than on a quarterly basis; and
- may receive up to 3 percent of the amount of each scholarship award from state funds for administrative expenses if the organization has operated as a nonprofit entity for at least the preceding 3 fiscal years and did not have any findings of material weakness or material noncompliance in its most recent audit as required by law.¹⁷

When the assessment results for the Grade 3 statewide, standardized ELA assessment are reported, the school district must notify each parent whose student scored a Level 1 or Level 2 on the assessment of the process to request and receive a scholarship.

The bill provides the Department of Education (DOE) the same oversight responsibilities as those required in existing scholarship programs.¹⁸ The DOE must provide a student's scholarship funds to the organization once the organization has notified the DOE of a student's eligibility. The maximum amount of the scholarship for a student must be provided in the General Appropriations Act and 100 percent of the funds must be released to the DOE at the beginning of the first quarter of each fiscal year.

A student's scholarship account must be closed and any remaining funds, including, but not limited to, contributions to the Stanley G. Tate Florida Prepaid College Program or earnings from or contributions made to the Florida College Savings Program using program funds, revert to the state after:

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

Private School Oversight and Accountability

Present Situation

Each specific statute establishing the McKay program, the FTC, and the GSP outlines the following:

- student eligibility criteria;
- private school eligibility and responsibilities;
- parent responsibilities;
- DOE responsibilities; and
- Commissioner of Education responsibilities.

¹⁵ See s. 1002.395(16), F.S.

¹⁶ See s. 1002.395(6), F.S.

¹⁷ See s. 1002.395(6)(m), F.S.

¹⁸ See ss. 1002.385(9), F.S., 1002.39(9), F.S., and 1002.395(9), F.S.

While student eligibility criteria is specific to each program, many of the requirements regarding private schools, DOE, and the commissioner are identical.¹⁹

Currently, s. 1002.421, F.S., outlines some of the common eligibility requirements and private school responsibilities. Specifically, it provides that a private school must be a Florida private school as defined in s. 1002.01(2), F.S., must be registered, and must:

- comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d;
- notify the DOE of its intent to participate in a scholarship program;
- notify the DOE of any change in the school's name, school director, mailing address, or physical location within 15 days after the change;
- complete student enrollment and attendance verification requirements, including use of an online attendance verification form, prior to scholarship payment;
- annually complete and submit to the DOE a notarized scholarship compliance statement certifying that all school employees and contracted personnel with direct student contact have undergone background screening pursuant to s. 943.0542, F.S.;
- demonstrate fiscal soundness and accountability;
- meet applicable state and local health, safety, and welfare laws, codes, and rules, including fire safety and building safety;
- employ or contract with teachers who hold baccalaureate or higher degrees, have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught;
- require each employee and contracted personal with direct student conduct, upon employment or engagement to provide services, to undergo a state and national background screening, pursuant to s. 943.0542, F.S.;
- disqualify instructional personnel and school administrators who fail the background screening;
- adopt policies establishing standards of ethical conduct for instructional personnel and school administrators; and
- before employing instructional personnel or school administrators in any position that requires direct contact with students, conduct employment history checks of each of the personnel's or administrators' previous employers, screen the personnel or administrators through use of the educator screening tools described in s. 1001.10(5), F.S., and document the findings.²⁰

Requirements for the commissioner are similar throughout all three current scholarship programs and include the authority to:

- deny, suspend, or revoke a private school's participation in the program and to take other action as necessary to ensure compliance with the laws governing private schools participating in the program;
- deny, suspend, or revoke a private school's participation in the program if the commissioner determines that an owner or operator of the private school is operating or has operated an educational institution in Florida or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public; and
- immediately suspend payment of scholarship funds if there is probable cause to believe that there is an imminent threat to the health, safety, and welfare of the students or if there is fraudulent activity on the part of the private school.²¹

DOE responsibilities that are similar across all three programs include:

- annually verifying the eligibility of private schools;²²

¹⁹ See ss. 1002.39, F.S., 1002.385, F.S., and 1002.395, F.S.

²⁰ Section 1002.421, F.S.

²¹ Sections 1002.385(10), F.S., 1002.39(7), F.S., and 1002.395(11), F.S.

²² Sections 1002.385(9)(a), F.S., 1002.39(6)(b), F.S., and 1002.395(9)(c), F.S.

- establishing a process that allows for individuals to notify DOE of violations of state law relating to program participation;²³
- annually receiving and retaining from every participating private school a notarized, sworn compliance statement certifying compliance with state law;²⁴ and
- cross-checking the list of participating scholarship students with public school enrollment lists to avoid duplicate payments.²⁵

A number of stakeholders representing participating private schools, scholarship funding organizations, and the DOE brought several recommendations for strengthening the oversight and accountability of the scholarship programs to the PreK-12 Innovation Subcommittee Meeting on December 6, 2017.²⁶ Subsequently, these recommendations were presented to the full Education Committee on January 18, 2018.²⁷

Effect of Proposed Changes

In order to provide clarity, transparency, and improve accountability, the bill:

- streamlines and consolidates private school eligibility, DOE obligations, and commissioner authority regarding the McKay, FTC, and GSP scholarship programs;
- applies requirements and responsibilities consistently across all three scholarship programs; and
- introduces new accountability measures and strengthens specific current requirements as recommended by stakeholders.

The bill combines all the common provisions regarding private school participation requirements, DOE obligations, and commissioner authority into the current common section of statute, s. 1002.421, F.S., and removes duplicative language in the individual program statutes.

In addition to the relocation of current requirements, the bill includes new accountability provisions presented before the Education Committee that:²⁸

- authorize DOE to conduct site visits to any school that has had a complaint filed regarding a violation of state law or state board rule;
- require DOE to coordinate with the entities conducting the health and fire inspections to obtain copies of the inspection reports directly from that entity, rather than the private school;
- require private schools to provide, at a minimum, written information to the parents regarding the school's services and programs, and the qualifications of classroom teachers;
- require private schools to provide the parent with a quarterly report of the student's progress, rather than just an annual report;
- require the owner or operator of a private school to meet the same background screening requirements as owners of SFOs and report results to DOE;
- require the owner or operator of a private school that intends to transfer ownership of the school to notify the parents at least 30 calendar days in advance of the transfer;
- prohibit an owner or operator that was deemed ineligible to participate from transferring ownership or management authority to a relative in order to continue participation in a scholarship program; and

²³ Sections 1002.385(9)(c), F.S., 1002.39(6)(c), F.S.; and 1002.395(9)(f), F.S.

²⁴ Sections 1002.385(9)(1002.39(6)(d), F.S.; and 1002.421(e), F.S.

²⁵ Sections 1002.385(9)(e), F.S., 1002.39(6)(e), F.S., and 1002.395(9)(h), F.S.

²⁶ PreK-12 Innovation Subcommittee Meeting, Dec. 6, 2017, *available at*: <https://thefloridachannel.org/videos/12-6-17-house-prek-12-innovation-subcommittee/>

²⁷ Florida House of Representatives; Education Committee Meeting, Jan. 18, 2018, *available at* <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2906&Session=2018&DocumentType=Meeting%20Packets&FileName=edc%201-18-18.pdf>.

²⁸ *Id.*

- require a private school, if it receives more than \$250,000 in scholarship funds in any scholarship program, to submit an annual financial report to the SFO or DOE, as applicable.

The bill requires the State Board of Education (SBE) to adopt rules establishing deadlines for private school applications and timelines for site visits.

Owners or operators of a participating private school will continue to undergo state and national background screening requirements; however, in addition to the offenses listed in s. 435.04, F.S., the results will also be screened against offenses, including, but not limited to: fraud; forgery; and criminal use of personal identification information. Owners or operators who fail the background screening requirements are not eligible to participate in a scholarship program.

A private school that fails to meet the requirements of s. 1002.421, F.S., fails to meet a specific requirement pertaining to an individual scholarship program, or has consecutive years of material exceptions in their annual financial report, may be deemed ineligible to participate in a scholarship program under Chapter 1002, F.S.

In addition to conforming changes in the GSP, the bill revises the list of allowable expenditures by providing that GSP funds may be used for:

- tuition or fees associated with full-time or part-time enrollment in an eligible private school; and
- part-time tutoring services provided by a person who has a bachelor's degree or a graduate degree in the subject area in which instruction is given.

Currently, the law specifically references the Learning Systems Institute at Florida State University as the agency responsible for conducting the annual student achievement report required under the FTC program. The bill replaces the reference to the Learning System Institute with "state university." It also reduces the annual project appropriation from \$500,000 per year to \$250,000 per year.

Statewide Assessment Program

Present Situation

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment (grades 5 and 8).²⁹ The assessments measure the extent to which students have mastered Florida's academic content standards: the Next-Generation Sunshine State Standards (NGSSS), including Florida Standards for ELA and math.³⁰ The grade-level ELA and math assessments and Algebra I and Geometry EOC assessments are referred to as the Florida Standards Assessments (FSA). EOC assessments count as 30 percent of a student's final course grade.³¹ Results from the assessments are used to calculate school grades and school improvement ratings³² and determine student readiness for promotion to 4th grade and high school graduation.³³ In addition, school districts use student performance data from the assessments in the performance evaluations for instructional personnel and school administrators.³⁴

In 2017, the Legislature amended the law to reduce the assessment burden on public schools. Specifically, the Legislature eliminated the Algebra II end-of-course assessment and required

²⁹ Sections 1008.22(3), 1003.4156, and 1003.4282, F.S. (2017) Retake administrations are offered for the Grade 10 FSA ELA and Algebra I EOC assessment.

³⁰ See Florida Department of Education, *ESEA Flexibility Request* (August 21, 2015) at 98, available at <http://www.fldoe.org/core/fileparse.php/5637/urlt/15WaiverRenewalESEA.pdf>.

³¹ Sections 1003.4156(1)(c)-(d) and 1003.4282(3), F.S.

³² See ss. 1008.34 and 1008.341, F.S.

³³ See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

³⁴ See s. 1012.34(3)(a)1., F.S.; rule 6A-5.030(2)(a), F.A.C.

that all statewide, standardized ELA and math assessments in grades 3 through 6 must be delivered only in a paper-based format no later than the 2018-2019 school year.³⁵ As of the 2017-2018 school year all assessments, except the statewide, standardized Grade 3 ELA assessment, the writing portion of the ELA assessment for grades 4 through 7, and the science assessments for grades 5 and 8, are administered on computers.³⁶

In addition, the DOE must publish each statewide, standardized assessment and statewide EOC assessment on the DOE's website, excluding retake and alternate assessments, at least once every three years.³⁷ When published, each assessment must have been administered during the most recent school year. The law allows the commissioner to determine the schedule for publishing assessments during the 3- year period; however, subject to appropriation, the initial publication must occur no later than June 30, 2021, and must include the grade 3 ELA and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment.³⁸ The DOE, as part of the next procurement of assessments, must solicit cost proposals for publication of assessments. The DOE must also publish materials on its website to help the public interpret the published assessment information.³⁹

Effect of Proposed Changes

The bill specifies that the statewide, standardized assessments published by the DOE must be published in a format that facilitates sharing of assessment items. The bill also expands the requirement that all statewide, standardized ELA and math assessments in grades 3 through 6 be paper based by the 2018-2019 school year to include grades 7 and 8.

To increase the focus on developing student literacy skills through content-rich curriculum and instruction, the bill requires that reading passages and writing prompts used in statewide, standardized ELA assessments incorporate grade-level Social Studies core curricular content.

Professional Development and Curriculum

Present Situation

Currently, the DOE publishes test specification sheets that identify standards that are measured through the statewide, standardized assessments.⁴⁰ However, the specification sheets are not designed to assist with the development, selection, or implementation of curriculum. The 2017 Legislature took initial steps to help school districts implement standards-based curricula to develop core knowledge and literacy skills by requiring the Just Read, Florida! Office to:

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, including student attainment of the Next Generation Sunshine State Standards for social studies, science, and the arts.⁴¹

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

³⁵ See s. 35, ch. 2017-116, L.O.F., *codified at* s. 1008.22(3), F.S. (2017).

³⁶ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 7069* (2017).

³⁷ See s. 35, ch. 2017-116, L.O.F., *codified at* s. 1008.22(8), F.S. (2017).

³⁸ See *id.*

³⁹ See *id.*

⁴⁰ See, e.g., Florida Department of Education, *DRAFT Grade 4 Mathematics Item Specifications* (Nov. 2017), available at https://fsassessments.org/assets/documents/Math_G4_FSA-Item-Specifications_v5_101617.pdf.

⁴¹ Section 15, ch. 2017-116, L.O.F., *codified at* s. 1001.215(4), F.S. (2017).

instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.⁴²

Part of the DOE's responsibility in the professional development system is to disseminate to the school community research-based professional development methods and programs that have demonstrated success in meeting identified student needs.⁴³ At least one method of dissemination must be through a web-based statewide performance support system, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.⁴⁴ In addition, the DOE must disseminate, using the web-based statewide performance-support system, proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, meeting identified school needs, and providing effective teacher mentorship activities.⁴⁵ The DOE must also disseminate, using web-based technology, research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system.⁴⁶

Effect of Proposed Changes

To help school districts and teachers plan and implement effective, standards-based curricula, the bill requires that professional development resources disseminated through the web-based statewide performance-support system include sample course-at-a-glance and unit overview templates that school districts may use when developing curricula. The templates must provide an organized structure for addressing the Florida Standards, grade-level expectations, evidence outcomes, and 21st Century skills that build toward mastery at each grade level.

Each template must support teaching to greater intellectual depth and:

- provide course or year-long sequencing of concept-based unit overviews based on the Florida Standards;
- describe the knowledge and vocabulary required within the standards;
- promote the instructional shifts required within the standards; and
- illustrate the interdependence of grade level expectations within and across content areas within a grade.

Charter Schools

School Leader Preparation Programs

Present Situation

The law requires the SBE to classify school services, designate certification subject areas, establish competencies for certification, and establish certification requirements for all school-based personnel.⁴⁷ In Florida, aspiring school administrators⁴⁸ must complete a state-approved school leader preparation program and attain certification as an educational leader.⁴⁹

The law establishes two classes of certification for school administrators – educational leadership and school principal. There are two types of school leader preparation programs:

⁴² Section 1012.98(1), F.S.

⁴³ Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

⁴⁴ *Id.*

⁴⁵ Section 1012.98(11), F.S.

⁴⁶ Section 1012.98(7), F.S.

⁴⁷ Section 1012.55(1)(b), F.S.

⁴⁸ School administrators include school principals, school directors, and assistant principals. *See* s. 1012.01(3)(c), F.S.

⁴⁹ *See* s. 1012.55(1)(b), F.S.; rule 6A-4.0081, F.A.C.

- Level I programs are offered by school districts and postsecondary institutions and lead to initial certification in educational leadership for the purpose of preparing individuals to serve as school administrators.
- Level II programs are offered by school districts, build upon Level I training, and lead to certification as a school principal.⁵⁰

DOE must establish a process for the approval and renewal of Level I and Level II school leader preparation programs.⁵¹ Initial approval of a Level I or Level II program lasts for 5 years and must be approved by the DOE. Program proposals may be submitted by a postsecondary institution or school district.⁵²

Effect of Proposed Changes

The bill allows charter schools and charter management organizations to submit applications to establish Level I and Level II leader preparation programs or program renewals.

Deferral of Opening

Present Situation

Once a charter school application is approved, the initial startup commences with the beginning of the public school calendar for the district in which the charter is granted. A charter school may defer the opening of the school's operations for up to 2 years to provide time for adequate facility planning. The charter school must provide written notice of such intent to the sponsor and the parents of enrolled students at least 30 calendar days before the first day of school.

Effect of Proposed Changes

The bill allows a charter school to defer opening for up to 3 years, rather than two.

Surplus Facilities

Present Situation

If a district school board facility or property is available because it is surplus, marked for disposal, or otherwise unused, it must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving property from the school district may not sell or dispose of such property without written permission of the school district.⁵³

Tangible personal property that has been properly classified as surplus by a district school board must be disposed of in accordance with current surplus property requirements.⁵⁴ The district may offer surplus property to other governmental units in the county or district for sale or donation or may offer the property to private nonprofit agencies by sale or donation. If no acceptable bid is received within a reasonable time, then the property must be offered directly to such governmental units for sale or donation.⁵⁵

⁵⁰ *Id.*

⁵¹ Section 1012.562, F.S.

⁵² Section 1012.562(2) and (3), F.S.

⁵³ Section 1002.33(18)(e), F.S.

⁵⁴ Section 1013.28 (2)(a), F.S.

⁵⁵ Section 274.05, F.S.

Effect of Proposed Changes

The bill requires that tangible personal property that has been properly classified as surplus, marked for disposal, or otherwise unused by a district school board must be provided for a charter school's use on the same basis as it is made available to other public schools in the district. A charter school receiving such property may not sell or dispose of the property without written permission of the school district.

High-Performing Charter Schools

Present Situation

Charter schools and operators of systems of charter schools with a track record of academic excellence and financial stability may earn "high-performing" status.⁵⁶ A high-performing charter school is a charter school that during each of the three previous years:

- received at least two school grades of "A" and no school grade below "B;"
- has received an unqualified opinion⁵⁷ on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.⁵⁸

Initial eligibility for "high-performing" status is verified by the Commissioner of Education, upon request by a charter school. Thereafter, the commissioner must annually verify continued eligibility.⁵⁹

High-performing charter schools may take advantage of various benefits. Among other benefits, the operator of a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates one of its high-performing charter schools. The application process for such applications is streamlined to expedite approval.⁶⁰ A high-performing charter school may not be replicated more than once in any given year and may not replicate again until the new charter school achieves "high-performing" status.⁶¹ Systems may replicate their high-performing charter schools using the same process applicable to high-performing charter schools.⁶² Additionally, a high-performing charter school may have the term of its charter extended to up to 15 years.⁶³

A high-performing charter school may increase the school's enrollment once per year to more than the capacity identified in the charter and expand grade levels within kindergarten through grade 12 to add grade levels not already served as long as the increase in enrollment in either case does not exceed the current facility capacity.⁶⁴

Effect of Proposed Changes

The bill revises the criteria determining a high-quality charter school by also allowing a school that receives two consecutive grades of "A" to be determined a high-performing charter school. It allows a high-performing charter school to replicate up to two new schools that substantially replicate one of its high-performing schools. For those schools qualifying under the two consecutive grades of "A" provision, the bill revises the financial eligibility requirements to require only 2 years of financial audits that received an unqualified opinion and no state of financial emergency.

⁵⁶ Section 1002.331(1), F.S.; see s. 218.503(1), F.S. (financial emergency conditions).

⁵⁷ An unqualified audit opinion means that the charter school's financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

⁵⁸ Section 1002.331(1), F.S.; see s. 218.503(1), F.S. (financial emergency conditions).

⁵⁹ Sections 1002.331(5) and 1002.332(2)(a), F.S.

⁶⁰ Section 1002.331(2), F.S.

⁶¹ Section 1002.331(3)(b), F.S.

⁶² Section 1002.332(2), F.S.

⁶³ Section 1002.331(4), F.S.

⁶⁴ Section 1002.331(2)(a) and (b), F.S.

The bill clarifies that the increase in student enrollment may occur as long as it does not exceed the capacity of the facility at the time of enrollment, rather than the original capacity of the facility, allowing a charter school that has expanded its original facility or has access to additional facilities, to increase enrollment without being limited to the original facility capacity.

The bill also provides that facility capacity for purposes of grade level expansion must include any improvements to an existing facility or any new facility in which a majority of the students of the high-performing charter school will enroll.

Charter School Contracts

Present Situation

Each charter school must enter into a performance contract with its sponsor, known as a charter. The charter lists specific objectives that the charter school must meet to remain in operation. The terms of the charter must be negotiated by the applicant and sponsor within 30 days after approval of the application. The parties then have 40 days to finalize the charter.⁶⁵ The initial term of a charter is 4 or 5 years and must include specific requirements provided in law.⁶⁶

A sponsor must make student academic achievement for all students the most important factor when determining whether to renew or terminate a contract. The sponsor may also terminate or not renew a charter for any of the following reasons:

- failure to participate in the state's education accountability system or meet the requirements for student performance stated in the charter;
- failure to meet generally accepted standards of financial management;
- a violation of law; or
- other good cause shown.⁶⁷

At least 90 days before renewing, nonrenewing, or terminating a charter, the sponsor must notify the governing board of the school of the proposed action in writing and stipulate that the school's governing board, within 14 calendar days of receiving the notice, may request a hearing that is conducted at the sponsor's election in accordance with either of the following procedures:

- A direct hearing conducted by the sponsor within 60 days after receipt of the request for a hearing. The hearing must be conducted in accordance with ss. 120.569 and 120.57, F.S. The sponsor shall decide upon nonrenewal or termination by a majority vote, and the sponsor's decision shall be a final order; or
- A hearing conducted by an administrative law judge assigned by the Division of Administrative Hearings, conducted within 60 days after receipt of the request for a hearing and in accordance with chapter 120, F.S.. The administrative law judge's recommended order shall be submitted to the sponsor. The sponsor, by a majority vote is required to adopt or modify the administrative law judge's recommended order and issue a final order.⁶⁸

The sponsor must state the specific reasons for the decision in the final order and provide the final order to the charter school's governing board and DOE no later than 10 calendar days after its issuance. The charter school's governing board may, within 30 calendar days of receiving the final order, appeal the decisions pursuant to s. 120.68, F.S.⁶⁹

⁶⁵ Section 1002.33(6)(h), F.S.

⁶⁶ Section 1002.33(7), F.S.

⁶⁷ Section 1002.33(8)(a), F.S.

⁶⁸ Section 1002.33(8)(b), F.S.

⁶⁹ Section 1002.33(8)(c), F.S.

Effect of Proposed Changes

The bill revises the initial term of a charter to 5 years. The bill allows a planning period of 1 year in addition to the 5-year charter.

The bill specifies that, in the event of a termination or nonrenewal, the sponsor must have clear and convincing evidence that one of the disqualifying factors occurred. The bill also specifies that a violation of law must be material in order to constitute a disqualifying factor.

The bill revises the hearing procedures once a charter school receives its notice of termination or nonrenewal by removing the option for the school district to conduct a direct hearing. The hearing shall be conducted by an administrative law judge within 90 days after receipt of the request for a hearing, and the administrative law judge shall issue the final order. The administrative law judge must also award the prevailing party reasonable attorney fees and costs incurred during the administrative proceeding and any appeals.

The charter school governing board may, within 30 calendar days after receiving the judge's final order, appeal the decision pursuant to s. 120.68, F.S.

Services

Present Situation

Currently, a school district can provide goods and services to a charter school through a contract with the school district. The services must be provided to the charter school at a rate no greater than the actual cost to the district unless mutually agreed upon in a contract negotiated separately from the charter. When mediation has failed to resolve disputes over contracted services or contractual matters not included in the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission.⁷⁰

Effect of Proposed Changes

If a dispute regarding a contract to provide goods and services cannot be resolved through mediation, an appeal may be made to an administrative law judge appointed by the Division of Administrative Hearings, rather than the Charter School Appeals Commission. The administrative law judge has final order authority to rule on the dispute and shall award the prevailing party reasonable attorney fees and costs incurred during the mediation process, administrative proceeding, and any appeals, to be paid by the non-prevailing party.

Background Screening

Present Situation

Instructional and noninstructional personnel who are employed or contracted to fill positions in a charter school and members of the charter school governing board must undergo a Level 2 background screening.⁷¹ Level 2 background screening is a state and national fingerprint-based criminal history check conducted to determine whether an individual has a criminal history and, if so, whether such history contains one or more statutorily designated offenses that disqualify an individual from

⁷⁰ Section 1002.33(20)(b), F.S.

⁷¹ Sections 1002.33(12)(g)1., 1012.32(2)(b), 1012.465, and 1012.56(10), F.S.

employment.⁷² A charter school must disqualify any individual convicted of a disqualifying offense from employment in an instructional or school administrator position that requires direct student contact.⁷³

Prior to hiring an individual for an instructional or school administrator position with direct student contact, a charter school must conduct an employment history check and screen the person using DOE-provided educator screening tools. Such efforts, including any inability to contact previous employers, must be documented.⁷⁴

Effect of Proposed Changes

If a charter school has their employees undergo background screening through the school district in which the charter school is located, the bill requires the district to provide the background screening results of its governing board members and instructional and noninstructional personnel to the charter school within 14 days of the screening. If the district fails to do so, the fees for the screening must be waived.

Principal Autonomy Pilot Project Initiative

Present Situation

In 2016, the Principal Autonomy Pilot Project Initiative (PAPPI) was established within the DOE to provide principals of participating schools in participating school districts⁷⁵ with increased autonomy and authority over allocation of resources and staffing.⁷⁶ Each participating school district must identify three schools that received at least two school grades of “D” or “F” during the previous three school years, describe the areas in which increased autonomy will be granted, and state measurable goals regarding student achievement and operation efficiency. The principal assigned to each school must have earned a highly effective performance evaluation rating in the previous year.⁷⁷ Each participating principal, along with a three-member leadership team from each participating school and district personnel working with each school, must also complete a nationally recognized school turnaround program focusing on improving leadership, instructional infrastructure, talent management, and differentiated support and accountability.⁷⁸

In order to receive a salary supplement of \$10,000, the principal must be transferred to a school that earned a grade of “F” or three consecutive grades of “D” and must have implemented a turnaround option at a school as the school’s principal in which the school improved by at least one letter grade.⁷⁹

Among other things, the principal of a participating school is granted greater authority to hire qualified instructional personnel or refuse placement or transfer of such personnel and deploy financial resources to school programs at the principal’s discretion to help improve student achievement and meet goals identified in the district’s PAPPI proposal.⁸⁰

⁷² Section 435.04, F.S. The disqualifying offenses specific to Level 2 background screening are supplemented by additional disqualifying offenses specific to educator certification and employment of instructional personnel and school-based administrators. Section 1012.315, F.S.

⁷³ Sections 435.04, 1002.33(12)(g)2., 1002.33(12)(g)2., and 1012.315, F.S.

⁷⁴ Sections 1001.10(5) and 1002.33(12)(g)4., F.S.

⁷⁵ Participation in PAPPI is currently limited to the Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas, and Seminole school districts. *See s. 1011.6202(1), F.S.*

⁷⁶ *See ch. 2016-223, L.O.F., codified at s 1011.6202, F.S.* Plans were submitted to the State Board of Education by the Broward, Palm Beach, and Pinellas school districts. Each plan was approved by the state board at its March 22, 2017 meeting. *See Florida State Board of Education, Minutes State Board of Education Meeting (May 16, 2017), available at <http://www.fldoe.org/core/fileparse.php/18491/urlt/minutes.pdf>.*

⁷⁷ *See s. 1011.6202(2)(a), F.S.*

⁷⁸ Section 1011.6202(4), F.S.

⁷⁹ *See s. 1011.6202(7), F.S.*

⁸⁰ *See s. 1012.28(8)(a) and (b), F.S.*

A participating school is exempt from the provisions of chapters 1000-1013, F.S., and implementing state board rules, except for statutes pertaining to:⁸¹

- the election and compensation of school board members and the election, appointment, or compensation of district school superintendents;
- the student assessment program and school grading;
- the uniform start date;
- student progression and graduation;
- services to students with disabilities;
- class size, except compliance is calculated at the school, rather than classroom, level;
- civil rights and discrimination;
- student health, safety and welfare;
- educator evaluation, pay schedules, and employment contracts;
- school facilities, with certain exceptions;
- equitable distribution of Title I funds;
- public meetings and records public inspection and criminal and civil penalties;
- public records; and
- code of ethics for public officers and employees.

Each participating school must submit an annual report to the SBE, and the SBE must annually report on the implementation of the pilot project. At the end of the 3-year pilot, the commissioner must submit a full evaluation of the effectiveness of the program to the Senate President, the Speaker of the House of Representatives, and the Governor.⁸²

The initial term of the program is 3 years.⁸³ Thereafter, schools must receive authorization from the SBE to renew their participation in the program.⁸⁴

Effect of Proposed Changes

The bill expands PAPPI from a 3-year pilot to a statewide program and allows any school district, beginning with the 2018-2019 school year and contingent upon available funds, to submit a principal autonomy proposal to the SBE by December 1. If the SBE approves the proposal, the district is eligible to participate in the program for 3 years. The bill deletes the requirement that the commissioner submit an evaluation of the pilot program.

In addition, the bill establishes district-independent, autonomous schools. The purpose of such schools is to expand the impact of PAPPI principals by allowing them to manage one or more schools operated by a third-party governing board and providing the school with the same exemptions and administrative autonomy provided to participating PAPPI schools. The bill specifies that a school, whether a participating school or a school operated by an independent governing board and managed by a participating principal, continues its exemption from laws and rules beyond the initial 3-year period so long as the school receives a school grade no lower than a "B."

The bill specifies that a participating principal who successfully completes the school turnaround training may manage one or more schools operated by an independent governing board through a contract with the school board. Each member of the independent board must not be an employee of the school district or any school operated by the board.

For the purpose of tort liability, the independent governing board, autonomous school, and its employees or agents are subject to the same waiver of sovereign immunity in tort actions as the state,

⁸¹ See s. 1011.6202(3)(b), F.S.

⁸² Section 1011.6202(6), F.S.

⁸³ Section 1011.6202(5), F.S.

⁸⁴ *Id.*

state agencies and or subdivisions. The bill specifies that the district school board is not liable for civil damages under state law for the employment actions or personal injury, property damage or death resulting from an act or omission of an operator, the school of hope and its employees or agents.

The bill allows an autonomous school to be either a private or public employer and provides that employees of a public employer must be compulsory members of the Florida Retirement System.

Subject to appropriation each year, the DOE must:

- fund the costs of the program to include the administrative and enrollment costs for the school turnaround training program; and
- provide up to \$10,000 for each participating principal as an annual salary supplement for 3 years.

The bill revises salary supplement eligibility requirements to allow a participating principal to qualify by teaching at a school that earned two consecutive grades of "D" rather than three. The bill also specifies that a participating principal may qualify for a salary supplement by managing a school operated by the independent governing board.

Safety and Security Assessments

Present Situation

Florida law requires each district school board to formulate policies and procedures for emergency response drills and actual emergencies. These policies must include procedures for responding to various emergencies, such as fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies. Additionally, school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.⁸⁵

Districts are required to use the Safety and Security Best Practices developed by the Office of Program Policy Analysis and Government Accountability to conduct a self-assessment of the districts' current safety and security practices. Each district school superintendent must make recommendations to the school board for improving emergency preparedness and response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the commissioner within 30 days after the school board meeting.⁸⁶

Effect of Proposed Changes

The bill requires each school district to conduct a security risk assessment at each public school site in the district in addition to a self-assessment of the school districts' current safety and security practices. Both the risk assessment and self-assessment of current safety and security best practices will be conducted using a format prescribed by the department, rather than the practices developed by OPPAGA.

⁸⁵ Section 1006.07(4)(a)-(b), F.S.

⁸⁶ Section 1006.07(6), F.S.

Commissioner of Education Authority

Present Situation

The commissioner is the chief educational officer of the state, and is responsible for giving full assistance to the State Board of Education (SBE) in enforcing compliance with the mission and goals of the K-20 education system except for the State University System.⁸⁷ The commissioner's office operates all statewide functions necessary to support the SBE, including strategic planning and budget development, general administration, assessment, and accountability.⁸⁸ The commissioner is appointed by the SBE⁸⁹ and serves as the Executive Director of the DOE.⁹⁰

The DOE is responsible for coordinating, when necessary, the use of educational facilities during emergency activations among federal and state agencies, local school districts, colleges and universities.⁹¹ The DOE also serves as the primary liaison in coordinating all phases of emergency response from pre-disaster planning through post disaster recovery of educational facilities.⁹²

DOE staff members are assigned to serve as contacts (called "Emergency Management (EM) Buddies").⁹³ Staff for the Divisions of Blind Services and Vocational Rehabilitation perform the same function for their local offices.⁹⁴ In an emergency situation, the commissioner activates the EM Buddies for the affected areas of the state.⁹⁵ The EM Buddies provide the direct communications conduit between the DOE, district school superintendents, Florida College System (FCS) institution presidents, and state and local emergency operations centers.⁹⁶ The primary functions of the EM Buddies are to provide information directly to schools and districts, and to collect status information from district school superintendents, FCS institution presidents, and county emergency operations centers.⁹⁷ The role of the EM Buddies spans over three phases of an emergency event: preparedness for the emergency event and monitoring, survival of the event, and assessment of and recovery from the event.⁹⁸

DOE emergency management staff transmit instructions and specific requests to, and receive regular reports from, EM Buddies.⁹⁹ DOE emergency management staff organize information into regular

⁸⁷ Section 1001.10, F.S.

⁸⁸ *Id.* at (2).

⁸⁹ Art. IX, s. 2, Fla. Const.

⁹⁰ Section 20.15(2), F.S.

⁹¹ Florida Division of Emergency Management, *The State of Florida 2016 Comprehensive Emergency Management Plan, 2016 Draft Revision*, [http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20\(COMPLETE%20FINAL%20DRAFT\).pdf](http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20(COMPLETE%20FINAL%20DRAFT).pdf), at 10 of ESF 6 Appendix.

⁹² Florida Division of Emergency Management, *The State of Florida 2016 Comprehensive Emergency Management Plan, 2016 Draft Revision*, [http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20\(COMPLETE%20FINAL%20DRAFT\).pdf](http://www.floridadisaster.org/documents/CEMP/2016/2016%20State%20CEMP%20(COMPLETE%20FINAL%20DRAFT).pdf), at 10 of ESF 6 Appendix.

⁹³ Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 2. The Board of Governors employs a similar process for the state universities. *Id.*

⁹⁴ Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 2.

⁹⁵ Email, Florida Department of Education (March 17, 2017).

⁹⁶ Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct, 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 3.

⁹⁷ *Id.*

⁹⁸ *Id.* at 4.

⁹⁹ *Id.* at 5.

reports for the commissioner¹⁰⁰ and State Emergency Operations Center on shelter status, school closings and openings, plans, and needs.¹⁰¹

Effect of Proposed Changes

The bill authorizes the commissioner to coordinate with school districts, Florida College System institutions, and the satellite offices of the Division of Blind Services and the Division of Vocational Rehabilitation to assess their need for resources and assistance in the event of an emergency situation.

According to the DOE, the bill expands the commissioner's authority and responsibility for supporting all sectors during an emergency and will likely be helpful in securing necessary information in a timely manner before, during, and after any emergency situation.¹⁰² The needs assessment may expedite the provision of resources and assistance to enable each school, institution, or satellite office to reopen as soon as possible after considering the health, safety, and welfare of students and clients.¹⁰³

Industry Certification Teacher Bonuses

Present Situation

The Legislature allocates public education funding to Florida's 67 school districts through the Florida Education Finance Program (FEFP). The FEFP is a funding formula that helps to equalize education funding among Florida's geographically diverse school districts and is the primary mechanism for funding the operating costs of Florida school districts, which among other things, includes the payment of teacher salaries.¹⁰⁴

In addition to funding school district operating costs, the FEFP also includes funds for teachers who teach courses that lead to the attainment of a Career and Professional Education (CAPE) industry certification. Depending on the certification earned, a school district receives bonus funding of 0.1, 0.2, 0.3, 0.5, or 1.0 FTE.¹⁰⁵ Teacher bonus funding is awarded for each student taught by a teacher who provided instruction in a course that led to the student's attainment of a CAPE industry certification on the CAPE Industry Certification Funding List, as follows:

- A bonus in the amount of \$25 is awarded for a course with a weight of 0.1.¹⁰⁶
- A bonus in the amount of \$50 is awarded for a course with a weight of 0.2.¹⁰⁷
- A bonus in the amount of \$75 is awarded for a course with a weight of 0.3.¹⁰⁸
- A bonus in the amount of \$100 is awarded for a course with a weight of 0.5 or 1.0.¹⁰⁹

Effect of Proposed Changes

The bill provides the SBE with authority to adopt rules that establish criteria under which a student's industry certification may be rescinded. The bill also prohibits the award of a bonus to a teacher who fails to maintain the security of any CAPE industry certification examination or who otherwise violates

¹⁰⁰ Email, Florida Department of Education (March 17, 2017).

¹⁰¹ Florida Department of Education, Presentation to the Senate Committee on Education, *Emergency Coordination of State and Local Entities* (Oct. 9, 2017), available at <http://www.flsenate.gov/Committees/Show/ED/Meeting%20Packet/3952>, at 5.

¹⁰² Email, Florida Department of Education (March 17, 2017).

¹⁰³ Florida Department of Education, *2018 Agency Bill Analysis for SB 436* (Oct. 16, 2017), at 2.

¹⁰⁴ See s. 1011.60, F.S. The performance salary schedule is funded from the same sources used to pay instructional personnel and school administrators under the grandfathered salary schedule.

¹⁰⁵ Section 1011.62 (1)(o), F.S. (2017)

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

the security or administration protocol of any industry certification examination that may lead to a bonus for student attainment of an industry certification.

Florida Virtual School

Present Situation

The Florida Virtual School (FLVS) is established for the development and delivery of online and distance learning education.¹¹⁰ The FLVS is a fully accredited public school choice providing elementary, middle, and high school curriculum to Florida residents for free. All courses are fully online.¹¹¹

The FLVS is available to students in all Florida school districts.¹¹² At the beginning of each school year, district school boards must notify parents of high school students of the opportunity and benefits of acceleration mechanisms and FLVS courses and options for early high school graduation.¹¹³ School districts must provide students at all grade levels with access to FLVS courses during and after the normal school day and through summer school enrollment.¹¹⁴

Public school students receiving full-time instruction in kindergarten through grade 12 by the FLVS must participate in the statewide assessment program. Public school students receiving part-time instruction by the FLVS in courses requiring statewide end-of-course assessments must take all end-of-course statewide assessments. Unless an alternative testing site is mutually agreed to by FLVS and the school district or as contracted by the school district, all statewide assessments must be taken at the school to which the student is assigned according to district school board attendance areas. A school district must provide the student access to the school's testing facilities.¹¹⁵

Effect of Proposed Changes

The bill specifies that industry certification examinations, national assessments, and statewide assessments offered by a school district must be available to all FLVS students. The bill also provides that such examinations and assessments must be taken at the school to which the student would be assigned according to local attendance areas unless an alternative testing site is agreed upon.

Dual Enrollment

Present Situation

The dual enrollment program is an acceleration mechanism that allows an eligible secondary¹¹⁶ or home education student to enroll in a postsecondary course creditable toward high school completion and an associate or baccalaureate degree or career certificate.¹¹⁷ Upon successful completion of a dual

¹¹⁰ Section 1002.37(1)(a), F.S. FLVS began as two independent programs in Alachua and Orange Counties. The two counties partnered to establish the FLVS as a grant-based pilot project in the 1996-97 academic year. In 2000, the Legislature removed the program's pilot status and statutorily codified the school. Chapter 2000-224, L.O.F

¹¹¹ Florida Virtual School, *Accreditation*, available at <https://www.flvs.net/meet-flvs/accreditation> (last visited May 3, 2016).

¹¹² Florida Virtual School, *Florida Virtual School 2014-15 Legislative Report*, at 5, available at <http://www.flvs.net/areas/aboutus/Pages/LegislativeReport.aspx> (last visited July 29, 2016).

¹¹³ Section 1003.02(1)(i), F.S.

¹¹⁴ Sections 1001.42(23) and 1003.498 F.S.

¹¹⁵ Section 1002.37(9), F.S.

¹¹⁶ 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.

¹¹⁷ Section 1007.271(1), F.S.

enrollment course, the student simultaneously receives high school and college, university or career certificate credit.¹¹⁸

Home education students can participate in the dual enrollment program. To participate in dual enrollment, a home education student must:¹¹⁹

- provide proof of enrollment in a home education program that meets statutory requirements;¹²⁰
- be responsible for his or her own instructional materials unless provided for in the articulation agreement; and
- sign a home education articulation agreement¹²¹ 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 DOE on or before August 1.¹²²

In addition, each eligible postsecondary institution must also enter into a private school articulation agreement with each eligible private school in its geographic service area. The private school articulation agreement must include:¹²³

- a delineation of courses and programs available to the private school student;
- the initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students;
- the student's responsibilities for providing his or her own instructional materials and transportation;
- a provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program;
- a provision expressing that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student; and
- a provision stating whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for each dual enrollment course taken by its students.

Currently, a dual enrollment student is not required to pay registration, tuition or lab fees for dual enrollment courses taken at a public postsecondary career center, Florida College System (FCS) institution or state university.¹²⁴ Home education students are responsible for their instructional materials and transportation. However, a FCS institution is not prohibited from providing instructional materials at no cost to a home education student.¹²⁵

Effect of Proposed Changes

The bill deletes the requirement that a home education articulation agreement include a provision establishing a student's responsibility for providing his or her own instructional materials. The bill also deletes the requirement that a private school articulation agreement include a provision stating whether

¹¹⁸ 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 March 15, 2017).

¹¹⁹ Section 1007.271(13), F.S.

¹²⁰ Requirements for home education programs are outlined in s. 1002.41, F.S.

¹²¹ Section 1007.271(13)(b), F.S.

¹²² *Id.*

¹²³ See s. 1007.271(24)(b), F.S.

¹²⁴ Section 1009.25(1)(a), F.S.; section 1007.271(2) and (16), F.S.

¹²⁵ Section 1007.271(17), F.S.

the private school will compensate the postsecondary instruction for the standard tuition rate per credit hour.

Other Provisions

The bill also removes obsolete language requiring the DOE to develop a statewide operating electronic Individual Educational Plan (IEP) system by July 1, 2007. The DOE launched the IEP system before the deadline.

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.10, F.S.; authorizing the Commissioner of Education to coordinate resources during an emergency.

Section 2. Amends s. 1001.51, F.S.; revising the authority of superintendents to organize schools.

Section 3. Amends s. 1013.23, F.S.; requiring school districts to provide charter schools access to surplus property on the same basis as public schools.

Section 4. Amends s. 1008.22, F.S.; requiring reading passages and writing prompts for ELA assessments to include social studies content; requiring paper assessments for specified grades in specified subjects; requiring published assessment items to be in a format that facilitates sharing of assessment items.

Section 5. Amends s. 1002.33, F.S.; clarifying the criteria for reviewing high-performing charter school system applications; revising requirements for charter terminations; revising the process for resolving contractual disputes.

Section 6. Amends s. 1012.562, F.S.; authorizing charter schools and charter management organizations to offer school leader preparation programs.

Section 7. Amends s. 1011.6202, F.S.; renaming the Principal Autonomy Pilot Program Initiative; expanding the pilot statewide; creating district-independent autonomous schools.

Section 8. Amends s. 1007.271, F.S.; removing requirement for home education students to provide instructional materials; removing requirement for provision governing compensation of postsecondary institution by a private school.

Section 9. Amends s. 1012.98, F.S.; requiring professional development resources to include sample course-at-a-glance and unit overview templates.

Section 10. Amends s. 1002.331, F.S.; revising criteria for high-performing charter school status; revising provision for determining facility capacity; revising the number of schools that can be established by a high-performing charter school.

Section 11. Amends s. 1006.07, F.S.; revising district school board duties to include security risk assessments; requiring certain self-assessments to be in a specified format.

Section 12. Amends s. 1003.576, F.S.; deleting an obsolete provision.

Section 13. Amends s. 1012.32, F.S.; requiring district school board to notify charter school of eligibility status of employees.

Section 14. Creates s. 1002.411, F.S.; establishing reading scholarship accounts for specified purposes; providing for eligibility for scholarships under the program; providing for administration;

providing duties of the Department of Education; providing school district obligations; specifying options for parents; providing that maximum funding shall be specified in the General Appropriations Act; providing for payment of funds; specifying that no state liability arises from the award or use of such an account.

Section 15. Amends s. 1002.385, F.S.; revising eligible expenditures; conforming provisions to changes by the act.

Section 16. Amends s. 1002.421, F.S.; providing private school requirements for participation in educational scholarship programs; providing background screening requirements and procedures for owners of private schools; providing that a private school is ineligible to participate in an educational scholarship program under certain circumstances; providing the Department of Education obligations relating to education scholarship programs; providing Commissioner of Education authority and responsibilities for educational scholarship programs; authorizing the commissioner to deny, suspend, or revoke a private school's participation in an educational scholarship program.

Section 17. Amends s. 1002.39, F.S.; conforming provisions to changes by the act.

Section 18. Amends s. 1002.395, F.S.; conforming provisions to changes by the act; revising requirements for report of participating students.

Section 19. Amends s. 1002.37, F.S.; requiring school districts to provide Florida Virtual School students access to certain assessments.

Section 20. Amends s. 1011.62, F.S.; prohibiting certain bonuses to teachers who fail to maintain assessment security.

Section 21. Provides an appropriation.

Section 22. 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:

See Fiscal Comments, *infra*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

It is likely that the following sections of the bill will have a fiscal impact:

- Section 4., which expands the requirement that all statewide, standardized English language arts and math assessments in grades 3 through 6 be paper based by the 2018-2019 school year to include grades 7 and 8.
- Section 8., which deletes the requirement that a home education articulation agreement include a provision establishing a student's responsibility for providing his or her own instructional materials and deleting the requirement that a private school articulation agreement include a provision stating whether the private school will compensate the postsecondary instruction for the standard tuition rate per credit hour.
- Section 9., which requires the development of resources to include sample course-at-a-glance and unit overview templates for teacher professional development.
- Section 14., which establishes the Reading Scholarship Program to provide funds for public school students who score a Level 1 or Level 2 on the grade 3 statewide, standardized English language arts assessment to purchase certain programs and services that will assist them in improving their reading skills.
- Section 16., which streamlines and consolidates private school eligibility, the Department of Education's obligations, and the Commissioner's authority with regard to the John M. McKay, Gardiner and Florida Tax Credit scholarships.

The total estimated fiscal impact of these sections of the bill is indeterminate at this time but is likely significant.

The bill appropriates the sum of \$250,000 in recurring funds from the General Revenue Fund to the Department of Education to issue a competitive grant award to a state university to implement the applicable provisions of Section 18. of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides the State Board of Education rulemaking authority to establish criteria under which a student's industry certification may be rescinded.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

BILL

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to education; amending 1001.10, F.S.,
 3 authorizing the Commissioner of Education to
 4 coordinate resources during an emergency; amending
 5 1001.51, F.S.; revising the authority of
 6 superintendents to organize schools; amending 1013.28,
 7 F.S., requiring school districts to provide charter
 8 schools access to surplus property on the same basis
 9 as public schools; amending 1008.22, F.S., requiring
 10 reading passages and writing prompts for ELA
 11 assessments to include social studies content;
 12 requiring paper assessments for specified grades in
 13 specified subjects; requiring published assessment
 14 items to be in a format that facilitates sharing of
 15 assessment items; amending s. 1002.33, F.S.,
 16 clarifying the criteria for reviewing high-performing
 17 charter school system applications; revising
 18 requirements for charter terminations; revising the
 19 process for resolving contractual disputes; amending
 20 1012.562, F.S., authorizing charter schools and
 21 charter management organizations to offer school
 22 leader preparation programs; amending 1011.6202, F.S.;
 23 renaming the Principal Autonomy Pilot Program
 24 Initiative; expanding the pilot statewide; creating
 25 district-independent autonomous schools; amending

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26 1007.271, F.S.; removing requirement for home
 27 education students to provide instructional materials;
 28 removing requirement for provision governing
 29 compensation of postsecondary institution by a private
 30 school; amending 1012.98, F.S.; requiring professional
 31 development resources to include sample course-at-a-
 32 glance and unit overview templates; amending 1002.331,
 33 F.S.; revising criteria for high-performing charter
 34 school status; revising provision for determining
 35 facility capacity; revising the number of schools that
 36 can be established by a high-performing charter
 37 school; amending 1006.07, F.S.; revising district
 38 school board duties to include security risk
 39 assessments; requiring certain self-assessments to be
 40 in a specified format; amending 1012.32, F.S.;
 41 requiring district school board to notify charter
 42 school of eligibility status of employees; creating
 43 1002.411, F.S.; establishing reading scholarship
 44 accounts for specified purposes; providing for
 45 eligibility for scholarships under the program;
 46 providing for administration; providing duties of the
 47 Department of Education; providing school district
 48 obligations; specifying options for parents; providing
 49 that maximum funding shall be specified in the General
 50 Appropriations Act; providing for payment of funds;

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51 specifying that no state liability arises from the
 52 award or use of such an account; amending 1002.385,
 53 F.S.; revising eligible expenditures; conforming
 54 provisions to changes by the act; amending 1002.421,
 55 F.S.; providing private school requirements for
 56 participation in educational scholarship programs;
 57 providing background screening requirements and
 58 procedures for owners of private schools; providing
 59 that a private school is ineligible to participate in
 60 an educational scholarship program under certain
 61 circumstances; providing the Department of Education
 62 obligations relating to education scholarship
 63 programs; providing Commissioner of Education
 64 authority and responsibilities for educational
 65 scholarship programs; authorizing the commissioner to
 66 deny, suspend, or revoke a private school's
 67 participation in an educational scholarship program;
 68 amending 1002.39, F.S.; conforming provisions to
 69 changes by the act; amending 1002.395, F.S.;

70 conforming provisions to changes by the act; revising
 71 requirements for report of participating students;
 72 amending 1002.37, F.S.; requiring school districts to
 73 provide Florida Virtual School students access to
 74 certain assessments; amending 1011.62, F.S.;

75 prohibiting bonuses to teachers who fail to maintain

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76 assessment security; providing an appropriation;
 77 providing an effective date.

78

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

80 Section 1. Subsection (8) is added to section 1001.10,
 81 Florida Statutes, to read:

82 1001.10 Commissioner of Education; general powers and
 83 duties.-

84 (8) In the event of an emergency situation, the
 85 commissioner may coordinate through the most appropriate means
 86 of communication with local school districts, Florida College
 87 System institutions, and satellite offices of the Division of
 88 Blind Services and the Division of Vocational Rehabilitation to
 89 assess the need for resources and assistance to enable each
 90 school, institution, or satellite office the ability to reopen
 91 as soon as possible after considering the health, safety, and
 92 welfare of students and clients.

93 Section 2. Subsection (6) of section 1001.51, Florida
 94 Statutes, is amended to read:

95 1001.51 Duties and responsibilities of district school
 96 superintendent.-The district school superintendent shall
 97 exercise all powers and perform all duties listed below and
 98 elsewhere in the law, provided that, in so doing, he or she
 99 shall advise and counsel with the district school board. The
 100 district school superintendent shall perform all tasks necessary

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101 | to make sound recommendations, nominations, proposals, and
 102 | reports required by law to be acted upon by the district school
 103 | board. All such recommendations, nominations, proposals, and
 104 | reports by the district school superintendent shall be either
 105 | recorded in the minutes or shall be made in writing, noted in
 106 | the minutes, and filed in the public records of the district
 107 | school board. It shall be presumed that, in the absence of the
 108 | record required in this section, the recommendations,
 109 | nominations, and proposals required of the district school
 110 | superintendent were not contrary to the action taken by the
 111 | district school board in such matters.

112 | (6) ESTABLISHMENT, ORGANIZATION, AND OPERATION OF SCHOOLS,
 113 | CLASSES, AND SERVICES.—Recommend the establishment,
 114 | organization, and operation of such schools, classes, and
 115 | services as are needed to provide adequate educational
 116 | opportunities for all children in the district.

117 | (a) Recommendations may include the organization and
 118 | operation of schools to create the optimal learning environment
 119 | to address the academic needs of students by giving
 120 | instructional personnel freedom from burdensome regulations. To
 121 | avoid any conflict of interest regarding the review, approval
 122 | and oversight of the school, members of the governing board may
 123 | not be employees of the school district or any school operated
 124 | by the governing board. Any school or schools in which all
 125 | instructional personnel are employees of an independent

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126 governing board shall operate in accordance with:
 127 1. The contract between the independent governing board and
 128 the school board; and
 129 2. The exemptions from law as provided in s.
 130 1011.6202(3)(a) and (b).
 131 (b) For the purposes of tort liability, the independent
 132 governing board, schools operated by the independent governing
 133 board, and its employees or agents shall be governed by s.
 134 768.28. The school board shall not be liable for civil damages
 135 under state law for the employment actions or personal injury,
 136 property damage, or death resulting from an act or omission of
 137 an independent governing board, a school operated by the
 138 independent governing board, and its employees or agents.
 139 (c) A school operated by the independent governing board
 140 may be either a private or a public employer. As a public
 141 employer, the school may participate in the Florida Retirement
 142 System upon application and approval as a covered group under s.
 143 121.021(34). If the school participates in the Florida
 144 Retirement System, the school's employees shall be compulsory
 145 members of the Florida Retirement System.
 146 Section 3. Paragraph (a) of subsection (2) of section
 147 1013.28, Florida Statutes, is amended to read:
 148 1013.28 Disposal of property.—
 149 (2) TANGIBLE PERSONAL PROPERTY.—
 150 (a) Tangible personal property that has been properly

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151 classified as surplus by a district school board or Florida
 152 College System institution board of trustees shall be disposed
 153 of in accordance with the procedure established by chapter 274.
 154 However, the provisions of chapter 274 shall not be applicable
 155 to a motor vehicle used in driver education to which title is
 156 obtained for a token amount from an automobile dealer or
 157 manufacturer. In such cases, the disposal of the vehicle shall
 158 be as prescribed in the contractual agreement between the
 159 automotive agency or manufacturer and the board. Tangible
 160 personal property that has been properly classified as surplus,
 161 marked for disposal, or otherwise unused by a district school
 162 board shall be provided for a charter school's use on the same
 163 basis as it is made available to other public schools in the
 164 district. A charter school receiving property from the school
 165 district may not sell or dispose of such property without
 166 written permission of the school district.

167 Section 4. Paragraph (a) of subsection (3) of section
 168 1008.22, Florida Statutes, is amended to read:

169 1008.22 Student assessment program for public schools.-

170 (3) STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.-The
 171 Commissioner of Education shall design and implement a
 172 statewide, standardized assessment program aligned to the core
 173 curricular content established in the Next Generation Sunshine
 174 State Standards. The commissioner also must develop or select
 175 and implement a common battery of assessment tools that will be

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176 used in all juvenile justice education programs in the state.
 177 These tools must accurately measure the core curricular content
 178 established in the Next Generation Sunshine State Standards.
 179 Participation in the assessment program is mandatory for all
 180 school districts and all students attending public schools,
 181 including adult students seeking a standard high school diploma
 182 under s. 1003.4282 and students in Department of Juvenile
 183 Justice education programs, except as otherwise provided by law.
 184 If a student does not participate in the assessment program, the
 185 school district must notify the student's parent and provide the
 186 parent with information regarding the implications of such
 187 nonparticipation. The statewide, standardized assessment program
 188 shall be designed and implemented as follows:

189 (a) Statewide, standardized comprehensive assessments.—The
 190 statewide, standardized Reading assessment shall be administered
 191 annually in grades 3 through 10. The statewide, standardized
 192 Writing assessment shall be administered annually at least once
 193 at the elementary, middle, and high school levels. When the
 194 Reading and Writing assessments are replaced by English Language
 195 Arts (ELA) assessments, ELA assessments shall be administered to
 196 students in grades 3 through 10. Retake opportunities for the
 197 grade 10 Reading assessment or, upon implementation, the grade
 198 10 ELA assessment must be provided. Students taking the ELA
 199 assessments shall not take the statewide, standardized
 200 assessments in Reading or Writing. Reading passages and writing

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201 | prompts for ELA assessments shall incorporate grade level core
 202 | curricula content from Social Studies ~~be administered online.~~
 203 | The statewide, standardized Mathematics assessments shall be
 204 | administered annually in grades 3 through 8. Students taking a
 205 | revised Mathematics assessment shall not take the discontinued
 206 | assessment. The statewide, standardized Science assessment shall
 207 | be administered annually at least once at the elementary and
 208 | middle grades levels. In order to earn a standard high school
 209 | diploma, a student who has not earned a passing score on the
 210 | grade 10 Reading assessment or, upon implementation, the grade
 211 | 10 ELA assessment must earn a passing score on the assessment
 212 | retake or earn a concordant score as authorized under subsection
 213 | (9).

214 | (d) Implementation schedule.—

215 | 1. The Commissioner of Education shall establish and
 216 | publish on the department's website an implementation schedule
 217 | to transition from the statewide, standardized Reading and
 218 | Writing assessments to the ELA assessments and to the revised
 219 | Mathematics assessments, including the Algebra I and Geometry
 220 | EOC assessments. The schedule must take into consideration
 221 | funding, sufficient field and baseline data, access to
 222 | assessments, instructional alignment, and school district
 223 | readiness to administer the assessments online. All such
 224 | assessments must be delivered through computer-based testing,
 225 | ~~however, the following assessments must be delivered in a~~

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226 ~~computer-based format, as follows: the grade 3 Mathematics~~
 227 ~~assessment beginning in the 2016-2017 school year; the grade 4~~
 228 ~~ELA assessment, beginning in the 2015-2016 school year; and the~~
 229 ~~grade 4 Mathematics assessment, beginning in the 2016-2017~~
 230 ~~school year.~~ Notwithstanding the requirements of this
 231 subparagraph, statewide, standardized ELA and mathematics
 232 assessments in grades 3 through 8 must be delivered only in a
 233 paper-based format, ~~beginning with the 2017-2018 school year,~~
 234 ~~and all such assessments must be paper-based~~ no later than the
 235 2018-2019 school year.

236 2. The Department of Education shall publish minimum and
 237 recommended technology requirements that include specifications
 238 for hardware, software, networking, security, and broadband
 239 capacity to facilitate school district compliance with the
 240 requirements of this section.

241 (8) PUBLICATION OF ASSESSMENTS.—To promote transparency in
 242 the statewide assessment program, in any procurement for the ELA
 243 assessment in grades 3 through 10 and the mathematics assessment
 244 in grades 3 through 8, the Department of Education shall solicit
 245 cost proposals for publication of the state assessments on its
 246 website in accordance with this subsection.

247 (a) The department shall publish each assessment
 248 administered under paragraph (3)(a) and subparagraph (3)(b)1.,
 249 excluding assessment retakes, at least once on a triennial basis
 250 pursuant to a schedule determined by the Commissioner of

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251 Education. Each assessment, when published, must have been
 252 administered during the most recent school year and published in
 253 a format that facilitates sharing of assessment items.

254 Section 5. Paragraph (b) of subsection (6) and subsections
 255 (7), (8) and (20) of section 1002.33, Florida Statutes, are
 256 amended to read:

257 1002.33 Charter schools.—

258 (6) APPLICATION PROCESS AND REVIEW.—Charter school
 259 applications are subject to the following requirements:

260 (b) A sponsor shall receive and review all applications
 261 for a charter school using the evaluation instrument developed
 262 by the Department of Education. A sponsor shall receive and
 263 consider charter school applications received on or before
 264 August 1 of each calendar year for charter schools to be opened
 265 at the beginning of the school district's next school year, or
 266 to be opened at a time agreed to by the applicant and the
 267 sponsor. A sponsor may not refuse to receive a charter school
 268 application submitted before August 1 and may receive an
 269 application submitted later than August 1 if it chooses.
 270 Beginning in 2018 and thereafter, a sponsor shall receive and
 271 consider charter school applications received on or before
 272 February 1 of each calendar year for charter schools to be
 273 opened 18 months later at the beginning of the school district's
 274 school year, or to be opened at a time agreed to by the
 275 applicant and the sponsor. A sponsor may not refuse to receive a

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276 charter school application submitted before February 1 and may
 277 receive an application submitted later than February 1 if it
 278 chooses. A sponsor may not charge an applicant for a charter any
 279 fee for the processing or consideration of an application, and a
 280 sponsor may not base its consideration or approval of a final
 281 application upon the promise of future payment of any kind.
 282 Before approving or denying any application, the sponsor shall
 283 allow the applicant, upon receipt of written notification, at
 284 least 7 calendar days to make technical or nonsubstantive
 285 corrections and clarifications, including, but not limited to,
 286 corrections of grammatical, typographical, and like errors or
 287 missing signatures, if such errors are identified by the sponsor
 288 as cause to deny the final application.

289 1. In order to facilitate an accurate budget projection
 290 process, a sponsor shall be held harmless for FTE students who
 291 are not included in the FTE projection due to approval of
 292 charter school applications after the FTE projection deadline.
 293 In a further effort to facilitate an accurate budget projection,
 294 within 15 calendar days after receipt of a charter school
 295 application, a sponsor shall report to the Department of
 296 Education the name of the applicant entity, the proposed charter
 297 school location, and its projected FTE.

298 2. In order to ensure fiscal responsibility, an
 299 application for a charter school shall include a full accounting
 300 of expected assets, a projection of expected sources and amounts

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301 of income, including income derived from projected student
 302 enrollments and from community support, and an expense
 303 projection that includes full accounting of the costs of
 304 operation, including start-up costs.

305 3.a. A sponsor shall by a majority vote approve or deny an
 306 application no later than 90 calendar days after the application
 307 is received, unless the sponsor and the applicant mutually agree
 308 in writing to temporarily postpone the vote to a specific date,
 309 at which time the sponsor shall by a majority vote approve or
 310 deny the application. If the sponsor fails to act on the
 311 application, an applicant may appeal to the State Board of
 312 Education as provided in paragraph (c). If an application is
 313 denied, the sponsor shall, within 10 calendar days after such
 314 denial, articulate in writing the specific reasons, based upon
 315 good cause, supporting its denial of the application and shall
 316 provide the letter of denial and supporting documentation to the
 317 applicant and to the Department of Education.

318 b. An application submitted by a high-performing charter
 319 school identified pursuant to s. 1002.331 or a high-performing
 320 charter school system identified pursuant to s. 1002.332 may be
 321 denied by the sponsor only if the sponsor demonstrates by clear
 322 and convincing evidence that:

323 (I) The application does not materially comply with the
 324 requirements in paragraph (a), or for a high-performing charter
 325 school system, the application does not materially comply with

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326 s. 1002.331(2)(b);

327 (II) The charter school proposed in the application does
 328 not materially comply with the requirements in paragraphs
 329 (9)(a)-(f);

330 (III) The proposed charter school's educational program
 331 does not substantially replicate that of the applicant or one of
 332 the applicant's high-performing charter schools;

333 (IV) The applicant has made a material misrepresentation
 334 or false statement or concealed an essential or material fact
 335 during the application process; or

336 (V) The proposed charter school's educational program and
 337 financial management practices do not materially comply with the
 338 requirements of this section.

339
 340 Material noncompliance is a failure to follow requirements or a
 341 violation of prohibitions applicable to charter school
 342 applications, which failure is quantitatively or qualitatively
 343 significant either individually or when aggregated with other
 344 noncompliance. An applicant is considered to be replicating a
 345 high-performing charter school if the proposed school is
 346 substantially similar to at least one of the applicant's high-
 347 performing charter schools and the organization or individuals
 348 involved in the establishment and operation of the proposed
 349 school are significantly involved in the operation of replicated
 350 schools.

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351 c. If the sponsor denies an application submitted by a
 352 high-performing charter school or a high-performing charter
 353 school system, the sponsor must, within 10 calendar days after
 354 such denial, state in writing the specific reasons, based upon
 355 the criteria in sub-subparagraph b., supporting its denial of
 356 the application and must provide the letter of denial and
 357 supporting documentation to the applicant and to the Department
 358 of Education. The applicant may appeal the sponsor's denial of
 359 the application in accordance with paragraph (c).

360 4. For budget projection purposes, the sponsor shall
 361 report to the Department of Education the approval or denial of
 362 an application within 10 calendar days after such approval or
 363 denial. In the event of approval, the report to the Department
 364 of Education shall include the final projected FTE for the
 365 approved charter school.

366 5. Upon approval of an application, the initial startup
 367 shall commence with the beginning of the public school calendar
 368 for the district in which the charter is granted. A charter
 369 school may defer the opening of the school's operations for up
 370 to 3 ~~2~~ years to provide time for adequate facility planning. The
 371 charter school must provide written notice of such intent to the
 372 sponsor and the parents of enrolled students at least 30
 373 calendar days before the first day of school.

374 (7) CHARTER.—The terms and conditions for the operation of
 375 a charter school shall be set forth by the sponsor and the

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376 applicant in a written contractual agreement, called a charter.
 377 The sponsor and the governing board of the charter school shall
 378 use the standard charter contract pursuant to subsection (21),
 379 which shall incorporate the approved application and any addenda
 380 approved with the application. Any term or condition of a
 381 proposed charter contract that differs from the standard charter
 382 contract adopted by rule of the State Board of Education shall
 383 be presumed a limitation on charter school flexibility. The
 384 sponsor may not impose unreasonable rules or regulations that
 385 violate the intent of giving charter schools greater flexibility
 386 to meet educational goals. The charter shall be signed by the
 387 governing board of the charter school and the sponsor, following
 388 a public hearing to ensure community input.

389 (a) The charter shall address and criteria for approval of
 390 the charter shall be based on:

391 1. The school's mission, the students to be served, and
 392 the ages and grades to be included.

393 2. The focus of the curriculum, the instructional methods
 394 to be used, any distinctive instructional techniques to be
 395 employed, and identification and acquisition of appropriate
 396 technologies needed to improve educational and administrative
 397 performance which include a means for promoting safe, ethical,
 398 and appropriate uses of technology which comply with legal and
 399 professional standards.

400 a. The charter shall ensure that reading is a primary

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401 focus of the curriculum and that resources are provided to
 402 identify and provide specialized instruction for students who
 403 are reading below grade level. The curriculum and instructional
 404 strategies for reading must be consistent with the Next
 405 Generation Sunshine State Standards and grounded in
 406 scientifically based reading research.

407 b. In order to provide students with access to diverse
 408 instructional delivery models, to facilitate the integration of
 409 technology within traditional classroom instruction, and to
 410 provide students with the skills they need to compete in the
 411 21st century economy, the Legislature encourages instructional
 412 methods for blended learning courses consisting of both
 413 traditional classroom and online instructional techniques.
 414 Charter schools may implement blended learning courses which
 415 combine traditional classroom instruction and virtual
 416 instruction. Students in a blended learning course must be full-
 417 time students of the charter school pursuant to s.
 418 1011.61(1)(a)1. Instructional personnel certified pursuant to s.
 419 1012.55 who provide virtual instruction for blended learning
 420 courses may be employees of the charter school or may be under
 421 contract to provide instructional services to charter school
 422 students. At a minimum, such instructional personnel must hold
 423 an active state or school district adjunct certification under
 424 s. 1012.57 for the subject area of the blended learning course.
 425 The funding and performance accountability requirements for

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426 blended learning courses are the same as those for traditional
 427 courses.

428 3. The current incoming baseline standard of student
 429 academic achievement, the outcomes to be achieved, and the
 430 method of measurement that will be used. The criteria listed in
 431 this subparagraph shall include a detailed description of:

432 a. How the baseline student academic achievement levels
 433 and prior rates of academic progress will be established.

434 b. How these baseline rates will be compared to rates of
 435 academic progress achieved by these same students while
 436 attending the charter school.

437 c. To the extent possible, how these rates of progress
 438 will be evaluated and compared with rates of progress of other
 439 closely comparable student populations.

440

441 The district school board is required to provide academic
 442 student performance data to charter schools for each of their
 443 students coming from the district school system, as well as
 444 rates of academic progress of comparable student populations in
 445 the district school system.

446 4. The methods used to identify the educational strengths
 447 and needs of students and how well educational goals and
 448 performance standards are met by students attending the charter
 449 school. The methods shall provide a means for the charter school
 450 to ensure accountability to its constituents by analyzing

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451 student performance data and by evaluating the effectiveness and
 452 efficiency of its major educational programs. Students in
 453 charter schools shall, at a minimum, participate in the
 454 statewide assessment program created under s. 1008.22.

455 5. In secondary charter schools, a method for determining
 456 that a student has satisfied the requirements for graduation in
 457 s. 1002.3105(5), s. 1003.4281, or s. 1003.4282.

458 6. A method for resolving conflicts between the governing
 459 board of the charter school and the sponsor.

460 7. The admissions procedures and dismissal procedures,
 461 including the school's code of student conduct. Admission or
 462 dismissal must not be based on a student's academic performance.

463 8. The ways by which the school will achieve a
 464 racial/ethnic balance reflective of the community it serves or
 465 within the racial/ethnic range of other public schools in the
 466 same school district.

467 9. The financial and administrative management of the
 468 school, including a reasonable demonstration of the professional
 469 experience or competence of those individuals or organizations
 470 applying to operate the charter school or those hired or
 471 retained to perform such professional services and the
 472 description of clearly delineated responsibilities and the
 473 policies and practices needed to effectively manage the charter
 474 school. A description of internal audit procedures and
 475 establishment of controls to ensure that financial resources are

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476 properly managed must be included. Both public sector and
 477 private sector professional experience shall be equally valid in
 478 such a consideration.

479 10. The asset and liability projections required in the
 480 application which are incorporated into the charter and shall be
 481 compared with information provided in the annual report of the
 482 charter school.

483 11. A description of procedures that identify various
 484 risks and provide for a comprehensive approach to reduce the
 485 impact of losses; plans to ensure the safety and security of
 486 students and staff; plans to identify, minimize, and protect
 487 others from violent or disruptive student behavior; and the
 488 manner in which the school will be insured, including whether or
 489 not the school will be required to have liability insurance,
 490 and, if so, the terms and conditions thereof and the amounts of
 491 coverage.

492 12. The term of the charter which shall provide for
 493 cancellation of the charter if insufficient progress has been
 494 made in attaining the student achievement objectives of the
 495 charter and if it is not likely that such objectives can be
 496 achieved before expiration of the charter. The initial term of a
 497 charter shall be for ~~4 or~~ 5 years, excluding one planning year.
 498 In order to facilitate access to long-term financial resources
 499 for charter school construction, charter schools that are
 500 operated by a municipality or other public entity as provided by

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501 law are eligible for up to a 15-year charter, subject to
 502 approval by the district school board. A charter lab school is
 503 eligible for a charter for a term of up to 15 years. In
 504 addition, to facilitate access to long-term financial resources
 505 for charter school construction, charter schools that are
 506 operated by a private, not-for-profit, s. 501(c)(3) status
 507 corporation are eligible for up to a 15-year charter, subject to
 508 approval by the district school board. Such long-term charters
 509 remain subject to annual review and may be terminated during the
 510 term of the charter, but only according to the provisions set
 511 forth in subsection (8).

512 13. The facilities to be used and their location. The
 513 sponsor may not require a charter school to have a certificate
 514 of occupancy or a temporary certificate of occupancy for such a
 515 facility earlier than 15 calendar days before the first day of
 516 school.

517 14. The qualifications to be required of the teachers and
 518 the potential strategies used to recruit, hire, train, and
 519 retain qualified staff to achieve best value.

520 15. The governance structure of the school, including the
 521 status of the charter school as a public or private employer as
 522 required in paragraph (12)(i).

523 16. A timetable for implementing the charter which
 524 addresses the implementation of each element thereof and the
 525 date by which the charter shall be awarded in order to meet this

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526 timetable.

527 17. In the case of an existing public school that is being
 528 converted to charter status, alternative arrangements for
 529 current students who choose not to attend the charter school and
 530 for current teachers who choose not to teach in the charter
 531 school after conversion in accordance with the existing
 532 collective bargaining agreement or district school board rule in
 533 the absence of a collective bargaining agreement. However,
 534 alternative arrangements shall not be required for current
 535 teachers who choose not to teach in a charter lab school, except
 536 as authorized by the employment policies of the state university
 537 which grants the charter to the lab school.

538 18. Full disclosure of the identity of all relatives
 539 employed by the charter school who are related to the charter
 540 school owner, president, chairperson of the governing board of
 541 directors, superintendent, governing board member, principal,
 542 assistant principal, or any other person employed by the charter
 543 school who has equivalent decisionmaking authority. For the
 544 purpose of this subparagraph, the term "relative" means father,
 545 mother, son, daughter, brother, sister, uncle, aunt, first
 546 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 547 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
 548 stepfather, stepmother, stepson, stepdaughter, stepbrother,
 549 stepsister, half brother, or half sister.

550 19. Implementation of the activities authorized under s.

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551 | 1002.331 by the charter school when it satisfies the eligibility
 552 | requirements for a high-performing charter school. A high-
 553 | performing charter school shall notify its sponsor in writing by
 554 | March 1 if it intends to increase enrollment or expand grade
 555 | levels the following school year. The written notice shall
 556 | specify the amount of the enrollment increase and the grade
 557 | levels that will be added, as applicable.

558 | (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

559 | (a) The sponsor shall make student academic achievement
 560 | for all students the most important factor when determining
 561 | whether to renew or terminate the charter. The sponsor may also
 562 | choose not to renew or may terminate the charter based upon
 563 | clear and convincing evidence that~~for any of the following~~
 564 | ~~grounds:~~

565 | 1. Failure to participate in the state's education
 566 | accountability system created in s. 1008.31, as required in this
 567 | section, or failure to meet the requirements for student
 568 | performance stated in the charter.

569 | 2. Failure to meet generally accepted standards of fiscal
 570 | management.

571 | 3. Material violation ~~Violation~~ of law.

572 | 4. Other good cause shown.

573 | (b) At least 90 days before renewing, nonrenewing, or
 574 | terminating a charter, the sponsor shall notify the governing
 575 | board of the school of the proposed action in writing. The

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576 notice shall state in reasonable detail the grounds for the
 577 proposed action and stipulate that the school's governing board
 578 may, within 14 calendar days after receiving the notice, request
 579 a hearing. The hearing shall be conducted ~~at the sponsor's~~
 580 ~~election in accordance with one of the following procedures:~~

581 ~~1. A direct hearing conducted by the sponsor within 60~~
 582 ~~days after receipt of the request for a hearing. The hearing~~
 583 ~~shall be conducted in accordance with ss. 120.569 and 120.57.~~
 584 ~~The sponsor shall decide upon nonrenewal or termination by a~~
 585 ~~majority vote. The sponsor's decision shall be a final order; or~~

586 ~~2. A hearing conducted by an administrative law judge~~
 587 ~~assigned by the Division of Administrative Hearings. The hearing~~
 588 ~~shall be conducted within 90 ~~60~~ days after receipt of the~~
 589 ~~request for a hearing and in accordance with chapter 120. The~~
 590 ~~administrative law judge's recommended final order shall be~~
 591 ~~submitted to the sponsor. A majority vote by the sponsor shall~~
 592 ~~be required to adopt or modify the administrative law judge's~~
 593 ~~recommended order. The sponsor shall issue a final order. The~~
 594 ~~administrative law judge shall award the prevailing party~~
 595 ~~reasonable attorney fees and costs incurred during the~~
 596 ~~administrative proceeding and any appeals.~~

597 ~~(c) The final order shall state the specific reasons for~~
 598 ~~the sponsor's decision. The sponsor shall provide its final~~
 599 ~~order to the charter school's governing board and the Department~~
 600 ~~of Education no later than 10 calendar days after its issuance.~~

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601 The charter school's governing board may, within 30 calendar
 602 days after receiving the ~~sponsor's~~ final order, appeal the
 603 decision pursuant to s. 120.68.

604 (20) SERVICES.—

605 (b) If goods and services are made available to the
 606 charter school through the contract with the school district,
 607 they shall be provided to the charter school at a rate no
 608 greater than the district's actual cost unless mutually agreed
 609 upon by the charter school and the sponsor in a contract
 610 negotiated separately from the charter. When mediation has
 611 failed to resolve disputes over contracted services or
 612 contractual matters not included in the charter, an appeal may
 613 be made ~~for a dispute resolution~~ to an administrative law judge
 614 appointed by the Division of Administrative Hearing. The
 615 administrative law judge has final order authority to rule on
 616 the dispute. The administrative law judge shall award the
 617 prevailing party reasonable attorney fees and costs incurred
 618 during the mediation process, administrative proceeding, and any
 619 appeals, to be paid by the party whom the administrative law
 620 judge rules against ~~hearing before the Charter School Appeal~~
 621 ~~Commission~~. To maximize the use of state funds, school districts
 622 shall allow charter schools to participate in the sponsor's bulk
 623 purchasing program if applicable.

624 Section 6. Paragraph (a) of subsection (2) and subsection
 625 (3) of section 1012.562, Florida Statutes, is amended to read:

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626 1012.562 Public accountability and state approval of
 627 school leader preparation programs.—The Department of Education
 628 shall establish a process for the approval of Level I and Level
 629 II school leader preparation programs that will enable aspiring
 630 school leaders to obtain their certificate in educational
 631 leadership under s. 1012.56. School leader preparation programs
 632 must be competency-based, aligned to the principal leadership
 633 standards adopted by the state board, and open to individuals
 634 employed by public schools, including charter schools and
 635 virtual schools. Level I programs ~~may be offered by school~~
 636 ~~districts or postsecondary institutions~~ and lead to initial
 637 certification in educational leadership for the purpose of
 638 preparing individuals to serve as school administrators. Level
 639 II programs ~~may be offered by school districts,~~ build upon Level
 640 I training~~,~~ and lead to renewal certification as a school
 641 principal.

642 (2) LEVEL I PROGRAMS.—

643 (a) Initial approval of a Level I program shall be for a
 644 period of 5 years. A postsecondary institution, ~~or~~ school
 645 district, charter school, or charter management organization may
 646 submit to the department in a format prescribed by the
 647 department an application to establish a Level I school leader
 648 preparation program. To be approved, a Level I program must:

649 1. Provide competency-based training aligned to the
 650 principal leadership standards adopted by the State Board of

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651 Education.

652 2. If the program is provided by a postsecondary
653 institution, partner with at least one school district.

654 3. Describe the qualifications that will be used to
655 determine program admission standards, including a candidate's
656 instructional expertise and leadership potential.

657 4. Describe how the training provided through the program
658 will be aligned to the personnel evaluation criteria under s.
659 1012.34.

660 (3) LEVEL II PROGRAMS.—Initial approval and subsequent
661 renewal of a Level II program shall be for a period of 5 years.
662 A school district, charter school, or charter management
663 organization may submit to the department in a format prescribed
664 by the department an application to establish a Level II school
665 leader preparation program or for program renewal. To be
666 approved or renewed, a Level II program must:

667 (a) Demonstrate that personnel accepted into the Level II
668 program have:

669 1. Obtained their certificate in educational leadership
670 under s. 1012.56.

671 2. Earned a highly effective or effective designation
672 under s. 1012.34.

673 3. Satisfactorily performed instructional leadership
674 responsibilities as measured by the evaluation system in s.
675 1012.34.

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676 (b) Demonstrate that the Level II program:
 677 1. Provides competency-based training aligned to the
 678 principal leadership standards adopted by the State Board of
 679 Education.
 680 2. Provides training aligned to the personnel evaluation
 681 criteria under s. 1012.34 and professional development program
 682 in s. 1012.986.
 683 3. Provides individualized instruction using a customized
 684 learning plan for each person enrolled in the program that is
 685 based on data from self-assessment, selection, and appraisal
 686 instruments.
 687 4. Conducts program evaluations and implements program
 688 improvements using input from personnel who completed the
 689 program and employers and data gathered pursuant to paragraph
 690 (2)(b).
 691 (c) Gather and monitor the data specified in paragraph
 692 (2)(b).
 693 Section 7. Subsection (1), paragraph (a) of subsection
 694 (2), and subsections (4), (5), (6), and (7) of section
 695 1011.6202, Florida Statutes, are amended to read:
 696 1011.6202 Principal Autonomy ~~Pilot~~ Program Initiative.—The
 697 Principal Autonomy ~~Pilot~~ Program Initiative is created within
 698 the Department of Education. The purpose of the ~~pilot~~ program is
 699 to provide a ~~the~~ highly effective principal of a participating
 700 school with increased autonomy and authority to operate his or

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701 her school, as well as other schools, in a way that produces
 702 significant improvements in student achievement and school
 703 management while complying with constitutional requirements. The
 704 State Board of Education may, ~~upon approval of a principal~~
 705 autonomy proposal, enter into a performance contract with the up
 706 ~~to seven~~ district school board ~~boards~~ for participation in the
 707 ~~pilot~~ program.

708 (1) PARTICIPATING SCHOOL DISTRICTS. ~~Beginning with the~~
 709 2018-2019 school year, contingent upon available funds, and on a
 710 first-come, first-served basis, a ~~The~~ district school board
 711 ~~boards in Broward, Duval, Jefferson, Madison, Palm Beach,~~
 712 ~~Pinellas, and Seminole Counties~~ may submit no later than
 713 December 1 to the state board for approval a principal autonomy
 714 proposal that exchanges statutory and rule exemptions for an
 715 agreement to meet performance goals established in the proposal.
 716 If approved by the state board, the ~~each of these~~ school
 717 district is ~~districts shall be~~ eligible to participate in the
 718 ~~pilot~~ program for 3 years. ~~At the end of the 3 years, the~~
 719 ~~performance of all participating schools in the school district~~
 720 ~~shall be evaluated.~~

721 (2) PRINCIPAL AUTONOMY PROPOSAL.—

722 (a) To participate in the ~~pilot~~ program, a school district
 723 must:

724 1. Identify three schools that received at least two
 725 school grades of "D" or "F" pursuant to s. 1008.34 during the

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726 previous 3 school years.

727 2. Identify three principals who have earned a highly
728 effective rating on the prior year's performance evaluation
729 pursuant to s. 1012.34, one of whom shall be assigned to each of
730 the participating schools.

731 3. Describe the current financial and administrative
732 management of each participating school; identify the areas in
733 which each school principal will have increased fiscal and
734 administrative autonomy, including the authority and
735 responsibilities provided in s. 1012.28(8); and identify the
736 areas in which each participating school will continue to follow
737 district school board fiscal and administrative policies.

738 4. Explain the methods used to identify the educational
739 strengths and needs of the participating school's students and
740 identify how student achievement can be improved.

741 5. Establish performance goals for student achievement, as
742 defined in s. 1008.34(1), and explain how the increased autonomy
743 of principals will help participating schools improve student
744 achievement and school management.

745 6. Provide each participating school's mission and a
746 description of its student population.

747 (3) EXEMPTION FROM LAWS.—

748 (a) With the exception of those laws listed in paragraph
749 (b), a participating school and a school operated by an
750 independent governing board pursuant to subsection (5) are ~~is~~

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751 exempt from the provisions of chapters 1000-1013 and rules of
752 the state board that implement those exempt provisions.

753 (b) A participating school and a school operated by an
754 independent governing board pursuant to subsection (5) shall
755 comply with the provisions of chapters 1000-1013, and rules of
756 the state board that implement those provisions, pertaining to
757 the following:

758 1. Those laws relating to the election and compensation of
759 district school board members, the election or appointment and
760 compensation of district school superintendents, public meetings
761 and public records requirements, financial disclosure, and
762 conflicts of interest.

763 2. Those laws relating to the student assessment program
764 and school grading system, including chapter 1008.

765 3. Those laws relating to the provision of services to
766 students with disabilities.

767 4. Those laws relating to civil rights, including s.
768 1000.05, relating to discrimination.

769 5. Those laws relating to student health, safety, and
770 welfare.

771 6. Section 1001.42(4)(f), relating to the uniform opening
772 date for public schools.

773 7. Section 1003.03, governing maximum class size, except
774 that the calculation for compliance pursuant to s. 1003.03 is
775 the average at the school level for a participating school.

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776 8. Sections 1012.22(1)(c) and 1012.27(2), relating to
 777 compensation and salary schedules.

778 9. Section 1012.33(5), relating to workforce reductions for
 779 annual contracts for instructional personnel. This subparagraph
 780 does not apply to at-will employees.

781 10. Section 1012.335, relating to annual contracts for
 782 instructional personnel hired on or after July 1, 2011. This
 783 subparagraph does not apply to at-will employees.

784 11. Section 1012.34, relating to personnel evaluation
 785 procedures and criteria.

786 12. Those laws pertaining to educational facilities,
 787 including chapter 1013, except that s. 1013.20, relating to
 788 covered walkways for relocatables, and s. 1013.21, relating to
 789 the use of relocatable facilities exceeding 20 years of age, are
 790 eligible for exemption.

791 13. Those laws pertaining to participating school
 792 districts, including this section and ss. 1011.69(2) and
 793 1012.28(8).

794 (c) A school shall remain exempt, as provided in this
 795 subsection, beyond the term of the program so long as the school
 796 receives no grade lower than a "B".

797 (4) PROFESSIONAL DEVELOPMENT.—Each participating school
 798 district shall require that the principal of each participating
 799 school and a designated leadership team selected by the
 800 principal of the participating school shall, ~~a three member~~

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801 ~~leadership team from each participating school, and district~~
 802 ~~personnel working with each participating school~~ complete a
 803 nationally recognized school turnaround program which focuses on
 804 improving leadership, instructional infrastructure, talent
 805 management, and differentiated support and accountability. The
 806 required personnel must enroll in the nationally recognized
 807 school turnaround program upon acceptance into the ~~pilot~~
 808 program. ~~Each participating school district shall receive~~
 809 ~~\$100,000 from the department for participation in the nationally~~
 810 ~~recognized school turnaround program.~~

811 (5) DISTRICT-INDEPENDENT AUTONOMOUS SCHOOLS. - To foster
 812 development of principal autonomy and autonomous schools,
 813 participating school districts may expand the impact of
 814 participating principals by allowing participating principals to
 815 manage multiple schools under an independent governing board.

816 (a) A participating principal who successfully completes
 817 the training required by subsection (4) may manage one or more
 818 schools that are operated by an independent governing board
 819 through a contract with the school board. To avoid any conflict
 820 of interest regarding the review, approval and oversight of the
 821 school, members of the governing board may not be employees of
 822 the school district or any school operated by the governing
 823 board.

824 (b) For the purposes of tort liability, the independent
 825 governing board, autonomous school, and its employees or agents

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826 shall be governed by s. 768.28. The school board shall not be
 827 liable for civil damages under state law for the employment
 828 actions or personal injury, property damage, or death resulting
 829 from an act or omission of an independent governing board,
 830 autonomous school, and its employees or agents.

831 (c) An autonomous school may be either a private or a
 832 public employer. As a public employer, the autonomous school may
 833 participate in the Florida Retirement System upon application
 834 and approval as a covered group under s. 121.021(34). If an
 835 autonomous school participates in the Florida Retirement System,
 836 the school's employees shall be compulsory members of the
 837 Florida Retirement System.

838 (6)(5) TERM OF PARTICIPATION.—The state board shall
 839 authorize a school district to participate in the ~~pilot~~ program
 840 for a period of 3 years commencing with approval of the
 841 principal autonomy proposal. ~~Authorization to participate in~~
 842 ~~the pilot program may be renewed upon action of the state board.~~
 843 The state board may revoke authorization to participate in the
 844 ~~pilot~~ program if the school district fails to meet the
 845 requirements of this section during the 3-year period.

846 (6) REPORTING.—~~Each participating school district shall~~
 847 ~~submit an annual report to the state board. The state board~~
 848 ~~shall annually report on the implementation of the Principal~~
 849 ~~Autonomy Pilot Program Initiative. Upon completion of the pilot~~
 850 ~~program's first 3-year term, the Commissioner of Education shall~~

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851 ~~submit to the President of the Senate and the Speaker of the~~
 852 ~~House of Representatives by December 1 a full evaluation of the~~
 853 ~~effectiveness of the pilot program.~~

854 (7) FUNDING.— Subject to an annual appropriation, The
 855 ~~Legislature shall provide an appropriation to the department~~
 856 shall fund for the costs of the pilot program to include the,
 857 ~~including administrative costs and enrollment costs for the~~
 858 nationally recognized school turnaround program required in
 859 subsection (4), and an additional amount not to exceed of
 860 \$10,000 for each participating principal in each participating
 861 district as an annual salary supplement for three years, ~~a fund~~
 862 ~~for the principal's school to be used at the principal's~~
 863 ~~discretion, or both, as determined by the district.~~ To be
 864 eligible for a salary supplement under this subsection, a
 865 participating principal must:

866 (a) Be rated "highly effective" as determined by the
 867 principal's performance evaluation under s. 1012.34;

868 (b) Be transferred to, or manage pursuant to subsection
 869 (5), a school that earned a grade of "F" or two ~~three~~
 870 consecutive grades of "D" pursuant to s. 1008.34 and provided
 871 additional authority and responsibilities pursuant to s.
 872 1012.28(8); and

873 (c) Have implemented a turnaround option under s.
 874 1008.33~~(4)~~ at a school as the school's principal or manager. The
 875 turnaround option must have resulted in the school improving by

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876 | at least one letter grade while he or she was serving as the
 877 | school's principal or manager.

878 | Section 8. Paragraph (b) of subsection (13) and paragraph
 879 | (b) of subsection (24) of section 1007.271, Florida Statutes, is
 880 | amended to read:

881 | 1007.271 Dual enrollment programs.—

882 | (13)(a) The dual enrollment program for a home education
 883 | student, including, but not limited to, students with
 884 | disabilities, consists of the enrollment of an eligible home
 885 | education secondary student in a postsecondary course creditable
 886 | toward an associate degree, a career certificate, or a

887 | baccalaureate degree. To participate in the dual enrollment
 888 | program, an eligible home education secondary student must:

- 889 | 1. Provide proof of enrollment in a home education program
- 890 | pursuant to s. 1002.41.
- 891 | 2. Be responsible for his or her own instructional materials
- 892 | and transportation unless provided for in the articulation
- 893 | agreement.
- 894 | 3. Sign a home education articulation agreement pursuant to
- 895 | paragraph (b).

896 | (b) Each postsecondary institution eligible to participate in
 897 | the dual enrollment program pursuant to s. 1011.62(1)(i) must
 898 | enter into a home education articulation agreement with each
 899 | home education student seeking enrollment in a dual enrollment
 900 | course and the student's parent. By August 1 of each year, the

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901 eligible postsecondary institution shall complete and submit the
 902 home education articulation agreement to the Department of
 903 Education. The home education articulation agreement must
 904 include, at a minimum:

905 1. A delineation of courses and programs available to dually
 906 enrolled home education students. Courses and programs may be
 907 added, revised, or deleted at any time by the postsecondary
 908 institution.

909 2. The initial and continued eligibility requirements for home
 910 education student participation, not to exceed those required of
 911 other dually enrolled students.

912 3. The student's responsibilities for providing his or her own
 913 ~~instructional materials and~~ transportation.

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

916 (24)

917 (b) Each postsecondary institution eligible to participate
 918 in the dual enrollment program pursuant to s. 1011.62(1)(i) must
 919 enter into a private school articulation agreement with each
 920 eligible private school in its geographic service area seeking
 921 to offer dual enrollment courses to its students, including, but
 922 not limited to, students with disabilities. By August 1 of each
 923 year, the eligible postsecondary institution shall complete and
 924 submit the private school articulation agreement to the
 925 Department of Education. The private school articulation

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926 | agreement must include, at a minimum:

927 | 1. A delineation of courses and programs available to the
928 | private school student. The postsecondary institution may add,
929 | revise, or delete courses and programs at any time.

930 | 2. The initial and continued eligibility requirements for
931 | private school student participation, not to exceed those
932 | required of other dual enrollment students.

933 | 3. The student's responsibilities for providing his or her
934 | own instructional materials and transportation.

935 | 4. A provision clarifying that the private school will
936 | award appropriate credit toward high school completion for the
937 | postsecondary course under the dual enrollment program.

938 | 5. A provision expressing that costs associated with
939 | tuition and fees, including registration, and laboratory fees,
940 | will not be passed along to the student.

941 | ~~6. A provision stating whether the private school will~~
942 | ~~compensate the postsecondary institution for the standard~~
943 | ~~tuition rate per credit hour for each dual enrollment course~~
944 | ~~taken by its students.~~

945 | Section 9. Subsection (11) of section 1012.98, Florida
946 | Statutes, is amended to read:

947 | 1012.98 School Community Professional Development Act.—

948 | (11) The department shall disseminate to the school
949 | community proven model professional development programs that
950 | have demonstrated success in increasing rigorous and relevant

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951 content, increasing student achievement and engagement, meeting
 952 identified student needs, and providing effective mentorship
 953 activities to new teachers and training to teacher mentors. The
 954 methods of dissemination must include a web-based statewide
 955 performance-support system including a database of exemplary
 956 professional development activities, a listing of available
 957 professional development resources, training programs, and
 958 available technical assistance. Professional development
 959 resources must include sample course-at-a-glance and unit
 960 overview templates that school districts may use when developing
 961 curriculum. The templates must provide an organized structure
 962 for addressing the Florida Standards, grade-level expectations,
 963 evidence outcomes, and 21st century skills that build to
 964 students' mastery of the standards at each grade level. Each
 965 template must support teaching to greater intellectual depth and
 966 emphasize transfer and application of concepts, content, and
 967 skills. At a minimum, each template must:

968 (a) Provide course or year-long sequencing of concept-
 969 based unit overviews based on the Florida Standards.

970 (b) Describe the knowledge and vocabulary necessary for
 971 comprehension.

972 (c) Promote the instructional shifts required within the
 973 standards.

974 (d) Illustrate the interdependence of grade level
 975 expectations within and across content areas within a grade.

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976 Section 10. Subsections (1) and (2) of section 1002.331,
977 Florida Statutes, are amended to read:

978 1002.331 High-performing charter schools.-

979 (1) A charter school is a high-performing charter school
980 if it:

981 (a) Received at least two school grades of "A" and no
982 school grade below "B," pursuant to s. 1008.34, during each of
983 the previous 3 school years or received at least two consecutive
984 school grades of "A".

985 (b) Received an unqualified opinion on each annual
986 financial audit required under s. 218.39 in the most recent 3
987 fiscal years for which such audits are available.

988 (c) Did not receive a financial audit that revealed one or
989 more of the financial emergency conditions set forth in s.
990 218.503(1) in the most recent 3 fiscal years for which such
991 audits are available. However, this requirement is deemed met
992 for a charter school-in-the-workplace if there is a finding in
993 an audit that the school has the monetary resources available to
994 cover any reported deficiency or that the deficiency does not
995 result in a deteriorating financial condition pursuant to s.
996 1002.345(1)(a)3.

997

998 For purposes of determining initial eligibility, the
999 requirements of paragraphs (b) and (c) only apply for the most
1000 recent 2 fiscal years if the charter school earns two

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1001 consecutive grades of "A".

1002

1003 A virtual charter school established under s. 1002.33 is not
1004 eligible for designation as a high-performing charter school.

1005 (2) A high-performing charter school is authorized to:

1006 (a) Increase its student enrollment once per school year
1007 to more than the capacity identified in the charter, but student
1008 enrollment may not exceed the ~~current facility~~ capacity of the
1009 facility at the time of enrollment. Facility capacity for
1010 purposes of grade level expansion shall include any improvements
1011 to an existing facility or any new facility in which a majority
1012 of the students of the high-performing charter school will
1013 enroll.

1014 (b) Expand grade levels within kindergarten through grade
1015 12 to add grade levels not already served if any annual
1016 enrollment increase resulting from grade level expansion is
1017 within the limit established in paragraph (a).

1018

1019 A high-performing charter school shall notify its sponsor in
1020 writing by March 1 if it intends to increase enrollment or
1021 expand grade levels the following school year. The written
1022 notice shall specify the amount of the enrollment increase and
1023 the grade levels that will be added, as applicable. If a charter
1024 school notifies the sponsor of its intent to expand, the sponsor
1025 shall modify the charter within 90 days to include the new

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1026 enrollment maximum and may not make any other changes. The
 1027 sponsor may deny a request to increase the enrollment of a high-
 1028 performing charter school if the commissioner has declassified
 1029 the charter school as high-performing. If a high-performing
 1030 charter school requests to consolidate multiple charters, the
 1031 sponsor shall have 40 days after receipt of that request to
 1032 provide an initial draft charter to the charter school. The
 1033 sponsor and charter school shall have 50 days thereafter to
 1034 negotiate and notice the charter contract for final approval by
 1035 the sponsor.

1036 (3)

1037 (b) A high-performing charter school may not establish
 1038 more than two ~~one~~ charter schools ~~school~~ within the state under
 1039 paragraph (a) in any year. A subsequent application to establish
 1040 a charter school under paragraph (a) may not be submitted unless
 1041 each charter school established in this manner achieves high-
 1042 performing charter school status. However, a high-performing
 1043 charter school may establish more than one charter school within
 1044 the state under paragraph (a) in any year if it operates in the
 1045 area of a persistently low-performing school and serves students
 1046 from that school.

1047 Section 11. Subsection (6) of section 1006.07, Florida
 1048 Statutes, is amended to read:

1049 1006.07 District school board duties relating to student
 1050 discipline and school safety.—The district school board shall

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1051 provide for the proper accounting for all students, for the
 1052 attendance and control of students at school, and for proper
 1053 attention to health, safety, and other matters relating to the
 1054 welfare of students, including:

1055 (6) SAFETY AND SECURITY BEST PRACTICES.—Each school
 1056 district shall ~~Use the Safety and Security Best Practices~~
 1057 ~~developed by the Office of Program Policy Analysis and~~
 1058 ~~Government Accountability to~~ conduct a security risk assessment
 1059 at each public school and conduct a self-assessment of the
 1060 school districts' current safety and security practices using a
 1061 format prescribed by the department. Based on these assessment
 1062 ~~self-assessment~~ findings, the district school superintendent
 1063 shall provide recommendations to the district school board which
 1064 identify strategies and activities that the district school
 1065 board should implement in order to improve school safety and
 1066 security. Annually, each district school board must receive such
 1067 findings and the superintendent's recommendations ~~the self-~~
 1068 ~~assessment results~~ at a publicly noticed district school board
 1069 meeting to provide the public an opportunity to hear the
 1070 district school board members discuss and take action on the
 1071 ~~report~~ findings and recommendations. Each district school
 1072 superintendent shall report such findings ~~the self-assessment~~
 1073 ~~results~~ and school board action to the commissioner within 30
 1074 days after the district school board meeting.

1075 Section 12. Section 1003.576, Florida Statutes, is amended

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1076 to read:
 1077 1003.576 Individual education plans for exceptional
 1078 students.—The Department of Education must develop and have an
 1079 operating electronic IEP system in place for ~~potential~~ statewide
 1080 use ~~no later than July 1, 2007~~. The statewide system shall be
 1081 developed collaboratively with school districts and must include
 1082 input from school districts currently developing or operating
 1083 electronic IEP systems.

1084 Section 13. Paragraph (b) of subsection (2) of section
 1085 1012.32, Florida Statutes, is amended to read:

1086 1012.32 Qualifications of personnel.—

1087 (2)

1088 (b) Instructional and noninstructional personnel who are
 1089 hired or contracted to fill positions in any charter school and
 1090 members of the governing board of any charter school, in
 1091 compliance with s. 1002.33(12)(g), must, upon employment,
 1092 engagement of services, or appointment, undergo background
 1093 screening as required under s. 1012.465 or s. 1012.56, whichever
 1094 is applicable, by filing with the district school board for the
 1095 school district in which the charter school is located a
 1096 complete set of fingerprints taken by an authorized law
 1097 enforcement agency or an employee of the school or school
 1098 district who is trained to take fingerprints.

1099
 1100 Fingerprints shall be submitted to the Department of Law

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1101 Enforcement for statewide criminal and juvenile records checks
 1102 and to the Federal Bureau of Investigation for federal criminal
 1103 records checks. A person subject to this subsection who is found
 1104 ineligible for employment under s. 1012.315, or otherwise found
 1105 through background screening to have been convicted of any crime
 1106 involving moral turpitude as defined by rule of the State Board
 1107 of Education, shall not be employed, engaged to provide
 1108 services, or serve in any position that requires direct contact
 1109 with students. Probationary persons subject to this subsection
 1110 terminated because of their criminal record have the right to
 1111 appeal such decisions. The cost of the background screening may
 1112 be borne by the district school board, the charter school, the
 1113 employee, the contractor, or a person subject to this
 1114 subsection. If the district school board does not notify the
 1115 charter school of the eligibility of governing board members and
 1116 instructional and noninstructional personnel within 14 days, it
 1117 shall waive the cost of background screening.

1118
 1119 Section 14. Section 1002.411, Florida Statutes, is created
 1120 to read:

1121 1002.411 Reading scholarship accounts.-

1122 (1) READING SCHOLARSHIP ACCOUNTS.-Reading scholarship
 1123 accounts are established to provide educational options for
 1124 students.

1125 (2) ELIGIBILITY.-Contingent upon available funds, and on a

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1126 first-come, first-served basis, a student enrolled in a Florida
 1127 public school is eligible for a scholarship under this program
 1128 if the student scored a Level 1 or Level 2 on the grade 3
 1129 statewide, standardized English Language Arts assessment.

1130 (3) PARENT AND STUDENT RESPONSIBILITIES FOR
 1131 PARTICIPATION.—

1132 (a) For an eligible student to receive a reading
 1133 scholarship account, the student's parent must:

1134 1. Submit an application to an eligible scholarship
 1135 funding organization by the deadline established by the
 1136 scholarship funding organization; and

1137 2. Submit eligible expenses to the scholarship funding
 1138 organization for reimbursement of qualifying expenditures which
 1139 may include:

1140 a. Instructional materials.

1141 b. Curriculum. As used in this sub-subparagraph, the term
 1142 "curriculum" means a complete course of study for a particular
 1143 content area or grade level, including any required supplemental
 1144 materials and associated online instruction.

1145 c. Tuition and fees for part-time tutoring services
 1146 provided by a person who holds a baccalaureate degree in the
 1147 subject area; a person who holds an adjunct teaching certificate
 1148 pursuant to s. 1012.57; or a person who has demonstrated a
 1149 mastery of subject area knowledge pursuant to s. 1012.56(5).

1150 d. Fees for summer education programs.

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1151 e. Fees for after-school education programs.
 1152 f. Specialized services by approved providers or by a
 1153 hospital in this state which are selected by the parent. These
 1154 specialized services may include, but are not limited to:
 1155 (I) Applied behavior analysis services as provided in ss.
 1156 627.6686 and 641.31098.
 1157 (II) Services provided by speech-language pathologists as
 1158 defined in s. 468.1125.
 1159 (III) Occupational therapy services as defined in s.
 1160 468.203.
 1161 (IV) Services provided by physical therapists as defined
 1162 in s. 486.021.
 1163 (V) Services provided by listening and spoken language
 1164 specialists and an appropriate acoustical environment for a
 1165 child who is deaf or hard of hearing and who has received an
 1166 implant or assistive hearing device.
 1167 (VI) Contributions to the Florida College Savings Program
 1168 pursuant to s. 1009.981 for the benefit of the eligible student.
 1169
 1170 A provider of any services receiving payments pursuant to this
 1171 subsection may not share, refund, or rebate any moneys from the
 1172 reading scholarship with the parent or participating student in
 1173 any manner. A parent, student, or provider of any services may
 1174 not bill an insurance company, Medicaid, or any other agency for
 1175 the same services that are paid for using reading scholarship

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1176 funds.
 1177 (b) The parent is responsible for the payment of all
 1178 eligible expenses in excess of the amount in the account in
 1179 accordance with the terms agreed to between the parent and the
 1180 providers and may not receive any refund or rebate of any
 1181 expenditures made in accordance with paragraph (a).
 1182 (4) ADMINISTRATION.—A scholarship funding organization
 1183 participating in the Florida Tax Credit Scholarship Program
 1184 established by s. 1002.395 may establish Reading Scholarship
 1185 accounts for eligible students in accordance with the
 1186 requirements of scholarship funding organizations under this
 1187 chapter.
 1188 (5) DEPARTMENT OBLIGATIONS.—The department shall have the
 1189 same duties imposed by this chapter upon the department
 1190 regarding oversight of scholarship programs administered by a
 1191 scholarship funding organization.
 1192 (6) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—Upon
 1193 report of the assessment results pursuant to s. 1008.22(7)(h),
 1194 the school district shall notify each parent, whose student
 1195 scored a Level 1 or Level 2 on the grade 3 statewide,
 1196 standardized English Language Arts assessment, of the process to
 1197 request and receive a scholarship, subject to available funding.
 1198 (7) ACCOUNT FUNDING AND PAYMENT.—
 1199 (a) The maximum amount granted for an eligible student
 1200 shall be provided in the General Appropriations Act.

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1201 (b) One hundred percent of the funds appropriated for the
 1202 program shall be released to the department at the beginning of
 1203 the first quarter of each fiscal year.

1204 (c) Upon notification from the organization that a student
 1205 has been determined eligible, the department shall release the
 1206 student's scholarship funds to the organization to be deposited
 1207 into the student's account.

1208 (d) Accrued interest in the student's account is in
 1209 addition to, and not part of, the awarded funds. Program funds
 1210 include both the awarded funds and accrued interest.

1211 (e) The organization may develop a system for payment of
 1212 benefits by funds transfer, including, but not limited to, debit
 1213 cards, electronic payment cards, or any other means of payment
 1214 that the department deems to be commercially viable or cost-
 1215 effective. A student's scholarship award may not be reduced for
 1216 debit card or electronic payment fees. Commodities or services
 1217 related to the development of such a system shall be procured by
 1218 competitive solicitation unless they are purchased from a state
 1219 term contract pursuant to s. 287.056. The school district shall
 1220 report all students who are receiving a reading scholarship
 1221 account under this program. These students shall be reported
 1222 separately from other students reported for purposes of the
 1223 Florida Education Finance Program.

1224 (f) Payment of the scholarship shall be made by the
 1225 eligible nonprofit scholarship-funding organization no less

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1226 frequently than on a quarterly basis.
 1227 (g) In addition to funds appropriated for scholarship
 1228 awards and subject to a separate, specific legislative
 1229 appropriation, an organization may receive an amount equivalent
 1230 to not more than 3 percent of the amount of each scholarship
 1231 award from state funds for administrative expenses if the
 1232 organization has operated as a nonprofit entity for at least the
 1233 preceding 3 fiscal years and did not have any findings of
 1234 material weakness or material noncompliance in its most recent
 1235 audit under s. 1002.395. Such administrative expenses must be
 1236 reasonable and necessary for the organization's management and
 1237 distribution of scholarships under this section. Funds
 1238 authorized under this paragraph may not be used for lobbying or
 1239 political activity or expenses related to lobbying or political
 1240 activity. An organization may not charge an application fee for
 1241 a scholarship. Administrative expenses may not be deducted from
 1242 funds appropriated for scholarship awards.
 1243 (h) Moneys received pursuant to this section do not
 1244 constitute taxable income to the qualified student or his or her
 1245 parent.
 1246 (i)1. A student's scholarship account must be closed and
 1247 any remaining funds, including, but not limited to,
 1248 contributions made to the Stanley G. Tate Florida Prepaid
 1249 College Program or earnings from or contributions made to the
 1250 Florida College Savings Program using program funds, shall

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1251 revert to the state after:
 1252 a. Denial or revocation of program eligibility by the
 1253 commissioner for fraud or abuse, including, but not limited to,
 1254 the student or student's parent accepting any payment, refund,
 1255 or rebate, in any manner, from a provider of any services
 1256 received pursuant to subsection (3); or
 1257 b. Three consecutive fiscal years in which an account has
 1258 been inactive.
 1259 (8) LIABILITY.—No liability shall arise on the part of the
 1260 state based on the award or use of a Reading Scholarship
 1261 Account.
 1262 Section 15. Subsections (2), (5), (8), (10) and (11) of
 1263 section 1002.385, Florida Statutes, are amended to read:
 1264 1002.385 The Gardiner Scholarship.—
 1265 (2) DEFINITIONS.—As used in this section, the term:
 1266 (e) "Eligible nonprofit scholarship-funding organization"
 1267 or "organization" means a nonprofit scholarship-funding
 1268 organization that is approved pursuant to s. 1002.395(15) ~~s.~~
 1269 ~~1002.395(16)~~.
 1270 (5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must
 1271 be used to meet the individual educational needs of an eligible
 1272 student and may be spent for the following purposes:
 1273 (a) Instructional materials, including digital devices,
 1274 digital periphery devices, and assistive technology devices that
 1275 allow a student to access instruction or instructional content

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1276 and training on the use of and maintenance agreements for these
 1277 devices.

1278 (b) Curriculum as defined in paragraph (2)(b).

1279 (c) Specialized services by approved providers or by a
 1280 hospital in this state which are selected by the parent. These
 1281 specialized services may include, but are not limited to:

1282 1. Applied behavior analysis services as provided in ss.
 1283 627.6686 and 641.31098.

1284 2. Services provided by speech-language pathologists as
 1285 defined in s. 468.1125.

1286 3. Occupational therapy services as defined in s. 468.203.

1287 4. Services provided by physical therapists as defined in
 1288 s. 486.021.

1289 5. Services provided by listening and spoken language
 1290 specialists and an appropriate acoustical environment for a
 1291 child who is deaf or hard of hearing and who has received an
 1292 implant or assistive hearing device.

1293 (d) Tuition ~~Enrollment in, or tuition~~ or fees associated
 1294 with full-time or part-time enrollment in, ~~a home education~~
 1295 ~~program,~~ an eligible private school, an eligible postsecondary
 1296 educational institution or a program offered by the
 1297 postsecondary institution, a private tutoring program authorized
 1298 under s. 1002.43, a virtual program offered by a department-
 1299 approved private online provider that meets the provider
 1300 qualifications specified in s. 1002.45(2)(a), the Florida

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1301 Virtual School as a private paying student, or an approved
 1302 online course offered pursuant to s. 1003.499 or s. 1004.0961.

1303 (e) Fees for nationally standardized, norm-referenced
 1304 achievement tests, Advanced Placement Examinations, industry
 1305 certification examinations, assessments related to postsecondary
 1306 education, or other assessments.

1307 (f) Contributions to the Stanley G. Tate Florida Prepaid
 1308 College Program pursuant to s. 1009.98 or the Florida College
 1309 Savings Program pursuant to s. 1009.981, for the benefit of the
 1310 eligible student.

1311 (g) Contracted services provided by a public school or
 1312 school district, including classes. A student who receives
 1313 services under a contract under this paragraph is not considered
 1314 enrolled in a public school for eligibility purposes as
 1315 specified in subsection (4).

1316 (h) Tuition and fees for part-time tutoring services
 1317 provided by a person who holds a valid Florida educator's
 1318 certificate pursuant to s. 1012.56; a person who holds an
 1319 adjunct teaching certificate pursuant to s. 1012.57; a person
 1320 who has a bachelor's degree or a graduate degree in the subject
 1321 area in which instruction is given; or a person who has
 1322 demonstrated a mastery of subject area knowledge pursuant to s.
 1323 1012.56(5). As used in this paragraph, the term "part-time
 1324 tutoring services" does not qualify as regular school attendance
 1325 as defined in s. 1003.01(13)(e).

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1326 (i) Fees for specialized summer education programs.
 1327 (j) Fees for specialized after-school education programs.
 1328 (k) Transition services provided by job coaches.
 1329 (l) Fees for an annual evaluation of educational progress
 1330 by a state-certified teacher under s. 1002.41(1)(c), if this
 1331 option is chosen for a home education student.
 1332 (m) Tuition and fees associated with programs offered by
 1333 Voluntary Prekindergarten Education Program providers approved
 1334 pursuant to s. 1002.55 and school readiness providers approved
 1335 pursuant to s. 1002.88.
 1336 (n) Fees for services provided at a center that is a
 1337 member of the Professional Association of Therapeutic
 1338 Horsemanship International.
 1339 (o) Fees for services provided by a therapist who is
 1340 certified by the Certification Board for Music Therapists or
 1341 credentialed by the Art Therapy Credentials Board, Inc.
 1342
 1343 A provider of any services receiving payments pursuant to this
 1344 subsection may not share, refund, or rebate any moneys from the
 1345 Gardiner Scholarship with the parent or participating student in
 1346 any manner. A parent, student, or provider of any services may
 1347 not bill an insurance company, Medicaid, or any other agency for
 1348 the same services that are paid for using Gardiner Scholarship
 1349 funds.
 1350 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An

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1351 eligible private school may be sectarian or nonsectarian and
 1352 shall:

1353 (a) Comply with all requirements for private schools
 1354 participating in state school choice scholarship programs
 1355 pursuant to s. 1002.421.

1356 ~~(b) Provide to the organization, upon request, all~~
 1357 ~~documentation required for the student's participation,~~
 1358 ~~including the private school's and student's fee schedules.~~

1359 ~~(c) Be academically accountable to the parent for meeting~~
 1360 ~~the educational needs of the student by:~~

1361 ~~1. At a minimum, annually providing to the parent a~~
 1362 ~~written explanation of the student's progress.~~

1363 ~~(b)1.2.~~ Annually administer or make administering or
 1364 ~~making~~ provision for students participating in the program in
 1365 grades 3 through 10 to take one of the nationally norm-
 1366 referenced tests identified by the Department of Education or
 1367 the statewide assessments pursuant to s. 1008.22. Students with
 1368 disabilities for whom standardized testing is not appropriate
 1369 are exempt from this requirement. A participating private school
 1370 shall report a student's scores to the parent.

1371 2.3. Administer Cooperating with the scholarship student
 1372 ~~whose parent chooses to have the student participate in the~~
 1373 statewide assessments pursuant to s. 1008.22 ~~or,~~ if a private
 1374 school chooses to offer the statewide assessments, ~~administering~~
 1375 ~~the assessments at the school.~~

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1376 ~~a.~~ A participating private school may choose to offer and
 1377 administer the statewide assessments to all students who attend
 1378 the private school in grades 3 through 10 and must-

1379 ~~b.~~ ~~A participating private school shall~~ submit a request
 1380 in writing to the Department of Education by March 1 of each
 1381 year in order to administer the statewide assessments in the
 1382 subsequent school year.

1383 ~~(d)~~ ~~Employ or contract with teachers who have regular and~~
 1384 ~~direct contact with each student receiving a scholarship under~~
 1385 ~~this section at the school's physical location.~~

1386 ~~(e)~~ ~~Provide a report from an independent certified public~~
 1387 ~~accountant who performs the agreed upon procedures developed~~
 1388 ~~under s. 1002.395(6)(o) if the private school receives more than~~
 1389 ~~\$250,000 in funds from scholarships awarded under this section~~
 1390 ~~in a state fiscal year. A private school subject to this~~
 1391 ~~paragraph must annually submit the report by September 15 to the~~
 1392 ~~organization that awarded the majority of the school's~~
 1393 ~~scholarship funds. The agreed upon procedures must~~
 1394 ~~be conducted in accordance with attestation standards~~
 1395 ~~established by the American Institute of Certified Public~~
 1396 ~~Accountants.~~

1397
 1398 If a private school is unable to meet the requirements of this
 1399 subsection ~~or has consecutive years of material exceptions~~
 1400 ~~listed in the report required under paragraph (e), the~~

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1401 commissioner may determine that the private school is ineligible
 1402 to participate in the program.

1403 (10) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

1404 (a) The Commissioner of Education:

1405 1. May suspend or revoke program participation or use of
 1406 program funds by the student or participation or eligibility of
 1407 an organization, ~~eligible private school~~, eligible postsecondary
 1408 educational institution, approved provider, or other party for a
 1409 violation of this section.

1410 2. May determine the length of, and conditions for
 1411 lifting, a suspension or revocation specified in this
 1412 subsection.

1413 3. May recover unexpended program funds or withhold
 1414 payment of an equal amount of program funds to recover program
 1415 funds that were not authorized for use.

1416 4. Shall deny or terminate program participation upon a
 1417 parent's forfeiture of a Gardiner Scholarship pursuant to
 1418 subsection (11).

1419 (11) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 1420 PARTICIPATION.—A parent who applies for program participation
 1421 under this section is exercising his or her parental option to
 1422 determine the appropriate placement or the services that best
 1423 meet the needs of his or her child. The scholarship award for a
 1424 student is based on a matrix that assigns the student to support
 1425 Level III services. If a parent receives an IEP and a matrix of

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1426 services from the school district pursuant to subsection (7),
 1427 the amount of the payment shall be adjusted as needed, when the
 1428 school district completes the matrix.

1429 (a) To satisfy or maintain program eligibility, including
 1430 eligibility to receive and spend program payments, the parent
 1431 must sign an agreement with the organization and annually submit
 1432 a notarized, sworn compliance statement to the organization to:

1433 1. Affirm that the student is enrolled in a program that
 1434 meets regular school attendance requirements as provided in s.
 1435 1003.01(13)(b)-(d).

1436 2. Affirm that the program funds are used only for
 1437 authorized purposes serving the student's educational needs, as
 1438 described in subsection (5).

1439 3. Affirm that the parent is responsible for the education
 1440 of his or her student by, as applicable:

1441 a. Requiring the student to take an assessment in
 1442 accordance with paragraph (8)(b) ~~paragraph (8)(c)~~;

1443 b. Providing an annual evaluation in accordance with s.
 1444 1002.41(1)(c); or

1445 c. Requiring the child to take any preassessments and
 1446 postassessments selected by the provider if the child is 4 years
 1447 of age and is enrolled in a program provided by an eligible
 1448 Voluntary Prekindergarten Education Program provider. A student
 1449 with disabilities for whom a preassessment and postassessment is
 1450 not appropriate is exempt from this requirement. A participating

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1451 provider shall report a student's scores to the parent.

1452 4. Affirm that the student remains in good standing with
 1453 the provider or school if those options are selected by the
 1454 parent.

1455
 1456 A parent who fails to comply with this subsection forfeits the
 1457 Gardiner Scholarship.

1458 Section 16. Section 1002.421, Florida Statutes, is amended
 1459 to read:

1460 1002.421 ~~Accountability of private schools participating~~
 1461 ~~in~~ State school choice scholarship program ~~programs~~
 1462 accountability and oversight.-

1463 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.-A Florida
 1464 private school participating in ~~the Florida Tax Credit~~
 1465 ~~Scholarship Program established pursuant to s. 1002.395 or an~~
 1466 educational scholarship program established pursuant to this
 1467 chapter must be a Florida private school as defined in s.
 1468 1002.01(2), be registered, and be in compliance ~~comply~~ with all
 1469 requirements of this section in addition to private school
 1470 requirements outlined in s. 1002.42, specific requirements
 1471 identified within respective scholarship program laws, and other
 1472 provisions of Florida law that apply to private schools, and
 1473 must:-

1474 ~~(2) A private school participating in a scholarship~~
 1475 ~~program must be a Florida private school as defined in s.~~

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1476 ~~1002.01(2), must be registered in accordance with s. 1002.42,~~
 1477 ~~and must:~~

1478 (a) Comply with the antidiscrimination provisions of 42
 1479 U.S.C. s. 2000d.

1480 (b) Notify the department of its intent to participate in
 1481 a scholarship program.

1482 (c) Notify the department of any change in the school's
 1483 name, school director, mailing address, or physical location
 1484 within 15 days after the change.

1485 (d) Provide to the department or scholarship funding
 1486 organization all documentation required for a student's
 1487 participation, including the private school's and student's
 1488 individual fee schedule, and ~~Complete student enrollment and~~
 1489 ~~attendance verification requirements, including use of an online~~
 1490 ~~attendance verification as required by the department or~~
 1491 scholarship funding organization form, prior to scholarship
 1492 payment.

1493 (e) Annually complete and submit to the department a
 1494 notarized scholarship compliance statement certifying that all
 1495 school employees and contracted personnel with direct student
 1496 contact have undergone background screening pursuant to s.
 1497 943.0542 and have met the screening standards of s. 435.04.

1498 (f) Demonstrate fiscal soundness and accountability by:
 1499 1. Being in operation for at least 3 school years or
 1500 obtaining a surety bond or letter of credit for the amount equal

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1501 to the scholarship funds for any quarter and filing the surety
 1502 bond or letter of credit with the department.

1503 2. Requiring the parent of each scholarship student to
 1504 personally restrictively endorse the scholarship warrant to the
 1505 school or approve a funds transfer before any funds are
 1506 deposited for a student. The school may not act as attorney in
 1507 fact for the parent of a scholarship student under the authority
 1508 of a power of attorney executed by such parent, or under any
 1509 other authority, to endorse a scholarship warrant or approve a
 1510 funds transfer warrants on behalf of such parent.

1511 (g) Meet applicable state and local health, safety, and
 1512 welfare laws, codes, and rules, including:

1513 1. Firesafety.

1514 2. Building safety.

1515 (h) Employ or contract with teachers who hold
 1516 baccalaureate or higher degrees, have at least 3 years of
 1517 teaching experience in public or private schools, or have
 1518 special skills, knowledge, or expertise that qualifies them to
 1519 provide instruction in subjects taught.

1520 (i) Maintain a physical location in the state where each
 1521 student has regular and direct contact with teachers at the
 1522 school's physical location.

1523 (j) Provide to the parent of each scholarship student on
 1524 the school's website, or on a written form provided by the
 1525 school, information regarding the school, including, but not

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1526 limited to, programs, services, and the qualifications of each
 1527 classroom teacher.

1528 (k) At a minimum, provide the parent of each scholarship
 1529 student a written explanation of the student's progress on a
 1530 quarterly basis.

1531 (l) Cooperate with the student whose parent chooses to
 1532 participate in the statewide assessments pursuant to s. 1008.22.

1533 (m)~~(i)~~ Require each employee and contracted personnel with
 1534 direct student contact, upon employment or engagement to provide
 1535 services, to undergo a state and national background screening,
 1536 pursuant to s. 943.0542, by electronically filing with the
 1537 Department of Law Enforcement a complete set of fingerprints
 1538 taken by an authorized law enforcement agency or an employee of
 1539 the private school, a school district, or a private company who
 1540 is trained to take fingerprints and deny employment to or
 1541 terminate an employee if he or she fails to meet the screening
 1542 standards under s. 435.04. Results of the screening shall be
 1543 provided to the participating private school. For purposes of
 1544 this paragraph:

1545 1. An "employee or contracted personnel with direct
 1546 student contact" means any employee or contracted personnel who
 1547 has unsupervised access to a scholarship student for whom the
 1548 private school is responsible.

1549 2. The costs of fingerprinting and the background check
 1550 shall not be borne by the state.

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1551 3. Continued employment of an employee or contracted
 1552 personnel after notification that he or she has failed the
 1553 background screening under this paragraph shall cause a private
 1554 school to be ineligible for participation in a scholarship
 1555 program.

1556 4. An employee or contracted personnel holding a valid
 1557 Florida teaching certificate who has been fingerprinted pursuant
 1558 to s. 1012.32 is not required to comply with the provisions of
 1559 this paragraph.

1560 5.~~(3)(a)~~ All fingerprints submitted to the Department of
 1561 Law Enforcement as required by this section shall be retained by
 1562 the Department of Law Enforcement in a manner provided by rule
 1563 and entered in the statewide automated biometric identification
 1564 system authorized by s. 943.05(2)(b). Such fingerprints shall
 1565 thereafter be available for all purposes and uses authorized for
 1566 arrest fingerprints entered in the statewide automated biometric
 1567 identification system pursuant to s. 943.051.

1568 6.~~(b)~~ The Department of Law Enforcement shall search all
 1569 arrest fingerprints received under s. 943.051 against the
 1570 fingerprints retained in the statewide automated biometric
 1571 identification system under subparagraph 5 ~~paragraph (a)~~. Any
 1572 arrest record that is identified with the retained fingerprints
 1573 of a person subject to the background screening under this
 1574 section shall be reported to the employing school with which the
 1575 person is affiliated. Each private school participating in a

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1576 scholarship program is required to participate in this search
 1577 process by informing the Department of Law Enforcement of any
 1578 change in the employment or contractual status of its personnel
 1579 whose fingerprints are retained under subparagraph 5 ~~paragraph~~
 1580 ~~(a)~~. The Department of Law Enforcement shall adopt a rule
 1581 setting the amount of the annual fee to be imposed upon each
 1582 private school for performing these searches and establishing
 1583 the procedures for the retention of private school employee and
 1584 contracted personnel fingerprints and the dissemination of
 1585 search results. The fee may be borne by the private school or
 1586 the person fingerprinted.

1587 7. ~~(e)~~ Employees and contracted personnel whose
 1588 fingerprints are not retained by the Department of Law
 1589 Enforcement under subparagraphs 5. and 6. ~~paragraphs (a) and (b)~~
 1590 are required to be refingerprinted and must meet state and
 1591 national background screening requirements upon reemployment or
 1592 reengagement to provide services in order to comply with the
 1593 requirements of this section.

1594 8. ~~(d)~~ Every 5 years following employment or engagement to
 1595 provide services with a private school, employees or contracted
 1596 personnel required to be screened under this section must meet
 1597 screening standards under s. 435.04, at which time the private
 1598 school shall request the Department of Law Enforcement to
 1599 forward the fingerprints to the Federal Bureau of Investigation
 1600 for national processing. If the fingerprints of employees or

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1601 contracted personnel are not retained by the Department of Law
 1602 Enforcement under subparagraph 5. ~~paragraph (a)~~, employees and
 1603 contracted personnel must electronically file a complete set of
 1604 fingerprints with the Department of Law Enforcement. Upon
 1605 submission of fingerprints for this purpose, the private school
 1606 shall request that the Department of Law Enforcement forward the
 1607 fingerprints to the Federal Bureau of Investigation for national
 1608 processing, and the fingerprints shall be retained by the
 1609 Department of Law Enforcement under subparagraph 5 ~~paragraph~~
 1610 ~~(a)~~.

1611 ~~(4) A private school that accepts scholarship students~~
 1612 ~~under s. 1002.39 or s. 1002.395 must:~~

1613 ~~(a) Disqualify instructional personnel and school~~
 1614 ~~administrators, as defined in s. 1012.01, from employment in any~~
 1615 ~~position that requires direct contact with students if the~~
 1616 ~~personnel or administrators are ineligible for such employment~~
 1617 ~~under s. 1012.315.~~

1618 (n) ~~(b)~~ Adopt policies establishing standards of ethical
 1619 conduct for instructional personnel and school administrators.
 1620 The policies must require all instructional personnel and school
 1621 administrators, as defined in s. 1012.01, to complete training
 1622 on the standards; establish the duty of instructional personnel
 1623 and school administrators to report, and procedures for
 1624 reporting, alleged misconduct by other instructional personnel
 1625 and school administrators which affects the health, safety, or

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1626 welfare of a student; and include an explanation of the
 1627 liability protections provided under ss. 39.203 and 768.095. A
 1628 private school, or any of its employees, may not enter into a
 1629 confidentiality agreement regarding terminated or dismissed
 1630 instructional personnel or school administrators, or personnel
 1631 or administrators who resign in lieu of termination, based in
 1632 whole or in part on misconduct that affects the health, safety,
 1633 or welfare of a student, and may not provide the instructional
 1634 personnel or school administrators with employment references or
 1635 discuss the personnel's or administrators' performance with
 1636 prospective employers in another educational setting, without
 1637 disclosing the personnel's or administrators' misconduct. Any
 1638 part of an agreement or contract that has the purpose or effect
 1639 of concealing misconduct by instructional personnel or school
 1640 administrators which affects the health, safety, or welfare of a
 1641 student is void, is contrary to public policy, and may not be
 1642 enforced.

1643 (o)~~(e)~~ Before employing instructional personnel or school
 1644 administrators in any position that requires direct contact with
 1645 students, conduct employment history checks of each of the
 1646 personnel's or administrators' previous employers, screen the
 1647 personnel or administrators through use of the educator
 1648 screening tools described in s. 1001.10(5), and document the
 1649 findings. If unable to contact a previous employer, the private
 1650 school must document efforts to contact the employer.

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1651 (p) Require each owner or operator of the private school,
 1652 prior to employment or engagement to provide services to undergo
 1653 level 2 background screening as provided under chapter 435. For
 1654 purposes of this paragraph, an "owner or operator" includes an
 1655 owner, operator, superintendent, or principal of, or a person
 1656 with equivalent decisionmaking authority over, a private school
 1657 participating in a scholarship program established pursuant to
 1658 this chapter. The fingerprints for the background screening must
 1659 be electronically submitted to the Department of Law Enforcement
 1660 and can be taken by an authorized law enforcement agency or a
 1661 private company who is trained to take fingerprints. However,
 1662 the complete set of fingerprints of an owner or operator may not
 1663 be taken by the owner or operator. The owner or operator shall
 1664 provide a copy of the results of the state and national criminal
 1665 history check to the Department of Education. The cost of the
 1666 background screening may be borne by the owner or operator.

1667 1. Every 5 years following employment or engagement to
 1668 provide services, each owner or operator must meet level 2
 1669 screening standards as described in s. 435.04, at which time the
 1670 owner or operator shall request the Department of Law
 1671 Enforcement to forward the fingerprints to the Federal Bureau of
 1672 Investigation for level 2 screening. If the fingerprints of an
 1673 owner or operator are not retained by the Department of Law
 1674 Enforcement under subparagraph 3., the owner or operator must
 1675 electronically file a complete set of fingerprints with the

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1676 Department of Law Enforcement. Upon submission of fingerprints
 1677 for this purpose, the owner or operator shall request that the
 1678 Department of Law Enforcement forward the fingerprints to the
 1679 Federal Bureau of Investigation for level 2 screening, and the
 1680 fingerprints shall be retained by the Department of Law
 1681 Enforcement under subparagraph 3.

1682 2. Fingerprints submitted to the Department of Law
 1683 Enforcement as required by this paragraph must be retained by
 1684 the Department of Law Enforcement in a manner approved by rule
 1685 and entered in the statewide automated biometric identification
 1686 system authorized by s. 943.05(2)(b). The fingerprints must
 1687 thereafter be available for all purposes and uses authorized for
 1688 arrest fingerprints entered in the statewide automated biometric
 1689 identification system pursuant to s. 943.051.

1690 3. The Department of Law Enforcement shall search all
 1691 arrest fingerprints received under s. 943.051 against the
 1692 fingerprints retained in the statewide automated biometric
 1693 identification system under subparagraph 3. Any arrest record
 1694 that is identified with an owner's or operator's fingerprints
 1695 must be reported to the owner or operator, who must in turn,
 1696 report to the Department of Education. Any costs associated with
 1697 the search shall be borne by the owner or operator.

1698 4. An owner or operator who fails the level 2 background
 1699 screening is not eligible to provide scholarships under this
 1700 section.

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1701 6. In addition to the offenses listed in s. 435.04, a
 1702 person required to undergo background screening pursuant to this
 1703 part or authorizing statutes must not have an arrest awaiting
 1704 final disposition for, must not have been found guilty of, or
 1705 entered a plea of nolo contendere to, regardless of
 1706 adjudication, and must not have been adjudicated delinquent, and
 1707 the record must not have been sealed or expunged for, any of the
 1708 following offenses or any similar offense of another
 1709 jurisdiction:

1710 a. Any authorizing statutes, if the offense was a felony.

1711 b. This chapter, if the offense was a felony.

1712 c. Section 409.920, relating to Medicaid provider fraud.

1713 d. Section 409.9201, relating to Medicaid fraud.

1714 e. Section 741.28, relating to domestic violence.

1715 f. Section 817.034, relating to fraudulent acts through
 1716 mail, wire, radio, electromagnetic, photoelectronic, or
 1717 photooptical systems.

1718 g. Section 817.234, relating to false and fraudulent
 1719 insurance claims.

1720 h. Section 817.505, relating to patient brokering.

1721 i. Section 817.568, relating to criminal use of personal
 1722 identification information.

1723 j. Section 817.60, relating to obtaining a credit card
 1724 through fraudulent means.

1725 k. Section 817.61, relating to fraudulent use of credit

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1726 cards, if the offense was a felony.
 1727 1. Section 831.01, relating to forgery.
 1728 m. Section 831.02, relating to uttering forged
 1729 instruments.
 1730 n. Section 831.07, relating to forging bank bills, checks,
 1731 drafts, or promissory notes.
 1732 o. Section 831.09, relating to uttering forged bank bills,
 1733 checks, drafts, or promissory notes.
 1734 p. Section 831.30, relating to fraud in obtaining
 1735 medicinal drugs.
 1736 q. Section 831.31, relating to the sale, manufacture,
 1737 delivery, or possession with the intent to sell, manufacture, or
 1738 deliver any counterfeit controlled substance, if the offense was
 1739 a felony.
 1740 7. At least 30 calendar days before a transfer of
 1741 ownership of a private school, the owner or operator shall
 1742 notify the parent of each scholarship student.
 1743 8. The owner or operator of a private school that has been
 1744 deemed ineligible to participate in a scholarship program
 1745 pursuant to this chapter may not transfer ownership or
 1746 management authority of the school to a relative in order to
 1747 participate in a scholarship program as the same school or a new
 1748 school. For purposes of this subparagraph, the term "relative"
 1749 means father, mother, son, daughter, grandfather, grandmother,
 1750 brother, sister, uncle, aunt, cousin, nephew, niece, husband,

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1751 wife, father-in-law, mother-in-law, son- in-law, daughter-in-
 1752 law, brother-in-law, sister-in-law, stepfather, stepmother,
 1753 stepson, stepdaughter, stepbrother, stepsister, half-brother, or
 1754 half-sister.

1755 (q) Provide a report from an independent certified public
 1756 accountant who performs the agreed-upon procedures developed
 1757 pursuant to s. 1002.395(6)(o) if the private school receives
 1758 more than \$250,000 in funds from scholarships awarded under this
 1759 chapter in a state fiscal year. A private school subject to this
 1760 subsection must annually submit the report by September 15 to
 1761 the scholarship-funding organization that awarded the majority
 1762 of the school's scholarship funds. However, a school that
 1763 receives more than \$250,000 in scholarship funds through the
 1764 John M. McKay Scholarship for Students with Disabilities Program
 1765 pursuant to s. 1002.39 only, must submit the report by September
 1766 15 to the department. The agreed-upon procedures must be
 1767 conducted in accordance with attestation standards established
 1768 by the American Institute of Certified Public Accountants.

1769
 1770 The department shall suspend the payment of funds ~~under ss.~~
 1771 ~~1002.39 and 1002.395~~ to a private school that ~~knowingly~~ fails to
 1772 comply with this subsection, and shall prohibit the school from
 1773 enrolling new scholarship students, for 1 fiscal year and until
 1774 the school complies.

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1776 ~~(5) If The inability of a private school fails to meet the~~
 1777 ~~requirements of this subsection or has consecutive years of~~
 1778 ~~material exceptions listed in the report required under~~
 1779 ~~subsection (4), the commissioner may determine that the private~~
 1780 ~~school is ineligible section shall constitute a basis for the~~
 1781 ~~ineligibility of the private school to participate in a~~
 1782 ~~scholarship program as determined by the department.~~

1783 (2) DEPARTMENT OF EDUCATION OBLIGATIONS.-

1784 (a) The Department of Education shall:

1785 1. Annually verify the eligibility of private schools that
 1786 meet the requirements of this section, specific requirements
 1787 identified within respective scholarship program laws, and other
 1788 provisions of Florida law that apply to private schools.

1789 2. Establish a toll-free hotline that provides parents and
 1790 private schools with information on participation in the
 1791 scholarship programs.

1792 3. Establish a process by which individuals may notify the
 1793 department of any violation by a parent, private school, or
 1794 school district of state laws relating to program participation.
 1795 If the department has reasonable cause to believe that a
 1796 violation of this section or any rule adopted by the State Board
 1797 of Education has occurred, it shall conduct an inquiry, or make
 1798 a referral to the appropriate agency for an investigation. A
 1799 department inquiry is not subject to the requirements of chapter
 1800 120.

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1801 4. Require an annual, notarized, sworn compliance
 1802 statement from participating private schools certifying
 1803 compliance with state laws and retain such records.

1804 5. Coordinate with the entities conducting the health
 1805 inspection for a private school to obtain copies of the
 1806 inspection reports.

1807 6. Coordinate with the State Fire Marshal to obtain access
 1808 to fire inspection reports for private schools. The authority
 1809 conducting the fire safety inspection shall certify to the State
 1810 Fire Marshal that the annual inspection has been completed and
 1811 the school is in full compliance.

1812 (b) The department may conduct site visits to any private
 1813 school participating in a scholarship program pursuant to this
 1814 chapter that has received a complaint about a violation of
 1815 statute or state board rule pursuant to subparagraph (2)(a)3. or
 1816 has received a notice of noncompliance or a notice of proposed
 1817 action within the previous 2 years.

1818 (c) Annually, by December 15, the department shall report
 1819 to the Governor, the President of the Senate, and the Speaker of
 1820 the House of Representatives the department's actions in
 1821 implementing accountability in the scholarship programs under
 1822 this section, any substantiated allegations or violations of law
 1823 or rule by an eligible private school under this program, and
 1824 the corrective action taken.

1825 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

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1826 | The Commissioner of Education:
1827 | (a) Shall deny, suspend, or revoke a private school's
1828 | participation in a scholarship program if it is determined that
1829 | the private school has failed to comply with the provisions of
1830 | this section or exhibits a previous pattern of failure to
1831 | comply. However, if the noncompliance is correctable within a
1832 | reasonable amount of time and if the health, safety, or welfare
1833 | of the students is not threatened, the commissioner may issue a
1834 | notice of noncompliance which provides the private school with a
1835 | timeframe within which to provide evidence of compliance before
1836 | taking action to suspend or revoke the private school's
1837 | participation in the scholarship program.
1838 | (b) May deny, suspend, or revoke a private school's
1839 | participation in a scholarship program if the commissioner
1840 | determines that an owner or operator of the private school is
1841 | operating or has operated an educational institution in this
1842 | state or in another state or jurisdiction in a manner contrary
1843 | to the health, safety, or welfare of the public or if the owner
1844 | or operator has exhibited a previous pattern of failure to
1845 | comply with this section or specific requirements identified
1846 | within respective scholarship program laws. For purposes of this
1847 | subsection, "owner or operator" has the same meaning as
1848 | subparagraph (1)(p)1.
1849 | (c) In making such a determination, the commissioner may
1850 | consider factors that include, but are not limited to, acts or

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1851 omissions by an owner or operator which led to a previous
 1852 denial, suspension, or revocation of participation in a state or
 1853 federal education scholarship program; an owner's or operator's
 1854 failure to reimburse the department or scholarship funding
 1855 organization for scholarship funds improperly received or
 1856 retained by a school; imposition of a prior criminal sanction
 1857 related to an owner's or operator's management or operation of
 1858 an educational institution; imposition of a civil fine or
 1859 administrative fine, license revocation or suspension, or
 1860 program eligibility suspension, termination, or revocation
 1861 related to an owner's or operator's management or operation of
 1862 an educational institution; or other types of criminal
 1863 proceedings in which an owner or operator was found guilty of,
 1864 regardless of adjudication, or entered a plea of nolo contendere
 1865 or guilty to, any offense involving fraud, deceit, dishonesty,
 1866 or moral turpitude.

1867 (d) The commissioner's determination is subject to the
 1868 following:

1869 1. If the commissioner intends to deny, suspend, or revoke
 1870 a private school's participation in the scholarship program, the
 1871 department shall notify the private school of such proposed
 1872 action in writing by certified mail and regular mail to the
 1873 private school's address of record with the department. The
 1874 notification shall include the reasons for the proposed action
 1875 and notice of the timelines and procedures set forth in this

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1876 paragraph.

1877 2. The private school that is adversely affected by the
 1878 proposed action shall have 15 days from receipt of the notice of
 1879 proposed action to file with the department's agency clerk a
 1880 request for a proceeding pursuant to ss. 120.569 and 120.57. If
 1881 the private school is entitled to a hearing under s. 120.57(1),
 1882 the department shall forward the request to the Division of
 1883 Administrative Hearings.

1884 3. Upon receipt of a request referred pursuant to this
 1885 paragraph, the director of the Division of Administrative
 1886 Hearings shall expedite the hearing and assign an administrative
 1887 law judge who shall commence a hearing within 30 days after the
 1888 receipt of the formal written request by the division and enter
 1889 a recommended order within 30 days after the hearing or within
 1890 30 days after receipt of the hearing transcript, whichever is
 1891 later. Each party shall be allowed 10 days in which to submit
 1892 written exceptions to the recommended order. A final order shall
 1893 be entered by the agency within 30 days after the entry of a
 1894 recommended order. The provisions of this subparagraph may be
 1895 waived upon stipulation by all parties.

1896 (e) The commissioner may immediately suspend payment of
 1897 scholarship funds if it is determined that there is probable
 1898 cause to believe that there is:

1899 1. An imminent threat to the health, safety, or welfare of
 1900 the students;

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1901 2. A previous pattern of failure to comply with this
 1902 section; or

1903 3. Fraudulent activity on the part of the private school.
 1904 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
 1905 activity pursuant to this section, the department's Office of
 1906 Inspector General is authorized to release personally
 1907 identifiable records or reports of students to the following
 1908 persons or organizations:

1909 a. A court of competent jurisdiction in compliance with an
 1910 order of that court or the attorney of record in accordance with
 1911 a lawfully issued subpoena, consistent with the Family
 1912 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

1913 b. A person or entity authorized by a court of competent
 1914 jurisdiction in compliance with an order of that court or the
 1915 attorney of record pursuant to a lawfully issued subpoena,
 1916 consistent with the Family Educational Rights and Privacy Act,
 1917 20 U.S.C. s. 1232g.

1918 c. Any person, entity, or authority issuing a subpoena for
 1919 law enforcement purposes when the court or other issuing agency
 1920 has ordered that the existence or the contents of the subpoena
 1921 or the information furnished in response to the subpoena not be
 1922 disclosed, consistent with the Family Educational Rights and
 1923 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

1924
 1925 The commissioner's order suspending payment pursuant to this

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1926 paragraph may be appealed pursuant to the same procedures and
 1927 timelines as the notice of proposed action set forth in
 1928 paragraph (d).

1929 ~~(4)(6)~~ The inclusion of eligible private schools within
 1930 options available to Florida public school students does not
 1931 expand the regulatory authority of the state, its officers, or
 1932 any school district to impose any additional regulation of
 1933 private schools beyond those reasonably necessary to enforce
 1934 requirements expressly set forth in this section.

1935 ~~(5)(7)~~ The State Board of Education shall adopt rules
 1936 pursuant to ss. 120.536(1) and 120.54 to administer this
 1937 section, including rules to establish deadline for private
 1938 school applications for participation and timelines for the
 1939 department to conduct site visits.

1940 Section 17. paragraph (b) of subsection (2), paragraph (h)
 1941 of subsection (3), and subsections (6), (7), and (8) of section
 1942 1002.39, Florida Statutes, are amended to read:

1943 1002.39 The John M. McKay Scholarships for Students with
 1944 Disabilities Program.—There is established a program that is
 1945 separate and distinct from the Opportunity Scholarship Program
 1946 and is named the John M. McKay Scholarships for Students with
 1947 Disabilities Program.

1948 (2) JOHN M. MCKAY SCHOLARSHIP ELIGIBILITY.—The parent of a
 1949 student with a disability may request and receive from the state
 1950 a John M. McKay Scholarship for the child to enroll in and

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1951 attend a private school in accordance with this section if:
 1952 (b) The parent has obtained acceptance for admission of
 1953 the student to a private school that is eligible for the program
 1954 under subsection (7) ~~subsection (8)~~ and has requested from the
 1955 department a scholarship at least 60 days before the date of the
 1956 first scholarship payment. The request must be communicated
 1957 directly to the department in a manner that creates a written or
 1958 electronic record of the request and the date of receipt of the
 1959 request. The department must notify the district of the parent's
 1960 intent upon receipt of the parent's request.

1961 (3) JOHN M. MCKAY SCHOLARSHIP PROHIBITIONS.—A student is
 1962 not eligible for a John M. McKay Scholarship:

1963 (h) While he or she is not having regular and direct
 1964 contact with his or her private school teachers at the school's
 1965 physical location unless he or she is enrolled in the private
 1966 school's transition-to-work program pursuant to subsection (9)
 1967 ~~subsection (10)~~; or

1968 (6) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 1969 shall:

1970 ~~(a) Establish a toll-free hotline that provides parents~~
 1971 ~~and private schools with information on participation in the~~
 1972 ~~John M. McKay Scholarships for Students with Disabilities~~
 1973 ~~Program.~~

1974 ~~(b) Annually verify the eligibility of private schools~~
 1975 ~~that meet the requirements of subsection (8).~~

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1976 ~~(c) Establish a process by which individuals may notify~~
 1977 ~~the department of any violation by a parent, private school, or~~
 1978 ~~school district of state laws relating to program participation.~~
 1979 ~~The department shall conduct an inquiry of any written complaint~~
 1980 ~~of a violation of this section, or make a referral to the~~
 1981 ~~appropriate agency for an investigation, if the complaint is~~
 1982 ~~signed by the complainant and is legally sufficient. A complaint~~
 1983 ~~is legally sufficient if it contains ultimate facts that show~~
 1984 ~~that a violation of this section or any rule adopted by the~~
 1985 ~~State Board of Education has occurred. In order to determine~~
 1986 ~~legal sufficiency, the department may require supporting~~
 1987 ~~information or documentation from the complainant. A department~~
 1988 ~~inquiry is not subject to the requirements of chapter 120.~~

1989 ~~(d) Require an annual, notarized, sworn compliance~~
 1990 ~~statement by participating private schools certifying compliance~~
 1991 ~~with state laws and shall retain such records.~~

1992 ~~(e) cross-check the list of participating scholarship~~
 1993 ~~students with the public school enrollment lists prior to each~~
 1994 ~~scholarship payment to avoid duplication.~~

1995 ~~(f)1. Conduct random site visits to private schools~~
 1996 ~~participating in the John M. McKay Scholarships for Students~~
 1997 ~~with Disabilities Program. The purpose of the site visits is~~
 1998 ~~solely to verify the information reported by the schools~~
 1999 ~~concerning the enrollment and attendance of students, the~~
 2000 ~~credentials of teachers, background screening of teachers, and~~

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2001 ~~teachers' fingerprinting results, which information is required~~
 2002 ~~by rules of the State Board of Education, subsection (8), and s.~~
 2003 ~~1002.421. The Department of Education may not make more than~~
 2004 ~~three random site visits each year and may not make more than~~
 2005 ~~one random site visit each year to the same private school.~~
 2006 ~~2. Annually, by December 15, report to the Governor, the~~
 2007 ~~President of the Senate, and the Speaker of the House of~~
 2008 ~~Representatives the Department of Education's actions with~~
 2009 ~~respect to implementing accountability in the scholarship~~
 2010 ~~program under this section and s. 1002.421, any substantiated~~
 2011 ~~allegations or violations of law or rule by an eligible private~~
 2012 ~~school under this program concerning the enrollment and~~
 2013 ~~attendance of students, the credentials of teachers, background~~
 2014 ~~screening of teachers, and teachers' fingerprinting results and~~
 2015 ~~the corrective action taken by the Department of Education.~~
 2016 ~~(7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.~~
 2017 ~~(a) The Commissioner of Education:~~
 2018 ~~1. Shall deny, suspend, or revoke a private school's~~
 2019 ~~participation in the scholarship program if it is determined~~
 2020 ~~that the private school has failed to comply with the provisions~~
 2021 ~~of this section. However, if the noncompliance is correctable~~
 2022 ~~within a reasonable amount of time and if the health, safety, or~~
 2023 ~~welfare of the students is not threatened, the commissioner may~~
 2024 ~~issue a notice of noncompliance which provides the private~~
 2025 ~~school with a timeframe within which to provide evidence of~~

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2026 ~~compliance before taking action to suspend or revoke the private~~
 2027 ~~school's participation in the scholarship program.~~

2028 ~~2. May deny, suspend, or revoke a private school's~~
 2029 ~~participation in the scholarship program if the commissioner~~
 2030 ~~determines that an owner or operator of the private school is~~
 2031 ~~operating or has operated an educational institution in this~~
 2032 ~~state or in another state or jurisdiction in a manner contrary~~
 2033 ~~to the health, safety, or welfare of the public.~~

2034 ~~a. In making such a determination, the commissioner may~~
 2035 ~~consider factors that include, but are not limited to, acts or~~
 2036 ~~omissions by an owner or operator which led to a previous denial~~
 2037 ~~or revocation of participation in an education scholarship~~
 2038 ~~program; an owner's or operator's failure to reimburse the~~
 2039 ~~Department of Education for scholarship funds improperly~~
 2040 ~~received or retained by a school; imposition of a prior criminal~~
 2041 ~~sanction related to an owner's or operator's management or~~
 2042 ~~operation of an educational institution; imposition of a civil~~
 2043 ~~fine or administrative fine, license revocation or suspension,~~
 2044 ~~or program eligibility suspension, termination, or revocation~~
 2045 ~~related to an owner's or operator's management or operation of~~
 2046 ~~an educational institution; or other types of criminal~~
 2047 ~~proceedings in which an owner or operator was found guilty of,~~
 2048 ~~regardless of adjudication, or entered a plea of nolo contendere~~
 2049 ~~or guilty to, any offense involving fraud, deceit, dishonesty,~~
 2050 ~~or moral turpitude.~~

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2051 ~~b. For purposes of this subparagraph, the term "owner or~~
 2052 ~~operator" includes an owner, operator, superintendent, or~~
 2053 ~~principal of, or a person who has equivalent decisionmaking~~
 2054 ~~authority over, a private school participating in the~~
 2055 ~~scholarship program.~~

2056 ~~(b) The commissioner's determination is subject to the~~
 2057 ~~following:~~

2058 ~~1. If the commissioner intends to deny, suspend, or revoke~~
 2059 ~~a private school's participation in the scholarship program, the~~
 2060 ~~department shall notify the private school of such proposed~~
 2061 ~~action in writing by certified mail and regular mail to the~~
 2062 ~~private school's address of record with the department. The~~
 2063 ~~notification shall include the reasons for the proposed action~~
 2064 ~~and notice of the timelines and procedures set forth in this~~
 2065 ~~paragraph.~~

2066 ~~2. The private school that is adversely affected by the~~
 2067 ~~proposed action shall have 15 days from receipt of the notice of~~
 2068 ~~proposed action to file with the department's agency clerk a~~
 2069 ~~request for a proceeding pursuant to ss. 120.569 and 120.57. If~~
 2070 ~~the private school is entitled to a hearing under s. 120.57(1),~~
 2071 ~~the department shall forward the request to the Division of~~
 2072 ~~Administrative Hearings.~~

2073 ~~3. Upon receipt of a request referred pursuant to this~~
 2074 ~~paragraph, the director of the Division of Administrative~~
 2075 ~~Hearings shall expedite the hearing and assign an administrative~~

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2076 ~~law judge who shall commence a hearing within 30 days after the~~
 2077 ~~receipt of the formal written request by the division and enter~~
 2078 ~~a recommended order within 30 days after the hearing or within~~
 2079 ~~30 days after receipt of the hearing transcript, whichever is~~
 2080 ~~later. Each party shall be allowed 10 days in which to submit~~
 2081 ~~written exceptions to the recommended order. A final order shall~~
 2082 ~~be entered by the agency within 30 days after the entry of a~~
 2083 ~~recommended order. The provisions of this subparagraph may be~~
 2084 ~~waived upon stipulation by all parties.~~

2085 ~~(c) The commissioner may immediately suspend payment of~~
 2086 ~~scholarship funds if it is determined that there is probable~~
 2087 ~~cause to believe that there is:~~

2088 ~~1. An imminent threat to the health, safety, or welfare of~~
 2089 ~~the students; or~~

2090 ~~2. Fraudulent activity on the part of the private school.~~
 2091 ~~Notwithstanding s. 1002.22, in incidents of alleged fraudulent~~
 2092 ~~activity pursuant to this section, the Department of Education's~~
 2093 ~~Office of Inspector General is authorized to release personally~~
 2094 ~~identifiable records or reports of students to the following~~
 2095 ~~persons or organizations:~~

2096 ~~a. A court of competent jurisdiction in compliance with an~~
 2097 ~~order of that court or the attorney of record in accordance with~~
 2098 ~~a lawfully issued subpoena, consistent with the Family~~
 2099 ~~Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.~~

2100 ~~b. A person or entity authorized by a court of competent~~

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2101 ~~jurisdiction in compliance with an order of that court or the~~
 2102 ~~attorney of record pursuant to a lawfully issued subpoena,~~
 2103 ~~consistent with the Family Educational Rights and Privacy Act,~~
 2104 ~~20 U.S.C. s. 1232g.~~

2105 ~~e. Any person, entity, or authority issuing a subpoena for~~
 2106 ~~law enforcement purposes when the court or other issuing agency~~
 2107 ~~has ordered that the existence or the contents of the subpoena~~
 2108 ~~or the information furnished in response to the subpoena not be~~
 2109 ~~disclosed, consistent with the Family Educational Rights and~~
 2110 ~~Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.~~

2111
 2112 ~~The commissioner's order suspending payment pursuant to this~~
 2113 ~~paragraph may be appealed pursuant to the same procedures and~~
 2114 ~~timelines as the notice of proposed action set forth in~~
 2115 ~~paragraph (b).~~

2116 (7)~~(8)~~ PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—To be
 2117 eligible to participate in the John M. McKay Scholarships for
 2118 Students with Disabilities Program, a private school may be
 2119 sectarian or nonsectarian and must:

2120 (a) Comply with all requirements for private schools
 2121 participating in state school choice scholarship programs
 2122 pursuant to s. 1002.421.

2123 (b) Provide to the department all documentation required
 2124 for a student's participation, including the private school's
 2125 and student's fee schedules, at least 30 days before any

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2126 quarterly scholarship payment is made for the student pursuant
 2127 to paragraph (10)(e) ~~paragraph (11)(e)~~. A student is not
 2128 eligible to receive a quarterly scholarship payment if the
 2129 private school fails to meet this deadline.

2130 ~~(c) Be academically accountable to the parent for meeting~~
 2131 ~~the educational needs of the student by:~~

2132 1. ~~At a minimum, annually providing to the parent a~~
 2133 ~~written explanation of the student's progress.~~

2134 2. ~~Cooperating with the scholarship student whose parent~~
 2135 ~~chooses to participate in the statewide assessments pursuant to~~
 2136 ~~s. 1008.22.~~

2137 ~~(d) Maintain in this state a physical location where a~~
 2138 ~~scholarship student regularly attends classes.~~

2139
 2140 The failure inability of a private school to meet the
 2141 requirements of this subsection or s. 1002.421 shall constitute
 2142 a basis for the ineligibility of the private school to
 2143 participate in the scholarship program as determined by the
 2144 department.

2145 Section 18. Paragraph (f) of subsection (2), paragraphs
 2146 (n), (o), and (p) of subsection (6), and subsections (8), (9),
 2147 and (11) of section 1002.395, Florida Statutes, are amended to
 2148 read:

2149 1002.395 Florida Tax Credit Scholarship Program.—

2150 (2) DEFINITIONS.—As used in this section, the term:

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2151 (f) "Eligible nonprofit scholarship-funding organization"
 2152 means a state university; or an independent college or
 2153 university that is eligible to participate in the William L.
 2154 Boyd, IV, Florida Resident Access Grant Program, located and
 2155 chartered in this state, is not for profit, and is accredited by
 2156 the Commission on Colleges of the Southern Association of
 2157 Colleges and Schools; or is a charitable organization that:

2158 1. Is exempt from federal income tax pursuant to s.
 2159 501(c)(3) of the Internal Revenue Code;

2160 2. Is a Florida entity formed under chapter 605, chapter
 2161 607, or chapter 617 and whose principal office is located in the
 2162 state; and

2163 3. Complies with subsections (6) and (15) ~~subsections (6)~~
 2164 ~~and (16)~~.

2165 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING
 2166 ORGANIZATIONS.—An eligible nonprofit scholarship-funding
 2167 organization:

2168 (n) Must prepare and submit quarterly reports to the
 2169 Department of Education pursuant to paragraph (9)(i) ~~paragraph~~
 2170 ~~(9)(m)~~. In addition, an eligible nonprofit scholarship-funding
 2171 organization must submit in a timely manner any information
 2172 requested by the Department of Education relating to the
 2173 scholarship program.

2174 (o)1.a. Must participate in the joint development of
 2175 agreed-upon procedures ~~to be performed by an independent~~

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2176 ~~certified public accountant as required under paragraph (8)(e)~~
 2177 ~~if the scholarship-funding organization provided more than~~
 2178 ~~\$250,000 in scholarship funds to an eligible private school~~
 2179 ~~under this section~~ during the 2009-2010 state fiscal year. The
 2180 agreed-upon procedures must uniformly apply to all private
 2181 schools and must determine, at a minimum, whether the private
 2182 school has been verified as eligible by the Department of
 2183 Education under s. 1002.421 ~~paragraph (9)(e)~~; has an adequate
 2184 accounting system, system of financial controls, and process for
 2185 deposit and classification of scholarship funds; and has
 2186 properly expended scholarship funds for education-related
 2187 expenses. During the development of the procedures, the
 2188 participating scholarship-funding organizations shall specify
 2189 guidelines governing the materiality of exceptions that may be
 2190 found during the accountant's performance of the procedures. The
 2191 procedures and guidelines shall be provided to private schools
 2192 and the Commissioner of Education by March 15, 2011.

2193 b. Must participate in a joint review of the agreed-upon
 2194 procedures and guidelines developed under sub-subparagraph a.,
 2195 by February of each biennium 2013 ~~and biennially thereafter~~, if
 2196 the scholarship-funding organization provided more than \$250,000
 2197 in scholarship funds to an eligible private school under this
 2198 chapter ~~section~~ during the state fiscal year preceding the
 2199 biennial review. If the procedures and guidelines are revised,
 2200 the revisions must be provided to private schools and the

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2201 Commissioner of Education by March 15 of the year in which the
 2202 revisions were completed. The revised agreed-upon procedures
 2203 shall take effect the subsequent school year. For the 2018-2019
 2204 school year only, the joint review of the agreed-upon procedures
 2205 must be completed and the revisions submitted to the
 2206 commissioner no later than September 15, 2018. The revised
 2207 procedures are applicable to the 2018-2019 school year, ~~2013,~~
 2208 and biennially thereafter.

2209 c. Must monitor the compliance of a private school with
 2210 s. 1002.421(1) paragraph (8)(e) if the scholarship-funding
 2211 organization provided the majority of the scholarship funding to
 2212 the school. For each private school subject to s. 1002.421(1)(q)
 2213 paragraph (8)(e), the appropriate scholarship-funding
 2214 organization shall annually notify the Commissioner of Education
 2215 by October 30, ~~2011,~~ and ~~annually thereafter~~ of:

2216 (I) A private school's failure to submit a report required
 2217 under s. 1002.421(1)(q) paragraph (8)(e); or

2218 (II) Any material exceptions set forth in the report
 2219 required under s. 1002.421(1)(q) paragraph (8)(e).

2220 2. Must seek input from the accrediting associations that
 2221 are members of the Florida Association of Academic Nonpublic
 2222 Schools when jointly developing the agreed-upon procedures and
 2223 guidelines under sub-subparagraph 1.a. and conducting a review
 2224 of those procedures and guidelines under sub-subparagraph 1.b.

2225 (p) Must maintain the surety bond or letter of credit

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2226 required by subsection (15) ~~subsection (16)~~. The amount of the
 2227 surety bond or letter of credit may be adjusted quarterly to
 2228 equal the actual amount of undisbursed funds based upon
 2229 submission by the organization of a statement from a certified
 2230 public accountant verifying the amount of undisbursed funds. The
 2231 requirements of this paragraph are waived if the cost of
 2232 acquiring a surety bond or letter of credit exceeds the average
 2233 10-year cost of acquiring a surety bond or letter of credit by
 2234 200 percent. The requirements of this paragraph are waived for a
 2235 state university; or an independent college or university which
 2236 is eligible to participate in the William L. Boyd, IV, Florida
 2237 Resident Access Grant Program, located and chartered in this
 2238 state, is not for profit, and is accredited by the Commission on
 2239 Colleges of the Southern Association of Colleges and Schools.

2240
 2241 Information and documentation provided to the Department of
 2242 Education and the Auditor General relating to the identity of a
 2243 taxpayer that provides an eligible contribution under this
 2244 section shall remain confidential at all times in accordance
 2245 with s. 213.053.

2246 (8) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
 2247 eligible private school may be sectarian or nonsectarian and
 2248 must:

2249 (a) Comply with all requirements for private schools
 2250 participating in state school choice scholarship programs

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2251 pursuant to s. 1002.421.

2252 ~~(b) Provide to the eligible nonprofit scholarship funding~~
 2253 ~~organization, upon request, all documentation required for the~~
 2254 ~~student's participation, including the private school's and~~
 2255 ~~student's fee schedules.~~

2256 ~~(c) Be academically accountable to the parent for meeting~~
 2257 ~~the educational needs of the student by:~~

2258 ~~1. At a minimum, annually providing to the parent a~~
 2259 ~~written explanation of the student's progress.~~

2260 ~~(b)1.2.~~ Annually administer or make administering or
 2261 ~~making~~ provision for students participating in the scholarship
 2262 program in grades 3 through 10 to take one of the nationally
 2263 norm-referenced tests identified by the Department of Education
 2264 or the statewide assessments pursuant to s. 1008.22. Students
 2265 with disabilities for whom standardized testing is not
 2266 appropriate are exempt from this requirement. A participating
 2267 private school must report a student's scores to the parent. A
 2268 participating private school must annually report by August 15
 2269 the scores of all participating students to the Learning System
 2270 Institute described in paragraph (9)(f) ~~paragraph (9)(j)~~.

2271 2. Administer ~~3. Cooperating with the scholarship student~~
 2272 ~~whose parent chooses to have the student participate in the~~
 2273 statewide assessments pursuant to s. 1008.22 ~~or~~, if a private
 2274 school chooses to offer the statewide assessments, ~~administering~~
 2275 ~~the assessments at the school.~~

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2276 a. A participating private school may choose to offer and
 2277 administer the statewide assessments to all students who attend
 2278 the private school in grades 3 through 10 and-

2279 ~~b. A participating private school~~ must submit a request in
 2280 writing to the Department of Education by March 1 of each year
 2281 in order to administer the statewide assessments in the
 2282 subsequent school year.

2283 ~~(d) Employ or contract with teachers who have regular and~~
 2284 ~~direct contact with each student receiving a scholarship under~~
 2285 ~~this section at the school's physical location.~~

2286 ~~(e) Provide a report from an independent certified public~~
 2287 ~~accountant who performs the agreed-upon procedures developed~~
 2288 ~~under paragraph (6) (e) if the private school receives more than~~
 2289 ~~\$250,000 in funds from scholarships awarded under this section~~
 2290 ~~in a state fiscal year. A private school subject to this~~
 2291 ~~paragraph must annually submit the report by September 15 to the~~
 2292 ~~scholarship funding organization that awarded the majority of~~
 2293 ~~the school's scholarship funds. The agreed-upon procedures must~~
 2294 ~~be conducted in accordance with attestation standards~~
 2295 ~~established by the American Institute of Certified Public~~
 2296 ~~Accountants.~~

2297
 2298 The failure of ~~if~~ a private school is unable to meet the
 2299 requirements of this subsection shall constitute a basis for the
 2300 ineligibility of the private school ~~or has consecutive years of~~

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2301 ~~material exceptions listed in the report required under~~
 2302 ~~paragraph (c), the commissioner may determine that the private~~
 2303 ~~school is ineligible to participate in the scholarship program~~
 2304 as determined by the Department of Education.

2305 (9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of
 2306 Education shall:

2307 (a) Annually submit to the department and division, by
 2308 March 15, a list of eligible nonprofit scholarship-funding
 2309 organizations that meet the requirements of paragraph (2)(f).

2310 (b) Annually verify the eligibility of nonprofit
 2311 scholarship-funding organizations that meet the requirements of
 2312 paragraph (2)(f).

2313 ~~(c) Annually verify the eligibility of private schools~~
 2314 ~~that meet the requirements of subsection (8).~~

2315 (c)(d) Annually verify the eligibility of expenditures as
 2316 provided in paragraph (6)(d) using the audit required by
 2317 paragraph (6)(m) and s. 11.45(2)(k).

2318 ~~(e) Establish a toll-free hotline that provides parents~~
 2319 ~~and private schools with information on participation in the~~
 2320 ~~scholarship program.~~

2321 ~~(f) Establish a process by which individuals may notify~~
 2322 ~~the Department of Education of any violation by a parent,~~
 2323 ~~private school, or school district of state laws relating to~~
 2324 ~~program participation. The Department of Education shall conduct~~
 2325 ~~an inquiry of any written complaint of a violation of this~~

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2326 ~~section, or make a referral to the appropriate agency for an~~
 2327 ~~investigation, if the complaint is signed by the complainant and~~
 2328 ~~is legally sufficient. A complaint is legally sufficient if it~~
 2329 ~~contains ultimate facts that show that a violation of this~~
 2330 ~~section or any rule adopted by the State Board of Education has~~
 2331 ~~occurred. In order to determine legal sufficiency, the~~
 2332 ~~Department of Education may require supporting information or~~
 2333 ~~documentation from the complainant. A department inquiry is not~~
 2334 ~~subject to the requirements of chapter 120.~~

2335 ~~(g) Require an annual, notarized, sworn compliance~~
 2336 ~~statement by participating private schools certifying compliance~~
 2337 ~~with state laws and shall retain such records.~~

2338 ~~(d)(h)~~ (d) Cross-check the list of participating scholarship
 2339 students with the public school enrollment lists to avoid
 2340 duplication.

2341 ~~(e)(i)~~ (e) Maintain a list of nationally norm-referenced tests
 2342 identified for purposes of satisfying the testing requirement in
 2343 subparagraph (8)(c)2. The tests must meet industry standards of
 2344 quality in accordance with State Board of Education rule.

2345 ~~(f)(j)~~ (f) Issue a project grant award to a state university
 2346 ~~the Learning System Institute at the Florida State University,~~
 2347 to which participating private schools must report the scores of
 2348 participating students on the nationally norm-referenced tests
 2349 or the statewide assessments administered by the private school
 2350 in grades 3 through 10. The project term is 2 years, and the

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2351 amount of the project is up to \$250,000 ~~\$500,000~~ per year. The
 2352 project grant award must be reissued in 2-year intervals in
 2353 accordance with this paragraph.

2354 1. The state university ~~Learning System Institute~~ must
 2355 annually report to the Department of Education on the student
 2356 performance of participating students:

2357 a. On a statewide basis. The report shall also include, to
 2358 the extent possible, a comparison of scholarship students'
 2359 performance to the statewide student performance of public
 2360 school students with socioeconomic backgrounds similar to those
 2361 of students participating in the scholarship program. To
 2362 minimize costs and reduce time required for the state
 2363 university's ~~Learning System Institute's~~ analysis and
 2364 evaluation, the Department of Education shall coordinate with
 2365 the state university ~~Learning System Institute~~ to provide data
 2366 to the state university ~~Learning System Institute~~ in order to
 2367 conduct analyses of matched students from public school
 2368 assessment data and calculate control group student performance
 2369 using an agreed-upon methodology with the state university
 2370 ~~Learning System Institute~~; and

2371 b. On an individual school basis. The annual report must
 2372 include student performance for each participating private
 2373 school in which at least 51 percent of the total enrolled
 2374 students in the private school participated in the Florida Tax
 2375 Credit Scholarship Program in the prior school year. The report

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2376 shall be according to each participating private school, and for
2377 participating students, in which there are at least 30
2378 participating students who have scores for tests administered.
2379 If the state university ~~Learning System Institute~~ determines
2380 that the 30-participating-student cell size may be reduced
2381 without disclosing personally identifiable information, as
2382 described in 34 C.F.R. s. 99.12, of a participating student, the
2383 state university ~~Learning System Institute~~ may reduce the
2384 participating-student cell size, but the cell size must not be
2385 reduced to less than 10 participating students. The department
2386 shall provide each private school's prior school year's student
2387 enrollment information to the state university ~~Learning System~~
2388 ~~Institute~~ no later than June 15 of each year, or as requested by
2389 the state university ~~Learning System Institute~~.

2390 2. The sharing and reporting of student performance data
2391 under this paragraph must be in accordance with requirements of
2392 ss. 1002.22 and 1002.221 and 20 U.S.C. s. 1232g, the Family
2393 Educational Rights and Privacy Act, and the applicable rules and
2394 regulations issued pursuant thereto, and shall be for the sole
2395 purpose of creating the annual report required by subparagraph
2396 1. All parties must preserve the confidentiality of such
2397 information as required by law. The annual report must not
2398 disaggregate data to a level that will identify individual
2399 participating schools, except as required under sub-subparagraph
2400 1.b., or disclose the academic level of individual students.

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2401 3. The annual report required by subparagraph 1. shall be
 2402 published by the Department of Education on its website.

2403 (g)~~(k)~~ Notify an eligible nonprofit scholarship-funding
 2404 organization of any of the organization's identified students
 2405 who are receiving educational scholarships pursuant to chapter
 2406 1002.

2407 (h)~~(l)~~ Notify an eligible nonprofit scholarship-funding
 2408 organization of any of the organization's identified students
 2409 who are receiving tax credit scholarships from other eligible
 2410 nonprofit scholarship-funding organizations.

2411 (i)~~(m)~~ Require quarterly reports by an eligible nonprofit
 2412 scholarship-funding organization regarding the number of
 2413 students participating in the scholarship program, the private
 2414 schools at which the students are enrolled, and other
 2415 information deemed necessary by the Department of Education.

2416 ~~(n)1. Conduct site visits to private schools participating~~
 2417 ~~in the Florida Tax Credit Scholarship Program. The purpose of~~
 2418 ~~the site visits is solely to verify the information reported by~~
 2419 ~~the schools concerning the enrollment and attendance of~~
 2420 ~~students, the credentials of teachers, background screening of~~
 2421 ~~teachers, and teachers' fingerprinting results. The Department~~
 2422 ~~of Education may not make more than seven site visits each year;~~
 2423 ~~however, the department may make additional site visits at any~~
 2424 ~~time to any school that has received a notice of noncompliance~~
 2425 ~~or a notice of proposed action within the previous 2 years.~~

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2426 2. ~~Annually, by December 15, report to the Governor, the~~
 2427 ~~President of the Senate, and the Speaker of the House of~~
 2428 ~~Representatives the Department of Education's actions with~~
 2429 ~~respect to implementing accountability in the scholarship~~
 2430 ~~program under this section and s. 1002.421, any substantiated~~
 2431 ~~allegations or violations of law or rule by an eligible private~~
 2432 ~~school under this program concerning the enrollment and~~
 2433 ~~attendance of students, the credentials of teachers, background~~
 2434 ~~screening of teachers, and teachers' fingerprinting results and~~
 2435 ~~the corrective action taken by the Department of Education.~~

2436 (j)~~(e)~~ Provide a process to match the direct certification
 2437 list with the scholarship application data submitted by any
 2438 nonprofit scholarship-funding organization eligible to receive
 2439 the 3-percent administrative allowance under paragraph (6)(j).

2440 (k)~~(p)~~ Upon the request of a participating private school,
 2441 provide at no cost to the school the statewide assessments
 2442 administered under s. 1008.22 and any related materials for
 2443 administering the assessments. Students at a private school may
 2444 be assessed using the statewide assessments if the addition of
 2445 those students and the school does not cause the state to exceed
 2446 its contractual caps for the number of students tested and the
 2447 number of testing sites. The state shall provide the same
 2448 materials and support to a private school that it provides to a
 2449 public school. A private school that chooses to administer
 2450 statewide assessments under s. 1008.22 shall follow the

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2451 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
 2452 by the State Board of Education to implement those sections, and
 2453 district-level testing policies established by the district
 2454 school board.

2455 ~~(11) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.~~

2456 ~~(a)1. The Commissioner of Education shall deny, suspend,~~
 2457 ~~or revoke a private school's participation in the scholarship~~
 2458 ~~program if it is determined that the private school has failed~~
 2459 ~~to comply with the provisions of this section. However, in~~
 2460 ~~instances in which the noncompliance is correctable within a~~
 2461 ~~reasonable amount of time and in which the health, safety, or~~
 2462 ~~welfare of the students is not threatened, the commissioner may~~
 2463 ~~issue a notice of noncompliance that shall provide the private~~
 2464 ~~school with a timeframe within which to provide evidence of~~
 2465 ~~compliance prior to taking action to suspend or revoke the~~
 2466 ~~private school's participation in the scholarship program.~~

2467 ~~2. The Commissioner of Education may deny, suspend, or~~
 2468 ~~revoke a private school's participation in the scholarship~~
 2469 ~~program if the commissioner determines that:~~

2470 ~~a. An owner or operator of a private school has exhibited~~
 2471 ~~a previous pattern of failure to comply with this section or s.~~
 2472 ~~1002.421; or~~

2473 ~~b. An owner or operator of the private school is operating~~
 2474 ~~or has operated an educational institution in this state or~~
 2475 ~~another state or jurisdiction in a manner contrary to the~~

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2476 ~~health, safety, or welfare of the public.~~
2477
2478 ~~In making the determination under this subparagraph, the~~
2479 ~~commissioner may consider factors that include, but are not~~
2480 ~~limited to, acts or omissions by an owner or operator that led~~
2481 ~~to a previous denial or revocation of participation in an~~
2482 ~~education scholarship program; an owner's or operator's failure~~
2483 ~~to reimburse the Department of Education or a nonprofit~~
2484 ~~scholarship funding organization for scholarship funds~~
2485 ~~improperly received or retained by a school; imposition of a~~
2486 ~~prior criminal sanction, civil fine, administrative fine,~~
2487 ~~license revocation or suspension, or program eligibility~~
2488 ~~suspension, termination, or revocation related to an owner's or~~
2489 ~~operator's management or operation of an educational~~
2490 ~~institution; or other types of criminal proceedings in which the~~
2491 ~~owner or operator was found guilty of, regardless of~~
2492 ~~adjudication, or entered a plea of nolo contendere or guilty to,~~
2493 ~~any offense involving fraud, deceit, dishonesty, or moral~~
2494 ~~turpitude.~~
2495 ~~(b) The commissioner's determination is subject to the~~
2496 ~~following:~~
2497 ~~1. If the commissioner intends to deny, suspend, or revoke~~
2498 ~~a private school's participation in the scholarship program, the~~
2499 ~~Department of Education shall notify the private school of such~~
2500 ~~proposed action in writing by certified mail and regular mail to~~

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2501 ~~the private school's address of record with the Department of~~
 2502 ~~Education. The notification shall include the reasons for the~~
 2503 ~~proposed action and notice of the timelines and procedures set~~
 2504 ~~forth in this paragraph.~~

2505 ~~2. The private school that is adversely affected by the~~
 2506 ~~proposed action shall have 15 days from receipt of the notice of~~
 2507 ~~proposed action to file with the Department of Education's~~
 2508 ~~agency clerk a request for a proceeding pursuant to ss. 120.569~~
 2509 ~~and 120.57. If the private school is entitled to a hearing under~~
 2510 ~~s. 120.57(1), the Department of Education shall forward the~~
 2511 ~~request to the Division of Administrative Hearings.~~

2512 ~~3. Upon receipt of a request referred pursuant to this~~
 2513 ~~paragraph, the director of the Division of Administrative~~
 2514 ~~Hearings shall expedite the hearing and assign an administrative~~
 2515 ~~law judge who shall commence a hearing within 30 days after the~~
 2516 ~~receipt of the formal written request by the division and enter~~
 2517 ~~a recommended order within 30 days after the hearing or within~~
 2518 ~~30 days after receipt of the hearing transcript, whichever is~~
 2519 ~~later. Each party shall be allowed 10 days in which to submit~~
 2520 ~~written exceptions to the recommended order. A final order shall~~
 2521 ~~be entered by the agency within 30 days after the entry of a~~
 2522 ~~recommended order. The provisions of this subparagraph may be~~
 2523 ~~waived upon stipulation by all parties.~~

2524 ~~(c) The commissioner may immediately suspend payment of~~
 2525 ~~scholarship funds if it is determined that there is probable~~

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2526 | ~~cause to believe that there is:~~
2527 | ~~1. An imminent threat to the health, safety, and welfare~~
2528 | ~~of the students;~~
2529 | ~~2. A previous pattern of failure to comply with this~~
2530 | ~~section or s. 1002.421; or~~
2531 | ~~3. Fraudulent activity on the part of the private school.~~
2532 | ~~Notwithstanding s. 1002.22, in incidents of alleged fraudulent~~
2533 | ~~activity pursuant to this section, the Department of Education's~~
2534 | ~~Office of Inspector General is authorized to release personally~~
2535 | ~~identifiable records or reports of students to the following~~
2536 | ~~persons or organizations:~~
2537 | ~~a. A court of competent jurisdiction in compliance with an~~
2538 | ~~order of that court or the attorney of record in accordance with~~
2539 | ~~a lawfully issued subpoena, consistent with the Family~~
2540 | ~~Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.~~
2541 | ~~b. A person or entity authorized by a court of competent~~
2542 | ~~jurisdiction in compliance with an order of that court or the~~
2543 | ~~attorney of record pursuant to a lawfully issued subpoena,~~
2544 | ~~consistent with the Family Educational Rights and Privacy Act,~~
2545 | ~~20 U.S.C. s. 1232g.~~
2546 | ~~c. Any person, entity, or authority issuing a subpoena for~~
2547 | ~~law enforcement purposes when the court or other issuing agency~~
2548 | ~~has ordered that the existence or the contents of the subpoena~~
2549 | ~~or the information furnished in response to the subpoena not be~~
2550 | ~~disclosed, consistent with the Family Educational Rights and~~

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2551 ~~Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.~~

2552

2553 ~~The commissioner's order suspending payment pursuant to this~~
 2554 ~~paragraph may be appealed pursuant to the same procedures and~~
 2555 ~~timelines as the notice of proposed action set forth in~~
 2556 ~~paragraph (b).~~

2557 Section 19. Paragraphs (c) and (d) of subsection (9) of
 2558 Section 1002.37, F.S., are amended, to read:

2559 (9)

2560 (c) Industry certification examinations, national
 2561 assessments, and statewide assessments offered by the school
 2562 district shall be available to all Florida Virtual School
 2563 students.

2564 ~~(d)(e)~~ Unless an alternative testing site is mutually
 2565 agreed to by the Florida Virtual School and the school district
 2566 or as contracted under s. 1008.24, all industry certification
 2567 examinations, national assessments, and statewide assessments
 2568 must be taken at the school to which the student would be
 2569 assigned according to district school board attendance areas. A
 2570 school district must provide the student with access to the
 2571 school's testing facilities and the date and time of the
 2572 administration of each examination or assessment.

2573 Section 20. Paragraphs (o) and (t) of subsection (1) of
 2574 section 1011.62, Florida Statutes, are amended to read:

2575 1011.62 Funds for operation of schools.—If the annual

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2576 allocation from the Florida Education Finance Program to each
 2577 district for operation of schools is not determined in the
 2578 annual appropriations act or the substantive bill implementing
 2579 the annual appropriations act, it shall be determined as
 2580 follows:

2581 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
 2582 OPERATION.—The following procedure shall be followed in
 2583 determining the annual allocation to each district for
 2584 operation:

2585 (o) Calculation of additional full-time equivalent
 2586 membership based on successful completion of a career-themed
 2587 course pursuant to ss. 1003.491, 1003.492, and 1003.493, or
 2588 courses with embedded CAPE industry certifications or CAPE
 2589 Digital Tool certificates, and issuance of industry
 2590 certification identified on the CAPE Industry Certification
 2591 Funding List pursuant to rules adopted by the State Board of
 2592 Education or CAPE Digital Tool certificates pursuant to s.
 2593 1003.4203.—

2594 1.a. A value of 0.025 full-time equivalent student
 2595 membership shall be calculated for CAPE Digital Tool
 2596 certificates earned by students in elementary and middle school
 2597 grades.

2598 b. A value of 0.1 or 0.2 full-time equivalent student
 2599 membership shall be calculated for each student who completes a
 2600 course as defined in s. 1003.493(1)(b) or courses with embedded

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2601 CAPE industry certifications and who is issued an industry
 2602 certification identified annually on the CAPE Industry
 2603 Certification Funding List approved under rules adopted by the
 2604 State Board of Education. A value of 0.2 full-time equivalent
 2605 membership shall be calculated for each student who is issued a
 2606 CAPE industry certification that has a statewide articulation
 2607 agreement for college credit approved by the State Board of
 2608 Education. For CAPE industry certifications that do not
 2609 articulate for college credit, the Department of Education shall
 2610 assign a full-time equivalent value of 0.1 for each
 2611 certification. Middle grades students who earn additional FTE
 2612 membership for a CAPE Digital Tool certificate pursuant to sub-
 2613 subparagraph a. may not use the previously funded examination to
 2614 satisfy the requirements for earning an industry certification
 2615 under this sub-subparagraph. Additional FTE membership for an
 2616 elementary or middle grades student may not exceed 0.1 for
 2617 certificates or certifications earned within the same fiscal
 2618 year. The State Board of Education shall include the assigned
 2619 values on the CAPE Industry Certification Funding List under
 2620 rules adopted by the state board. Such value shall be added to
 2621 the total full-time equivalent student membership for grades 6
 2622 through 12 in the subsequent year. CAPE industry certifications
 2623 earned through dual enrollment must be reported and funded
 2624 pursuant to s. 1011.80. However, if a student earns a
 2625 certification through a dual enrollment course and the

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2626 certification is not a fundable certification on the
 2627 postsecondary certification funding list, or the dual enrollment
 2628 certification is earned as a result of an agreement between a
 2629 school district and a nonpublic postsecondary institution, the
 2630 bonus value shall be funded in the same manner as other nondual
 2631 enrollment course industry certifications. In such cases, the
 2632 school district may provide for an agreement between the high
 2633 school and the technical center, or the school district and the
 2634 postsecondary institution may enter into an agreement for
 2635 equitable distribution of the bonus funds.

2636 c. A value of 0.3 full-time equivalent student membership
 2637 shall be calculated for student completion of the courses and
 2638 the embedded certifications identified on the CAPE Industry
 2639 Certification Funding List and approved by the commissioner
 2640 pursuant to ss. 1003.4203(5) (a) and 1008.44.

2641 d. A value of 0.5 full-time equivalent student membership
 2642 shall be calculated for CAPE Acceleration Industry
 2643 Certifications that articulate for 15 to 29 college credit
 2644 hours, and 1.0 full-time equivalent student membership shall be
 2645 calculated for CAPE Acceleration Industry Certifications that
 2646 articulate for 30 or more college credit hours pursuant to CAPE
 2647 Acceleration Industry Certifications approved by the
 2648 commissioner pursuant to ss. 1003.4203(5) (b) and 1008.44.

2649 2. Each district must allocate at least 80 percent of the
 2650 funds provided for CAPE industry certification, in accordance

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2651 with this paragraph, to the program that generated the funds.
 2652 This allocation may not be used to supplant funds provided for
 2653 basic operation of the program.

2654 3. For CAPE industry certifications earned in the 2013-
 2655 2014 school year and in subsequent years, the school district
 2656 shall distribute to each classroom teacher who provided direct
 2657 instruction toward the attainment of a CAPE industry
 2658 certification that qualified for additional full-time equivalent
 2659 membership under subparagraph 1.:

2660 a. A bonus of \$25 for each student taught by a teacher who
 2661 provided instruction in a course that led to the attainment of a
 2662 CAPE industry certification on the CAPE Industry Certification
 2663 Funding List with a weight of 0.1.

2664 b. A bonus of \$50 for each student taught by a teacher who
 2665 provided instruction in a course that led to the attainment of a
 2666 CAPE industry certification on the CAPE Industry Certification
 2667 Funding List with a weight of 0.2.

2668 c. A bonus of \$75 for each student taught by a teacher who
 2669 provided instruction in a course that led to the attainment of a
 2670 CAPE industry certification on the CAPE Industry Certification
 2671 Funding List with a weight of 0.3.

2672 d. A bonus of \$100 for each student taught by a teacher
 2673 who provided instruction in a course that led to the attainment
 2674 of a CAPE industry certification on the CAPE Industry
 2675 Certification Funding List with a weight of 0.5 or 1.0.

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2677 Bonuses awarded pursuant to this paragraph shall be provided to
 2678 teachers who are employed by the district in the year in which
 2679 the additional FTE membership calculation is included in the
 2680 calculation. Bonuses shall be calculated based upon the
 2681 associated weight of a CAPE industry certification on the CAPE
 2682 Industry Certification Funding List for the year in which the
 2683 certification is earned by the student. Any bonus awarded to a
 2684 teacher pursuant to ~~under~~ this paragraph is in addition to any
 2685 regular wage or other bonus the teacher received or is scheduled
 2686 to receive. A bonus may not be awarded to a teacher who fails to
 2687 maintain the security of any CAPE industry certification
 2688 examination or who otherwise violates the security or
 2689 administration protocol of any assessment instrument that may
 2690 result in a bonus being awarded to the teacher under this
 2691 paragraph.

2692 (t) Computation for funding through the Florida Education
 2693 Finance Program.—The State Board of Education may adopt rules
 2694 establishing programs, industry certifications, and courses for
 2695 which the student may earn credit toward high school graduation
 2696 and the criteria under which a student's industry certification
 2697 or grade may be rescinded.

2698 Section 21. For the 2018-2019 fiscal year, the sum of
 2699 \$250,000 in recurring funds from the General Revenue Fund is
 2700 appropriated to the Department of Education to implement Section

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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2701 | 2 of this act.

2702 | Section 22. 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: Education Committee
 2 Representative Bileca offered the following:

3
 4 **Amendment**
 5 Remove lines 2700-2701 and insert:
 6 appropriated to the Department of Education to implement the
 7 amendments to s. 1002.395(9), F.S., made by the act.