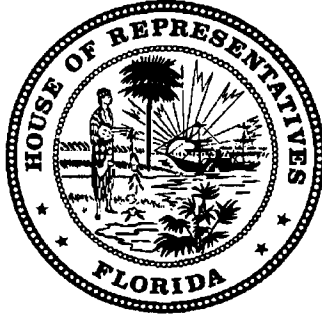




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# **PreK-12 Appropriations Subcommittee Meeting Packet**

**April 3, 2017  
11:30 a.m. – 2:30 p.m.  
Reed Hall**



**AGENDA**  
PreK-12  
Appropriations Subcommittee

April 3, 2017  
11:30 a.m. – 2:30 p.m.  
Reed Hall

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of Bills:

**CS/HB 549** Publication of Student Assessments by PreK-12 Quality Subcommittee, Fine

**HB 559** Public Educational Facilities by Duran

**HB 955** High School Graduation Requirements by Ahern, Fitzenhagen

**CS/HB 989** Instructional Materials by PreK-12 Quality Subcommittee, Donalds

**HB 1131** Shared Use of Public School Playground Facilities by Drake

**HB 1229** Committee on Early Grade Success by Grall

**HB 7101** K-12 Education by PreK-12 Innovation Subcommittee, Cortes, B.

- IV. Closing Remarks/Adjournment



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WITHDRAWN	___	(Y/N)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	_____	

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

3 Representative Fine offered the following:

4

5 **Amendment**

6 Between lines 78 and 79, insert:


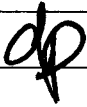
7 For fiscal year 2017-2018 the recurring sum of \$4,000,000 from

8 the General Revenue Fund is hereby appropriated to the

9 Department of Education to implement the provisions of this act.

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 549 Student Assessments  
**SPONSOR(S):** PreK-12 Quality Subcommittee; Fine and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 906

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

### SUMMARY ANALYSIS

Currently, public access to test items under Florida's statewide assessment program is limited to sample questions which are not included in assessments administered under the program. The bill requires the Commissioner of Education, beginning with the 2019-2020 school year and every 3 years thereafter, to publish on the Florida Department of Education's (DOE) website each statewide, standardized assessment and statewide end-of-course (EOC) assessment, thereby providing public access to standardized tests taken by students in Florida.

The bill allows the Commissioner of Education to determine the schedule for publishing assessments during the 3-year period; however, the initial publication must include the grade 3 English language arts (ELA) and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment.

The bill requires the DOE to provide materials on its website to help the public interpret the published assessment information.

This fiscal impact of this bill is estimated to be \$4,000,000 annually.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Florida's statewide assessment program is used to measure the extent to which students have mastered Florida's academic content standards.<sup>1</sup> It includes comprehensive, grade level assessments, end of course (EOC) assessments, and alternate assessments for students with significant cognitive disabilities.<sup>2</sup> The grade-level English language arts (ELA) and math assessments and Algebra I, Geometry, and Algebra II EOC assessments are referred to as the Florida Standards Assessments (FSA). EOC assessments count as 30 percent of a student's final course grade.<sup>3</sup>

Results from the assessments are used to calculate school grades and school improvement ratings<sup>4</sup> and determine student readiness for promotion to 4<sup>th</sup> grade and high school graduation.<sup>5</sup> In addition, school districts use student performance data from the assessments in the performance evaluations for instructional personnel and school administrators.<sup>6</sup>

Florida and federal law both require that all public school students annually participate in statewide, standardized ELA and math assessments beginning in the 3<sup>rd</sup> grade.<sup>7</sup> Federal law requires that students participate in a standardized science assessment at least once in each of grades 3 through 5, 6 through 9, and 10 through 12.<sup>8</sup> The requirements for students in Florida are as follows:<sup>9</sup>

- ELA
  - Grades 3-10: annual participation in the FSA-ELA
- Math
  - Grades 3-8: annual participation in the math FSA
  - High school:
    - Algebra I EOC and Geometry assessments
    - (If enrolled) Algebra II EOC assessment
- Science
  - Grades 5 and 8: Statewide Science Assessment
  - High school: Biology I EOC assessment
- Social Studies
  - Middle school: Civics EOC assessment
  - High school: U.S. History EOC assessment

In addition, school districts must participate in national and international comparison assessments, such as the National Assessment of Educational Progress (NAEP),<sup>10</sup> Trends in International Mathematics and Science Study, Program for International Student Assessment, Progress in International Reading Literacy Study, and International Computer and Information Literacy Study.<sup>11</sup>

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<sup>1</sup> 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>.

<sup>2</sup> See s. 1008.22(3), F.S.

<sup>3</sup> Sections 1003.4156(1)(c)-(d) and 1003.4282(3), F.S.

<sup>4</sup> See ss. 1008.34 and 1008.341, F.S.

<sup>5</sup> See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

<sup>6</sup> See s. 1012.34(3)(a)1., F.S.; rules 6A-5.030(2)(a), F.A.C.

<sup>7</sup> See s. 1008.22(3)(a); 20 U.S.C. s. 6311(b)(2)(v)(I).

<sup>8</sup> See 20 U.S.C. s. 6311(b)(2)(B)(v)(II).

<sup>9</sup> See s. 1008.22(3)(a) and (b), F.S.

<sup>10</sup> 20 U.S.C. s. 6311(a)(1)(B). Federal Title I funds are contingent upon a state's participation in the NAEP, which is administered through the National Center for Education Statistics, the primary federal entity for collecting and analyzing state related to education in the U.S. National Center for Education Statistics, *About Us*, <https://nces.ed.gov/about/> (last visited Mar. 17, 2017).

<sup>11</sup> See s. 1008.22(2), F.S.

All Students with disabilities, except for students with an approved medical complexity or extraordinary exemption waiver, must participate in the statewide, standardized assessments.<sup>12</sup> Students with significant cognitive disabilities may be eligible to take the Florida Standards Alternate Assessment, which measures student academic performance on the state's academic standards using access points.<sup>13</sup>

In order to reduce costs, the Florida Department of Education (DOE) licenses FSA test items from the test developer, American Institutes for Research, and does not have ownership of or copyright authority over the items.<sup>14</sup> This practice is becoming commonplace among states.<sup>15</sup> Some texts used in state assessment questions are taken from the public domain and can be freely published; however, others are copyrighted texts that the DOE does not have authority to publish.<sup>16</sup>

All examination and assessment instruments, including work papers and developmental materials, are confidential and exempt from disclosure under Florida's public records laws.<sup>17</sup> Provisions governing access, maintenance, and destruction of such instruments and materials are prescribed in rule by the State Board of Education.<sup>18</sup>

Per general practice, once a test or test item is released, the test items may not be reused in order to maintain assessment validity.<sup>19</sup>

### Effect of Proposed Changes

The bill requires the Commissioner of Education, beginning with the 2019-2020 school year and every 3 years thereafter, to publish each statewide, standardized assessment and statewide EOC assessment on the DOE's website, excluding retake and alternate assessments, administered in the most recent school year. By publishing the assessments on the website, the DOE would provide public access to view assessments administered during the previous school year.

The bill allows the commissioner to determine the schedule for publishing assessments during the 3-year period; however, the initial publication must occur no later than June 30, 2020, and must include the grade 3 ELA and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment.

The bill requires the DOE to publish materials on its website to help the public interpret the published assessment information.

Because test items cannot be repeated for purposes of assessment validity, the DOE would be required to procure additional test items to replace the items it has authority to publish.<sup>20</sup> This would require renegotiation of current assessment contracts for the development of test items owned by the DOE. Thereafter, the DOE would be required to purchase sufficient test items to replace assessments that are published in accordance with the bill.

The bill does not authorize or require the publication or release of individual student assessment files.

## B. SECTION DIRECTORY:

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<sup>12</sup> See ss. 1008.212 and 1008.22(10), F.S.

<sup>13</sup> See s. 1008.22(3)(c)4., F.S.; rule 6A-1.09430(1), F.A.C.; see also Florida Department of Education, Division of Public Schools and Bureau of Exceptional Education and Student Services, *Statewide Assessment for Students with Disabilities*, Technical Assistance Paper 2010-92 (July 15, 2010). Access points provide students with significant cognitive disabilities access to the Florida Standards at reduced levels of complexity.

<sup>14</sup> Florida Department of Education, Agency Analysis of 2016 House Bill 549, p. 3 (Feb. 7, 2017).

<sup>15</sup> *Id* at 3.

<sup>16</sup> *Id* at 3.

<sup>17</sup> See s. 1008.23 F.S.

<sup>18</sup> See rule 6A-10.042, F.A.C.

<sup>19</sup> *Id* at 3.

<sup>20</sup> See *id* at 3.

Section 1. Amends s. 1008.22, F.S.; requiring the Department of Education to publish certain assessments; providing requirements for the publication of such assessments; requiring the department to provide interpretive materials.

Section 2. Providing an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The strike-all amendment adopted on March 20, 2017, eliminates several assessments from the publication requirement and provides the commissioner authority to determine the schedule for publishing assessments, which may affect certain fixed costs associated with developing test items. Based on the amendment, the DOE estimates costs of approximately \$4 million annually.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

## 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 March 20, 2017, the PreK-12 Quality Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- limits the publication of tests to statewide, standardized assessments and statewide end of course (EOC) assessments;
- requires the assessments to be published starting with the 2019-2020 school year and every 3 years thereafter;
- allows the commissioner to determine the schedule for releasing assessments during the 3-year period; however, the initial publication must occur by June 30, 2020, and must include the grade 3 English language arts (ELA) and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment; and
- requires the Department of Education to provide materials on its website to help the public interpret the published assessment information.

The bill analysis is drafted to reflect the committee substitute.

1                                   A bill to be entitled  
 2           An act relating to the publication of student  
 3           assessments; amending s. 1008.22, F.S.; requiring the  
 4           Department of Education to publish certain assessments  
 5           on its website; providing requirements for such  
 6           publication; requiring the department to provide  
 7           materials regarding assessment information on its  
 8           website; conforming a cross-reference; providing an  
 9           effective date.

10  
 11   Be It Enacted by the Legislature of the State of Florida:

12  
 13           Section 1. Subsections (8) through (12) of section  
 14   1008.22, Florida Statutes, are renumbered as subsections (9)  
 15   through (13), respectively, paragraph (a) of subsection (3) is  
 16   amended, and a new subsection (8) is added to that section, to  
 17   read:

18           1008.22 Student assessment program for public schools.—

19           (3) STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.—The  
 20   Commissioner of Education shall design and implement a  
 21   statewide, standardized assessment program aligned to the core  
 22   curricular content established in the Next Generation Sunshine  
 23   State Standards. The commissioner also must develop or select  
 24   and implement a common battery of assessment tools that will be  
 25   used in all juvenile justice education programs in the state.

26 These tools must accurately measure the core curricular content  
 27 established in the Next Generation Sunshine State Standards.  
 28 Participation in the assessment program is mandatory for all  
 29 school districts and all students attending public schools,  
 30 including adult students seeking a standard high school diploma  
 31 under s. 1003.4282 and students in Department of Juvenile  
 32 Justice education programs, except as otherwise provided by law.  
 33 If a student does not participate in the assessment program, the  
 34 school district must notify the student's parent and provide the  
 35 parent with information regarding the implications of such  
 36 nonparticipation. The statewide, standardized assessment program  
 37 shall be designed and implemented as follows:

38 (a) Statewide, standardized comprehensive assessments.—The  
 39 statewide, standardized Reading assessment shall be administered  
 40 annually in grades 3 through 10. The statewide, standardized  
 41 Writing assessment shall be administered annually at least once  
 42 at the elementary, middle, and high school levels. When the  
 43 Reading and Writing assessments are replaced by English Language  
 44 Arts (ELA) assessments, ELA assessments shall be administered to  
 45 students in grades 3 through 10. Retake opportunities for the  
 46 grade 10 Reading assessment or, upon implementation, the grade  
 47 10 ELA assessment must be provided. Students taking the ELA  
 48 assessments shall not take the statewide, standardized  
 49 assessments in Reading or Writing. ELA assessments shall be  
 50 administered online. The statewide, standardized Mathematics

51 assessments shall be administered annually in grades 3 through  
 52 8. Students taking a revised Mathematics assessment shall not  
 53 take the discontinued assessment. The statewide, standardized  
 54 Science assessment shall be administered annually at least once  
 55 at the elementary and middle grades levels. In order to earn a  
 56 standard high school diploma, a student who has not earned a  
 57 passing score on the grade 10 Reading assessment or, upon  
 58 implementation, the grade 10 ELA assessment must earn a passing  
 59 score on the assessment retake or earn a concordant score as  
 60 authorized under subsection (9) ~~(8)~~.

61 (8) PUBLICATION OF ASSESSMENTS.—To promote transparency in  
 62 the statewide assessment program, the Department of Education,  
 63 subject to appropriation, shall publish assessments on its  
 64 website in accordance with this subsection.

65 (a) Beginning with the 2019-2020 school year, and every 3  
 66 years thereafter, the department shall publish each assessment  
 67 administered under paragraph (3) (a) and subparagraph (3) (b) 1.,  
 68 excluding retake assessments, at least once pursuant to a  
 69 schedule determined by the Commissioner of Education. Each  
 70 assessment, when published, must have been administered during  
 71 the most recent school year.

72 (b) The initial publication of assessments must occur no  
 73 later than June 30, 2020, and must include, at a minimum, the  
 74 grade 3 ELA and mathematics assessments, the grade 10 ELA  
 75 assessment, and the Algebra I EOC assessment.

CS/HB 549

2017



76            (c) The department must provide materials on its website  
77 to help the public interpret assessment information published  
78 pursuant to this subsection.

79            Section 2. This act shall take effect July 1, 2017.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 559 Public Educational Facilities  
**SPONSOR(S):** Duran  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Appropriations Subcommittee		Seifert 	Potvin 
2) PreK-12 Quality Subcommittee			
3) Appropriations Committee			

**SUMMARY ANALYSIS**

The State Board of Education adopts by rule the State Requirements for Educational Facilities (SREF) manual. The SREF is part of the Florida Building Code and the requirements apply to construction, renovation, and remodeling of public educational facilities owned by district school boards.

The bill:

- Provides that for the purposes of determining the capacity of school facilities, as reported in the Florida Inventory of School Houses (FISH), a school containing students in kindergarten through grade 5 is considered an elementary school and a school containing students in grades 6 through 8 is considered a middle school.
- Requires the Commissioner of Education (commissioner), upon request by a district school board, to grant an exemption from the SREF.

The bill does not have a fiscal impact.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **School District Educational Facilities Plan**

###### Present Situation

Section 1013.35, Florida Statutes, specifies the standards that school districts must use in preparing the educational facilities plan, including a financially feasible district facilities work program for a five-year period (work plan). The work plan must identify the locations, capacities and planned utilization rates of the school district's current educational facilities and must compare the capacity of existing satisfactory facilities as reported in the Florida Inventory of School Houses (FISH) to the capital outlay full-time-equivalent student enrollment (COFTE) number that is used to calculate the distribution of Public Education Capital Outlay (PECO) funds for new construction pursuant to the formula in s. 1013.64(3), Florida Statutes.

State Board of Education rule 6A-2.0010, Florida Administrative Code, relates to educational facilities, and, among other things, adopts by reference the publication, the State Requirements for Educational Facilities (SREF). The SREF manual establishes utilization factors by type of school, including elementary, middle and junior high, senior high, combination schools, exceptional student centers, alternative education centers, designated area vocational centers and designated adult centers, but does not prescribe grade groupings for a school type.

The SREF manual defines a student station as the net square footage requirements per student (in full-time equivalency) based upon the instructional program to be housed; used primarily to determine student capacity of a school.<sup>1</sup>

The SREF manual defines student capacity for planning purposes as the estimated number of students (in full-time equivalency) that can be satisfactorily housed in a facility at any given time based upon a percentage, the utilization factor, of the total number of satisfactory student stations.<sup>2</sup>

Elementary schools have a utilization factor of 100 percent. Middle schools and combination schools have utilization factors of 90 percent. The utilization factors for high schools vary based on the number of student stations. Instruction at the elementary school level typically does not require students to change classrooms; thus, planning is based on all spaces being used for the full school day. Instruction at the middle schools, combination schools, and high schools usually includes programs that require students to change classrooms; thus, planning is based on utilization factors that recognize it is not possible to fully use all spaces throughout the school day.

Section 1003.01, Florida Statutes, defines "school" as an organization of students for instructional purposes on an elementary, middle or junior high school, secondary high school or other public school level authorized under the rules of the State Board of Education. The law does not prescribe grade configuration for a school type.

School districts use a diverse range of grade configurations in their schools. As of February 7, 2017, data reported by school districts include 43 different grade configurations for the 3,072 schools in the FISH, as follows:

- Prekindergarten through grade five – 1,426 (46.42 percent);
- Kindergarten through grade five – 165 schools (5.37 percent);
- Grades six through eight – 480 schools (15.63 percent); and

<sup>1</sup> Section 1.2(88), SREF. The 2014 State Requirements for Educational Facilities (effective Nov. 4, 2014) are available at <http://www.fldoe.org/core/fileparse.php/7738/urlt/srefrule14.pdf>

<sup>2</sup> Section 1.2(87), SREF.



- Grades nine through 12 – 408 schools (13.28 percent).
- In addition, FISH includes 593 schools (19.30 percent) in 39 other unique grade configurations.

### Effect of Proposed Changes

The bill would provide that for the purposes of determining the capacity of school facilities, as reported in the FISH, a school containing students in kindergarten through grade 5 is considered an elementary school and a school containing students in grades 6 through 8 is considered a middle school.

### **State Requirements for Educational Facilities (SREF)**

#### Present Situation

The uniform statewide building code for the planning and construction of public educational and ancillary plants, i.e., the SREF, is adopted by the Florida Building Commission as section 453 of the Florida Building Code.<sup>3</sup> The Department of Education (DOE) must biennially review and recommend to the Florida Building Commission updates and revisions to the provisions of the SREF of the Florida Building Code.<sup>4</sup> The law and State Board of Education rules require district school boards and Florida College System institution boards of trustees to adhere to the SREF and section 468 of the Florida Building Code when constructing, remodeling and renovating educational facilities. The State Fire Marshal adopts standards for public school fire safety within the Florida Fire Prevention Code.<sup>5</sup> Generally speaking, SREF standards are premised on providing enhanced safety of occupants and increasing the life span of the extensive, publicly funded infrastructure of Florida's public school districts.<sup>6</sup>

Before approving any construction plans, a district school board must ensure that the plans comply with the applicable standards of the Florida Building Code and the Florida Fire Prevention Code.<sup>7</sup>

#### *Educational Facilities Construction Flexibility*

In 2016, the Florida Legislature enacted s. 1013.385, Florida Statutes, relating to construction flexibility. The construction flexibility enabling law:

- Authorizes a district school board to adopt, by supermajority vote, a resolution to implement exceptions to the SREF.
- Requires a transparent approval process, with the district school board holding at least one public workshop prior to considering adoption of the resolution, with the workshop and public hearing beginning no earlier than 5:00 p.m.
- Requires a cost-benefit analysis conducted using a professionally accepted methodology for each exception selected by the district school board, which may include:
  - interior nonload-bearing walls;
  - walkways, roadways, driveways, and parking areas;
  - standards for relocatables used as classroom space; and
  - site lighting.

#### *Review of the SREF*

In 2016, the Florida Legislature also directed that the Office of Program Policy Analysis and Government Accountability (OPPAGA) review the SREF to identify current requirements that could be eliminated or modified in order to decrease the cost of construction of educational facilities while ensuring student safety.<sup>8</sup> On January 31, 2017, OPPAGA released Report 17-04, which recommended

<sup>3</sup> Section 1013.37(1), F.S.

<sup>4</sup> Section 1013.37(4), F.S.

<sup>5</sup> Sections 381.006(6) and (16) and 1013.37(1) and (4), F.S.; rule 6A-2.0010, F.A.C.

<sup>6</sup> See, e.g., s. 1013.12 (casualty, safety, sanitation, and fire safety standards and inspection of property) and 1013.451, F.S. (life-cycle cost comparison)

<sup>7</sup> Sections 1013.37(2), 1013.371(1)(c), and 1013.38(4)(a), F.S.

<sup>8</sup> Section 1013.64(4)(b)4., F.S.

that the SREF be retained and noted that 82 percent of school districts supported retaining the SREF due to benefits to “student safety, facility quality, facility longevity, and school uniformity”<sup>9</sup> The report identified 10 potential modifications for legislative consideration, but noted that each posed potential safety drawbacks with cost savings of 1 percent or less and a lack of consensus among the school districts as to which requirements could be modified and how they should be modified.

#### Effect of Proposed Changes

The bill would require the commissioner, upon the request of a district school board, to grant an exemption from the SREF. The school board must prepare a comprehensive cost-benefit analysis to support the exemption request and must continue to comply with applicable provisions of the Florida Building Code and the Florida Fire Prevention Code which relate to the construction, remodeling and renovation of educational facilities.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 1013.35, Florida Statutes; providing requirements for determining the capacity of facilities in certain schools as reported in the Florida Inventory of School Houses.

Section 2. Amends s. 1013.37, Florida Statutes; requiring the Commissioner of Education to grant an exemption from the State Requirements for Educational Facilities to a district school board under certain circumstances; requiring such district school board to comply with certain Florida Building Code and Florida Fire Prevention Code provisions.

Section 3. Amends s. 1013.64, Florida Statutes; conforming provisions to changes made by the act.

Section 4. Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

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<sup>9</sup> OPPAGA Report 17-04, *The State Requirements for Educational Facilities (SREF) Should Be Retained; Some Modifications Could Be Made*, is available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1704rpt.pdf>.

A school district would have costs associated with preparing a comprehensive cost-benefit analysis to submit to the commissioner with the request of the SREF exemption.

### **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**

1                                   A bill to be entitled  
 2           An act relating to public educational facilities;  
 3           amending s. 1013.35, F.S.; providing requirements for  
 4           determining the capacity of facilities in certain  
 5           schools as reported in the Florida Inventory of School  
 6           Houses; amending s. 1013.37, F.S.; requiring the  
 7           Commissioner of Education to grant an exemption from  
 8           the State Requirements for Educational Facilities to a  
 9           district school board under certain circumstances;  
 10          requiring such district school board to comply with  
 11          certain Florida Building Code and Florida Fire  
 12          Prevention Code provisions; amending s. 1013.64, F.S.;  
 13          conforming provisions to changes made by the act;  
 14          providing an effective date.

15  
 16   Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1. Paragraph (b) of subsection (2) of section  
 19   1013.35, Florida Statutes, is amended to read:

20           1013.35 School district educational facilities plan;  
 21   definitions; preparation, adoption, and amendment; long-term  
 22   work programs.—

23           (2) PREPARATION OF TENTATIVE DISTRICT EDUCATIONAL  
 24   FACILITIES PLAN.—

25           (b) The plan must also include a financially feasible

26 district facilities work program for a 5-year period. The work  
 27 program must include:

28 1. A schedule of major repair and renovation projects  
 29 necessary to maintain the educational facilities and ancillary  
 30 facilities of the district.

31 2. A schedule of capital outlay projects necessary to  
 32 ensure the availability of satisfactory student stations for the  
 33 projected student enrollment in K-12 programs. This schedule  
 34 shall consider:

35 a. The locations, capacities, and planned utilization  
 36 rates of current educational facilities of the district. The  
 37 capacity of existing satisfactory facilities, as reported in the  
 38 Florida Inventory of School Houses, must be compared to the  
 39 capital outlay full-time-equivalent student enrollment as  
 40 determined by the department, including all enrollment used in  
 41 the calculation of the distribution formula in s. 1013.64. For  
 42 purposes of determining the capacity of school facilities, as  
 43 reported in the Florida Inventory of School Houses, a school  
 44 containing students in kindergarten through grade 5 is  
 45 considered an elementary school and a school containing students  
 46 in grades 6 through 8 is considered a middle school.

47 b. The proposed locations of planned facilities, whether  
 48 those locations are consistent with the comprehensive plans of  
 49 all affected local governments, and recommendations for  
 50 infrastructure and other improvements to land adjacent to

51 existing facilities. The provisions of ss. 1013.33(6), (7), and  
 52 (8) and 1013.36 must be addressed for new facilities planned  
 53 within the first 3 years of the work plan, as appropriate.

54 c. Plans for the use and location of relocatable  
 55 facilities, leased facilities, and charter school facilities.

56 d. Plans for multitrack scheduling, grade level  
 57 organization, block scheduling, or other alternatives that  
 58 reduce the need for additional permanent student stations.

59 e. Information concerning average class size and  
 60 utilization rate by grade level within the district which will  
 61 result if the tentative district facilities work program is  
 62 fully implemented.

63 f. The number and percentage of district students planned  
 64 to be educated in relocatable facilities during each year of the  
 65 tentative district facilities work program. For determining  
 66 future needs, student capacity may not be assigned to any  
 67 relocatable classroom that is scheduled for elimination or  
 68 replacement with a permanent educational facility in the current  
 69 year of the adopted district educational facilities plan and in  
 70 the district facilities work program adopted under this section.  
 71 Those relocatable classrooms clearly identified and scheduled  
 72 for replacement in a school-board-adopted, financially feasible,  
 73 5-year district facilities work program shall be counted at zero  
 74 capacity at the time the work program is adopted and approved by  
 75 the school board. However, if the district facilities work

76 program is changed and the relocatable classrooms are not  
 77 replaced as scheduled in the work program, the classrooms must  
 78 be reentered into the system and be counted at actual capacity.  
 79 Relocatable classrooms may not be perpetually added to the work  
 80 program or continually extended for purposes of circumventing  
 81 this section. All relocatable classrooms not identified and  
 82 scheduled for replacement, including those owned, lease-  
 83 purchased, or leased by the school district, must be counted at  
 84 actual student capacity. The district educational facilities  
 85 plan must identify the number of relocatable student stations  
 86 scheduled for replacement during the 5-year survey period and  
 87 the total dollar amount needed for that replacement.

88 g. Plans for the closure of any school, including plans  
 89 for disposition of the facility or usage of facility space, and  
 90 anticipated revenues.

91 h. Projects for which capital outlay and debt service  
 92 funds accruing under s. 9(d), Art. XII of the State Constitution  
 93 are to be used shall be identified separately in priority order  
 94 on a project priority list within the district facilities work  
 95 program.

96 3. The projected cost for each project identified in the  
 97 district facilities work program. For proposed projects for new  
 98 student stations, a schedule shall be prepared comparing the  
 99 planned cost and square footage for each new student station, by  
 100 elementary, middle, and high school levels, to the low, average,

101 and high cost of facilities constructed throughout the state  
 102 during the most recent fiscal year for which data is available  
 103 from the Department of Education.

104 4. A schedule of estimated capital outlay revenues from  
 105 each currently approved source which is estimated to be  
 106 available for expenditure on the projects included in the  
 107 district facilities work program.

108 5. A schedule indicating which projects included in the  
 109 district facilities work program will be funded from current  
 110 revenues projected in subparagraph 4.

111 6. A schedule of options for the generation of additional  
 112 revenues by the district for expenditure on projects identified  
 113 in the district facilities work program which are not funded  
 114 under subparagraph 5. Additional anticipated revenues may  
 115 include Classrooms First funds.

116 Section 2. Subsection (3) of section 1013.37, Florida  
 117 Statutes, is amended to read:

118 1013.37 State uniform building code for public educational  
 119 facilities construction.—

120 (3) REVIEW PROCEDURE; EXEMPTION.—

121 (a) The Commissioner of Education shall cooperate with the  
 122 Florida Building Commission in addressing all questions,  
 123 disputes, or interpretations involving the provisions of the  
 124 Florida Building Code which govern the construction of public  
 125 educational and ancillary facilities, and any objections to



126 decisions made by the inspectors or the department must be  
 127 submitted in writing.

128 (b) Upon request by a district school board, the  
 129 commissioner shall grant an exemption from the State  
 130 Requirements for Educational Facilities (SREF). A district  
 131 school board must provide a comprehensive cost-benefit analysis  
 132 along with its request for an exemption from the SREF. Any  
 133 district school board that is granted such exemption shall  
 134 continue to comply with applicable provisions of the Florida  
 135 Building Code and the Florida Fire Prevention Code which relate  
 136 to the construction, remodeling, and renovation of educational  
 137 facilities.

138 Section 3. Paragraph (b) of subsection (3) of section  
 139 1013.64, Florida Statutes, is amended to read:

140 1013.64 Funds for comprehensive educational plant needs;  
 141 construction cost maximums for school district capital  
 142 projects.—Allocations from the Public Education Capital Outlay  
 143 and Debt Service Trust Fund to the various boards for capital  
 144 outlay projects shall be determined as follows:

145 (3)

146 (b) The capital outlay membership shall be determined for  
 147 prekindergarten exceptional education students, kindergarten  
 148 through the 12th grade, and for career centers by counting the  
 149 student membership for the second and third surveys and  
 150 comparing the results on a school-by-school basis with the

151 Florida Inventory of School Houses. If the prior academic year's  
 152 third survey count is higher than the current year's second  
 153 survey count when comparing the results on a school-by-school  
 154 basis with the Florida Inventory of School Houses, the prior  
 155 year's third survey count shall be used on a school-by-school  
 156 basis for determining the current capital outlay membership. The  
 157 Florida Inventory of School Houses shall be updated with the  
 158 current capital outlay membership count as soon as practicable  
 159 after verification of the capital outlay membership. For  
 160 purposes of determining the capacity of school facilities, as  
 161 reported in the Florida Inventory of School Houses, a school  
 162 containing students in kindergarten through grade 5 is  
 163 considered an elementary school and a school containing students  
 164 in grades 6 through 8 is considered a middle school.

165 Section 4. This act shall take effect July 1, 2017.


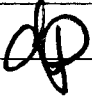


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 955 High School Graduation Requirements

**SPONSOR(S):** Ahern; Fitzenhagen and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 392

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

### SUMMARY ANALYSIS

The bill requires students entering grade 9 in the 2017-2018 school year and thereafter to complete a one-half course credit in personal financial literacy. Currently, high school students receive financial literacy instruction, based on 56 Next Generation Sunshine State Standards in financial literacy, as part of the one-half Economics course credit required for graduation.

The bill revises the Next Generation Sunshine State Standards to include additional, specified financial literacy topics and requires the new personal financial literacy course to include discussion of or instruction in those topics.

To maintain the current 24-credit graduation requirement, the bill reduces the electives credit requirement from eight credits to seven-and-one-half credits.

School districts may incur costs associated with procuring additional instructional materials aligned to the new personal financial literacy course, providing professional development to classroom teachers who will teach the course, and hiring additional classroom teachers to teach the course. These costs are indeterminate.

This bill does not have a fiscal impact to the state.

The bill takes effect July 1, 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Florida High School Graduation Requirements

Florida law establishes the courses and credits required for a student to receive a standard high school diploma. A student must successfully complete 24 credits in core-curricula and extracurricular courses with a 2.0 or higher cumulative GPA, with limited exceptions.<sup>1</sup>

For grades 9 through 12, core curricula courses are those subjects that are measured by state assessment at any grade level and courses that are specifically identified by name in state law as required for high school graduation and that are not measured by state assessment.<sup>2</sup> Core courses are: English language arts, mathematics, science, and social studies.<sup>3</sup> The remaining required courses are extracurricular courses, which include but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit.<sup>4</sup>

##### *Core and Extracurricular Course and Credit Requirements*<sup>5</sup>

Course	Credit
English Language Arts (ELA) <ul style="list-style-type: none"><li>• ELA I, II, III, and IV</li></ul>	4
Mathematics <ul style="list-style-type: none"><li>• One credit in Algebra I, one credit in Geometry, and two additional credits.</li><li>• A student who earns an industry certification for which there is a statewide college credit articulation agreement may substitute the certification for one of the two additional credits. Substitution may occur for up to 2 credits, with the exception of Algebra I and Geometry.</li></ul>	4
Science <ul style="list-style-type: none"><li>• One credit in Biology I and 2 credits in equally rigorous courses</li><li>• A student who earns an industry certification for which there is a statewide college credit articulation agreement may substitute the certification for one of the two equally rigorous courses.</li></ul>	3
Social Studies <ul style="list-style-type: none"><li>• One credit in United States History; one credit in World History; one-half credit in U.S. Government, and one-half credit in Economics, <b>which must include Financial Literacy.</b></li></ul>	3
Fine Arts, Performing Arts, Speech and Debate, or Practical Arts <ul style="list-style-type: none"><li>• The practical arts course must incorporate artistic content and techniques of creativity, interpretation, and imagination. Eligible courses are identified in the Course Code Directory.<sup>6</sup></li></ul>	1

<sup>1</sup> See s. 1008.4282(3)(a)-(g), F.S. A student may graduate with a minimum of 18 credit hours if he or she meets the core course credit (excluding physical education), assessment, and GPA requirements and completes three electives. See ss. 1002.3105(5) and 1003.4282(6)(a), F.S.

<sup>2</sup> Section 1003.01(14), F.S.

<sup>3</sup> See s. 1008.4282(3)(a)-(d), F.S.

<sup>4</sup> Section 1003.01(15), F.S.

<sup>5</sup> Section 1003.4282(3), F.S. Students must pass the grade 10 English language arts assessment and the Algebra I end-of-course assessment to graduate.

Physical Education <ul style="list-style-type: none"> <li>• Must include the integration of health.</li> </ul>	1
Electives <ul style="list-style-type: none"> <li>• Must include opportunities for students to earn college credit, including industry-certified career programs or courses that lead to college credit.</li> </ul>	8
Online Course Requirement <sup>7</sup> <ul style="list-style-type: none"> <li>• One of the courses within the 24 credits must be completed through online learning.</li> </ul>	Determined based upon the course completed.

### Financial Literacy Instruction

The Next Generation Sunshine State Standards (NGSSS), adopted by the State Board of Education pursuant to state law, includes financial literacy standards for kindergarten through grade 12.<sup>8</sup> In 2014, after a committee of six experts in economics and finance reviewed the Council for Economic Education’s (CEE) National Standards for Financial Literacy and after a series of public workshops, the state board incorporated the national standards into the NGSSS for Social Studies.<sup>9</sup>

Current law requires financial literacy standards to include information regarding:

- earning income;
- buying goods and services;
- saving and financial investing;
- taxes;
- the use of credit and credit cards;
- budgeting and debt management, including student loans and secured loans;
- banking and financial services;
- planning for one’s financial future, including higher education and career planning; credit reports and scores; and
- fraud and identity theft prevention.<sup>10</sup>

Florida’s 2016-2017 Course Code Directory includes courses in economics with financial literacy, incorporating 56 financial literacy standards, which students may use to satisfy the one-half course credit requirement for graduation. The directory also includes a semester-long course in personal financial literacy that school districts may offer to students.<sup>11</sup>

<sup>6</sup> The Course Code Directory requires that programs and courses funded through the Florida Education Finance Program (FEFP) and courses or programs for which students may earn elective or required credit toward high school graduation must be listed in the Course Code Directory (CCD). Rule 6A-1.0944, F.A.C.

<sup>7</sup> Section 1003.4282(4), F.S. A school district may not require a student to take the online course outside the school day or in addition to a student’s courses for a given semester. This subsection does not apply to a student who has an individual education plan under s. 1003.57, F.S., which indicates that an online course would be inappropriate or to an out-of-state transfer student who is enrolled in a Florida high school and has 1 academic year or less remaining in high school. *Id.*

<sup>8</sup> See rule 6A-1.09401(1)(c), F.A.C. (incorporating by reference Florida Department of Education, *Next Generation Sunshine State Standards—Social Studies, Revised June 2014*).

<sup>9</sup> See Florida Department of Education, *Next Generation Sunshine State Standards—Social Studies, Revised June 2014*, at 1 (incorporated by reference in rule 6A-1.09401(1)(c), F.A.C.

<sup>10</sup> Section 1003.41(2)(d), F.S.

<sup>11</sup> See Florida Department of Education, *2016-2017 Course Directory*, <http://www.fldoe.org/policy/articulation/ccd/2016-2017-course-directory.shtml> (last visited Mar. 24, 2017). See also CPALMS, *Browse and Search Courses*, <http://www.cpalms.org/Public/search/Course> (last visited Mar. 24, 2017) (providing the list of standards associated with course #2102335, Economics with Financial Literacy).

On a nationwide basis, efforts are being made to improve the general quality of financial literacy instruction. The CEE and the Champlain College Center for Financial Literacy have issued reports establishing goals for states to meet in order to generally improve financial literacy instructional standards.<sup>12</sup> The CEE report identifies five metrics for evaluating the quality of financial literacy instruction in a given state:

- inclusion of financial literacy in the state's academic standards;
- the requirement that the standards be implemented by each school district;
- the requirement that the standards are included in a high school course;
- the requirement that the high school course be completed by all high school students; and
- implementation of a standardized financial literacy assessment.<sup>13</sup>

Florida meets four of the five metrics. The state does not, however, administer a statewide, standardized financial literacy assessment.<sup>14</sup>

The Champlain College's Center for Financial Literacy has established an A-F scale for assessing a state's financial literacy instruction policy. The center currently rates Florida a "B," and it notes that the 56 financial literacy standards that are included in the economics course amounts to approximately 37 hours of financial literacy instruction.<sup>15</sup> The center advocates the development and implementation of a national financial literacy assessment in lieu of including implementation of a state assessment as one of its metrics. No such national assessment has been developed or implemented.<sup>16</sup>

Research shows that the effect of financial literacy instruction is limited regardless of the length of instruction. Instead, proximity of the instruction to a financial decision bears more impact on financial behavior. "Like other education, financial education decays over time; even large interventions with many hours of instruction have negligible effects on behavior or more from the time of intervention."<sup>17</sup>

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<sup>12</sup> See Council for Economic Education, *Survey of the States: Economic and Personal Finance Education in our Nation's Schools 2016*, available at <http://councilforeconed.org/wp/wp-content/uploads/2016/02/sos-16-final.pdf> [hereinafter referred to as "Council for Economic Education"]. See also Champlain College Center for Financial Literacy, *Is Your State Making the Grade? 2015 National Report Card on State Efforts to Improve Financial Literacy in High Schools* (2015), available at [http://www.champlain.edu/Documents/Centers-of-Excellence/Center-for-Financial-Literacy/2015\\_National\\_Report\\_Card.pdf](http://www.champlain.edu/Documents/Centers-of-Excellence/Center-for-Financial-Literacy/2015_National_Report_Card.pdf) [hereinafter referred to as *Champlain College*].

<sup>13</sup> See Council for Economic Education, *supra* at note 11.

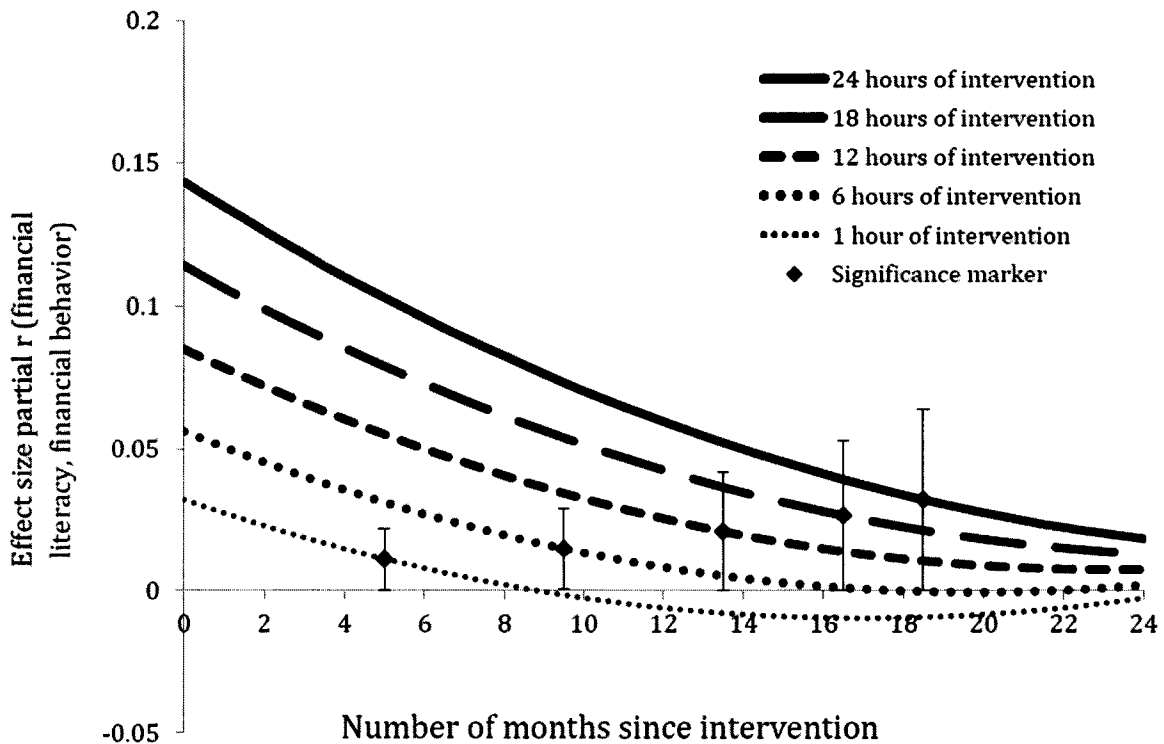
<sup>14</sup> See *id.* at 6.

<sup>15</sup> See *Champlain College* at 35, *supra* at note 11.

<sup>16</sup> See *id.* at 25.

<sup>17</sup> Daniel Fernandes, John Lynch, and Richard Netemeyer, *Financial Literacy, Financial Education, and Downstream Financial Behaviors*, 60 MANAGEMENT SCIENCE 1861, 1867 (2014) (suggesting that a "just-in-time" approach to financial education tied to specific behaviors may constitute a more effective intervention).

**Figure 4: Partial Correlation of Financial Education Interventions with Financial Behavior as a Function of Number of Hours of Intervention and Number of Months since Intervention**



### Effect of Proposed Changes

The bill requires the addition of personal financial literacy and money management to the NGSSS for financial literacy, effective for students entering grade 9 in the 2017-2018 school year and thereafter. The bill also specifies that financial literacy includes instruction on:

- types of bank accounts offered, opening and managing a bank account, and assessing the quality of a depository institution's services;
- balancing a checkbook;
- basic principles of money management, such as spending, credit, credit scores, and managing debt, including retail and credit card debt;
- completing a loan application;
- receiving an inheritance and related implications;
- basic principles of personal insurance policies;
- computing federal income taxes;
- local tax assessments;
- computing interest rates by various mechanisms;
- simple contracts;
- contesting an incorrect billing statement;
- types of savings and investments; and
- state and federal laws concerning finance.

The bill requires students entering grade 9 in the 2017-2018 school year and thereafter to complete a stand-alone, one-half credit in personal financial literacy, which must include discussion of or instruction in the topics above. Accordingly, the bill eliminates financial literacy instruction from the one-half credit economics requirement. To maintain the 24-credit requirement for graduation, the bill reduces the electives requirement from eight to seven-and-one-half credits.



Although the NGSSS financial literacy standards currently cover a number of these topics, the Florida Department of Education indicates that additional NGSSS would need to be developed and approved by the State Board of Education to include content on balancing a checkbook and receiving an inheritance.<sup>18</sup>

**B. SECTION DIRECTORY:**

Section 1. Amends s. 1003.41, F.S., revising the requirements for the Next Generation Sunshine State Standards to include financial literacy.

Section 2. Amends s. 1003.4282, F.S., revising the required credits for a standard high school diploma to include one-half credit of instruction in personal financial literacy and money management and seven and one-half, rather than eight, credits in electives.

Section 3. Provides an effective date.

**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:**

School districts may incur costs associated with procuring additional instructional materials aligned to the new personal financial literacy course, providing professional development to classroom teachers who will teach the course, and hiring additional classroom teachers to teach the course. These costs are indeterminate.

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<sup>18</sup> See Florida Department of Education, Agency Analysis of 2017 House Bill 955, p. 2-3 (Mar. 17, 2017).

### **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**

None.

1                                   A bill to be entitled  
 2           An act relating to high school graduation  
 3           requirements; amending s. 1003.41, F.S.; revising the  
 4           requirements for the Next Generation Sunshine State  
 5           Standards to include financial literacy; amending s.  
 6           1003.4282, F.S.; revising the required credits for a  
 7           standard high school diploma to include one-half  
 8           credit of instruction in personal financial literacy  
 9           and money management and seven and one-half, rather  
 10          than eight, credits in electives; providing an  
 11          effective date.

12  
 13           WHEREAS, many young people in this state graduate from high  
 14          school without having a basic knowledge of financial literacy  
 15          and money management, and

16           WHEREAS, the Legislature finds that, in light of the recent  
 17          economic challenges nationwide, sound financial management  
 18          skills are vitally important to all Floridians, particularly  
 19          high school students, and

20           WHEREAS, the Legislature also finds that requiring  
 21          educational instruction in financial literacy and money  
 22          management as a prerequisite to high school graduation will  
 23          better prepare young people in this state for adulthood by  
 24          providing them with the requisite knowledge to achieve financial  
 25          stability and independence, and

26 WHEREAS, adoption of this act, which may be cited as the  
 27 "Personal Financial Literacy Education Act," will make Florida  
 28 the 18th state in the nation to require financial literacy  
 29 instruction as a prerequisite for high school graduation and a  
 30 standard high school diploma, NOW, THEREFORE,

31  
 32 Be It Enacted by the Legislature of the State of Florida:

33  
 34 Section 1. Paragraph (f) is added to subsection (2) of  
 35 section 1003.41, Florida Statutes, to read:

36 1003.41 Next Generation Sunshine State Standards.—

37 (2) Next Generation Sunshine State Standards must meet the  
 38 following requirements:

39 (f) Effective for students entering grade 9 in the 2017-  
 40 2018 school year and thereafter, financial literacy standards  
 41 must establish specific curricular content for, at a minimum,  
 42 personal financial literacy and money management. Financial  
 43 literacy includes instruction in the areas specified in s.  
 44 1003.4282(3)(h).

45 Section 2. Paragraphs (d) and (g) of subsection (3) of  
 46 section 1003.4282, Florida Statutes, are amended, and paragraph  
 47 (h) is added to that subsection, to read:

48 1003.4282 Requirements for a standard high school  
 49 diploma.—

50 (3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT

51 REQUIREMENTS.—

52 (d) Three credits in social studies.—Beginning with  
 53 students entering grade 9 in the 2017-2018 school year, a  
 54 student must earn one credit in United States History,<sup>+</sup> one  
 55 credit in World History,<sup>+</sup> one-half credit in economics, which  
 56 ~~must include financial literacy~~<sup>+</sup> and one-half credit in United  
 57 States Government. The United States History EOC assessment  
 58 constitutes 30 percent of the student's final course grade.

59 (g) Seven and one-half ~~Eight~~ credits in electives.—  
 60 Beginning with students entering grade 9 in the 2017-2018 school  
 61 year, each school district shall ~~School districts must~~ develop  
 62 and offer coordinated electives so that a student may develop  
 63 knowledge and skills in his or her area of interest, such as  
 64 electives with a STEM or liberal arts focus. Such electives must  
 65 include opportunities for students to earn college credit,  
 66 including industry-certified career education programs or series  
 67 of career-themed courses that result in industry certification  
 68 or articulate into the award of college credit, or career  
 69 education courses for which there is a statewide or local  
 70 articulation agreement and which lead to college credit.

71 (h) One-half credit in personal financial literacy.—  
 72 Beginning with students entering grade 9 in the 2017-2018 school  
 73 year, each student shall take one-half credit in personal  
 74 financial literacy and money management. This instruction must  
 75 include discussion of or instruction in the following:

76        1. Types of bank accounts offered, opening and managing a  
 77 bank account, and assessing the quality of a depository  
 78 institution's services.

79        2. Balancing a checkbook.

80        3. Basic principles of money management, such as spending,  
 81 credit, credit scores, and managing debt, including retail and  
 82 credit card debt.

83        4. Completing a loan application.

84        5. Receiving an inheritance and related implications.

85        6. Basic principles of personal insurance policies.

86        7. Computing federal income taxes.

87        8. Local tax assessments.

88        9. Computing interest rates by various mechanisms.

89        10. Simple contracts.

90        11. Contesting an incorrect billing statement.

91        12. Types of savings and investments.

92        13. State and federal laws concerning finance.

93        Section 3. This act shall take effect July 1, 2017.


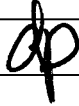


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 989 Instructional Materials for K-12 Public Education

**SPONSOR(S):** PreK-12 Quality Subcommittee; Donalds and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 1210

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

### SUMMARY ANALYSIS

To be: included in Florida's state-adopted instructional materials list, an instructional material must, among other things, be aligned to the Next Generation Sunshine State Standards, accurate, objective, balanced, noninflammatory, current, and suited to student needs and their ability to comprehend the material presented. However, state funds allocated for the purchase of instructional materials may be used to purchase materials that are not included on the state-adopted list or are not otherwise reviewed for appropriate content and alignment to the standards.

The bill provides for greater transparency in the district-level adoption process and more opportunities to review and challenge materials made available to students by:

- allowing parents and residents of the county to provide the district school board evidence that an instructional material for adoption by the district does not meet the state criteria, contains prohibited content, or is otherwise inappropriate or unsuitable;
- allowing county residents to contest the adoption of an instructional material and object to the use of a material made available to students;
- requiring the process for contesting the adoption of an instructional material to provide for an impartial hearing officer;
- requiring school districts to discontinue use of a material found to be inappropriate or unsuitable;
- requiring school districts to provide access to library materials upon written request;
- requiring school districts to maintain a current list of purchased instructional materials on their websites;
- requiring that instructional materials purchased using the instructional materials allocation be on the state-adopted list unless purchased through a district instructional materials program;
- requiring that instructional materials purchased through a district instructional materials program meet the criteria for inclusion in the state-adopted list, be aligned to the state academic standards, and be consistent with course expectations and course descriptions;
- eliminating the requirement that 50 percent of the instructional materials allocation be used to purchase electronic or digital materials; and
- clarifying that a school district is responsible for the content of all materials made available to students, including those that may not meet the statutory definition of an instructional material.

The bill also specifies that an instructional material must be free of content that is pornographic or harmful to minors in order to be recommended for inclusion in the state-adopted list and that any material used in a classroom must also be free of such content.

The bill does not have a fiscal impact to the state. The fiscal impact of the bill to school districts is indeterminate.

The bill takes effect July 1, 2017.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0989a.PKA.DOCX

DATE: 3/31/2017



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.<sup>1</sup>

“Instructional materials” are items having intellectual content that serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.<sup>2</sup> Other materials that are not by definition an instructional material, such as novels and periodicals, may be used in a classroom, made available in a school library, or included on a course reading list.

Whether adopted and purchased through a district-implemented instructional materials review program, adopted and purchased from the state-adopted list, or otherwise made available in a classroom, the school district is responsible for the content of all instructional materials used in the classroom.<sup>3</sup> Any instructional material containing pornography or is a prohibited material that is harmful to minors<sup>4</sup> may not be used or made available within any public school.<sup>5</sup>

Prior to the purchase of any instructional material, the board must:

- establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials;
- conduct an open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased. This public meeting must be held on a different date than the school board hearing;
- provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how the instructional materials can be accessed for public review;
- establish a process for public comment on, and review of, the recommended instructional materials.<sup>6</sup>

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<sup>1</sup> Section 1006.40(2), F.S. “Adequate instructional materials” means a “sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1), F.S. Digital and instructional materials, including software applications, must be provided by each school board, in consultation with the district school superintendent, to students with disabilities in prekindergarten through grade 12. Section 1003.4203(2), F.S.

<sup>2</sup> Section 1006.29(2), F.S.

<sup>3</sup> Section 1006.28(1)(a)1., F.S.

<sup>4</sup> See s. 847.012, F.S. (establishing a criminal offense for the sale, rent, or distribution of certain materials to minors or posting of such materials at a school).

<sup>5</sup> Section 1006.34(2)(b), F.S. (flush-left provisions at the end of paragraph (b)).

<sup>6</sup> Sections 1006.40(5) and 1006.283(2)(b)8., 9., and 11., F.S.

In addition, the school board must establish a process by which the district notifies parents of their ability to access their children's instructional materials. The notification must be displayed prominently on the school district's website and provided annually in written format to all parents of enrolled students.<sup>7</sup>

Once instructional materials are adopted and purchased by the district school board pursuant to the state instructional materials program or its own instructional materials program, each district school board must establish a process enabling parents to contest the adoption of a specific instructional material. A parent seeking to challenge an adopted instructional material must file a petition, on a form provided by the school board, within 30 days after the adoption of the material by the school board. The form must be signed by the parent, include the required contact information, and state the objection to the instructional material.<sup>8</sup> Districts must also establish a process by which parents may challenge their child's use of an instructional material and which provides for resolution of objections.<sup>9</sup>

Under the law, materials that are not adopted and purchased from the state-adopted list or through a district's instructional materials program can be made available to students by the school district without undergoing the above notice, review, and comment procedures or the adoption appeal procedures. The law does not expressly require districts to make appeal and objection procedures available to other members of the public, such as residents of the county.

Funding for instructional materials is provided annually by the Legislature in the General Appropriations Act (GAA). The following chart shows a five year history of GAA funding for instructional materials:

<b>Instructional Materials Funding History</b>	
<b>Fiscal Year</b>	<b>Amount</b>
2012-13 <sup>10</sup>	\$211,665,913
2013-14 <sup>11</sup>	\$217,277,372
2014-15 <sup>12</sup>	\$223,382,911
2015-16 <sup>13</sup>	\$225,830,113
2016-17 <sup>14</sup>	\$228,792,422

Up to 50 percent of the annual allocation provided in the General Appropriations Act for instructional materials may be used by school districts to purchase materials not on the state-adopted list, including library and reference books and nonprint materials, and for the repair and renovation of textbooks and library books. The remainder of the allocation must be used to purchase "digital or electronic instructional materials that align with state standards included on the state-adopted instructional materials list."<sup>15</sup> Instructional materials funds available after March 1 may be used to purchase hardware for student instruction.<sup>16</sup> In any year in which the total instructional materials allocation for a school district has not been expended or obligated prior to June 30, the district school board must carry forward the unobligated amount and must add that amount to the next year's allocation.<sup>17</sup>

<sup>7</sup> Section 1006.283(2)(b)11., F.S.

<sup>8</sup> Section 1006.28(1)(a)3., F.S.

<sup>9</sup> Section 1006.28(1)(a)2., F.S.

<sup>10</sup> Specific Appropriations 6, s. 1 and 84, s. 2, ch. 2012-118, L.O.F.

<sup>11</sup> Specific Appropriations 7, s. 1 and 87, s. 2, ch. 2013-40, L.O.F.

<sup>12</sup> Specific Appropriations 9, s. 1 and 96, s. 2, ch. 2014-51, L.O.F.

<sup>13</sup> Specific Appropriations 7, s. 1 and 90, s. 2, ch. 2015-232, L.O.F.

<sup>14</sup> Specific Appropriations 7, s. 1 and 94, s. 2, ch. 2016-66, L.O.F.

<sup>15</sup> Sections 1006.28(1)(a)1. and 1006.40(3), F.S. Materials not on the state adopted list include library books, reference books, and non-print materials. Section 1006.40(3)(b), F.S.

<sup>16</sup> Section 1011.62(6)(b)5., F.S.

<sup>17</sup> Section 1006.40(7), F.S.

Materials purchased by a school district that are not on the state-adopted list or otherwise made available in a classroom might not undergo any adoption review or public review process.<sup>18</sup>

## State Instructional Materials Adoption

### *Adoption Process*

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. However, the commissioner may approve terms of adoption of less than five years for materials in content areas which require more frequent revision.<sup>19</sup> The Department of Education (DOE) annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years, and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct the DOE to add one or more subject areas to the official schedule.<sup>20</sup>

Approximately one year before the adoption of instructional materials in a certain subject area, the DOE publishes specifications for the subjects to be adopted. These specifications detail the courses for which materials are sought and the standards the materials must meet.<sup>21</sup>

Beginning on or before May 15 of the adoption year, the DOE advertises<sup>22</sup> a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.<sup>23</sup>

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable” instructional materials for each grade and subject in the curriculum of public elementary, middle, and high schools in which adoptions are made and in the subject areas designated in the advertisement.<sup>24</sup>

### *Reviewers*

State instructional materials reviewers are state or national content experts appointed by the Commissioner of Education. The reviewers must be appointed by April 15 of each school year to review the instructional materials slated for adoption and evaluate the content for alignment with applicable state standards.<sup>25</sup>

State instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.<sup>26</sup> After receiving training, the reviewers must review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.<sup>27</sup>

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make

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<sup>18</sup> *E.g.*, novels that are included in a recommended or required reading list or checked out of the school library by the classroom teacher or a student.

<sup>19</sup> Section 1006.36(1), F.S.

<sup>20</sup> Section 1006.36(2), F.S.

<sup>21</sup> Florida Department of Education, Bureau of Curriculum and Instruction, *Policies and Procedures for the Florida Instructional Materials Adoption*, at 1 (Dec. 2011), *incorporated by reference into rule 6A-7.0710, F.A.C.*

<sup>22</sup> Beginning in FY 2010-11, all advertisements must state that each bidder must furnish electronic sample copies of all instructional materials submitted. Section 1006.33(1)(b), F.S.

<sup>23</sup> Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

<sup>24</sup> Section 1006.34(2)(a), F.S.

<sup>25</sup> Section 1006.29(1)(b), F.S.

<sup>26</sup> Section 1006.29(5), F.S.

<sup>27</sup> Section 1006.29(1)(b), F.S.

recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.<sup>28</sup>

Each state instructional materials reviewer must sign an affidavit stating that he or she:

- will faithfully discharge the duties imposed as a state instructional materials reviewer;
- has no interest in any publishing or manufacturing organization that produces or sells instructional materials;
- is in no way connected with the distribution of the instructional materials;
- does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools;
- will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted; and
- understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.<sup>29</sup>

The law specifies standards that reviewers must use when reviewing instructional materials. Reviewers must:

- only recommend instructional materials that are accurate, objective, balanced, noninflammatory, current, and suited to student needs and their ability to comprehend the material;
- include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, religious, physical, and racial diversity of our society;
- include only materials that accurately portray, whenever appropriate, humankind's place in ecological systems;
- include materials that encourage thrift, fire prevention, and humane treatment of people and animals;
- require, when appropriate to the comprehension of students, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States; and
- only recommend instructional materials that do not reflect unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation.<sup>30</sup>

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.<sup>31</sup> Persons selected as school district reviewers must complete training, developed by DOE, related to the evaluation and selection of instructional materials.<sup>32</sup>

### District Instructional Materials Programs

A district school board, or consortium of school districts, choosing to implement its own instructional materials program is not required to purchase instructional materials from the state-adopted list,<sup>33</sup>

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<sup>28</sup> *Id.*

<sup>29</sup> Section 1006.30, F.S.

<sup>30</sup> Section 1006.31(2), F.S.

<sup>31</sup> Section 1006.29(1)(c), F.S.

<sup>32</sup> Section 1006.29(5), F.S.

<sup>33</sup> Section 1006.40(8), F.S.

requisition instructional materials from the publisher's depository,<sup>34</sup> or follow the same review cycle used for state instructional materials adoption.<sup>35</sup>

If a district school board chooses to implement its own instructional materials program, the school board must adopt rules implementing the program. The rules must include its processes, criteria, and requirements for:

- selecting instructional materials reviewers, one or more of which must be a parent with children in public schools;
- reviewing and selecting instructional materials, including a thorough review of curriculum content;
- providing for reviewer recommendations;
- adopting instructional materials by the district school board; and
- purchasing instructional materials.<sup>36</sup>

The rules must also:<sup>37</sup>

- identify, by subject area, a review cycle for instructional materials;
- specify the qualifications for, selection process for, and the duties of instructional materials reviewers, including compliance with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;
- require that all instructional materials recommended by a reviewer be accompanied by the reviewer's statement that the materials align with the applicable state standards;
- establish a process for certifying the accuracy of instructional materials;
- require reviewer and publisher compliance with the law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;<sup>38</sup> and
- incorporate the requirements of state law regarding publisher duties, responsibilities, and requirements.<sup>39</sup>

Further, the rules must provide for:

- conducting an open, noticed school board hearing to receive public comment on the instructional materials recommended for adoption by the district school board;
- conducting an open, noticed meeting, held on a different date, to approve an annual plan for adopting instructional materials; and
- posting student editions of instructional materials recommended for adoption by the district school board on the school district website at least 20 days in advance of public hearings and public meetings.<sup>40</sup>

Notices for public meetings and hearings must specifically identify the materials up for review and adoption and the manner in which the materials can be accessed by the public.<sup>41</sup>

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<sup>34</sup> Section 1006.37(3), F.S.

<sup>35</sup> See s. 1006.283(2)(b), F.S. However, the district school superintendent must certify to the Department of Education by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards. A list of the core instructional materials that will be used or purchased for use by the school district must be included in the certification. Section 1006.283(1), F.S.

<sup>36</sup> Section 1006.283(2)(a), F.S.

<sup>37</sup> Section 1006.283(2)(b), F.S.

<sup>38</sup> Like state instructional materials reviewers, district reviewers must sign an affidavit required under s. 1006.30, F.S., stating, in part, that they will faithfully discharge their duties and not accept payment or benefit from anyone for their recommendations. Section 1006.283(2)(b)3., F.S.

<sup>39</sup> See *infra* text accompanying notes 51 and 52 for an explanation of the duties, responsibilities, and requirements of publishers and manufacturers with regard to instructional materials; see also s. 1006.38, F.S.

<sup>40</sup> Section 1006.283(2)(b)8., F.S.

<sup>41</sup> Sections 1006.283(2)(b)8. and 1006.40(5)(b), F.S. Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Section 1006.283(2)(b)8.a., F.S.

The district must establish a process that enables the public to submit comments regarding the recommended instructional materials to the school board for the board members to review. The rules must also specify a process for notifying parents of their ability to access their child's instructional materials. This notification must be displayed on the school district's website and provided annually, in writing, to all parents of enrolled students.<sup>42</sup>

Requirements related to the adoption and purchase of instructional materials do not apply to charter schools.<sup>43</sup>

### **Effect of Proposed Changes**

The bill clarifies that a district school board is responsible for any material used in a classroom, made available in a school library, or included on a reading list.

The bill also revises provisions relating to instructional materials content by:

- specifying that instructional materials reviewers must certify that recommended instructional materials are free of pornography and material harmful to minors;
- specifying that any materials purchased using the instructional materials allocation must be:
  - free of pornography and material harmful to minors;
  - suited to student needs and their ability to comprehend the material presented; and
  - appropriate for the grade level and age group for which the materials are used or made available; and
- specifying that instructional materials that are purchased by a school district but are not included on the state-adopted list must meet the criteria for state-adopted materials, be aligned to the state academic standards, and be consistent with course expectations based on the district's student progression plan<sup>44</sup> and course descriptions adopted in state board rule.

The bill expands requirements related to reviewing instructional materials and other materials used in a classroom or school library by:

- specifying that the school district public hearing for recommended instructional materials must allow the parent of a public school student or a resident of the county to proffer evidence that a recommended instructional material does not meet the criteria for state-adopted materials, taking into consideration course expectations in the district's student progression plan and course descriptions adopted in state board rule;
- requiring school districts, upon written request, to provide access to any instructional material or book specified in the request that is maintained in a district school system library and is available for review; and
- Requiring school districts to maintain a current list of all instructional materials, by grade level, purchased by the district.

The bill revises provisions relating to a school district's instructional material objection process by:

- expressly allowing a resident of the county to object to the use of an instructional material; and
- requiring a school district's objection process to allow a parent or resident of the county to proffer evidence to the district school board that:
  - for an instructional material that was not subject to adoption and public review and comment procedures, it does not meet the criteria for state-adopted materials, contains pornography or content harmful to minors, or is inappropriate for the grade level or age group for which it is used; or

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<sup>42</sup> Sections 1006.283(2)(b)9. and 11. and 1006.40(5)(b), F.S.

<sup>43</sup> See s. 1002.33(16), F.S.

<sup>44</sup> Each district school board must establish a comprehensive plan for student progression which provides for a student's progression from one grade to another based on the student's mastery of the state academic standards, specifically in English language arts, mathematics, science, and social studies. See s. 1008.25(2), F.S.

- any material used in a classroom, made available in a school library, or included on a reading list contains content that is pornographic or harmful to minors, is not suited to student needs and their ability to comprehend the material, or is inappropriate for the grade level and age group for which it is used.
- requiring the school district to discontinue use of a material that is found to contain inappropriate or unsuitable material.

The bill revises provisions relating to a school district's process for challenging the adoption of an instructional material by:

- allowing a resident of the county to challenge the school district's adoption of an instructional material; and
- requiring the process to meet the procedural safeguards of the Administrative Procedures Act relating to the appointment of an unbiased and qualified hearing officer. The officer may not be an employee, agent, or contractor of the school district.

The bill revises provisions relating to the use of instructional materials allocation funds by:

- deleting the requirement that at least 50 percent of the annual allocation amount be used to purchase digital or electronic instructional materials;
- requiring that a district without its own instructional materials program must use the annual allocation only for the purchase of instructional materials on the state-adopted list; however, up to 50 percent of the allocation may be used to purchase:
  - library and reference books and nonprint materials;
  - the purchase of other materials that assist in the instruction of a subject or course, including novels; and
  - the repair and renovation of textbooks and library books and replacements for items which were part of previously purchased instructional materials; and
- clarifying that a district school board is responsible for the content of all materials purchased using the allocation and used in the classroom or otherwise made available to students, including materials that do not meet the definition of an "instructional material."

The bill expressly prohibits a state instructional materials reviewer from recommending for adoption any instructional material that contains content that is pornographic or harmful to minors.

## B. SECTION DIRECTORY:

Section 1. Amends s. 1006.28, F.S., revising provisions relating to a district school board's responsibilities; requiring a school district to maintain certain information on its website; allowing a resident of a county to challenge the use or adoption of instructional materials; revising requirements for instructional materials objection and appeal processes; requiring a school district to discontinue use of materials in certain circumstances; requiring compliance with certain procedural safeguards for a challenge to the adoption of an instructional material; requiring a school district to provide access to school library materials upon written request.

Section 2. Amends s. 1006.283, F.S., revising requirements for an instructional materials adoption public hearing.

Section 3. Amends s. 1006.31, F.S., revising requirements for recommending an instructional material.

Section 4. Amends s. 1006.40, F.S., revising requirements for use of the instructional materials allocation; making conforming changes.

Section 5. Provides an effective date.

## 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:

District school boards may incur costs associated with the procedures for challenging an instructional material as provided in the bill. However, these costs are indeterminate.

## 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 March 27, 2017, the House PreK-12 Quality Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The proposed committee substitute differs from the bill as originally filed by:

- eliminating changes to provisions related to the state's academic standards;



- requiring a district school board to provide an unbiased, qualified hearing officer for challenges to the adoption of an instructional material and preserving language stating a that district school board's decision is not subject to further petition or review;
- requiring that county residents have the opportunity to object to the use of a material and challenge the adoption of an instructional material;
- eliminating language granting persons who pay ad valorem or sales tax in the state the ability to object to the use of an instructional material;
- eliminating language requiring the use of an "instructional materials review committee" as part of the instructional materials adoption process;
- deleting superfluous language referring to instructional materials which are leased, licensed, acquired, or used as well as those that are purchased;
- deleting language requiring schools to provide parents and persons who pay ad valorem or sales taxes in the state "full access" to materials in school libraries and instead requiring districts to provide access to library materials upon written request; and
- requiring a school district to maintain a list on its website of instructional materials purchased by the district.

The analysis is drafted to reflect the proposed committee substitute.



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

Section 1. Subsection (1) of section 1006.28, Florida Statutes, is amended to read:

1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(1) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The term "instructional materials" has the same meaning as provided in s. 1006.29(2). The term "adequate instructional materials" means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core subject areas of mathematics, language arts, social studies, science, reading, and literature. The district school board has the following specific duties and responsibilities:

(a) *Courses of study; adoption.*—Adopt courses of study, including instructional materials, for use in the schools of the

51 district.

52 1. Each district school board is responsible for the  
 53 content of all instructional materials and any other materials  
 54 used in a classroom, made available in a school library, or  
 55 included on a reading list, whether adopted and purchased from  
 56 the state-adopted instructional materials list, adopted and  
 57 purchased through a district instructional materials program  
 58 under s. 1006.283, or otherwise purchased or made available ~~in~~  
 59 ~~the classroom~~. Each district school board shall maintain on its  
 60 website a current list of instructional materials, by grade  
 61 level, purchased by the district.

62 2. Each district school board must adopt a policy  
 63 regarding an a-parent's objection by a parent or a resident of  
 64 the county to the his or her child's use of a specific  
 65 instructional material, which clearly describes a process to  
 66 handle all objections and provides for resolution. The process  
 67 must provide the parent or resident the opportunity to proffer  
 68 evidence to the district school board that:

69 a. An instructional material does not meet the criteria of  
 70 s. 1006.31(2) or s. 1006.40(3)(d) if it was selected for use in  
 71 a course or otherwise made available to students in the school  
 72 district but was not subject to the public notice, review,  
 73 comment, and hearing procedures under s. 1006.283(2)(b) 8., 9.,  
 74 and 11.

75 b. Any material used in a classroom, made available in a

76 school library, or included on a reading list contains content  
 77 that is pornographic or prohibited under s. 847.012, is not  
 78 suited to student needs and their ability to comprehend the  
 79 material presented, or is inappropriate for the grade level and  
 80 age group for which the material is used.

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 82 If the district school board finds that an instructional  
 83 material does not meet the criteria under sub-subparagraph a. or  
 84 that any other material contains prohibited content under sub-  
 85 subparagraph b., the school district shall discontinue use of  
 86 the material for any grade level or age group for which such use  
 87 is inappropriate or unsuitable.

88 3. Each district school board must establish a process by  
 89 which the parent of a public school student or a resident of the  
 90 county may contest the district school board's adoption of a  
 91 specific instructional material. The parent or resident must  
 92 file a petition, on a form provided by the school board, within  
 93 30 calendar days after the adoption of the material by the  
 94 school board. The school board must make the form available to  
 95 the public and publish the form on the school district's  
 96 website. The form must be signed by the parent or resident,  
 97 include the required contact information, and state the  
 98 objection to the instructional material based on the criteria of  
 99 s. 1006.31(2) or s. 1006.40(3)(d). Within 30 days after the 30-  
 100 day period has expired, the school board must, for all petitions

101 timely received, conduct at least one open public hearing  
 102 providing as a minimum the procedural safeguards of ss. 120.569  
 103 and 120.57, making appropriate provision for the appointment of  
 104 unbiased and qualified hearing officers. A hearing officer may  
 105 not be an employee, agent, or contractor of the school district  
 106 ~~on all petitions timely received and provide the petitioner~~  
 107 ~~written notification of the date and time of the hearing at~~  
 108 ~~least 7 days before the hearing. All instructional materials~~  
 109 ~~contested must be made accessible online to the public at least~~  
 110 ~~7 days before a public hearing.~~

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 112 The school board's decision after convening a hearing is final  
 113 and not subject to further petition or review.

114 (b) *Instructional materials.*—Provide for proper  
 115 requisitioning, distribution, accounting, storage, care, and use  
 116 of all instructional materials and furnish such other  
 117 instructional materials as may be needed. Instructional  
 118 materials used must be consistent with the district goals and  
 119 objectives and the course descriptions established in rule of  
 120 the State Board of Education, as well as with the applicable  
 121 Next Generation Sunshine State Standards provided for in s.  
 122 1003.41.

123 (c) *Other instructional materials.*—Provide such other  
 124 teaching accessories and aids as are needed for the school  
 125 district's educational program.

126 (d) *School library media services; establishment and*  
 127 *maintenance.*—Establish and maintain a program of school library  
 128 media services for all public schools in the district, including  
 129 school library media centers, or school library media centers  
 130 open to the public, and, in addition such traveling or  
 131 circulating libraries as may be needed for the proper operation  
 132 of the district school system. Upon written request, a school  
 133 district shall provide access to any instructional material or  
 134 book specified in the request that is maintained in a district  
 135 school system library and is available for review.

136 Section 2. Paragraph (b) of subsection (2) of Section  
 137 1006.283, Florida Statutes, is amended to read:

138 1006.283 District school board instructional materials  
 139 review process.—

140 (2)

141 (b) District school board rules must also:

142 1. Identify, by subject area, a review cycle for  
 143 instructional materials.

144 2. Specify the qualifications for an instructional  
 145 materials reviewer and the process for selecting reviewers; list  
 146 a reviewer's duties and responsibilities, including compliance  
 147 with the requirements of s. 1006.31; and provide that all  
 148 instructional materials recommended by a reviewer be accompanied  
 149 by the reviewer's statement that the materials align with the  
 150 state standards pursuant to s. 1003.41 and the requirements of

151 s. 1006.31.

152 3. State the requirements for an affidavit to be made by  
 153 each district instructional materials reviewer which  
 154 substantially meet the requirements of s. 1006.30.

155 4. Comply with s. 1006.32, relating to prohibited acts.

156 5. Establish a process that certifies the accuracy of  
 157 instructional materials.

158 6. Incorporate applicable requirements of s. 1006.31,  
 159 which relates to the duties of instructional materials  
 160 reviewers.

161 7. Incorporate applicable requirements of s. 1006.38,  
 162 relating to the duties, responsibilities, and requirements of  
 163 publishers of instructional materials.

164 8. Establish the process by which instructional materials  
 165 are adopted by the district school board, which must include:

166 a. A process to allow student editions of recommended  
 167 instructional materials to be accessed and viewed online by the  
 168 public at least 20 calendar days before the school board hearing  
 169 and public meeting as specified in this subparagraph. This  
 170 process must include reasonable safeguards against the  
 171 unauthorized use, reproduction, and distribution of  
 172 instructional materials considered for adoption.

173 b. An open, noticed school board hearing to receive public  
 174 comment on the recommended instructional materials.

175 c. An open, noticed public meeting to approve an annual



176 instructional materials plan to identify any instructional  
 177 materials that will be purchased through the district school  
 178 board instructional materials review process pursuant to this  
 179 section. This public meeting must be held on a different date  
 180 than the school board hearing.

181 d. Notice requirements for the school board hearing and  
 182 the public meeting that must specifically state which  
 183 instructional materials are being reviewed and the manner in  
 184 which the instructional materials can be accessed for public  
 185 review. The hearing must allow the parent of a public school  
 186 student or a resident of the county to proffer evidence that a  
 187 recommended instructional material does not meet the criteria  
 188 provided in s. 1006.31(2), taking into consideration course  
 189 expectations based on the district's comprehensive plan for  
 190 student progression under s. 1008.25(2) and course descriptions  
 191 in the course code directory.

192 9. Establish the process by which the district school  
 193 board shall receive public comment on, and review, the  
 194 recommended instructional materials.

195 10. Establish the process by which instructional materials  
 196 will be purchased, including advertising, bidding, and  
 197 purchasing requirements.

198 11. Establish the process by which the school district  
 199 will notify parents of their ability to access their children's  
 200 instructional materials through the district's local

201 | instructional improvement system and by which the school  
 202 | district will encourage parents to access the system. This  
 203 | notification must be displayed prominently on the school  
 204 | district's website and provided annually in written format to  
 205 | all parents of enrolled students.

206 |       Section 3. Subsection (2) of section 1006.31, Florida  
 207 | Statutes, is amended to read:

208 |       1006.31 Duties of the Department of Education and school  
 209 | district instructional materials reviewer.—The duties of the  
 210 | instructional materials reviewer are:

211 |       (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the  
 212 | selection criteria listed in s. 1006.34(2)(b) and recommend for  
 213 | adoption only those instructional materials aligned with the  
 214 | Next Generation Sunshine State Standards provided for in s.  
 215 | 1003.41. Instructional materials recommended by each reviewer  
 216 | shall be, to the satisfaction of each reviewer, accurate,  
 217 | objective, balanced, noninflammatory, current, free of  
 218 | pornography and material prohibited under s. 847.012, and suited  
 219 | to student needs and their ability to comprehend the material  
 220 | presented. Reviewers shall consider for recommendation materials  
 221 | developed for academically talented students, such as students  
 222 | enrolled in advanced placement courses. When recommending  
 223 | instructional materials, each reviewer shall:

224 |       (a) Include only instructional materials that accurately  
 225 | portray the ethnic, socioeconomic, cultural, religious,

226 physical, and racial diversity of our society, including men and  
 227 women in professional, career, and executive roles, and the role  
 228 and contributions of the entrepreneur and labor in the total  
 229 development of this state and the United States.

230 (b) Include only materials that accurately portray,  
 231 whenever appropriate, humankind's place in ecological systems,  
 232 including the necessity for the protection of our environment  
 233 and conservation of our natural resources and the effects on the  
 234 human system of the use of tobacco, alcohol, controlled  
 235 substances, and other dangerous substances.

236 (c) Include materials that encourage thrift, fire  
 237 prevention, and humane treatment of people and animals.

238 (d) Require, when appropriate to the comprehension of  
 239 students, that materials for social science, history, or civics  
 240 classes contain the Declaration of Independence and the  
 241 Constitution of the United States. A reviewer may not recommend  
 242 any instructional materials that contain any matter reflecting  
 243 unfairly upon persons because of their race, color, creed,  
 244 national origin, ancestry, gender, religion, disability,  
 245 socioeconomic status, or occupation.

246 Section 4. Subsections (3) through (8) of section 1006.40,  
 247 Florida Statutes, are amended to read:

248 1006.40 Use of instructional materials allocation;  
 249 instructional materials, library books, and reference books;  
 250 repair of books.-

251           (3) (a) Except for a school district or a consortium of  
 252 school districts that implements an instructional materials  
 253 program pursuant to s. 1006.283 ~~Beginning with the 2015-2016~~  
 254 ~~fiscal year,~~ each district school board shall use ~~at least 50~~  
 255 ~~percent of~~ the annual allocation only for the purchase of  
 256 ~~digital or electronic~~ instructional materials that align with  
 257 state standards and are included on the state-adopted list,  
 258 except as otherwise authorized in paragraphs (b) and (c).

259           (b) Up to 50 percent of the annual allocation may be used  
 260 for:

261           1. The purchase of instructional materials, including  
 262 library and reference books and nonprint materials, not included  
 263 on the state-adopted list and for the repair and renovation of  
 264 textbooks and library books.

265           2. The purchase of other materials having intellectual  
 266 content which assist in the instruction of a subject or course.  
 267 These materials may be available in bound, unbound, kit, or  
 268 package form and may consist of hardbacked or softbacked  
 269 textbooks, novels, electronic content, consumables, learning  
 270 laboratories, manipulatives, electronic media, computer  
 271 courseware or software, and other commonly accepted  
 272 instructional tools as prescribed by district school board rule.

273           3. The repair and renovation of textbooks and library  
 274 books and replacements for items which were part of previously  
 275 purchased instructional materials.

276 (c) District school boards may use 100 percent of that  
 277 portion of the annual allocation designated for the purchase of  
 278 instructional materials for kindergarten, and 75 percent of that  
 279 portion of the annual allocation designated for the purchase of  
 280 instructional materials for first grade, to purchase materials  
 281 not on the state-adopted list.

282 (d) Any materials purchased pursuant to this section must  
 283 be:

284 1. Free of pornography and material prohibited under s.  
 285 847.012.

286 2. Suited to student needs and their ability to comprehend  
 287 the material presented.

288 3. Appropriate for the grade level and age group for which  
 289 the materials are used or made available.

290 ~~(4) The funds described in subsection (3) which district~~  
 291 ~~school boards may use to purchase materials not on the state-~~  
 292 ~~adopted list shall be used for the purchase of instructional~~  
 293 ~~materials or other items having intellectual content which~~  
 294 ~~assist in the instruction of a subject or course. These items~~  
 295 ~~may be available in bound, unbound, kit, or package form and may~~  
 296 ~~consist of hardbacked or softbacked textbooks, electronic~~  
 297 ~~content, replacements for items which were part of previously~~  
 298 ~~purchased instructional materials, consumables, learning~~  
 299 ~~laboratories, manipulatives, electronic media, computer~~  
 300 ~~courseware or software, and other commonly accepted~~

301 ~~instructional tools as prescribed by district school board rule.~~

302 ~~(4)-(5)~~ Each district school board is responsible for the  
 303 content of all ~~instructional~~ materials used in a classroom or  
 304 otherwise made available to students, ~~whether purchased through~~  
 305 ~~an adoption process or otherwise purchased or made available in~~  
 306 ~~the classroom.~~ Each district school board shall adopt rules, and  
 307 each district school superintendent shall implement procedures,  
 308 that:

309 (a) Maximize student use of the district-approved  
 310 instructional materials.

311 (b) Provide a process for public review of, public comment  
 312 on, and the adoption of instructional materials that satisfies  
 313 the requirements of s. 1006.283(2)(b)8., 9., and 11.

314 ~~(5)-(6)~~ District school boards may issue purchase orders  
 315 subsequent to February 1 in an aggregate amount which does not  
 316 exceed 20 percent of the current year's allocation, and  
 317 subsequent to April 1 in an aggregate amount which does not  
 318 exceed 90 percent of the current year's allocation, for the  
 319 purpose of expediting the delivery of instructional materials  
 320 which are to be paid for from the ensuing year's allocation.  
 321 This subsection does not apply to a district school board or a  
 322 consortium of school districts that implements an instructional  
 323 materials program pursuant to s. 1006.283.

324 ~~(6)-(7)~~ In any year in which the total instructional  
 325 materials allocation for a school district has not been expended

326 or obligated prior to June 30, the district school board shall  
 327 carry forward the unobligated amount and shall add it to the  
 328 next year's allocation.

329 ~~(7)(8) Subsections (3), (4), and (6) do not apply to A~~  
 330 district school board or a consortium of school districts that  
 331 implements an instructional materials program pursuant to s.  
 332 1006.283 may use the annual allocation to purchase instructional  
 333 materials not on the state-adopted list. However, except that,  
 334 ~~by the 2015-2016 fiscal year, each district school board shall~~  
 335 ~~use at least 50 percent of the annual instructional materials~~  
 336 ~~allocation for the purchase of digital or electronic~~  
 337 instructional materials purchased pursuant to this section which  
 338 are not included on the state-adopted list must meet the  
 339 criteria of s. 1006.31(2), that align with state standards  
 340 adopted by the State Board of Education pursuant to s. 1003.41,  
 341 and be consistent with course expectations based on the  
 342 district's comprehensive plan for student progression and course  
 343 descriptions adopted in state board rule.

344 Section 5. This act shall take effect July 1, 2017.





Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

**Amendment (with title amendment)**

Remove lines 68-103

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

Remove lines 7-14 and insert:

creating the Shared

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

3 Representative Drake offered the following:

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

6 Remove lines 133-134  
 7  
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9 -----  
 10 **T I T L E A M E N D M E N T**

11 Remove lines 22-23 and insert:



12 expiration of the task force; providing an effective date.

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1131 Shared Use of Public School Playground Facilities

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

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 984

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

**SUMMARY ANALYSIS**

While obesity flourishes due in part to inactivity, many of the state's playgrounds and athletic facilities on the grounds of public schools are closed to the public due in part to a lack in shared use agreements between a school district and a governmental or nongovernmental entity. The bill:

- requires the Department of Education (DOE) to provide technical assistance to school districts to promote community use of shared facilities;
- if funding is provided, requires the DOE to provide short-term grants to districts, establish guidelines for funding eligibility for the grants and develop a grant application process; and
- creates a Shared Use Task Force to identify barriers in creating shared use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities.

Fiscal Impact - PCB APC 17-01 does not provide an appropriation for the short-term grants authorized in the bill. A district school board may have a negative fiscal impact related to maintenance expenses, but only if it elects to enact a policy or enter into an agreement.

The bill has an effective date of July 1, 2017.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### **Overweight Children and Adults**

The Centers for Disease Control and Prevention (CDC) estimates that 37.9% of American adults are obese and another 32.8% are overweight. The CDC also estimates that 17.4% of children age 6-11 and 20.6% of children age 12-19 are obese.<sup>1</sup> The prevalence of obesity among children has more than tripled since the 1970s.<sup>2</sup> The Surgeon General estimates 300,000 deaths per year may be attributed to obesity and reports that individuals who are obese have a 50-100% increased risk of premature death from all causes, when compared to individuals with a healthy weight.<sup>3</sup>

According to the CDC, youth who have access to opportunities for physical activity during non-school hours have higher overall levels of physical activity and are less likely to be overweight or obese.<sup>4</sup> The CDC cites increasing access to safe and appealing places to play and being active as strategies that communities can employ to combat youth obesity.<sup>5</sup> CDC's research indicates that approximately half of Florida's youth have access to parks and community centers in their neighborhood.<sup>6</sup>

##### **Public Access to Public School Facilities**

Florida law broadly authorizes district school boards and the boards of trustees of Florida College System institutions, state universities, and the Florida School for the Deaf and the Blind to allow the public access to educational facilities and grounds for any legal assembly, as a community use center, or a polling location.<sup>7</sup> Additionally, the law specifically requires each county and municipality located within the geographic area of a school district to enter into an interlocal agreement with the district school board to coordinate their respective growth and development plans and processes. Among other things, the interlocal agreement must include a process for determining where and how the school boards and local governments can share facilities for mutual benefit and efficiency.<sup>8</sup> Some district school boards currently authorize, through their interlocal agreements, public access to sports and recreational facilities on school campuses. The specific details related to such access, such as the hours the facility will be open and which party is liable for any damages or injuries sustained on the property, are contained in a separate "joint-use" agreement.<sup>9</sup>

According to the Florida Department of Education (DOE), school district facilities personnel have informally expressed support for providing public access to recreation and sports facilities. However,

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<sup>1</sup> Centers for Disease Control and Prevention, *Obesity and Overweight*, <http://www.cdc.gov/nchs/fastats/overwt.htm> (last visited Mar. 17, 2017).

<sup>2</sup> Centers for Disease Control and Prevention, Data and Statistics, *Childhood Obesity Facts*, <https://www.cdc.gov/healthyschools/obesity/facts.htm> (last visited Mar. 17, 2017).

<sup>3</sup> Office of the Surgeon General, *Overweight and Obesity as Public Health Problems in America*, <https://www.ncbi.nlm.nih.gov/books/NBK44210/> (last visited Mar. 17, 2017).

<sup>4</sup> Centers for Disease Control and Prevention, *Overweight and Obesity: A Growing Problem*, <http://www.cdc.gov/obesity/childhood/problem.html> (last visited Mar. 17, 2017).

<sup>5</sup> Centers for Disease Control and Prevention, *Strategies to Prevent Obesity and Other Chronic Diseases, The CDC Guide to Strategies to Increase Physical Activity in the Community*, [https://www.cdc.gov/obesity/downloads/PA\\_2011\\_WEB.pdf](https://www.cdc.gov/obesity/downloads/PA_2011_WEB.pdf) (last visited Mar. 17, 2017).

<sup>6</sup> Centers for Disease Control and Prevention, *Florida Action Plan*, [https://www.cdc.gov/physicalactivity/downloads/state\\_pdfs/14\\_248165\\_fl\\_tag508.pdf](https://www.cdc.gov/physicalactivity/downloads/state_pdfs/14_248165_fl_tag508.pdf) (last visited Mar. 17, 2017).

<sup>7</sup> Section 1013.10, F.S.; see also s. 1013.01(3), F.S. (defines "Board").

<sup>8</sup> Sections 163.31777(1) and (2)(g) and 1013.33(2) F.S.

<sup>9</sup> See, e.g., *Interlocal Agreement between Pinellas County, Florida, et al. and the School Board of Pinellas County, Florida*, at 4 (2012), available at [www.pinellascounty.org/Plan/pdf\\_files/1906\\_IA.pdf](http://www.pinellascounty.org/Plan/pdf_files/1906_IA.pdf) [hereinafter *Pinellas County Agreement*] (last visited Mar. 15, 2017).

such personnel indicate that reaching a joint-use agreement to provide such access is highly dependent on variables related to individual facilities. Thus, agreements are typically considered on a facility-by-facility basis. Such personnel indicate that one barrier to expanding joint-use of, and public access to, school facilities is premises liability concerns.<sup>10</sup>

District school boards are not limited to partnering with governmental entities in joint-use agreements. If authorized by the school board's interlocal agreements, boards may establish joint-use agreements with private entities. For example, in 2003, a Best Financial Management Practices Review of the Duval County School District indicated that the school district had established 47 joint-use agreements with the City of Jacksonville, the YMCA and various community groups for the use of school facilities.<sup>11</sup>

### **Effect of Proposed Changes**

The bill requires the DOE to provide technical assistance to school districts including, but not limited to:

- individualized assistance;
- the creation of a shared use technical assistance toolkit containing useful information for school districts; and
- the development of a publicly accessible online database of shared use resources and existing shared use agreements.

The bill authorizes the DOE to:

- provide short-term grants to help school districts open their facilities for shared use before or after school hours;
- establish guidelines for funding eligibility;
- promote the availability of the funding statewide;
- provide technical assistance to applicants;
- evaluate applicants;
- determine allowable expenses and disburse funding;
- annually post on its website and report to the Senate President and the Speaker of the House on the expenditure of funds;
- develop an application process for school districts to receive funding. The application must require that a school district:
  - demonstrate an active partnership with a local governmental agency or nonprofit organization or that the funds will be used to open school facilities for use by the public;
  - agree to fully implement its shared use project within the grant period;
  - abide by the conditions for receiving assistance;
  - provide the DOE with a copy of the school district's shared use agreement or shared use policy; and
  - collect and provide data and other information required by the department for monitoring, accountability and evaluation purposes.
- give funding priority to high-need communities, defined as communities in which at least 50 percent of children are eligible to receive free or reduced-price meals.

The bill creates a Shared Use Task Force to identify barriers in creating shared use agreements and to make recommendations to facilitate the shared use of school facilities generally and in high-need communities. The task force is composed of seven members appointed by the DOE, including a chair

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<sup>10</sup> Florida Department of Education, *Legislative Bill Analysis for HB 431* (2012). For example, the Pinellas County interlocal agreement with the School Board of Pinellas County, among others, authorizes the parties to establish an agreement “for each instance of collocation and shared use to address legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from collocation or shared use.” *Pinellas County Agreement*, *supra* note 6, at 4.

<sup>11</sup> Office of Program Policy Analysis and Government Accountability, *Best Financial Management Practices Review of the Duval County School District*, Report No. 03-41, ch. 7 Facilities Construction, at 18-19 (Aug. 2003), available at <http://www.opaga.state.fl.us/Summary.aspx?reportNum=03-41> (last visited Mar. 15, 2017).

and vice chair, and shall submit a report of its findings and recommendations to the Senate President and the Speaker of the House by June 30, 2018.

**B. SECTION DIRECTORY:**

**Section 1.** Creates s. 1013.101, F.S., relating to shared use agreements.

**Section 2.** Creates the Shared Use Task Force.

**Section 3.** Provides an effective date of July 1, 2017.

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

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

PCB APC 17-01 does not provide an appropriation for the short-term grants authorized in the bill.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal indeterminate fiscal impact on school districts that elect to utilize the provisions created by this bill.

**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

None.

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A bill to be entitled  
 An act relating to the shared use of public school  
 playground facilities; creating s. 1013.101, F.S.;  
 providing legislative findings and intent; defining  
 terms; requiring the Department of Education to  
 provide specified assistance to school districts;  
 providing for funding as established in the General  
 Appropriations Act; specifying funding allocation  
 guidelines; requiring the department to annually post  
 information regarding specified allocations on its  
 website and report to the Legislature; requiring the  
 department to develop an application process for  
 school districts; requiring funding priority to be  
 given to high-need communities; creating the Shared  
 Use Task Force within the department; specifying the  
 purpose and membership of the task force; providing  
 requirements for electing a task force chair and vice  
 chair and conducting its meetings; requiring the  
 department to provide the task force with necessary  
 staff; requiring the task force to submit a report to  
 the Legislature by a specified date; providing for  
 expiration of the task force; providing for  
 rulemaking; providing an effective date.

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



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Section 1. Section 1013.101, Florida Statutes, is created to read:

1013.101 Shared use agreements.-

(1) LEGISLATIVE FINDINGS AND INTENT.-The Legislature finds that greater public access to recreation and sports facilities is needed to reduce the impact of obesity, diabetes, and other chronic diseases on personal health and health care expenditures. Public schools are equipped with taxpayer-funded indoor and outdoor recreation facilities that offer easily accessible opportunities for physical activity for residents of the community. The Legislature also finds that it is the policy of the state for district school boards to allow the shared use of school buildings and property by adopting policies allowing for shared use and implementing shared use agreements with local governmental entities and nonprofit organizations. The Legislature intends to increase the number of school districts that open their playground facilities to community use outside of school hours.

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

(a) "High-need communities" means communities in which at least 50 percent of children are eligible to receive free or reduced-price meals at the school that will be the subject of the shared use agreement.

(b) "Shared use" means allowing access to school

51 playground facilities by community members for recreation or  
 52 another purpose of importance to the community through a shared  
 53 use agreement or a school district or school policy that opens  
 54 school facilities for use by government or nongovernmental  
 55 entities or the public.

56 (c) "Shared use agreement" means a written agreement  
 57 between a school district and a government or nongovernmental  
 58 entity which defines the roles, responsibilities, terms, and  
 59 conditions for community use of a school-owned facility for  
 60 recreation or other purposes.

61 (3) PROMOTION OF COMMUNITY USE OF SHARED FACILITIES.—The  
 62 department shall provide technical assistance to school  
 63 districts, including, but not limited to, individualized  
 64 assistance, the creation of a shared use technical assistance  
 65 toolkit containing useful information for school districts, and  
 66 the development of a publicly accessible online database of  
 67 shared use resources and existing shared use agreements.

68 (4) FUNDING.—The department shall do all of the following  
 69 with funds as established in the General Appropriations Act:

70 (a) Provide short-term grants to help school districts  
 71 open their facilities for shared use before or after school  
 72 hours, including evenings, weekends, and school vacations.

73 (b) Establish guidelines for funding eligibility  
 74 consistent with this section, promote the availability of the  
 75 funding statewide, provide technical assistance to applicants,

76 evaluate applicants, determine allowable expenses, and disburse  
 77 funding.

78 (c) Annually post on its website and report to the  
 79 President of the Senate and the Speaker of the House of  
 80 Representatives the expenditure of the funds used to administer  
 81 this section, including the total amount of funding distributed,  
 82 the school districts that received funding, the amount of  
 83 funding each school district received, and the department's  
 84 evaluation results.

85 (d) Develop an application process for school districts to  
 86 receive funding. The application must require that a school  
 87 district:

88 1. Demonstrate that it has an active partnership with a  
 89 local governmental agency or nonprofit organization or that the  
 90 funds will be used to open school facilities for use by the  
 91 public;

92 2. Agree to fully implement its shared use project within  
 93 the grant period;

94 3. Abide by the conditions for receiving assistance;

95 4. Provide the department with a copy of the school  
 96 district's shared use agreement or shared use policy; and

97 5. Collect and provide data and other information required  
 98 by the department for monitoring, accountability, and evaluation  
 99 purposes.

100 (e) Give funding priority to high-need communities. In

101 consultation with the Shared Use Task Force, the department may  
 102 establish additional criteria for funding priorities consistent  
 103 with this section.

104 Section 2. Shared Use Task Force.—The Shared Use Task  
 105 Force, a task force as defined in s. 20.03, Florida Statutes, is  
 106 created within the Department of Education. The task force is  
 107 created to identify barriers in creating shared use agreements  
 108 and to make recommendations to facilitate the shared use of  
 109 school facilities generally and in high-need communities.

110 (1) The task force is composed of 7 members appointed by  
 111 the department, as follows:

112 (a) Two representatives from school districts, including 1  
 113 representative from school districts 1 through 33 and 1  
 114 representative from school districts 34 through 67;

115 (b) One representative from a public health department;

116 (c) Two representatives from community-based programs in  
 117 high-need communities; and

118 (d) Two representatives from recreational organizations.

119 (2) The task force shall elect a chair and vice chair. The  
 120 chair and vice chair may not be representatives from the same  
 121 member category. Members of the task force shall serve without  
 122 compensation, but are entitled to reimbursement for per diem and  
 123 travel expenses pursuant to s. 112.061, Florida Statutes.

124 (3) The task force shall meet by teleconference or other  
 125 electronic means, if possible, to reduce costs.

126        (4) The department shall provide the task force with staff  
 127 necessary to assist the task force in the performance of its  
 128 duties.

129        (5) The task force shall submit a report of its findings  
 130 and recommendations to the President of the Senate and the  
 131 Speaker of the House of Representatives by June 30, 2018. Upon  
 132 submission of the report, the task force shall expire.

133        (6) The State Board of Education shall adopt rules to  
 134 implement and administer this section.

135        Section 3. This act shall take effect July 1, 2017.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1229 Committee on Early Grade Success

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

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 806

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	15 Y, 0 N	McAlarney	Duncan
2) PreK-12 Appropriations Subcommittee		Seifert 	Potvin 
3) Education Committee			

### SUMMARY ANALYSIS

HB 1229 creates the Committee on Early Grade Success, within the Department of Education to develop a proposal for establishing and implementing a coordinated child assessment system for the School Readiness Program, the Voluntary Prekindergarten Education Program, and the Kindergarten Readiness Assessment.

The 17-member committee's proposal must include legislative recommendations for the design and implementation of a coordinated child assessment system, including, but not limited to:

- The purpose of a child assessment, with a focus on developmentally appropriate learning gains.
- Attributes for tool selection that provide guidance on procurement policies.
- An implementation schedule and protocols, including the frequency of data collection and a timeline for training to ensure reliability of the system.
- The methodology for collecting and analyzing data that define reporting requirements.
- A budget for the system, including cost analyses for purchasing materials and the necessary technology, training to ensure reliability, and data system management.
- Considerations for student privacy and tracking child development over time.

Members of the committee serve without compensation and to reduce costs, the committee must meet at least three times by teleconference or other electronic means, if possible

The University of Florida Lastinger Center for Learning shall provide the committee with staff necessary to assist the committee in the performance of its duties.

The committee must submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2017. Once the report is submitted, the committee expires. The State Board of Education is granted the authority to adopt rules to implement and administer the provisions in the bill.

There is no fiscal impact to this bill.

The bill provides an effective date of July 1, 2017.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### School Readiness Program

The School Readiness Program<sup>1</sup> provides subsidies for child care 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.<sup>2</sup> 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.<sup>3</sup>

The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL)<sup>4</sup> and the Office of Child Care of the United States Department of Health and Human Services.<sup>5</sup> It is administered by early learning coalitions (ELC) at the county or regional level.<sup>6</sup> Florida's OEL administers the program at the state level, including statewide coordination of the ELCs.<sup>7</sup>

The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, inspects licensed and license exempt child care providers that provide the School Readiness Program for specified health and safety standards.<sup>8</sup> 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 agency, not DCF, inspects child care providers that provide the School Readiness Program for health and safety standards.<sup>9</sup>

A parent may apply for a child's admission to the School Readiness Program by submitting an application to an ELC. Florida's OEL has established, and ELCs must use, a single point of entry that enables a parent to enroll his or her child in the School Readiness Program at various locations throughout a county, by telephone, or through an Internet website.<sup>10</sup> In FY 2015-2016 there were

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<sup>1</sup> Section 1, ch. 99-357, L.O.F

<sup>2</sup> Section 1002.87, F.S.

<sup>3</sup> Florida Office of Early Learning,

*Parents*, [http://www.floridaearlylearning.com/parents/early\\_learning\\_programs\\_and\\_services/school\\_readiness.aspx](http://www.floridaearlylearning.com/parents/early_learning_programs_and_services/school_readiness.aspx) (last visited March 24, 2017).

<sup>4</sup> 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.* 1001.213, F.S.

<sup>5</sup> See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, [https://www.acf.hhs.gov/sites/default/files/occ/ccdf\\_factsheet\\_0.pdf](https://www.acf.hhs.gov/sites/default/files/occ/ccdf_factsheet_0.pdf) (last visited March 24, 2017).

<sup>6</sup> Section 1002.83, F.S.

<sup>7</sup> Section 1001.213(3), F.S.

<sup>8</sup> See ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

<sup>9</sup> Section 402.306(1), F.S.; Department of Children and Families, *Licensing Information*, <http://www.myflfamilies.com/service-programs/child-care/child-care-licensure> (last visited March 24, 2017).

<sup>10</sup> Section 1002.81(14), F.S.; see Florida's Office of Early Learning, *Family Portal*, <https://familyservices.floridaearlylearning.com/> (last visited March 24, 2017).



207,164 children enrolled in the School Readiness program.<sup>11</sup> In FY 2015-2016, there were 8,890 School Readiness program providers.<sup>12</sup>

### *Florida Office of Early Learning (OEL) Responsibilities*

Florida's Office of Early Learning (OEL) is the lead agency in Florida for administering the federal Child Care and Development Fund (CCDF) block grant from which funds are used to implement the School Readiness Program. Florida law requires 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.<sup>13</sup>

OEL must adopt, in rule, a statewide provider contract to be used by each School Readiness Program provider, review and approve each Early Learning Coalition's (ELC) school readiness plan every 2 years, and monitor and evaluate the performance of each ELC in administering the School Readiness Program and the Voluntary Prekindergarten Program (VPK).<sup>14</sup> OEL must also adopt specific system support services for the state's School Readiness Program including statewide data information program requirements that include:

- Eligibility requirements.
- Financial reports.
- Program accountability measures.
- Child progress reports.<sup>15</sup>

Additional support services include child care resource and referral services and a single point of entry<sup>16</sup> and uniform waiting list.<sup>17</sup> To promote informed child care choices OEL may provide technical assistance and guidance on additional support services to complement the School Readiness Program, including:

- Rating and improvement systems.
- Warm-line services.<sup>18</sup>
- Anti-fraud plans.
- School Readiness Program standards.
- Child screening and assessments.
- Training and support for parental involvement in children's early education, including research on child development and best practices.
- Family literacy activities and services.<sup>19</sup>

### *Performance Standards, Benchmarks, and Assessments*

OEL must develop and adopt performance standards and benchmarks to address the age-appropriate progress of children in the development of school readiness skills. The performance standards for children from birth to 5 years of age must be aligned with the standards for children in the VPK program and must address the following domains:<sup>20</sup>

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<sup>11</sup> Florida Office of Early Learning *2015-2016 Annual Report*, p.19, available at [http://www.floridaearlylearning.com/sites/www/Uploads/Annual%20Report2016\\_Final\\_ADA.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/Annual%20Report2016_Final_ADA.pdf) (last visited March 24, 2017).

<sup>12</sup> *Id.* at 18.

<sup>13</sup> 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. *Id.*

<sup>14</sup> Section 1002.82(2)(e), (m), and (p), F.S.

<sup>15</sup> Section 1002.82(2)(f)1.a., F.S.

<sup>16</sup> *See s.* 1002.82(14), F.S.

<sup>17</sup> Section 1002.82(2)(f)1.c., F.S.

<sup>18</sup> Florida's OEL must "administer a statewide toll-free Warm-Line for the purpose of providing assistance and consultation to child care facilities and FDCHs regarding health, developmental, disability, and other special needs." Section 1002.82(2)(r), F.S.

<sup>19</sup> Section 1002.82(2)(f)2., F.S.

<sup>20</sup> Section 1002.82(2)(j), F.S.; rule 6M-4.700, F.A.C.; Florida's Office of Early Learning, *Early Learning and Developmental Standards*,

[http://www.floridaearlylearning.com/parents/parent\\_resources/floridas\\_early\\_learning\\_and\\_developmental\\_standards\\_birth\\_to\\_five.aspx](http://www.floridaearlylearning.com/parents/parent_resources/floridas_early_learning_and_developmental_standards_birth_to_five.aspx) (last visited March 22, 2017).

- Approaches to learning.
- Cognitive development and general knowledge.
- Numeracy, language, and communication.
- Physical development.
- Self-regulation.

OEL is also required to select valid, reliable, and developmentally appropriate assessments for use as preassessment and postassessment for the ages ranges established in ELC plans. The assessments must be designed to measure the domains of the performance standards listed above, provide appropriate accommodations for children with disabilities and English learners, and be administered by qualified individuals and consistent with the publisher's instructions.<sup>21</sup>

### *Early Learning Coalition Responsibilities*

Each ELC administers the School Readiness Program,<sup>22</sup> the VPK Program,<sup>23</sup> and the state's child care resource and referral network in its county or multicounty region.<sup>24</sup> There are currently 30 ELCs.<sup>25</sup> Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.<sup>26</sup>

In order to participate in the School Readiness Program, each ELC must submit a school readiness plan to OEL for approval.<sup>27</sup> The plan must include, but is not limited to:

- The ELC's operations, including its membership and articles of incorporation and bylaws, if applicable.
- The minimum number of children to be served by care level.
- The procedures for implementing program requirements such as single point of entry, uniform waiting list, eligibility and enrollment, sliding fee scale, and payment rate.
- A detailed description of the ELC's quality activities and services.
- A detailed budget outlining the estimated expenditures for state, federal, and local matching funds.
- A detailed accounting of all revenues and expenditures during the previous state fiscal year.<sup>28</sup>
- Policies and procedures governing procurement, maintenance of tangible personal property, maintenance of records, information technology security, and disbursement controls.
- A description of the procedures for monitoring school readiness program providers, including the process for responding to a parental complaint.
- Documentation that the coalition has solicited and considered comments regarding the proposed school readiness plan from the local community.

An ELC with an approved school readiness plan must implement a comprehensive system of school readiness services which enhances the cognitive, social, and physical development of children to achieve the children's performance standards.<sup>29</sup> Specific ELC requirements include, but are not limited, to:

- Establishing a uniform waiting list to track eligible children.
- Administering a child care resource and referral network for its service area.

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<sup>21</sup> Section 1002.82(2)(k), F.S.

<sup>22</sup>Part VI, ch. 1002, F.S.

<sup>23</sup>Part V, ch. 1002, F.S.

<sup>24</sup> Section 1002.84, F.S.

<sup>25</sup>Florida's Office of Early Learning, *Early Learning Coalitions List*, available at [http://www.floridaeearlylearning.com/parents/find\\_quality\\_child\\_care/locate\\_a\\_child\\_care\\_resource\\_referral\\_program/countys\\_early\\_learning\\_coalition.aspx](http://www.floridaeearlylearning.com/parents/find_quality_child_care/locate_a_child_care_resource_referral_program/countys_early_learning_coalition.aspx) (last visited March 22, 2017). Florida law permits the establishment of 31 or fewer ELCs. Section 1002.83(1), F.S.

<sup>26</sup> Section 1002.83(3), F.S.

<sup>27</sup> Section 1002.85(2), F.S.

<sup>28</sup> Section 1002.85(2)(a)-(i), F.S.

<sup>29</sup> Section 1002.84(1), F.S.

- Establishing a regional Warm-Line.
- Establishing age-appropriate screening for children birth to 5 years.
- Implementing age appropriate preassessment and postassessment of children, if specified in the coalition's plan.
- Determining child eligibility.
- Establishing a parent sliding fee scale.
- Complying with federal and state procurement requirements.
- Establishing proper information technology security controls.
- Monitoring School Readiness Program providers.<sup>30</sup>

ELCs are required to submit an annual report to OEL by October 1 of each year. The report must include information such as the total number of children served, details of expenditures by fund source, and an evaluation of its direct enhancement services.<sup>31</sup>

### *Funding*

The School Readiness Program receives funding from a mixture of federal and state sources, including the federal Child Care Development Fund (CCDF) block grant, the Federal Grants Trust Fund, the federal Temporary Assistance for Needy Families block grant, and the state general revenue funds.<sup>32</sup>

For FY 2015-16, a total of \$560.5 million was appropriated for the School Readiness Program from state and federal funds, including \$136.9 million from the state's General Revenue Fund, \$326.4 million from the CCDF block grant, \$489,286 from Federal Grants Trust Fund, and \$96.6 million from the Welfare Transition Trust Fund.<sup>33</sup>

### Voluntary Prekindergarten Education (VPK) Program

The VPK program is a voluntary, free prekindergarten program offered to eligible four-year-old children in the year before admission to kindergarten.<sup>34</sup> A child must be a Florida resident and attain four years of age on or before September 1 of the program year, and not enrolled in the Gardiner Scholarship program to be eligible for the VPK program.<sup>35</sup> The child is eligible for the VPK program during that program year or the subsequent program year and remains eligible until enrollment in kindergarten or attaining six years of age by February 1 of any school year.<sup>36</sup> Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.<sup>37</sup> In FY 2015-2016, there were 6,459 VPK providers.<sup>38</sup>

### *Local Oversight*

Local oversight of the VPK program is provided by early learning coalitions (ELC) and school districts. Each ELC is the single point of entry for VPK program registration and enrollment in the coalition's county or multi-county service area.<sup>39</sup> Each ELC must coordinate with each school district in the

<sup>30</sup> Section 1002.84, F.S.

<sup>31</sup> Section 1002.84(18), F.S.

<sup>32</sup> Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

<sup>33</sup> *Id.*

<sup>34</sup> Section 1, ch. 2004-484, L.O.F.; part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const.

<sup>35</sup> Section 1002.53(2), F.S.

<sup>36</sup> Section 1002.53(2), F.S. Children who attain five years of age on or before September 1 of the academic year are eligible for admission to public kindergarten. Section 1003.21(1)(a)2., F.S.

<sup>37</sup> Section 1002.53(3), F.S. In 2010, the Legislature established a specialized instructional services program for children with disabilities as an option under the VPK program. Section 3, ch. 2010-227, *codified at* s. 1002.53(3)(d), F.S. Beginning with the 2012-13 academic year, a child who has a disability is eligible for specialized instructional services if the child is eligible for the VPK program and has a current Individual Education Plan (IEP) developed by the district school board. Specialized instructional services include applied behavior analysis, speech-language pathology, occupational therapy, and physical therapy. DOE is responsible for approving SIS providers. Section 1002.66, F.S. Children who participate in the program are eligible to receive a McKay Scholarship to enroll in and attend a private school. *See* s. 1002.39(2)(a)1., F.S.

<sup>38</sup> *See supra* note 11.

<sup>39</sup> Section 1002.53(4)(a)-(b), F.S.

coalition's service area to develop procedures for enrolling children in public school VPK programs.<sup>40</sup> Local oversight of individual VPK program providers is split, with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.<sup>41</sup>

### *State Oversight*

Florida's Office of Early Learning (OEL), and the Department of Children and Family Services (DCF) each play a role in the state-level oversight of the VPK program. As lead agency for Florida's school readiness system, Florida's OEL governs the day-to-day operations of the VPK program.<sup>42</sup> OEL oversees ELCs regarding child enrollment, attendance reporting, and reimbursement of VPK program providers and monitors VPK program providers for compliance with program requirements.<sup>43</sup> OEL administers the accountability requirements of the VPK program at the state level. The Department of Education is responsible for adopting and requiring each school district to administer a statewide kindergarten readiness screening within the first 30 days of each school year.<sup>44</sup>

DCF administers the state's child care provider licensing program, oversees the state mandated child care personnel training, and posts VPK program provider profiles on its Internet website.<sup>45</sup>

### *Enrollment*

Parents may enroll their child in the VPK program by submitting an application to an ELC.<sup>46</sup> OEL has established, and ELCs must use a single point of entry, the online Family Portal, that enables a parent to enroll his or her child in the VPK program at various locations throughout a county, by telephone, or through an Internet website.<sup>47</sup> The ELC must determine the child's eligibility, and provide the parent with a profile of eligible VPK program providers in the county where the child is being enrolled.<sup>48</sup> The profile must include information regarding provider services, curricula, instructor credentials, instructor-to-student ratios, and kindergarten readiness rates (when available).<sup>49</sup>

The enrollment process is complete when the parent chooses a program offered by an eligible VPK program provider and the child's enrollment is recorded by the ELC.<sup>50</sup> A public school or private prekindergarten provider is prohibited from charging any fees for the VPK program. Additionally, a public school or private prekindergarten provider may not require a child to enroll for, or require the payment of a fee for, any supplemental services as a condition of enrollment in the VPK program.<sup>51</sup>

For FY 2015-2016 175, 233 children were enrolled in VPK: 163,582 (school year); 11,466 (summer); and 185 (VPK Specialized Instructional Services).<sup>52</sup>

Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must apply with the ELC.<sup>53</sup> School districts must offer a summer VPK

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<sup>40</sup> Section 1002.53(4)(c), F.S.

<sup>41</sup> Sections 1002.55(1), 1002.61(1)(a)-(b), and 1002.63(1), F.S.

<sup>42</sup> Sections 1001.213 and 1002.75(1)-(2), F.S.

<sup>43</sup> Section 1002.75(2), F.S.

<sup>44</sup> Sections 1002.69(1)-(3) and 1002.73, F.S.

<sup>45</sup> Sections 402.301-402.319, F.S.; *see also* Florida Department of Children and Families, *Parent Resources*, <http://www.myflfamilies.com/service-programs/child-care/parent-resources> (last visited March 27, 2017).

<sup>46</sup> Section 1002.53(4)(a)-(b), F.S.; *see also* rule 6M-8.201(1)(b), F.A.C.

<sup>47</sup> Sections 1002.53(4)(a) and 1002.82, F.S.

<sup>48</sup> Section 1002.53(4)-(5), F.S.; *see also* rules 6M-8.202(1) and 6M-8.201(4)(a), F.A.C.

<sup>49</sup> Section 1002.53(5)(a)-(b), F.S.; *see also* rule 6M-8.201(4)(a)4.-7., F.A.C.

<sup>50</sup> Section 1002.53(3) and (6), F.S.; *see also* rule 6M-8.202(2)(a), (c), and (d), F.A.C.

<sup>51</sup> Section 1002.71(8), F.S.

<sup>52</sup> Florida Office of Early Learning *2015-2016 Annual Report*, p. 17, available at [http://www.floridaearlylearning.com/sites/www/Uploads/Annual%20Report2016\\_Final\\_ADA.pdf](http://www.floridaearlylearning.com/sites/www/Uploads/Annual%20Report2016_Final_ADA.pdf) (last visited March 24, 2017).

<sup>53</sup> Sections 1002.61(3)(a) and (8) and 1002.63(3) and (8), F.S.

program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district's summer program.<sup>54</sup>

### *Kindergarten Screening*

Within the first 30 school days of each academic year, each school district must screen each kindergarten student in the school district to determine his or her readiness for kindergarten. Nonpublic schools are authorized to administer the statewide kindergarten screening to each kindergarten student in a nonpublic school who was enrolled in the VPK program. Historically, DOE has adopted instruments for this purpose.<sup>55</sup> Currently, the instrument is a developmental screening tool based on the Work Sampling System (WSS). A subset of WSS performance indicators is provided in five domains: Personal and Social Development; Language and Literacy; Mathematical Thinking; Scientific Thinking; and Physical Development, Health, and Safety.<sup>56</sup>

### *Kindergarten Readiness Rate*

DOE is required to adopt a kindergarten readiness screener based on Florida's VPK program standards. These standards describe what children should know and be able to do at the end of VPK in five domains: physical health; approaches to learning; social and emotional development; language, communication and emergent literacy; and cognitive development and general knowledge (math, science, social studies and the arts). Students must be tested within the first 30 school days of kindergarten and the statewide screener must provide objective data concerning each student's readiness for kindergarten.

In 2012, DOE adopted rule 6M-8.601, Florida Administrative Code (F.A.C.), establishing that the Florida Kindergarten Readiness Screener (FLKRS) would consist of two distinct screening tools. The first would be the Early Childhood Observations System (ECHOS) (an observational tool that looks broadly across all domains of development) and the second would be the Florida Assessments for Instruction in Reading (FAIR) (measures emergent literacy skills). In fall 2014 the ECHOS instrument was replaced by a different broad, observational tool, Work Sampling System (WSS), and the FAIR was replaced by a newer version, FAIR-FS (Florida Standards). In September 2014, the administration of the FAIR-FS was suspended in kindergarten through second grade across the state for technical issues.

For fall 2015, only one screening tool—a subset of the WSS expanded to include early learning metrics—was administered to Florida kindergarteners. WSS is the only instrument scheduled for use in fall 2016.

In accordance with s. 1002.69(5), F.S., the OEL annually calculates a kindergarten readiness rate for each VPK provider based on results of the FLKRS. The readiness rates are expressed as the percentage of children who are ready for kindergarten based on the criteria provided in the rule 6M-8.601, F.A.C. Children who attended less than 70 percent of a VPK program are not included in a provider's readiness rates, and readiness rates are not calculated for providers with fewer than four children assessed. Providers that do not meet the minimum readiness rate set by the department are placed on probation and required to take certain corrective actions.

For the 2013-14 VPK program year, readiness rates were not calculated for any provider because the FAIR administration was halted in September 2014; therefore no student met the criteria for inclusion in readiness rates. Those providers that did not previously meet the minimum readiness rate remained on

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<sup>54</sup> Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

<sup>55</sup> Section 1002.69(1), F.S.

<sup>56</sup> Florida's Office of Early Learning, *VPK Prekindergarten Readiness Rate Resources for Parents*, <https://vpk.fldoe.org/InfoPages/ParentInfo.aspx> (last visited March 24, 2017); Florida's Office of Early Learning, *Florida Kindergarten Readiness Screener (FLKRS)*, [http://www.floridaearlylearning.com/providers/provider\\_resources/florida\\_kindergarten\\_readiness\\_screener.aspx](http://www.floridaearlylearning.com/providers/provider_resources/florida_kindergarten_readiness_screener.aspx) (last visited March 24, 2017).

probation. During the 2016 legislative session, language in the implementing bill directed the OEL not to adopt a kindergarten readiness rate for the 2014-15 or 2015-16 academic years for VPK providers.<sup>57</sup>

### *The Newly Awarded FLKRS Contract*<sup>58</sup>

On February 24, 2017, school district superintendents were notified that DOE would award Renaissance Learning the new contract for the administration of FLKRS beginning in the 2017-2018 school year. The STAR Early Literacy assessment, previously adopted by some state school districts, will be used. “The assessment is an online, adaptive instrument that students complete independently in approximately 15-20 minutes. The results from the new FLKRS instrument will also be used in calculating the kindergarten readiness rates for the VPK Program, as has been done previously.”<sup>59</sup>

Each student is given a scale score and a percentile score which will assist in quickly identifying those who are not ready and in need of additional support immediately. To meet statutory requirements for administration of FLKRS within the first 30 days of the school year, and allowing for variability in school district calendars, the opening date for testing using the Star Early Literacy platform will be Monday, July 10, 2017, and the closing date will be Friday, October 20, 2017.<sup>60</sup>

DOE, in coordination with the contractor, has planned to provide online resources and training for school staff who will administer the test. In addition, five regional train-the-trainer workshops are scheduled for June 2017, in Tallahassee, Jacksonville, Orlando, Tampa and Miami. Both online and face-to-face training will focus on operation of the new FLKRS testing platform, test administration, system requirements, online resources, reports and other information needed to effectively and securely administer the new screener.<sup>61</sup>

### *Funding*

A separate base student allocation per full-time equivalent student in the VPK program is provided in the General Appropriations Act (GAA) for a school-year program and for a summer program.<sup>62</sup> Each county’s allocation per full-time equivalent student in the VPK program must be calculated by multiplying the base student allocation<sup>63</sup> provided in the GAA by the county’s district cost differential.<sup>64</sup> Each public school or private prekindergarten provider must be paid according to the county’s allocation per full-time equivalent student.<sup>65</sup>

OEL has established payment procedures and a uniform student attendance policy used for funding purposes.<sup>66</sup> Funds are distributed monthly to ELCs for payments to public schools or private prekindergarten providers.<sup>67</sup> Each ELC is advanced funds based on projected attendance. Once a public school or private prekindergarten provider begins delivery of VPK program services, the parent of each student in the VPK program must verify and certify the student’s attendance each month for the

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<sup>57</sup> Section 34, ch. 2016-62, L.O.F.,

<sup>58</sup> Email, Florida Department of Education, March 24, 2017. DOE Memorandum, Selection of New Kindergarten Readiness Screener (FLKRS) for 2017-2018; Implementation of Program and Training for Test Administrators, (February 24, 2017) <https://info.fldoe.org/docushare/dsweb/Get/Document-7855/dps-2017-27.pdf> (last visited March 24, 2017).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> Section 1002.71(3), F.S.

<sup>63</sup> Base student allocation for a school-year program must be “equal for each student, regardless of whether the student is enrolled in a school-year prekindergarten program delivered by a public school or a private prekindergarten provider. The base student allocation for a summer prekindergarten program [must] be equal for each student, regardless of whether the student is enrolled in a summer prekindergarten program delivered by a public school or private prekindergarten provider.” Section 1002.71(3)(a), F.S.

<sup>64</sup> Section 1002.71(3)(b), F.S. The district cost differential must be calculated by “adding each district’s price level index as published in the Florida Price Level Index for the most recent 3 years and dividing the resulting sum by 3. The result for each district [must] be multiplied by 0.008 and to the resulting product [must] be added 0.200; the sum thus obtained [must] be the cost differential for that district for that year.” Section 1011.62(2), F.S.

<sup>65</sup> Sections 1002.71(3)(b) and 1011.62(2), F.S.

<sup>66</sup> Section 1002.71(5)(b) and (6)(d), F.S.; *see also* rule 6M-8.204, F.A.C.

<sup>67</sup> Section 1002.71(5)(b), F.S.

prior month, and submit the monthly verification of the student's attendance to the public school or private prekindergarten provider.<sup>68</sup> Payments disbursed after the initial advance payment are reconciled based on actual attendance.<sup>69</sup>

Each ELC must report student enrollment to OEL on a monthly basis. ELCs may not amend student enrollment counts for the prior fiscal year after December 31 of the subsequent fiscal year.<sup>70</sup>

<b>VPK Program Funding: FYs 2010-11 to 2015</b>						
	<b>2010-11<sup>71</sup></b>	<b>2011-12<sup>72</sup></b>	<b>2012-13<sup>73</sup></b>	<b>2013-14<sup>74</sup></b>	<b>2014-15<sup>75</sup></b>	<b>2015-16<sup>76</sup></b>
<b>Total Funding</b>	\$404,372,806	\$394,921,554	\$413,312,552	\$404,927,801	\$396,065,224	\$389,254,479
<b>Per Student Funding: School-Year Program</b>	\$2,562	\$2,383	\$2,383	\$2,386	\$2,437	\$2,437
<b>Per Student Funding: Summer Program</b>	\$2,179	\$2,026	\$2,026	\$2,028	\$2,080	\$2,080

The State Constitution does not require the VPK program to provide transportation for students,<sup>77</sup> and current law does not earmark funding for transportation.<sup>78</sup> However, a public school or private prekindergarten provider may use part of its VPK program funding for student transportation.<sup>79</sup>

Florida Statutory Definition of "Committee"

As defined in s. 20.03 (8), F.S., a "committee" or "task force" means an advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment.

**Effect of Proposed Changes**

The bill creates the Committee on Early Grade Success, within the Department of Education to develop a proposal for establishing and implementing a coordinated child assessment system for the School Readiness Program, the Voluntary Prekindergarten Education Program, and the Kindergarten Readiness Assessment.

The committee's proposal must include legislative recommendations for the design and implementation of a coordinated child assessment system, including, but not limited to:

- The purpose of a child assessment, with a focus on developmentally appropriate learning gains.
- Attributes for tool selection that provide guidance on procurement policies.
- An implementation schedule and protocols, including the frequency of data collection and a timeline for training to ensure reliability of the system.
- The methodology for collecting and analyzing data that define reporting requirements.

<sup>68</sup> Section 1002.71(6)(b)1.-2., F.S.

<sup>69</sup> Section 1002.71(5)(b), F.S.

<sup>70</sup> Section 1002.71(3)(c), F.S.

<sup>71</sup> Specific Appropriations 75, s. 2, and 2246, s. 6, ch. 2010-152, L.O.F.

<sup>72</sup> Specific Appropriations 66, s. 2, and 2036, s. 6, ch. 2011-69, L.O.F.

<sup>73</sup> Specific Appropriations 78, s. 2, ch. 2012-118, L.O.F.

<sup>74</sup> Specific Appropriations 82, s. 2, ch. 2013-40, L.O.F.

<sup>75</sup> Specific Appropriation 92, s. 2, ch. 2014-51, L.O.F.

<sup>76</sup> Specific Appropriation 86, s.2, ch. 2015-232, L.O.F.

<sup>77</sup> Art. IX, s. 1 (b)-(c), Fla. Const.

<sup>78</sup> See s. 1002.71(9), F.S.

<sup>79</sup> Sections 1002.71(9) and 1011.68, F.S.

- A budget for the system, including cost analyses for purchasing materials and the necessary technology, training to ensure reliability, and data system management.
- Considerations for student privacy and tracking child development over time.

The committee is composed of 17 members who are residents of the state and appointed as follows:

- Three members appointed by the Governor:
  - One representative from the Office of Early Learning.
  - One representative from the Department of Education.
  - One parent of a child who is 3 to 6 years of age.
- Fourteen members jointly appointed by the President of the Senate and the Speaker of the House of Representatives:
  - One representative of an urban school district.
  - One representative of a rural school district.
  - One representative of an urban early learning coalition.
  - One representative of a rural early learning coalition.
  - One representative of an early learning provider.
  - One representative of a faith-based early learning provider.
  - One representative who is a kindergarten teacher with at least 5 years of teaching experience.
  - One representative who is an elementary school principal.
  - Four representatives with subject matter expertise in early learning, early grade success, or child assessments. The four representatives may not be direct stakeholders within the early learning or public school systems or potential recipients of a contract resulting from the committee's proposal.
  - One member of the Senate.
  - One member of the House of Representatives.

The chair and vice chair must be elected by the committee and the chair must be one of the four members with subject matter expertise in early learning, early grade success, or child assessments. The vice chair must be a member appointed by the President of the Senate and the Speaker of the House of Representatives, who is not one of the four members who are subject matter experts in early learning, early grade success, or child assessments.

Members of the committee serve without compensation but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061, Florida Statutes. To reduce costs, the committee must meet at least three times by teleconference or other electronic means, if possible. A majority of the members constitutes a quorum.

The University of Florida Laster Center for Learning shall provide the committee with staff necessary to assist the committee in the performance of its duties.

The committee is required to submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2017. Once the report is submitted, the committee expires. The State Board of Education is granted the authority to adopt rules to implement and administer the provisions in the bill.

## B. SECTION DIRECTORY:

**Section 1:** Establishes the Early Grade Success Committee within the Department of Education to develop a proposal for establishing and implementing a coordinated child assessment system for the School Readiness Program, the Voluntary Prekindergarten Education Program, and the Kindergarten Readiness Assessment.

**Section 2:** Provides an effective date of July 1, 2017.



## 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:

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The State Board of Education is granted the authority to adopt rules to implement and administer the provisions in the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear as to why the State Board of Education is granted the authority to adopt rules to implement and administer the provisions in the bill.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1                                   A bill to be entitled  
 2           An act relating to the Committee on Early Grade  
 3           Success; creating the Committee on Early Grade Success  
 4           within the Department of Education; specifying  
 5           committee purpose; requiring the committee to develop  
 6           a proposal for specified purposes; providing proposal  
 7           requirements; providing for membership of the  
 8           committee; providing requirements for electing a  
 9           committee chair and vice chair; providing committee  
 10          meeting requirements; requiring the University of  
 11          Florida Lastinger Center for Learning to provide  
 12          necessary staff for the committee; requiring the  
 13          committee to submit a report by a specified date;  
 14          providing for the expiration of the committee;  
 15          authorizing rulemaking; providing an effective date.

16  
 17   Be It Enacted by the Legislature of the State of Florida:

18  
 19           Section 1. Committee on Early Grade Success.—The Committee  
 20 on Early Grade Success, a committee as defined in s. 20.03,  
 21 Florida Statutes, is created within the Department of Education  
 22 to develop a proposal for establishing and implementing a  
 23 coordinated child assessment system for the School Readiness  
 24 Program, the Voluntary Prekindergarten Education Program, and  
 25 the Kindergarten Readiness Assessment and, except as otherwise

26 provided in this section, shall operate consistent with s.  
 27 20.052, Florida Statutes.

28 (1) The committee's proposal must include legislative  
 29 recommendations for the design and implementation of a  
 30 coordinated child assessment system, including, but not limited  
 31 to:

32 (a) The purpose of a child assessment, with a focus on  
 33 developmentally appropriate learning gains.

34 (b) Attributes for tool selection that provide guidance on  
 35 procurement policies.

36 (c) An implementation schedule and protocols, including  
 37 the frequency of data collection and a timeline for training to  
 38 ensure reliability of the system.

39 (d) The methodology for collecting and analyzing data that  
 40 define reporting requirements.

41 (e) A budget for the system, including cost analyses for  
 42 purchasing materials and the necessary technology, training to  
 43 ensure reliability, and data system management.

44 (f) Considerations for student privacy and tracking child  
 45 development over time.

46 (2) The committee is composed of 17 members who are  
 47 residents of the state and appointed as follows:

48 (a) Three members appointed by the Governor:

49 1. One representative from the Office of Early Learning.

50 2. One representative from the Department of Education.

- 51        3. One parent of a child who is 3 to 6 years of age.
- 52        (b) Fourteen members jointly appointed by the President of  
 53 the Senate and the Speaker of the House of Representatives:
- 54        1. One representative of an urban school district.
- 55        2. One representative of a rural school district.
- 56        3. One representative of an urban early learning  
 57 coalition.
- 58        4. One representative of a rural early learning coalition.
- 59        5. One representative of an early learning provider.
- 60        6. One representative of a faith-based early learning  
 61 provider.
- 62        7. One representative who is a kindergarten teacher with  
 63 at least 5 years of teaching experience.
- 64        8. One representative who is an elementary school  
 65 principal.
- 66        9. Four representatives with subject matter expertise in  
 67 early learning, early grade success, or child assessments. The  
 68 four representatives may not be direct stakeholders within the  
 69 early learning or public school systems or potential recipients  
 70 of a contract resulting from the committee's proposal.
- 71        10. One member of the Senate.
- 72        11. One member of the House of Representatives.
- 73        (3) The committee shall elect a chair and vice chair. The  
 74 chair must be one of the four members with subject matter  
 75 expertise in early learning, early grade success, or child

76 assessments. The vice chair must be a member appointed by the  
 77 President of the Senate and the Speaker of the House of  
 78 Representatives, who is not one of the four members who are  
 79 subject matter experts in early learning, early grade success,  
 80 or child assessments. Members of the committee shall serve  
 81 without compensation but are entitled to reimbursement for per  
 82 diem and travel expenses pursuant to s. 112.061, Florida  
 83 Statutes.

84 (4) The committee must meet at least three times and shall  
 85 meet by teleconference or other electronic means, if possible,  
 86 to reduce costs.

87 (5) A majority of the members constitutes a quorum.

88 (6) The University of Florida Lastinger Center for  
 89 Learning shall provide the committee with staff necessary to  
 90 assist the committee in the performance of its duties.

91 (7) The committee shall submit a report of its findings  
 92 and recommendations to the Governor, the President of the  
 93 Senate, and the Speaker of the House of Representatives by  
 94 December 1, 2017. Upon submission of the report, the committee  
 95 shall expire.

96 (8) The State Board of Education may adopt rules to  
 97 implement and administer this section.

98 Section 2. This act shall take effect July 1, 2017.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7101 PCB PKI 17-01 K-12 Education
SPONSOR(S): PreK-12 Innovation Subcommittee, Cortes
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: Orig. Comm.: PreK-12 Innovation Subcommittee, 12 Y, 2 N, Dehmer, Healy. Row 2: 1) PreK-12 Appropriations Subcommittee, Seifert, Potvin. Row 3: 2) Education Committee.

SUMMARY ANALYSIS

The bill:

- requires sponsors to use the standard charter contract developed by the Department of Education (DOE) without any alterations;
removes the cap on high-performing charter schools that wish to replicate in low-performing areas;
provides a high-performing charter school whose application for replication has been denied a hearing through the Charter School Appeals Commission;
provides for a streamlined application for a high-performing charter school system wishing to replicate schools;
clarifies that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade as well as high school students who transfer to a private school for which the school district subsidizes, in whole or in part, the enrollment fees;
includes the charter school in the waiver of sovereign immunity in cases of tort liability;
requires school districts to share the discretionary millage with charter-schools-in-a-municipality if the school is owned and directly operated by the municipality;
clarifies administrative fees for charter schools, high-performing charter schools and charter school systems;
removes the requirement that the online learning portion of a blended learning model be in a classroom setting at the charter school;
clarifies that charter school cooperatives may form to further educational, operational and administrative initiatives;
specifies that a not-for-profit or municipal entity operating a charter school may use unrestricted surplus or net assets of their charter school(s) for K-12 educational purposes in their other schools;
extends the option for local education agency status to other charter schools by redefining "charter school system;"
requires the DOE to develop and administer a survey for charter schools to report on the timeliness and effectiveness of administrative services provided by sponsors;
changes the charter school application deadline from August 1 to February 1;
deletes language regarding federal funds that conflicts with federal requirements for distribution of such funds; and
deletes the charter school student achievement comparison report.

The bill has no fiscal impact on the state.

The bill takes effect July, 1 2017.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Charter School Applications**

###### **Present Situation**

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”<sup>1</sup> The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.<sup>2</sup> One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”<sup>3</sup>

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality or a legal entity organized under Florida law.<sup>4</sup> The school must be operated by a Florida College System (FCS) institution, municipality or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.<sup>5</sup> A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.<sup>6</sup>

A person or entity seeking to open a charter school must submit an application using the model application form prepared by the Department of Education (DOE).<sup>7</sup> A sponsor must receive and review all charter school applications using an evaluation instrument developed by the DOE. The deadline for submission of charter school applications is August 1 of each year for schools to be opened the following year. An applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor must review and provide feedback as to material deficiencies in the application by July 1. The applicant then has until August 1 to resubmit a revised and final application. The sponsor may approve the draft application.<sup>8</sup>

###### **Effect of Proposed Changes**

The bill revises the date a sponsor must receive all charter school applications from August 1, to February 1, for a charter school to open 18 months later or at a time agreed to by the applicant and the sponsor.

The bill removes the provision allowing a charter school applicant to submit a draft application to a sponsor for review.<sup>9</sup> The bill increases the amount of time the sponsor has to approve or deny an application from 60 to 90 days.

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<sup>1</sup> Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

<sup>2</sup> Section 1002.33(2)(b)3. and (16), F.S.

<sup>3</sup> Section 1002.33(2)(a)1., F.S.

<sup>4</sup> Section 1002.33(3)(a), F.S.

<sup>5</sup> Section 1002.33(12)(i), F.S.

<sup>6</sup> Section 1002.33(5)(a)1., F.S.

<sup>7</sup> Section 1002.33(6)(a), F.S.

<sup>8</sup> Section 1002.33(6)(b), F.S.

<sup>9</sup>Note: The number of draft applications submitted declined from 43 in 2014 to 22 in 2015, *see* Annual Authorizer Reports, *available at* <http://www.fldoe.org/schools/school-choice/charter-schools/authorizers/annual-authorizer-reports.shtml>.



## **Charter School Contract**

### **Present Situation**

Once an application is approved, the major issues involving the operation of a charter school, which are outlined in current law, must be considered in advance and written into the charter.<sup>10</sup> The Department of Education (DOE) was required to create, through state board rule,<sup>11</sup> a standard charter contract in consultation with both school districts and charter schools, and sponsors are required to use this standard contract.<sup>12</sup> However, as a result of negotiations with stakeholders, the contract is used as "...the basis for the initial draft contract..." and may be amended.<sup>13</sup>

### **Effect of Proposed Changes**

The bill requires the sponsor and the charter school governing board to use the standard charter contract which incorporates the approved application and any addenda approved with the application. The standard contract cannot be altered in any way and any term or condition of a proposed contract that differs from the standard contract shall be presumed a limitation on charter school flexibility.

## **High Performing Charter Schools**

### **Present Situation**

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 opinion on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.<sup>14</sup>

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program. The application must indicate that the charter school is "high-performing" and include the commissioner's eligibility letter.<sup>15</sup> Such applications may only be denied under certain circumstances.<sup>16</sup> A high-performing charter school may only establish one charter school in a year. A subsequent application to establish a charter school may only be submitted when each charter school established through replication achieves high-performing charter school status.<sup>17</sup>

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons supporting the denial and must provide the letter of denial and supporting documentation to the applicant and to the DOE. The

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<sup>10</sup> Section 1002.33(7), F.S.

<sup>11</sup> Section 1002.33(28), F.S.

<sup>12</sup> Section 1002.33(21)(a), F.S.

<sup>13</sup> See Rule 6A-6.0786(3), F.A.C., available at <https://www.flrules.org/gateway/ruleNo.asp?id=6A-6.0786>.

<sup>14</sup> Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes or make employer contributions to social security or pensions; or failure for one pay period to pay wages, salaries, and retirement benefits owed. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition. Section 1002.331(1)(c), F.S. A "deteriorating financial condition" is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S. Section 1002.345(1)(a)3., F.S.

<sup>15</sup> Section 1002.331(3)(a), F.S.

<sup>16</sup> Section 1002.33(6)(b)3.b., F.S.

<sup>17</sup> Section 1002.331(3)(b), F.S.

applicant may appeal the sponsor's denial of the application directly to the State Board of Education (SBE).<sup>18</sup>

### **Effect of Proposed Changes**

The bill allows a high-performing charter school to establish more than one charter school a year only if it chooses to operate in and serve students from an area where a school is subject to differentiated accountability.<sup>19</sup>

The bill provides a high-performing charter school whose application has been denied a hearing by requiring that an appeal of such denial be brought before the Charter School Appeals Commission. The commission will make a recommendation to the SBE in accordance with current law.

### **High-Performing Charter School System**

#### **Present Situation**

A high-performing charter school system is an entity that:

- operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of "D" or "F" in any of the previous 3 school years regardless of whether the entity currently operates the charter school, with specified exceptions; and
- did not receive a financial audit that revealed one or more of the financial emergency conditions for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.<sup>20</sup>

A high-performing charter school system may replicate its high-performing charter schools using the current application process outlined in law.<sup>21</sup>

### **Effect of Proposed Changes**

The bill clarifies that a high-performing system may replicate a school in any district in the state and establishes a streamlined high-performing standard application form for replicating a high-performing charter school.

The bill requires the high-performing standard application form to:

- contain goals and objectives for improving and measuring student learning, including the expected amount of student yearly academic improvement, methods for evaluating success and the specific results to be attained through instruction;
- contain an annual financial plan for each year requested by the charter for operation of the school for up to 5 years;
- discloses the name of each applicant, governing board member and all proposed education services providers, the name and sponsor of any charter school operated by each applicant, each governing board member and each proposed education services provider that has closed and the reasons for the closure and the academic and financial history of such charter schools, which the sponsor shall consider in deciding whether to approve or deny the application.

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<sup>18</sup> Section 1002.33(6)(b)3.c., F.S.

<sup>19</sup> See s. 1008.33, F.S.

<sup>20</sup> Section 1002.332(1)(b), F.S.

<sup>21</sup> Section 1002.332(2), F.S.

The bill requires the review, approval, denial and appeals process for standard high-performing replication applications to comply with current processes in law.

### **Charter School Cooperatives**

#### **Present Situation**

The law authorizes charter schools to enter into cooperative agreements with other charter schools to provide planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.<sup>22</sup>

#### **Effect of Proposed Changes**

The bill deletes the list of specific services that cooperative agreements may provide and instead allows charter schools to enter into cooperative agreements to further any educational, operational or administrative purposes in which participating charter schools share common interests. This change expands the ability of charter schools to collaborate and pool resources for shared objectives.

### **Distribution of Student Funding**

#### **Present Situation**

Charter schools are funded through the Florida Education Finance Program (FEFP) the same as traditional public schools based on the number of students. Each charter school reports student enrollment to its sponsor<sup>23</sup> for inclusion in the district's report of student enrollment.<sup>24</sup> The following chart summarizes how a charter school's share of FEFP funds is determined:

<b>Calculating a Charter School's Share of FEFP Funds<sup>25</sup></b>
Sum of the school district's operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent (FTE) students in the district.
x The weighted FTE students for the charter school.

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.<sup>26</sup> Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, classroom supplies and class-size

<sup>22</sup> Section 1002.33(13), F.S.

<sup>23</sup> A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

<sup>24</sup> Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. See s. 1002.33(17)(b), F.S.

<sup>25</sup> Section 1002.33(17)(b) and (c), F.S.

<sup>26</sup> Section 1002.33(17)(b), F.S.

reduction operating funds.<sup>27</sup> Sponsors are prohibited from requiring charter schools to adopt the school district's reading curriculum as a condition of receiving the research-based reading allocation.<sup>28</sup>

## **Effect of Proposed Changes**

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets from that school for K-12 educational purposes in other schools they operate in the state.

## **Sponsor Services and Fees**

### **Present Situation**

A sponsor must provide various administrative services to charter schools in their district including contract management; FTE and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; processing of teacher certification data and student information services.<sup>29</sup> As compensation for services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.<sup>30</sup> A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.<sup>31</sup> A sponsor may withhold a 5 percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.<sup>32</sup>

If the system meets these criteria and also qualifies for high-performing charter school system status, it may receive a reduction in the administrative fees from 5 percent to 2 percent for enrollments up to and including 500 students per system.<sup>33</sup> The total administrative fee for high-performing charter schools is up to 2 percent for enrollment up to and including 250 students per school.<sup>34</sup>

When 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the 5 percent administrative fee is calculated based upon unweighted FTE students.<sup>35</sup> For virtual charter schools, the sponsor may withhold a fee of up to 5 percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services

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<sup>27</sup> See, e.g., s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

<sup>28</sup> Section 1002.33(17)(b), F.S.

<sup>29</sup> Section 1002.33(20)(a)1., F.S. See also, *Florida Attorney General Opinion, AGO 2013-04*, stating that the administrative fee includes costs to administer state district assessments, available at <http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.

<sup>30</sup> Section 1002.33(20)(a)2., F.S.

<sup>31</sup> Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

<sup>32</sup> Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)5., F.S.

<sup>33</sup> Section 1002.33(20)(a)4. and 6., F.S.

<sup>34</sup> Section 1002.33(20)(a)3., F.S.

<sup>35</sup> Section 1002.33(20)(a)2., F.S.

and for implementation of the school district's digital classrooms plan.<sup>36</sup> Sponsors are prohibited from imposing additional fees or surcharges for services provided.<sup>37</sup>

### **Effect of Proposed Changes**

The bill specifies language regarding administrative fees for charter schools, high-performing charter schools and charter school systems and removes the restrictions on eligible expenditures of the funds resulting from the difference between the total calculated amount of administrative fees and the amount the district may withhold.

The bill also requires charter schools to annually complete and submit a survey to rate the timeliness and effectiveness of administrative services provided by sponsors. The Department of Education must develop and administer the survey, compile the results by district and include them in the annual authorizer report.

### **Public Information on Charter Schools**

#### **Present Situation**

The Department of Education (DOE) must annually provide a statewide analysis and comparison of charter school students and traditional public school students, as measured by the statewide assessment program and information reported in each school's annual progress report.<sup>38</sup> The DOE's analysis compares the overall performance of charter school and traditional public school students and that of student subgroups, e.g. demographics, low income and students with disabilities. Comparison data must also be broken down by the following grade groupings:

- Grades 3 through 5
- Grades 6 through 8 and
- Grades 9 through 11.<sup>39</sup>

The report analyzes the assessment results of charter and traditional public schools in 177 different comparisons in terms of proficiency, learning gains and achievement gap.<sup>40</sup>

### **Effect of Proposed Changes**

The bill removes the provision that charter school student performance data be compared to student performance data of traditional public schools.

### **Local Educational Agency Status for Certain Charter School Systems**

#### **Present Situation**

A system of charter schools may serve as a local education agency (LEA) if the governing board adopts and files a resolution with its sponsor and the Department of Education (DOE) in which the governing board accepts the full responsibility for all LEA requirements and the system of charter schools:

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<sup>36</sup> Section 1002.33(20)(a)8., F.S.

<sup>37</sup> Section 1002.33(20)(a)7., F.S.

<sup>38</sup> Section 1002.33(23), F.S.

<sup>39</sup> Section 1002.33(21)(b)3.a., F.S.

<sup>40</sup> Florida Department of Education, *Student Achievement in Florida's Charter Schools: A Comparison of the Performance of Charter School Students with Traditional Public School Students*, at v (June 2015), available at [http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter\\_Student\\_Achievement\\_Report\\_1314.pdf](http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter_Student_Achievement_Report_1314.pdf).

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.<sup>41</sup>

## Effect of Proposed Changes

The bill revises LEA eligibility status by removing the requirements that a system of charter schools include both conversion charter schools and nonconversion charter schools and the system does not contract with a for-profit service provider for management of school operations.

## School Grades

### Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.<sup>42</sup> School grades are also used to determine whether a school must select or implement a turnaround option<sup>43</sup> or whether a school is eligible for school recognition funds as appropriated by the Legislature.<sup>44</sup>

An alternative school may opt for a school improvement rating instead of a school grade.<sup>45</sup> The school improvement rating is calculated using student learning gains on statewide, standardized English language arts and Math assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.<sup>46</sup> Schools that improve their ratings by at least one level or maintain a "commendable" rating are eligible for school recognition awards.<sup>47</sup> The school improvement rating identifies an alternative school as having one of the following ratings:

- **Commendable:** a significant percentage of the students attending the school are making learning gains
- **Maintaining:** a sufficient percentage of the students attending the school are making learning gains
- **Unsatisfactory:** an insufficient percentage of the students attending the school are making learning gains<sup>48</sup>

Current law requires that the student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention are included in the calculation of the home school's grade.<sup>49</sup> Likewise, student performance data for eligible students in Exceptional Student Education (ESE) Centers are included in the calculation of the home school grade.<sup>50</sup>

<sup>41</sup> Section 1002.33(25), F.S.

<sup>42</sup> Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

<sup>43</sup> Section 1008.33(4), F.S.

<sup>44</sup> Section 1008.26, F.S.

<sup>45</sup> School improvement ratings, which do not include an academic achievement component but instead focus on learning gains, are offered to alternative schools because the students at these schools are often enrolled in more than one school within the school year. All alternative students' learning gains scores are included in either the alternative school or home school accountability report. *See ESEA Flexibility Request* at 67, note 34, *supra*.

<sup>46</sup> Section 1008.341(3), F.S.

<sup>47</sup> Section 1008.341(2), F.S. (flush left provisions at the end of the subsection).

<sup>48</sup> Section 1008.341(2)(a)-(c), F.S.

<sup>49</sup> Section 1008.34(3)(d)1., F.S.

<sup>50</sup> Section 1008.3415, F.S.

## **Effect of Proposed Changes**

The bill provides that student performance data from eligible students attending an alternative charter school shall be included in the calculation of the home school's grade, as well as a high school student who transfers to a private school with which the school district has a contractual agreement. The bill also allows the use of concordant scores, in addition to assessment scores or comparable scores, in determining an alternative school's school improvement rating.

## **Facilities**

### **Present Situation**

Any facility or portion of a facility, used to house a charter school is exempt from ad valorem taxes, and specified entities, including a library, community service, museum, performing arts, theatre, cinema, church, Florida College System institution, college, and university may provide space to charter schools within their facilities under their preexisting zoning and land use designations.<sup>51</sup>

### **Effect of Proposed Changes**

The bill clarifies that the entities listed above may provide space to charter schools, and the charter school shall not have to obtain any special exception, rezoning, land use charter or other approval.

## **Charter School Capital Outlay Funding**

### **Present Situation**

To be eligible for charter school capital outlay funding, a charter school must:

- have been in operation for at least two years;
- be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools within the state;
- be part of an expanded feeder chain<sup>52</sup> with an existing charter school in the district that is currently receiving charter school capital outlay funds;
- be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or
- serve students in facilities that are provided by a business partner for a charter school-in-the-workplace.

In addition, a charter school must;

- have an annual audit that does not reveal a financial emergency for the most recent fiscal year for which such audit results are available;<sup>53</sup>
- have satisfactory student achievement based upon the state accountability standards applicable to charter schools;
- have received final approval from its sponsor for operation during that fiscal year; and
- serve students in facilities that are not provided by the charter school sponsor.<sup>54</sup>

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<sup>51</sup> Section 1002.33(18)(c), F.S.

<sup>52</sup> A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to s. 1013.62, F.S. Rule 6A-2.0020(1), F.A.C.

<sup>53</sup> The definition of financial emergency is provided in s. 218.503(1), F.S.

## **Effect of Proposed Changes**

The bill removes the requirement that a charter school have satisfactory student achievement based upon the state accountability standards applicable to charter schools to be eligible for charter school capital outlay funding.

## **Blended Learning**

### **Present Situation**

Florida law authorizes brick-and-mortar charter schools to offer blended learning courses. Blended learning courses are provided at the charter school's physical location and consist of both traditional classroom and online instruction. Blended learning courses may be provided by part-time or full-time employees of the charter school or by contracted instructional providers. Instructors must be certified in the subject area of the course. The online portion of a blended learning course may be provided from a remote location.<sup>55</sup> Students in a blended learning course must be full-time students at the charter school and receive the online instruction in a classroom setting at the charter school.

## **Effect of Proposed Changes**

The bill removes the requirement that students receive online instruction in a classroom setting in order to be eligible for a blended learning course.

## **College-Preparatory Boarding Academy**

### **Present Situation**

In 2011, the Legislature created the College-Preparatory Boarding Academy Pilot Program for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound.<sup>56</sup>

An "eligible student" is a student who:

- is a resident of the state and entitled to attend school in a participating school district;
- is at risk of academic failure;
- is currently enrolled in grade 5 or 6;
- is from a family whose gross income is at or below 200 percent of the federal poverty guidelines;
- is eligible for benefits or services funded by Temporary Assistance for Needy Families (TANF) or Title IV-E of the Social Security Act; and
- meets at least one of the following additional risk factors:
  - The child is in foster care or has been declared an adjudicated dependent by a court.
  - The student's head of household is not the student's custodial parent.
  - The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance.
  - A member of the student's immediate family has been incarcerated.

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<sup>54</sup> Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

<sup>55</sup> Section 1002.33(7)(a)2.b., F.S.

<sup>56</sup> Section 1002.3305(1), F.S.



- The child is covered under the terms of the state's Child Welfare Waiver Demonstration project with the United States Department of Health and Human Services.<sup>57</sup>

### **Effect of Proposed Changes**

The requirement that a student be currently enrolled in grade 5 or 6 limits the operator from enrolling students in another grade level, even if a space is available. The bill revises this requirement and allows any student currently enrolled in grades 5-12 to be eligible to enter the program, if the operator determines that a seat is available.

### **Other Provisions**

The bill also:

- clarifies that charter schools and their governing boards are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions;
- deletes language regarding federal funds that conflicts with federal requirements for the distribution of such funds;
- removes the requirement that an eligible dual enrollment program be located and chartered in Florida and revises eligibility requirements for postsecondary institutions to participate in dual enrollment by requiring that the institution be accredited by any regional or national accrediting agency recognized by the U.S. DOE rather than only the Commission of Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools;
- requires school boards to share the discretionary millage with charter-schools-in-a-municipality and provides a calculation methodology for distribution of such funds to charter schools; and
- requires sponsors to notify a charter school if they intend to not renew a contract and provide the charter school with a hearing.

### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 1002.33, F.S., relating to charter schools.

**Section 2.** Amends s. 1002.3305, F.S., relating to the College-Preparatory Boarding Academy Pilot Program.

**Section 3.** Amends s. 1002.331, F.S., relating to high-performing charter schools.

**Section 4.** Amends s. 1002.332, F.S., relating to high-performing charter school systems.

**Section 5.** Amends s. 1008.34, F.S., relating to school grading system, school report cards and district grades.

**Section 6.** Amends s. 1008.341, F.S., relating to the designation of school improvement ratings.

**Section 7.** Amends s. 1011.62, F.S., relating to the basic operating funding calculation.

**Section 8.** Amends s. 1011.71, F.S., relating to district school tax.

**Section 9.** Amends s. 1013.62, F.S., relating to charter school capital outlay funding.

**Section 10.** Provides an effective date of July 1, 2017.

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<sup>57</sup> Section 1002.3305(2)(b), F.S.  
**STORAGE NAME:** h7101.PKA.DOCX  
**DATE:** 3/30/2017

## 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:

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets of the charter school identified in an annual financial audit for K-12 educational purposes for charter schools operated by the not-for-profit or municipal entity organizing or operating the charter school with the surplus. Surplus operating funds shall be used in accordance with s. 1011.62, and surplus capital outlay funds shall be used in accordance with s. 1013.62(2).

The bill establishes the calculation methodology to determine the amount of the discretionary 1.5 millage revenue a school district would be required to distribute to each eligible charter school-in-a-municipality. The methodology includes reducing the total discretionary millage revenue by the school district's annual debt service obligation incurred as a March 1, 2017. Then, divide the sum of the school district's adjusted discretionary millage revenue by the school district's total capital outlay full-time equivalent membership and the total number of unweighted full-time equivalent students of each eligible charter school-in-a-municipality to determine a capital outlay appropriation allocation per full-time equivalent student. Then, multiply the capital outlay allocation per full-time equivalent student by the total number of full-time equivalent students of each eligible charter school-in-a-municipality to determine the capital outlay allocation for each charter school-in-a-municipality.

Adjust the 1.5 millage capital outlay allocation for each charter school-in-a-municipality by the total amount of state funds allocated to each charter school-in-a-municipality to determine the maximum calculated capital outlay allocation.

## 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**

None.

1                                   A bill to be entitled  
 2           An act relating to K-12 education; amending s.  
 3           1002.33, F.S.; revising the charter school application  
 4           process; revising the appeals process for a denied  
 5           charter school application; requiring the use of the  
 6           standard contract by specified entities; revising  
 7           eligibility requirements for charter school students  
 8           enrolled in blended learning courses; clarifying  
 9           provisions relating to charter schools and tort  
 10          liability; revising the purpose of charter school  
 11          cooperatives; authorizing the use of unrestricted net  
 12          assets and unrestricted surplus for specified charter  
 13          schools; requiring such funds to be used in accordance  
 14          with specified provisions; revising the public  
 15          information disclosures of charter schools;  
 16          authorizing certain entities to share facilities with  
 17          charter schools without additional approval; revising  
 18          the administrative fees that a district may withhold  
 19          from charter schools; requiring charter schools to  
 20          complete and submit an annual survey; deleting a  
 21          requirement that the Department of Education compare  
 22          certain data; revising eligibility criteria for  
 23          designated local educational agency status; amending  
 24          1002.3305, F.S.; revising the definition for the term  
 25          "eligible student" for purposes of the College-

26 preparatory Boarding Academy Pilot Program; amending  
 27 s. 1002.331, F.S.; conforming provisions to changes  
 28 made by the act; authorizing a high-performing charter  
 29 school to establish more than one charter school in  
 30 any year under certain circumstances; amending s.  
 31 1002.332, F.S.; authorizing a high-performing charter  
 32 school system to replicate its schools in any school  
 33 district and providing application requirements  
 34 therefor; amending s. 1008.34, F.S.; revising the  
 35 student performance data to be included in school  
 36 grades; amending s. 1008.341, F.S.; including  
 37 concordant scores in the calculation of an alternative  
 38 school's school improvement rating; amending s.  
 39 1011.62, F.S.; revising eligibility criteria for  
 40 postsecondary institutions to participate in the dual  
 41 enrollment and early admission programs; amending s.  
 42 1011.71, F.S.; requiring district schools to share  
 43 discretionary millage with charter schools-in-a-  
 44 municipality and providing a distribution methodology  
 45 therefor; amending s. 1013.62, F.S.; revising  
 46 eligibility criteria for charter schools to receive  
 47 charter school capital outlay funding; providing an  
 48 effective date.

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

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Section 1. Subsection (1), paragraphs (a), (b), (c), and (h) of subsection (6), subsection (7), paragraph (b) of subsection (8), paragraph (h) of subsection (12), subsection (13), paragraphs (b) and (c) of subsection (17), paragraph (c) of subsection (18), subsection (20), paragraphs (a) and (b) of subsection (21), and subsections (25) and (28) of section 1002.33, Florida Statutes, are amended to read:

1002.33 Charter schools.—

(1) AUTHORIZATION. ~~Charter schools shall be part of the state's program of public education.~~ All charter schools in Florida are public schools and shall be part of the state's program of public education. A charter school may be formed by creating a new school or converting an existing public school to charter status. A charter school may operate a virtual charter school pursuant to s. 1002.45(1)(d) to provide full-time online instruction to eligible students, pursuant to s. 1002.455, in kindergarten through grade 12. An existing charter school that is seeking to become a virtual charter school must amend its charter or submit a new application pursuant to subsection (6) to become a virtual charter school. A virtual charter school is subject to the requirements of this section; however, a virtual charter school is exempt from subsections (18) and (19), ~~subparagraphs (20)(a)2., 4., 5., and 7.,~~ paragraph (20)(c), and s. 1003.03. A public school may not use the term charter in its

76 name unless it has been approved under this section.

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

79 (a) A person or entity seeking to open a charter school  
80 shall prepare and submit an application on the standard ~~a model~~  
81 application form prepared by the Department of Education which:

82 1. Demonstrates how the school will use the guiding  
83 principles and meet the statutorily defined purpose of a charter  
84 school.

85 2. Provides a detailed curriculum plan that illustrates  
86 how students will be provided services to attain the Sunshine  
87 State Standards.

88 3. Contains goals and objectives for improving student  
89 learning and measuring that improvement. These goals and  
90 objectives must indicate how much academic improvement students  
91 are expected to show each year, how success will be evaluated,  
92 and the specific results to be attained through instruction.

93 4. Describes the reading curriculum and differentiated  
94 strategies that will be used for students reading at grade level  
95 or higher and a separate curriculum and strategies for students  
96 who are reading below grade level. A sponsor shall deny an  
97 application if the school does not propose a reading curriculum  
98 that is consistent with effective teaching strategies that are  
99 grounded in scientifically based reading research.

100 5. Contains an annual financial plan for each year

101 requested by the charter for operation of the school for up to 5  
 102 years. This plan must contain anticipated fund balances based on  
 103 revenue projections, a spending plan based on projected revenues  
 104 and expenses, and a description of controls that will safeguard  
 105 finances and projected enrollment trends.

106 6. Discloses the name of each applicant, governing board  
 107 member, and all proposed education services providers; the name  
 108 and sponsor of any charter school operated by each applicant,  
 109 each governing board member, and each proposed education  
 110 services provider that has closed and the reasons for the  
 111 closure; and the academic and financial history of such charter  
 112 schools, which the sponsor shall consider in deciding whether to  
 113 approve or deny the application.

114 7. Contains additional information a sponsor may require,  
 115 which shall be attached as an addendum to the charter school  
 116 application described in this paragraph.

117 8. For the establishment of a virtual charter school,  
 118 documents that the applicant has contracted with a provider of  
 119 virtual instruction services pursuant to s. 1002.45(1)(d).

120 (b) A sponsor shall receive and review all applications  
 121 for a charter school using the evaluation instrument developed  
 122 by the Department of Education. A sponsor shall receive and  
 123 consider charter school applications received on or before  
 124 February ~~August~~ 1 of each calendar year for charter schools to  
 125 be opened 18 months later at the beginning of the school



126 district's ~~next~~ school year, or to be opened at a time agreed to  
 127 by the applicant and the sponsor. A sponsor may not refuse to  
 128 receive a charter school application submitted before February  
 129 ~~August~~ 1 and may receive an application submitted later than  
 130 February ~~August~~ 1 if it chooses. ~~In order to facilitate greater~~  
 131 ~~collaboration in the application process, an applicant may~~  
 132 ~~submit a draft charter school application on or before May 1~~  
 133 ~~with an application fee of \$500. If a draft application is~~  
 134 ~~timely submitted, the sponsor shall review and provide feedback~~  
 135 ~~as to material deficiencies in the application by July 1. The~~  
 136 ~~applicant shall then have until August 1 to resubmit a revised~~  
 137 ~~and final application. The sponsor may approve the draft~~  
 138 ~~application. Except as provided for a draft application, A~~  
 139 sponsor may not charge an applicant for a charter any fee for  
 140 the processing or consideration of an application, and a sponsor  
 141 may not base its consideration or approval of a final  
 142 application upon the promise of future payment of any kind.  
 143 Before approving or denying any ~~final~~ application, the sponsor  
 144 shall allow the applicant, upon receipt of written notification,  
 145 at least 7 calendar days to make technical or nonsubstantive  
 146 corrections and clarifications, including, but not limited to,  
 147 corrections of grammatical, typographical, and like errors or  
 148 missing signatures, if such errors are identified by the sponsor  
 149 as cause to deny the final application.

150 1. In order to facilitate an accurate budget projection

151 process, a sponsor shall be held harmless for FTE students who  
 152 are not included in the FTE projection due to approval of  
 153 charter school applications after the FTE projection deadline.  
 154 In a further effort to facilitate an accurate budget projection,  
 155 within 15 calendar days after receipt of a charter school  
 156 application, a sponsor shall report to the Department of  
 157 Education the name of the applicant entity, the proposed charter  
 158 school location, and its projected FTE.

159 2. In order to ensure fiscal responsibility, an  
 160 application for a charter school shall include a full accounting  
 161 of expected assets, a projection of expected sources and amounts  
 162 of income, including income derived from projected student  
 163 enrollments and from community support, and an expense  
 164 projection that includes full accounting of the costs of  
 165 operation, including start-up costs.

166 3.a. A sponsor shall by a majority vote approve or deny an  
 167 application no later than 90 ~~60~~ calendar days after the  
 168 application is received, unless the sponsor and the applicant  
 169 mutually agree in writing to temporarily postpone the vote to a  
 170 specific date, at which time the sponsor shall by a majority  
 171 vote approve or deny the application. If the sponsor fails to  
 172 act on the application, an applicant may appeal to the State  
 173 Board of Education as provided in paragraph (c). If an  
 174 application is denied, the sponsor shall, within 10 calendar  
 175 days after such denial, articulate in writing the specific

176 reasons, based upon good cause, supporting its denial of the  
 177 application and shall provide the letter of denial and  
 178 supporting documentation to the applicant and to the Department  
 179 of Education.

180 b. An application submitted by a high-performing charter  
 181 school identified pursuant to s. 1002.331 or a high-performing  
 182 charter school system identified pursuant to s. 1002.332 may be  
 183 denied by the sponsor only if the sponsor demonstrates by clear  
 184 and convincing evidence that:

185 (I) The application does not materially comply with the  
 186 requirements in paragraph (a);

187 (II) The charter school proposed in the application does  
 188 not materially comply with the requirements in paragraphs  
 189 (9) (a)-(f);

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

193 (IV) The applicant has made a material misrepresentation  
 194 or false statement or concealed an essential or material fact  
 195 during the application process; or

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

199  
 200 Material noncompliance is a failure to follow requirements or a

201 violation of prohibitions applicable to charter school  
 202 applications, which failure is quantitatively or qualitatively  
 203 significant either individually or when aggregated with other  
 204 noncompliance. An applicant is considered to be replicating a  
 205 high-performing charter school if the proposed school is  
 206 substantially similar to at least one of the applicant's high-  
 207 performing charter schools and the organization or individuals  
 208 involved in the establishment and operation of the proposed  
 209 school are significantly involved in the operation of replicated  
 210 schools.

211 c. If the sponsor denies an application submitted by a  
 212 high-performing charter school or a high-performing charter  
 213 school system, the sponsor must, within 10 calendar days after  
 214 such denial, state in writing the specific reasons, based upon  
 215 the criteria in sub-subparagraph b., supporting its denial of  
 216 the application and must provide the letter of denial and  
 217 supporting documentation to the applicant and to the Department  
 218 of Education. The applicant may appeal the sponsor's denial of  
 219 the application in accordance with ~~directly to the State Board~~  
 220 ~~of Education and, if an appeal is filed, must provide a copy of~~  
 221 ~~the appeal to the sponsor pursuant to~~ paragraph (c).

222 4. For budget projection purposes, the sponsor shall  
 223 report to the Department of Education the approval or denial of  
 224 an application within 10 calendar days after such approval or  
 225 denial. In the event of approval, the report to the Department

226 of Education shall include the final projected FTE for the  
 227 approved charter school.

228 5. Upon approval of an application, the initial startup  
 229 shall commence with the beginning of the public school calendar  
 230 for the district in which the charter is granted. A charter  
 231 school may defer the opening of the school's operations for up  
 232 to 2 years to provide time for adequate facility planning. The  
 233 charter school must provide written notice of such intent to the  
 234 sponsor and the parents of enrolled students at least 30  
 235 calendar days before the first day of school.

236 (c)1. An applicant may appeal any denial of that  
 237 applicant's application or failure to act on an application to  
 238 the State Board of Education no later than 30 calendar days  
 239 after receipt of the sponsor's decision or failure to act and  
 240 shall notify the sponsor of its appeal. Any response of the  
 241 sponsor shall be submitted to the State Board of Education  
 242 within 30 calendar days after notification of the appeal. Upon  
 243 receipt of notification from the State Board of Education that a  
 244 charter school applicant is filing an appeal, the Commissioner  
 245 of Education shall convene a meeting of the Charter School  
 246 Appeal Commission to study and make recommendations to the State  
 247 Board of Education regarding its pending decision about the  
 248 appeal. The commission shall forward its recommendation to the  
 249 state board at least 7 calendar days before the date on which  
 250 the appeal is to be heard. ~~An appeal regarding the denial of an~~

251 ~~application submitted by a high-performing charter school~~  
 252 ~~pursuant to s. 1002.331 shall be conducted by the State Board of~~  
 253 ~~Education in accordance with this paragraph, except that the~~  
 254 ~~commission shall not convene to make recommendations regarding~~  
 255 ~~the appeal. However, the Commissioner of Education shall review~~  
 256 ~~the appeal and make a recommendation to the state board.~~

257 2. The Charter School Appeal Commission ~~or, in the case of~~  
 258 ~~an appeal regarding an application submitted by a high-~~  
 259 ~~performing charter school, the State Board of Education~~ may  
 260 reject an appeal submission for failure to comply with  
 261 procedural rules governing the appeals process. The rejection  
 262 shall describe the submission errors. The appellant shall have  
 263 15 calendar days after notice of rejection in which to resubmit  
 264 an appeal that meets the requirements set forth in State Board  
 265 of Education rule. An appeal submitted subsequent to such  
 266 rejection is considered timely if the original appeal was filed  
 267 within 30 calendar days after receipt of notice of the specific  
 268 reasons for the sponsor's denial of the charter application.

269 3.a. The State Board of Education shall by majority vote  
 270 accept or reject the decision of the sponsor no later than 90  
 271 calendar days after an appeal is filed in accordance with State  
 272 Board of Education rule. The State Board of Education shall  
 273 remand the application to the sponsor with its written decision  
 274 that the sponsor approve or deny the application. The sponsor  
 275 shall implement the decision of the State Board of Education.

276 The decision of the State Board of Education is not subject to  
 277 the provisions of the Administrative Procedure Act, chapter 120.

278 b. If an appeal concerns an application submitted by a  
 279 high-performing charter school identified pursuant to s.  
 280 1002.331 or a high-performing charter school system identified  
 281 pursuant to s. 1002.332, the State Board of Education shall  
 282 determine whether the sponsor's denial was in accordance with  
 283 sub-subparagraph (6)(b)3.b. ~~sponsor has shown, by clear and~~  
 284 ~~convincing evidence, that:~~

285 ~~(I) The application does not materially comply with the~~  
 286 ~~requirements in paragraph (a);~~

287 ~~(II) The charter school proposed in the application does~~  
 288 ~~not materially comply with the requirements in paragraphs~~  
 289 ~~(9)(a)-(f);~~

290 ~~(III) The proposed charter school's educational program~~  
 291 ~~does not substantially replicate that of the applicant or one of~~  
 292 ~~the applicant's high-performing charter schools;~~

293 ~~(IV) The applicant has made a material misrepresentation~~  
 294 ~~or false statement or concealed an essential or material fact~~  
 295 ~~during the application process; or~~

296 ~~(V) The proposed charter school's educational program and~~  
 297 ~~financial management practices do not materially comply with the~~  
 298 ~~requirements of this section.~~

299

300 ~~The State Board of Education shall approve or reject the~~

301 ~~sponsor's denial of an application no later than 90 calendar~~  
 302 ~~days after an appeal is filed in accordance with State Board of~~  
 303 ~~Education rule. The State Board of Education shall remand the~~  
 304 ~~application to the sponsor with its written decision that the~~  
 305 ~~sponsor approve or deny the application. The sponsor shall~~  
 306 ~~implement the decision of the State Board of Education. The~~  
 307 ~~decision of the State Board of Education is not subject to the~~  
 308 ~~Administrative Procedure Act, chapter 120.~~

309 ~~(h) The terms and conditions for the operation of a~~  
 310 ~~charter school shall be set forth by the sponsor and the~~  
 311 ~~applicant in a written contractual agreement, called a charter.~~  
 312 ~~The sponsor may not impose unreasonable rules or regulations~~  
 313 ~~that violate the intent of giving charter schools greater~~  
 314 ~~flexibility to meet educational goals. The sponsor has 30 days~~  
 315 ~~after approval of the application to provide an initial proposed~~  
 316 ~~charter contract to the charter school. The applicant and the~~  
 317 ~~sponsor have 40 days thereafter to negotiate and notice the~~  
 318 ~~charter contract for final approval by the sponsor unless both~~  
 319 ~~parties agree to an extension. The proposed charter contract~~  
 320 ~~shall be provided to the charter school at least 7 calendar days~~  
 321 ~~prior to the date of the meeting at which the charter is~~  
 322 ~~scheduled to be voted upon by the sponsor. The Department of~~  
 323 ~~Education shall provide mediation services for any dispute~~  
 324 ~~regarding this section subsequent to the approval of a charter~~  
 325 ~~application and for any dispute relating to the approved~~



326 | ~~charter, except disputes regarding charter school application~~  
 327 | ~~denials. If the Commissioner of Education determines that the~~  
 328 | ~~dispute cannot be settled through mediation, the dispute may be~~  
 329 | ~~appealed to an administrative law judge appointed by the~~  
 330 | ~~Division of Administrative Hearings. The administrative law~~  
 331 | ~~judge has final order authority to rule on issues of equitable~~  
 332 | ~~treatment of the charter school as a public school, whether~~  
 333 | ~~proposed provisions of the charter violate the intended~~  
 334 | ~~flexibility granted charter schools by statute, or on any other~~  
 335 | ~~matter regarding this section except a charter school~~  
 336 | ~~application denial, a charter termination, or a charter~~  
 337 | ~~nonrenewal and shall award the prevailing party reasonable~~  
 338 | ~~attorney's fees and costs incurred to be paid by the losing~~  
 339 | ~~party. The costs of the administrative hearing shall be paid by~~  
 340 | ~~the party whom the administrative law judge rules against.~~

341 |       (7) CHARTER. The terms and conditions for the operation of  
 342 | a charter school shall be set forth by the sponsor and the  
 343 | applicant in a written contractual agreement, called a charter.  
 344 | The sponsor and the governing board of the charter school shall  
 345 | use the standard charter contract pursuant to subsection (21),  
 346 | which shall incorporate the approved application and any addenda  
 347 | approved with the application. The standard charter contract may  
 348 | not be altered in any way. Any term or condition of a proposed  
 349 | charter contract that differs from the standard charter contract  
 350 | adopted by rule of the State Board of Education shall be

351 presumed a limitation on charter school flexibility. The sponsor  
 352 may not impose unreasonable rules or regulations that violate  
 353 the intent of giving charter schools greater flexibility to meet  
 354 educational goals ~~The major issues involving the operation of a~~  
 355 ~~charter school shall be considered in advance and written into~~  
 356 ~~the charter.~~ The charter shall be signed by the governing board  
 357 of the charter school and the sponsor, following a public  
 358 hearing to ensure community input.

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

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

363 2. The focus of the curriculum, the instructional methods  
 364 to be used, any distinctive instructional techniques to be  
 365 employed, and identification and acquisition of appropriate  
 366 technologies needed to improve educational and administrative  
 367 performance which include a means for promoting safe, ethical,  
 368 and appropriate uses of technology which comply with legal and  
 369 professional standards.

370 a. The charter shall ensure that reading is a primary  
 371 focus of the curriculum and that resources are provided to  
 372 identify and provide specialized instruction for students who  
 373 are reading below grade level. The curriculum and instructional  
 374 strategies for reading must be consistent with the Next  
 375 Generation Sunshine State Standards and grounded in

376 | scientifically based reading research.

377 |         b. In order to provide students with access to diverse  
 378 | instructional delivery models, to facilitate the integration of  
 379 | technology within traditional classroom instruction, and to  
 380 | provide students with the skills they need to compete in the  
 381 | 21st century economy, the Legislature encourages instructional  
 382 | methods for blended learning courses consisting of both  
 383 | traditional classroom and online instructional techniques.  
 384 | Charter schools may implement blended learning courses which  
 385 | combine traditional classroom instruction and virtual  
 386 | instruction. Students in a blended learning course must be full-  
 387 | time students of the charter school pursuant to s.  
 388 | 1011.61(1)(a)1. ~~and receive the online instruction in a~~  
 389 | ~~classroom setting at the charter school.~~ Instructional personnel  
 390 | certified pursuant to s. 1012.55 who provide virtual instruction  
 391 | for blended learning courses may be employees of the charter  
 392 | school or may be under contract to provide instructional  
 393 | services to charter school students. At a minimum, such  
 394 | instructional personnel must hold an active state or school  
 395 | district adjunct certification under s. 1012.57 for the subject  
 396 | area of the blended learning course. The funding and performance  
 397 | accountability requirements for blended learning courses are the  
 398 | same as those for traditional courses.

399 |         3. The current incoming baseline standard of student  
 400 | academic achievement, the outcomes to be achieved, and the

401 method of measurement that will be used. The criteria listed in  
 402 this subparagraph shall include a detailed description of:

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

405 b. How these baseline rates will be compared to rates of  
 406 academic progress achieved by these same students while  
 407 attending the charter school.

408 c. To the extent possible, how these rates of progress  
 409 will be evaluated and compared with rates of progress of other  
 410 closely comparable student populations.

411  
 412 The district school board is required to provide academic  
 413 student performance data to charter schools for each of their  
 414 students coming from the district school system, as well as  
 415 rates of academic progress of comparable student populations in  
 416 the district school system.

417 4. The methods used to identify the educational strengths  
 418 and needs of students and how well educational goals and  
 419 performance standards are met by students attending the charter  
 420 school. The methods shall provide a means for the charter school  
 421 to ensure accountability to its constituents by analyzing  
 422 student performance data and by evaluating the effectiveness and  
 423 efficiency of its major educational programs. Students in  
 424 charter schools shall, at a minimum, participate in the  
 425 statewide assessment program created under s. 1008.22.

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

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

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

434           8. The ways by which the school will achieve a  
 435 racial/ethnic balance reflective of the community it serves or  
 436 within the racial/ethnic range of other public schools in the  
 437 same school district.

438           9. The financial and administrative management of the  
 439 school, including a reasonable demonstration of the professional  
 440 experience or competence of those individuals or organizations  
 441 applying to operate the charter school or those hired or  
 442 retained to perform such professional services and the  
 443 description of clearly delineated responsibilities and the  
 444 policies and practices needed to effectively manage the charter  
 445 school. A description of internal audit procedures and  
 446 establishment of controls to ensure that financial resources are  
 447 properly managed must be included. Both public sector and  
 448 private sector professional experience shall be equally valid in  
 449 such a consideration.

450           10. The asset and liability projections required in the

451 application which are incorporated into the charter and shall be  
 452 compared with information provided in the annual report of the  
 453 charter school.

454 11. A description of procedures that identify various  
 455 risks and provide for a comprehensive approach to reduce the  
 456 impact of losses; plans to ensure the safety and security of  
 457 students and staff; plans to identify, minimize, and protect  
 458 others from violent or disruptive student behavior; and the  
 459 manner in which the school will be insured, including whether or  
 460 not the school will be required to have liability insurance,  
 461 and, if so, the terms and conditions thereof and the amounts of  
 462 coverage.

463 12. The term of the charter which shall provide for  
 464 cancellation of the charter if insufficient progress has been  
 465 made in attaining the student achievement objectives of the  
 466 charter and if it is not likely that such objectives can be  
 467 achieved before expiration of the charter. The initial term of a  
 468 charter shall be for 4 or 5 years. In order to facilitate access  
 469 to long-term financial resources for charter school  
 470 construction, charter schools that are operated by a  
 471 municipality or other public entity as provided by law are  
 472 eligible for up to a 15-year charter, subject to approval by the  
 473 district school board. A charter lab school is eligible for a  
 474 charter for a term of up to 15 years. In addition, to facilitate  
 475 access to long-term financial resources for charter school

476 construction, charter schools that are operated by a private,  
477 not-for-profit, s. 501(c)(3) status corporation are eligible for  
478 up to a 15-year charter, subject to approval by the district  
479 school board. Such long-term charters remain subject to annual  
480 review and may be terminated during the term of the charter, but  
481 only according to the provisions set forth in subsection (8).

482 13. The facilities to be used and their location. The  
483 sponsor may not require a charter school to have a certificate  
484 of occupancy or a temporary certificate of occupancy for such a  
485 facility earlier than 15 calendar days before the first day of  
486 school.

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

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

493 16. A timetable for implementing the charter which  
494 addresses the implementation of each element thereof and the  
495 date by which the charter shall be awarded in order to meet this  
496 timetable.

497 17. In the case of an existing public school that is being  
498 converted to charter status, alternative arrangements for  
499 current students who choose not to attend the charter school and  
500 for current teachers who choose not to teach in the charter

501 | school after conversion in accordance with the existing  
 502 | collective bargaining agreement or district school board rule in  
 503 | the absence of a collective bargaining agreement. However,  
 504 | alternative arrangements shall not be required for current  
 505 | teachers who choose not to teach in a charter lab school, except  
 506 | as authorized by the employment policies of the state university  
 507 | which grants the charter to the lab school.

508 |       18. Full disclosure of the identity of all relatives  
 509 | employed by the charter school who are related to the charter  
 510 | school owner, president, chairperson of the governing board of  
 511 | directors, superintendent, governing board member, principal,  
 512 | assistant principal, or any other person employed by the charter  
 513 | school who has equivalent decisionmaking authority. For the  
 514 | purpose of this subparagraph, the term "relative" means father,  
 515 | mother, son, daughter, brother, sister, uncle, aunt, first  
 516 | cousin, nephew, niece, husband, wife, father-in-law, mother-in-  
 517 | law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,  
 518 | stepfather, stepmother, stepson, stepdaughter, stepbrother,  
 519 | stepsister, half brother, or half sister.

520 |       19. Implementation of the activities authorized under s.  
 521 | 1002.331 by the charter school when it satisfies the eligibility  
 522 | requirements for a high-performing charter school. A high-  
 523 | performing charter school shall notify its sponsor in writing by  
 524 | March 1 if it intends to increase enrollment or expand grade  
 525 | levels the following school year. The written notice shall



526 specify the amount of the enrollment increase and the grade  
 527 levels that will be added, as applicable.

528 (b) The sponsor has 30 days after approval of the  
 529 application to provide an initial proposed charter contract to  
 530 the charter school. The applicant and the sponsor have 40 days  
 531 thereafter to negotiate and notice the charter contract for  
 532 final approval by the sponsor unless both parties agree to an  
 533 extension. The proposed charter contract shall be provided to  
 534 the charter school at least 7 calendar days before the date of  
 535 the meeting at which the charter is scheduled to be voted upon  
 536 by the sponsor. The Department of Education shall provide  
 537 mediation services for any dispute regarding this section  
 538 subsequent to the approval of a charter application and for any  
 539 dispute relating to the approved charter, except a dispute  
 540 regarding a charter school application denial. If the  
 541 Commissioner of Education determines that the dispute cannot be  
 542 settled through mediation, the dispute may be appealed to an  
 543 administrative law judge appointed by the Division of  
 544 Administrative Hearings. The administrative law judge has final  
 545 order authority to rule on issues of equitable treatment of the  
 546 charter school as a public school, whether proposed provisions  
 547 of the charter violate the intended flexibility granted charter  
 548 schools by statute, or any other matter regarding this section,  
 549 except a dispute regarding charter school application denial, a  
 550 charter termination, or a charter nonrenewal. The administrative

551 law judge shall award the prevailing party reasonable attorney  
 552 fees and costs incurred during the mediation process,  
 553 administrative proceeding, and any appeals, to be paid by the  
 554 party whom the administrative law judge rules against.

555 (c)~~(b)~~1. A charter may be renewed provided that a program  
 556 review demonstrates that the criteria in paragraph (a) have been  
 557 successfully accomplished and that none of the grounds for  
 558 nonrenewal established by paragraph (8)(a) has been documented.  
 559 In order to facilitate long-term financing for charter school  
 560 construction, charter schools operating for a minimum of 3 years  
 561 and demonstrating exemplary academic programming and fiscal  
 562 management are eligible for a 15-year charter renewal. Such  
 563 long-term charter is subject to annual review and may be  
 564 terminated during the term of the charter.

565 2. The 15-year charter renewal that may be granted  
 566 pursuant to subparagraph 1. shall be granted to a charter school  
 567 that has received a school grade of "A" or "B" pursuant to s.  
 568 1008.34 in 3 of the past 4 years and is not in a state of  
 569 financial emergency or deficit position as defined by this  
 570 section. Such long-term charter is subject to annual review and  
 571 may be terminated during the term of the charter pursuant to  
 572 subsection (8).

573 (d)~~(e)~~ A charter may be modified during its initial term  
 574 or any renewal term upon the recommendation of the sponsor or  
 575 the charter school's governing board and the approval of both

576 parties to the agreement. Modification may include, but is not  
 577 limited to, consolidation of multiple charters into a single  
 578 charter if the charters are operated under the same governing  
 579 board and physically located on the same campus, regardless of  
 580 the renewal cycle.

581 (e)~~(d)~~ A charter may be terminated by a charter school's  
 582 governing board through voluntary closure. The decision to cease  
 583 operations must be determined at a public meeting. The governing  
 584 board shall notify the parents and sponsor of the public meeting  
 585 in writing before the public meeting. The governing board must  
 586 notify the sponsor, parents of enrolled students, and the  
 587 department in writing within 24 hours after the public meeting  
 588 of its determination. The notice shall state the charter  
 589 school's intent to continue operations or the reason for the  
 590 closure and acknowledge that the governing board agrees to  
 591 follow the procedures for dissolution and reversion of public  
 592 funds pursuant to paragraphs (8)(e)-(g) and (9)(o).

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

594 (b) At least 90 days before ~~prior to~~ renewing,  
 595 nonrenewing, or terminating a charter, the sponsor shall notify  
 596 the governing board of the school of the proposed action in  
 597 writing. The notice shall state in reasonable detail the grounds  
 598 for the proposed action and stipulate that the school's  
 599 governing board may, within 14 calendar days after receiving the  
 600 notice, request a hearing. The hearing shall be conducted at the

601 sponsor's election in accordance with one of the following  
 602 procedures:

603 1. A direct hearing conducted by the sponsor within 60  
 604 days after receipt of the request for a hearing. The hearing  
 605 shall be conducted in accordance with ss. 120.569 and 120.57.  
 606 The sponsor shall decide upon nonrenewal or termination by a  
 607 majority vote. The sponsor's decision shall be a final order; or

608 2. A hearing conducted by an administrative law judge  
 609 assigned by the Division of Administrative Hearings. The hearing  
 610 shall be conducted within 60 days after receipt of the request  
 611 for a hearing and in accordance with chapter 120. The  
 612 administrative law judge's recommended order shall be submitted  
 613 to the sponsor. A majority vote by the sponsor shall be required  
 614 to adopt or modify the administrative law judge's recommended  
 615 order. The sponsor shall issue a final order.

616 (12) EMPLOYEES OF CHARTER SCHOOLS.—

617 (h) For the purposes of tort liability, the charter  
 618 school, including its governing body and employees, ~~of a charter~~  
 619 ~~school~~ shall be governed by s. 768.28.

620 (13) CHARTER SCHOOL COOPERATIVES.—Charter schools may  
 621 enter into cooperative agreements to form charter school  
 622 cooperative organizations that may provide ~~the following~~  
 623 services to further educational, operational, and administrative  
 624 initiatives in which the participating charter schools share  
 625 common interests; ~~charter school planning and development,~~

626 ~~direct instructional services, and contracts with charter school~~  
 627 ~~governing boards to provide personnel administrative services,~~  
 628 ~~payroll services, human resource management, evaluation and~~  
 629 ~~assessment services, teacher preparation, and professional~~  
 630 ~~development.~~

631 (17) FUNDING.—Students enrolled in a charter school,  
 632 regardless of the sponsorship, shall be funded as if they are in  
 633 a basic program or a special program, the same as students  
 634 enrolled in other public schools in the school district. Funding  
 635 for a charter lab school shall be as provided in s. 1002.32.

636 (b) The basis for the agreement for funding students  
 637 enrolled in a charter school shall be the sum of the school  
 638 district's operating funds from the Florida Education Finance  
 639 Program as provided in s. 1011.62 and the General Appropriations  
 640 Act, including gross state and local funds, discretionary  
 641 lottery funds, and funds from the school district's current  
 642 operating discretionary millage levy; divided by total funded  
 643 weighted full-time equivalent students in the school district;  
 644 multiplied by the weighted full-time equivalent students for the  
 645 charter school. Charter schools whose students or programs meet  
 646 the eligibility criteria in law are entitled to their  
 647 proportionate share of categorical program funds included in the  
 648 total funds available in the Florida Education Finance Program  
 649 by the Legislature, including transportation, the research-based  
 650 reading allocation, and the Florida digital classrooms

651 allocation. Total funding for each charter school shall be  
 652 recalculated during the year to reflect the revised calculations  
 653 under the Florida Education Finance Program by the state and the  
 654 actual weighted full-time equivalent students reported by the  
 655 charter school during the full-time equivalent student survey  
 656 periods designated by the Commissioner of Education. For charter  
 657 schools operated by a not-for-profit or municipal entity, any  
 658 unrestricted surplus or unrestricted net assets identified in  
 659 the charter school's annual audit may be used for K-12  
 660 educational purposes for other charter schools in the state  
 661 operated by the not-for-profit or municipal entity. Surplus  
 662 operating funds shall be used in accordance with s. 1011.62, and  
 663 surplus capital outlay funds shall be used in accordance with s.  
 664 1013.62(2).

665 ~~(c) If the district school board is providing programs or~~  
 666 ~~services to students funded by federal funds, any eligible~~  
 667 ~~students enrolled in charter schools in the school district~~  
 668 ~~shall be provided federal funds for the same level of service~~  
 669 ~~provided students in the schools operated by the district school~~  
 670 ~~board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all~~  
 671 charter schools shall receive all federal funding for which the  
 672 school is otherwise eligible, including Title I funding, not  
 673 later than 5 months after the charter school first opens and  
 674 within 5 months after any subsequent expansion of enrollment.  
 675 Unless otherwise mutually agreed to by the charter school and

676 its sponsor, and consistent with state and federal rules and  
 677 regulations governing the use and disbursement of federal funds,  
 678 the sponsor shall reimburse the charter school on a monthly  
 679 basis for all invoices submitted by the charter school for  
 680 federal funds available to the sponsor for the benefit of the  
 681 charter school, the charter school's students, and the charter  
 682 school's students as public school students in the school  
 683 district. Such federal funds include, but are not limited to,  
 684 Title I, Title II, and Individuals with Disabilities Education  
 685 Act (IDEA) funds. To receive timely reimbursement for an  
 686 invoice, the charter school must submit the invoice to the  
 687 sponsor at least 30 days before the monthly date of  
 688 reimbursement set by the sponsor. In order to be reimbursed, any  
 689 expenditures made by the charter school must comply with all  
 690 applicable state rules and federal regulations, including, but  
 691 not limited to, the applicable federal Office of Management and  
 692 Budget Circulars; the federal Education Department General  
 693 Administrative Regulations; and program-specific statutes,  
 694 rules, and regulations. Such funds may not be made available to  
 695 the charter school until a plan is submitted to the sponsor for  
 696 approval of the use of the funds in accordance with applicable  
 697 federal requirements. The sponsor has 30 days to review and  
 698 approve any plan submitted pursuant to this paragraph.

699 (18) FACILITIES.—

700 (c) Any facility, or portion thereof, used to house a

701 charter school whose charter has been approved by the sponsor  
 702 and the governing board, pursuant to subsection (7), shall be  
 703 exempt from ad valorem taxes pursuant to s. 196.1983. Library,  
 704 community service, museum, performing arts, theatre, cinema,  
 705 church, Florida College System institution, college, and  
 706 university facilities may provide space to charter schools  
 707 within their facilities under their preexisting zoning and land  
 708 use designations without obtaining a special exception,  
 709 rezoning, a land use charter, or any other form of approval.

710 (20) SERVICES.—

711 (a)1. A sponsor shall provide certain administrative and  
 712 educational services to charter schools. These services shall  
 713 include contract management services; full-time equivalent and  
 714 data reporting services; exceptional student education  
 715 administration services; services related to eligibility and  
 716 reporting duties required to ensure that school lunch services  
 717 under the federal lunch program, consistent with the needs of  
 718 the charter school, are provided by the school district at the  
 719 request of the charter school, that any funds due to the charter  
 720 school under the federal lunch program be paid to the charter  
 721 school as soon as the charter school begins serving food under  
 722 the federal lunch program, and that the charter school is paid  
 723 at the same time and in the same manner under the federal lunch  
 724 program as other public schools serviced by the sponsor or the  
 725 school district; test administration services, including payment



726 | of the costs of state-required or district-required student  
 727 | assessments; processing of teacher certificate data services;  
 728 | and information services, including equal access to student  
 729 | information systems that are used by public schools in the  
 730 | district in which the charter school is located. Student  
 731 | performance data for each student in a charter school,  
 732 | including, but not limited to, FCAT scores, standardized test  
 733 | scores, previous public school student report cards, and student  
 734 | performance measures, shall be provided by the sponsor to a  
 735 | charter school in the same manner provided to other public  
 736 | schools in the district.

737 |       2. A sponsor may withhold an administrative fee for the  
 738 | provision of such services which shall be a percentage of the  
 739 | available funds defined in paragraph (17)(b) calculated based on  
 740 | weighted full-time equivalent students. If the charter school  
 741 | serves 75 percent or more exceptional education students as  
 742 | defined in s. 1003.01(3), the percentage shall be calculated  
 743 | based on unweighted full-time equivalent students. The  
 744 | administrative fee shall be calculated as follows:

745 |       a. Up to 5 percent for:

746 |       (I) Enrollment of up to and including 250 students in a  
 747 | charter school as defined in this section.

748 |       (II) Enrollment of up to and including 500 students within  
 749 | a charter school system which meets all of the following:

750 |       (A) Includes conversion charter schools and nonconversion

751 | charter schools.

752 |       (B) Has all of its schools located in the same county.

753 |       (C) Has a total enrollment exceeding the total enrollment  
 754 | of at least one school district in the state.

755 |       (D) Has the same governing board for all of its schools.

756 |       (E) Does not contract with a for-profit service provider  
 757 | for management of school operations.

758 |       (III) Enrollment of up to and including 250 students in a  
 759 | virtual charter school.

760 |       b. Up to 2 percent for enrollment of up to and including  
 761 | 250 students in a high-performing charter school as defined in  
 762 | s. 1002.331.

763 |       3. A sponsor may not charge charter schools any additional  
 764 | fees or surcharges for administrative and educational services  
 765 | in addition to the maximum percentage of administrative fees  
 766 | withheld pursuant to this paragraph ~~A total administrative fee~~  
 767 | ~~for the provision of such services shall be calculated based~~  
 768 | ~~upon up to 5 percent of the available funds defined in paragraph~~  
 769 | ~~(17)(b) for all students, except that when 75 percent or more of~~  
 770 | ~~the students enrolled in the charter school are exceptional~~  
 771 | ~~students as defined in s. 1003.01(3), the 5 percent of those~~  
 772 | ~~available funds shall be calculated based on unweighted full-~~  
 773 | ~~time equivalent students. However, a sponsor may only withhold~~  
 774 | ~~up to a 5-percent administrative fee for enrollment for up to~~  
 775 | ~~and including 250 students. For charter schools with a~~

776 ~~population of 251 or more students, the difference between the~~  
 777 ~~total administrative fee calculation and the amount of the~~  
 778 ~~administrative fee withheld may only be used for capital outlay~~  
 779 ~~purposes specified in s. 1013.62(3).~~

780 ~~3. For high performing charter schools, as defined in s.~~  
 781 ~~1002.331, a sponsor may withhold a total administrative fee of~~  
 782 ~~up to 2 percent for enrollment up to and including 250 students~~  
 783 ~~per school.~~

784 ~~4. In addition, a sponsor may withhold only up to a 5-~~  
 785 ~~percent administrative fee for enrollment for up to and~~  
 786 ~~including 500 students within a system of charter schools which~~  
 787 ~~meets all of the following:~~

788 ~~a. Includes both conversion charter schools and~~  
 789 ~~nonconversion charter schools;~~

790 ~~b. Has all schools located in the same county;~~

791 ~~c. Has a total enrollment exceeding the total enrollment~~  
 792 ~~of at least one school district in the state;~~

793 ~~d. Has the same governing board; and~~

794 ~~e. Does not contract with a for-profit service provider~~  
 795 ~~for management of school operations.~~

796 ~~5. The difference between the total administrative fee~~  
 797 ~~calculation and the amount of the administrative fee withheld~~  
 798 ~~pursuant to subparagraph 4. may be used for instructional and~~  
 799 ~~administrative purposes as well as for capital outlay purposes~~  
 800 ~~specified in s. 1013.62(3).~~

801 ~~6. For a high-performing charter school system that also~~  
 802 ~~meets the requirements in subparagraph 4., a sponsor may~~  
 803 ~~withhold a 2-percent administrative fee for enrollments up to~~  
 804 ~~and including 500 students per system.~~

805 ~~7. Sponsors shall not charge charter schools any~~  
 806 ~~additional fees or surcharges for administrative and educational~~  
 807 ~~services in addition to the maximum 5-percent administrative fee~~  
 808 ~~withheld pursuant to this paragraph.~~

809 ~~8. The sponsor of a virtual charter school may withhold a~~  
 810 ~~fee of up to 5 percent. The funds shall be used to cover the~~  
 811 ~~cost of services provided under subparagraph 1. and~~  
 812 ~~implementation of the school district's digital classrooms plan~~  
 813 ~~pursuant to s. 1011.62.~~

814 (b) If goods and services are made available to the  
 815 charter school through the contract with the school district,  
 816 they shall be provided to the charter school at a rate no  
 817 greater than the district's actual cost unless mutually agreed  
 818 upon by the charter school and the sponsor in a contract  
 819 negotiated separately from the charter. When mediation has  
 820 failed to resolve disputes over contracted services or  
 821 contractual matters not included in the charter, an appeal may  
 822 be made for a dispute resolution hearing before the Charter  
 823 School Appeal Commission. To maximize the use of state funds,  
 824 school districts shall allow charter schools to participate in  
 825 the sponsor's bulk purchasing program if applicable.

826 (c) Transportation of charter school students shall be  
 827 provided by the charter school consistent with the requirements  
 828 of subpart I.E. of chapter 1006 and s. 1012.45. The governing  
 829 body of the charter school may provide transportation through an  
 830 agreement or contract with the district school board, a private  
 831 provider, or parents. The charter school and the sponsor shall  
 832 cooperate in making arrangements that ensure that transportation  
 833 is not a barrier to equal access for all students residing  
 834 within a reasonable distance of the charter school as determined  
 835 in its charter.

836 (d) Each charter school shall annually complete and submit  
 837 a survey, provided in a format specified by the Department of  
 838 Education, to rate the timeliness and quality of services  
 839 provided by the district in accordance with this section. The  
 840 department shall compile the results, by district, and include  
 841 the results in the report required under sub-sub-subparagraph  
 842 (5)(b)1.k.(III).

843 (21) PUBLIC INFORMATION ON CHARTER SCHOOLS.-

844 (a) The Department of Education shall provide information  
 845 to the public, directly and through sponsors, on how to form and  
 846 operate a charter school and how to enroll in a charter school  
 847 once it is created. This information shall include the standard  
 848 ~~a model~~ application form, standard charter contract, standard  
 849 evaluation instrument, and standard charter renewal contract,  
 850 which shall include the information specified in subsection (7)

851 | and shall be developed by consulting and negotiating with both  
 852 | school districts and charter schools before implementation. The  
 853 | charter and charter renewal contracts shall be used by charter  
 854 | school sponsors.

855 |         (b)1. The Department of Education shall report to each  
 856 | charter school receiving a school grade pursuant to s. 1008.34  
 857 | or a school improvement rating pursuant to s. 1008.341 the  
 858 | school's student assessment data.

859 |         2. The charter school shall report the information in  
 860 | subparagraph 1. to each parent of a student at the charter  
 861 | school, the parent of a child on a waiting list for the charter  
 862 | school, the district in which the charter school is located, and  
 863 | the governing board of the charter school. This paragraph does  
 864 | not abrogate the provisions of s. 1002.22, relating to student  
 865 | records, or the requirements of 20 U.S.C. s. 1232g, the Family  
 866 | Educational Rights and Privacy Act.

867 |         ~~3.a. Pursuant to this paragraph, the Department of~~  
 868 | ~~Education shall compare the charter school student performance~~  
 869 | ~~data for each charter school in subparagraph 1. with the student~~  
 870 | ~~performance data in traditional public schools in the district~~  
 871 | ~~in which the charter school is located and other charter schools~~  
 872 | ~~in the state. For alternative charter schools, the department~~  
 873 | ~~shall compare the student performance data described in this~~  
 874 | ~~paragraph with all alternative schools in the state. The~~  
 875 | ~~comparative data shall be provided by the following grade~~

876 ~~groupings:~~

877 ~~(I) Grades 3 through 5;~~

878 ~~(II) Grades 6 through 8; and~~

879 ~~(III) Grades 9 through 11.~~

880 ~~b. Each charter school shall provide the information~~  
 881 ~~specified in this paragraph on its Internet website and also~~  
 882 ~~provide notice to the public at large in a manner provided by~~  
 883 ~~the rules of the State Board of Education. The State Board of~~  
 884 ~~Education shall adopt rules to administer the notice~~  
 885 ~~requirements of this subparagraph pursuant to ss. 120.536(1) and~~  
 886 ~~120.54. The website shall include, through links or actual~~  
 887 ~~content, other information related to school performance.~~

888 (25) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER  
 889 SCHOOL SYSTEMS.—A charter school system's governing board shall  
 890 be designated a local educational agency for the purpose of  
 891 receiving federal funds, the same as though the charter school  
 892 system were a school district, if the governing board of the  
 893 charter school system has adopted and filed a resolution with  
 894 its sponsoring district school board and the Department of  
 895 Education in which the governing board of the charter school  
 896 system accepts the full responsibility for all local education  
 897 agency requirements and the charter school system meets all of  
 898 the following:

899 ~~(a) Includes both conversion charter schools and~~  
 900 ~~nonconversion charter schools;~~

901        ~~(a)-(b)~~ Has all schools located in the same county;  
 902        ~~(b)-(e)~~ Has a total enrollment exceeding the total  
 903 enrollment of at least one school district in the state; and  
 904        ~~(c)-(d)~~ Has the same governing board; ~~and~~  
 905        ~~(e) Does not contract with a for profit service provider~~  
 906 ~~for management of school operations.~~

907

908 Such designation does not apply to other provisions unless  
 909 specifically provided in law.

910        (28) RULEMAKING.—The Department of Education, after  
 911 consultation with school districts and charter school directors,  
 912 shall recommend that the State Board of Education adopt rules to  
 913 implement specific subsections of this section. Such rules shall  
 914 require minimum paperwork and shall not limit charter school  
 915 flexibility authorized by statute. The State Board of Education  
 916 shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to  
 917 implement a standard charter model application form, standard  
 918 application form for the replication of charter schools in a  
 919 high-performing charter school system, standard evaluation  
 920 instrument, and standard charter and charter renewal contracts  
 921 in accordance with this section.

922        Section 2. Paragraph (b) of subsection (2) of section  
 923 1002.3305, Florida Statutes, is amended to read:

924        1002.3305 College-preparatory Boarding Academy Pilot  
 925 Program for at-risk students.—



926 (2) DEFINITIONS.—As used in this section, the term:  
 927 (b) "Eligible student" means a student who is a resident  
 928 of the state and entitled to attend school in a participating  
 929 school district, is at risk of academic failure, is currently  
 930 enrolled in grades 5-12, if it is determined by the operator  
 931 that a seat is available ~~grade 5 or 6~~, is from a family whose  
 932 gross income is at or below 200 percent of the federal poverty  
 933 guidelines, is eligible for benefits or services funded by  
 934 Temporary Assistance for Needy Families (TANF) or Title IV-E of  
 935 the Social Security Act, and meets at least one of the following  
 936 additional risk factors:  
 937 1. The child is in foster care or has been declared an  
 938 adjudicated dependent by a court.  
 939 2. The student's head of household is not the student's  
 940 custodial parent.  
 941 3. The student resides in a household that receives a  
 942 housing voucher or has been determined eligible for public  
 943 housing assistance.  
 944 4. A member of the student's immediate family has been  
 945 incarcerated.  
 946 5. The child is covered under the terms of the state's  
 947 Child Welfare Waiver Demonstration project with the United  
 948 States Department of Health and Human Services.  
 949 Section 3. Subsection (3) of section 1002.331, Florida  
 950 Statutes, is amended to read:

951 1002.331 High-performing charter schools.-

952 (3)(a)1. A high-performing charter school may submit an  
 953 application pursuant to s. 1002.33(6) in any school district in  
 954 the state to establish and operate a new charter school that  
 955 will substantially replicate its educational program. An  
 956 application submitted by a high-performing charter school must  
 957 state that the application is being submitted pursuant to this  
 958 paragraph and must include the verification letter provided by  
 959 the Commissioner of Education pursuant to subsection (4).

960 2. If the sponsor fails to act on the application within  
 961 90 ~~60~~ days after receipt, the application is deemed approved and  
 962 the procedure in s. 1002.33(7) ~~1002.33(6)(h)~~ applies. ~~If the~~  
 963 ~~sponsor denies the application, the high-performing charter~~  
 964 ~~school may appeal pursuant to s. 1002.33(6).~~

965 (b) A high-performing charter school may not establish  
 966 more than one charter school within the state under paragraph  
 967 (a) in any year. A subsequent application to establish a charter  
 968 school under paragraph (a) may not be submitted unless each  
 969 charter school established in this manner achieves high-  
 970 performing charter school status. However, a high-performing  
 971 charter school may establish more than one charter school within  
 972 the state under paragraph (a) in any year if it operates in the  
 973 area of a persistently low-performing school and serves students  
 974 from that school.

975 Section 4. Paragraph (b) of subsection (2) of section

976 | 1002.332, Florida Statutes is amended, and paragraph (c) is  
 977 | added to that subsection, to read:

978 |       1002.332 High-performing charter school system.—

979 |       (2)(b) A high-performing charter school system may  
 980 | replicate its high-performing charter schools in any school  
 981 | district in the state. The applicant must submit an application  
 982 | using the standard application form prepared by the Department  
 983 | of Education which:

984 |       1. Contains goals and objectives for improving student  
 985 | learning and a process for measuring student improvement. These  
 986 | goals and objectives must indicate how much academic improvement  
 987 | students are expected to demonstrate each year, how success will  
 988 | be evaluated, and the specific results to be attained through  
 989 | instruction.

990 |       2. Contains an annual financial plan for each year  
 991 | requested by the charter for operation of the school for up to 5  
 992 | years. This plan must contain anticipated fund balances based on  
 993 | revenue projections, a spending plan based on projected revenue  
 994 | and expenses, and a description of controls that will safeguard  
 995 | finances and projected enrollment trends.

996 |       3. Discloses the name of each applicant, governing board  
 997 | member, and all proposed education services providers; the name  
 998 | and sponsor of any charter school operated by each applicant,  
 999 | each governing board member, and each proposed education  
 1000 | services provider that has closed and the reasons for the

1001 closure; and the academic and financial history of such charter  
 1002 schools, which the sponsor shall consider when deciding whether  
 1003 to approve or deny the application.

1004 (c) An application submitted by a high-performing charter  
 1005 school system must state that the application is being submitted  
 1006 pursuant to this section and must include the verification  
 1007 letter provided by the Commissioner of Education pursuant to  
 1008 this subsection. If the sponsor fails to act on the application  
 1009 within 90 days after receipt, the application is deemed approved  
 1010 and the procedure in s. 1002.33(7) applies pursuant to s.  
 1011 ~~1002.331(3).~~

1012 Section 5. Paragraph (d) of subsection (3) of section  
 1013 1008.34, Florida Statutes, is amended to read:

1014 1008.34 School grading system; school report cards;  
 1015 district grade.-

1016 (3) DESIGNATION OF SCHOOL GRADES.-

1017 (d) The performance of students attending alternative  
 1018 schools and students designated as hospital or homebound shall  
 1019 be factored into a school grade as follows:

1020 1. The student performance data for eligible students  
 1021 attending alternative schools, including charter alternative  
 1022 schools, that provide dropout prevention and academic  
 1023 intervention services pursuant to s. 1003.53 shall be included  
 1024 in the calculation of the home school's grade. The term  
 1025 "eligible students" in this subparagraph does not include

1026 students attending an alternative school who are subject to  
 1027 district school board policies for expulsion for repeated or  
 1028 serious offenses, who are in dropout retrieval programs serving  
 1029 students who have officially been designated as dropouts, or who  
 1030 are in programs operated or contracted by the Department of  
 1031 Juvenile Justice. As used in this subparagraph, the term "home  
 1032 school" means the school to which the student would be assigned  
 1033 if the student were not assigned to an alternative school. If an  
 1034 alternative school chooses to be graded under this section,  
 1035 student performance data for eligible students identified in  
 1036 this subparagraph shall not be included in the home school's  
 1037 grade but shall be included only in the calculation of the  
 1038 alternative school's grade. A school district that fails to  
 1039 assign statewide, standardized end-of-course assessment scores  
 1040 of each of its students to his or her home school or to the  
 1041 alternative school that receives a grade shall forfeit Florida  
 1042 School Recognition Program funds for one fiscal year. School  
 1043 districts must require collaboration between the home school and  
 1044 the alternative school in order to promote student success. This  
 1045 collaboration must include an annual discussion between the  
 1046 principal of the alternative school and the principal of each  
 1047 student's home school concerning the most appropriate school  
 1048 assignment of the student.

1049         2. Student performance data for students designated as  
 1050 hospital or homebound shall be assigned to their home school for

1051 | the purposes of school grades. As used in this subparagraph, the  
 1052 | term "home school" means the school to which a student would be  
 1053 | assigned if the student were not assigned to a hospital or  
 1054 | homebound program.

1055 |       3. Student performance data for a high school student who  
 1056 | transfers to a private school that has a contractual  
 1057 | relationship with the school district shall be assigned to the  
 1058 | school in which the student was last enrolled.

1059 |       Section 6. Subsection (3) of section 1008.341, Florida  
 1060 | Statutes, is amended to read:

1061 |           1008.341 School improvement rating for alternative  
 1062 | schools.—

1063 |       (3) DESIGNATION OF SCHOOL IMPROVEMENT RATING.—Student  
 1064 | Learning Gains based on statewide, standardized assessments,  
 1065 | including retakes, administered under s. 1008.22 for all  
 1066 | eligible students who were assigned to and enrolled in the  
 1067 | school during the October or February FTE count and who have  
 1068 | assessment scores, concordant scores, or comparable scores for  
 1069 | the preceding school year shall be used in determining an  
 1070 | alternative school's school improvement rating. An alternative  
 1071 | school's rating shall be based on the following components:

1072 |           (a) The percentage of eligible students who make Learning  
 1073 | Gains in English Language Arts as measured by statewide,  
 1074 | standardized assessments under s. 1008.22(3).

1075 |           (b) The percentage of eligible students who make Learning

1076 Gains in mathematics as measured by statewide, standardized  
 1077 assessments under s. 1008.22(3).

1078  
 1079 Student performance results of students who are subject to  
 1080 district school board policies for expulsion for repeated or  
 1081 serious offenses, who are in dropout retrieval programs serving  
 1082 students who have officially been designated as dropouts, or who  
 1083 are in programs operated or contracted by the Department of  
 1084 Juvenile Justice may not be included in an alternative school's  
 1085 school improvement rating.

1086 Section 7. Paragraph (i) of subsection (1) of section  
 1087 1011.62, Florida Statutes, is amended to read:

1088 1011.62 Funds for operation of schools.—If the annual  
 1089 allocation from the Florida Education Finance Program to each  
 1090 district for operation of schools is not determined in the  
 1091 annual appropriations act or the substantive bill implementing  
 1092 the annual appropriations act, it shall be determined as  
 1093 follows:

1094 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR  
 1095 OPERATION.—The following procedure shall be followed in  
 1096 determining the annual allocation to each district for  
 1097 operation:

1098 (i) Calculation of full-time equivalent membership with  
 1099 respect to dual enrollment instruction.—Students enrolled in  
 1100 dual enrollment instruction pursuant to s. 1007.271 may be

1101 | included in calculations of full-time equivalent student  
 1102 | memberships for basic programs for grades 9 through 12 by a  
 1103 | district school board. Instructional time for dual enrollment  
 1104 | may vary from 900 hours; however, the full-time equivalent  
 1105 | student membership value shall be subject to the provisions in  
 1106 | s. 1011.61(4). Dual enrollment full-time equivalent student  
 1107 | membership shall be calculated in an amount equal to the hours  
 1108 | of instruction that would be necessary to earn the full-time  
 1109 | equivalent student membership for an equivalent course if it  
 1110 | were taught in the school district. Students in dual enrollment  
 1111 | courses may also be calculated as the proportional shares of  
 1112 | full-time equivalent enrollments they generate for a Florida  
 1113 | College System institution or university conducting the dual  
 1114 | enrollment instruction. Early admission students shall be  
 1115 | considered dual enrollments for funding purposes. Students may  
 1116 | be enrolled in dual enrollment instruction provided by an  
 1117 | eligible independent college or university and may be included  
 1118 | in calculations of full-time equivalent student memberships for  
 1119 | basic programs for grades 9 through 12 by a district school  
 1120 | board. However, those provisions of law which exempt dual  
 1121 | enrolled and early admission students from payment of  
 1122 | instructional materials and tuition and fees, including  
 1123 | laboratory fees, shall not apply to students who select the  
 1124 | option of enrolling in an eligible independent institution. An  
 1125 | independent college or university, which is located and



1126 ~~chartered in Florida,~~ is not for profit, is accredited by a  
 1127 regional or national accrediting agency recognized by the United  
 1128 States Department of Education ~~the Commission on Colleges of the~~  
 1129 ~~Southern Association of Colleges and Schools or the Accrediting~~  
 1130 ~~Council for Independent Colleges and Schools,~~ and confers  
 1131 degrees as defined in s. 1005.02 shall be eligible for inclusion  
 1132 in the dual enrollment or early admission program. Students  
 1133 enrolled in dual enrollment instruction shall be exempt from the  
 1134 payment of tuition and fees, including laboratory fees. No  
 1135 student enrolled in college credit mathematics or English dual  
 1136 enrollment instruction shall be funded as a dual enrollment  
 1137 unless the student has successfully completed the relevant  
 1138 section of the entry-level examination required pursuant to s.  
 1139 1008.30.

1140 Section 8. Subsection (2) of section 1011.71, Florida  
 1141 Statutes, is amended, and subsection (10) is added to that  
 1142 section, to read:

1143 1011.71 District school tax.—

1144 (2) In addition to the maximum millage levy as provided in  
 1145 subsection (1), each school board may levy not more than 1.5  
 1146 mills against the taxable value for school purposes for district  
 1147 schools and charter schools-in-a-municipality, including charter  
 1148 schools at the discretion of the school board, to fund:

1149 (a) New construction and remodeling projects, as set forth  
 1150 in s. 1013.64(3)(b) and (6)(b) and included in the district's

1151 | educational plant survey pursuant to s. 1013.31, without regard  
 1152 | to prioritization, sites and site improvement or expansion to  
 1153 | new sites, existing sites, auxiliary facilities, athletic  
 1154 | facilities, or ancillary facilities.

1155 |       (b) Maintenance, renovation, and repair of existing school  
 1156 | plants or of leased facilities to correct deficiencies pursuant  
 1157 | to s. 1013.15(2).

1158 |       (c) The purchase, lease-purchase, or lease of school  
 1159 | buses.

1160 |       (d) The purchase, lease-purchase, or lease of new and  
 1161 | replacement equipment; computer hardware, including electronic  
 1162 | hardware and other hardware devices necessary for gaining access  
 1163 | to or enhancing the use of electronic content and resources or  
 1164 | to facilitate the access to and the use of a school district's  
 1165 | digital classrooms plan pursuant to s. 1011.62, excluding  
 1166 | software other than the operating system necessary to operate  
 1167 | the hardware or device; and enterprise resource software  
 1168 | applications that are classified as capital assets in accordance  
 1169 | with definitions of the Governmental Accounting Standards Board,  
 1170 | have a useful life of at least 5 years, and are used to support  
 1171 | districtwide administration or state-mandated reporting  
 1172 | requirements.

1173 |       (e) Payments for educational facilities and sites due  
 1174 | under a lease-purchase agreement entered into by a district  
 1175 | school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not

1176 | exceeding, in the aggregate, an amount equal to three-fourths of  
 1177 | the proceeds from the millage levied by a district school board  
 1178 | pursuant to this subsection. The three-fourths limit is waived  
 1179 | for lease-purchase agreements entered into before June 30, 2009,  
 1180 | by a district school board pursuant to this paragraph.

1181 |         (f) Payment of loans approved pursuant to ss. 1011.14 and  
 1182 | 1011.15.

1183 |         (g) Payment of costs directly related to complying with  
 1184 | state and federal environmental statutes, rules, and regulations  
 1185 | governing school facilities.

1186 |         (h) Payment of costs of leasing relocatable educational  
 1187 | facilities, of renting or leasing educational facilities and  
 1188 | sites pursuant to s. 1013.15(2), or of renting or leasing  
 1189 | buildings or space within existing buildings pursuant to s.  
 1190 | 1013.15(4).

1191 |         (i) Payment of the cost of school buses when a school  
 1192 | district contracts with a private entity to provide student  
 1193 | transportation services if the district meets the requirements  
 1194 | of this paragraph.

1195 |             1. The district's contract must require that the private  
 1196 | entity purchase, lease-purchase, or lease, and operate and  
 1197 | maintain, one or more school buses of a specific type and size  
 1198 | that meet the requirements of s. 1006.25.

1199 |             2. Each such school bus must be used for the daily  
 1200 | transportation of public school students in the manner required

1201 by the school district.

1202 3. Annual payment for each such school bus may not exceed  
1203 10 percent of the purchase price of the state pool bid.

1204 4. The proposed expenditure of the funds for this purpose  
1205 must have been included in the district school board's notice of  
1206 proposed tax for school capital outlay as provided in s.  
1207 200.065(10).

1208 (j) Payment of the cost of the opening day collection for  
1209 the library media center of a new school.

1210 (10) A school board that levies the discretionary millage  
1211 authorized in subsection (2) shall use the following methodology  
1212 to determine the amount of revenue that must be shared with a  
1213 charter school-in-a-municipality:

1214 (a) Reduce the total discretionary millage revenue by the  
1215 school district's annual debt service obligation incurred as of  
1216 March 1, 2017.

1217 (b) Divide the sum of the school district's adjusted  
1218 discretionary millage revenue by the school district's total  
1219 capital outlay full-time equivalent membership and the total  
1220 number of unweighted full-time equivalent students of each  
1221 eligible charter school-in-a-municipality to determine a capital  
1222 outlay allocation per full-time equivalent student.

1223 (c) Multiply the capital outlay allocation per full-time  
1224 equivalent student by the total number of full-time equivalent  
1225 students of each eligible charter school-in-a-municipality to

1226 determine the capital outlay allocation for each charter school-  
 1227 in-a-municipality.

1228 (d) If applicable, adjust the capital outlay allocation  
 1229 identified in paragraph (c) by the total amount of state funds  
 1230 allocated to each eligible charter school-in-a-municipality in  
 1231 s. 1013.62(2) to determine the maximum calculated capital outlay  
 1232 allocation.

1233  
 1234 The school district shall distribute capital outlay funds to  
 1235 charter schools-in-a-municipality no later than February 1 of  
 1236 each year, beginning on February 1, 2018, for the 2017-2018  
 1237 fiscal year.

1238 Section 9. Paragraph (a) of subsection (1) of section  
 1239 1013.62, Florida Statutes, is amended to read:

1240 1013.62 Charter schools capital outlay funding.-

1241 (1) In each year in which funds are appropriated for  
 1242 charter school capital outlay purposes, the Commissioner of  
 1243 Education shall allocate the funds among eligible charter  
 1244 schools as specified in this section.

1245 (a) To be eligible for a funding allocation, a charter  
 1246 school must:

- 1247 1.a. Have been in operation for 2 or more years;
- 1248 b. Be governed by a governing board established in the
- 1249 state for 3 or more years which operates both charter schools
- 1250 and conversion charter schools within the state;

1251 c. Be an expanded feeder chain of a charter school within  
 1252 the same school district that is currently receiving charter  
 1253 school capital outlay funds;

1254 d. Have been accredited by the Commission on Schools of  
 1255 the Southern Association of Colleges and Schools; or

1256 e. Serve students in facilities that are provided by a  
 1257 business partner for a charter school-in-the-workplace pursuant  
 1258 to s. 1002.33(15)(b).

1259 2. Have an annual audit that does not reveal any of the  
 1260 financial emergency conditions provided in s. 218.503(1) for the  
 1261 most recent fiscal year for which such audit results are  
 1262 available.

1263 ~~3. Have satisfactory student achievement based on state~~  
 1264 ~~accountability standards applicable to the charter school.~~

1265 3.4. Have received final approval from its sponsor  
 1266 pursuant to s. 1002.33 for operation during that fiscal year.

1267 4.5. Serve students in facilities that are not provided by  
 1268 the charter school's sponsor.

1269 Section 10. This act shall take effect July 1, 2017.