



Education Committee

Thursday, March 30, 2017

9:00 AM

Reed Hall (102 HOB)

Meeting Packet

Richard Corcoran
Speaker

Michael Bileca
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Education Committee

Start Date and Time: Thursday, March 30, 2017 09:00 am
End Date and Time: Thursday, March 30, 2017 12:00 pm
Location: Reed Hall (102 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

HB 845 Direct-support Organization for the Florida Prepaid Tuition Scholarship Program by Mariano
HB 1085 Florida Keys Community College by Raschein
HB 1139 Minority Teacher Education Scholars by Davis
CS/HB 1391 Home Education by PreK-12 Innovation Subcommittee, Eisnaugle
HB 6037 Blind Services Direct-support Organization by Fischer

Consideration of the following proposed committee bill(s):

PCB EDC 17-03 -- School Improvement

NOTICE FINALIZED on 03/28/2017 4:25PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 845 Direct-support Organization for the Florida Prepaid Tuition Scholarship Program
SPONSOR(S): Mariano
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 896

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	11 Y, 0 N	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee	12 Y, 0 N	Butler	Lloyd
3) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

Direct-support organizations (DSO) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO is prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support. In 2014, the Legislature passed a bill that required DSOs statutory authority to be repealed, unless reviewed and saved from repeal by the Legislature.

The Florida Prepaid College Foundation, Inc. (Florida Prepaid) DSO is a not-for-profit corporation authorized by the Florida Legislature in 1989. Its purpose is to give students the opportunity to build a better future for themselves and the state by providing college scholarships funded through partnerships with individuals, businesses, educational foundations, and the Florida Legislature.

Historically, the Florida Legislature has provided state matching funds on a dollar for dollar basis for the Florida Prepaid Tuition Scholarship Program, also known as Project STARS (Scholarship Tuition for At-Risk Students), administered by the Florida Prepaid. Funds are used to purchase prepaid tuition contracts for children from low-income families who are at risk of dropping out of school. The current appropriation in Fiscal Year 2016-2017 is \$7.0 million. Changes in the bill do not require an increased appropriation.

The statutory authority for the Florida Prepaid DSO is scheduled for repeal on October 1, 2017, unless reviewed and saved from repeal by the Legislature.

This bill amends s. 1009.983(9), F.S., saving from repeal the Florida Prepaid DSO.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Direct-Support Organizations

Direct-support organizations (DSO) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO is prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support.

Prior to 2014, there was no formal review process in law to determine whether a DSO was established pursuant to such authorization, or whether the rationale for the authorization remained applicable.

Chapter 2014-96, Laws of Florida¹ established reporting and transparency requirements for each DSO that is created or authorized pursuant to law or executive order and created, approved or administered by a state agency. The DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.² Specifically, a DSO must provide:³

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information from a DSO must make the information available to the public through the agency's website. If the DSO maintains a website, the agency's website must provide a link to the DSO's website.⁴ Additionally, any contract between an agency and a DSO must be contingent upon the DSO's submission and posting of this information.⁵ If a DSO fails to submit the required information for two consecutive years, the agency is required to terminate the contract between the agency and the DSO.⁶

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.⁷

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

Lastly, a law creating, or authorizing the creation of, a DSO must state that the creation of or authorization for the DSO is repealed on October 1 of the 5th year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.

DSO Audit Requirements

DSOs with annual expenditures in excess of \$100,000 that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by an independent certified public accountant. Such audit report is submitted by the DSO within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for its creation, administration, or approval.⁸

Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the DSO's accounts and records.⁹ The Auditor General is authorized to require and receive any records from the DSO, or from its independent auditor.¹⁰

DSO Ethics Code Requirements

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in s. 112.313, F.S. and s. 112.3143(2), F.S. A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹¹

Florida Prepaid Tuition Scholarship Program

The Florida Prepaid Tuition Scholarship Program was established to provide economically disadvantaged youth with prepaid postsecondary tuition scholarships. The DSO works with the Department of Education (DOE)¹² to:

1. Provide an incentive for economically disadvantaged youth to improve school attendance and academic performance in order to graduate and pursue a postsecondary education;¹³
2. Obtain the commitment and involvement of private sector entities by virtue of funding matches with a ratio of 50 percent provided by the private sector and 50 percent provided by the state;¹⁴ and
3. Purchase prepaid tuition scholarships for students certified by the DOE as meeting minimum economic and school requirements and remain drug free and crime free.¹⁵

Florida Prepaid College Foundation, Inc.

The Florida Prepaid College Foundation, Inc. (Florida Prepaid) DSO was created in 1989 as the DSO of the Florida Prepaid College Board. The Florida Prepaid DSO is focused on giving aspiring students the opportunity to build a better future for themselves and Florida by providing college scholarships funded through partnerships with individuals, businesses, educational foundations, and the Florida Legislature.¹⁶

⁸ Section 215.981, F.S.

⁹ Section 11.45(3), F.S.

¹⁰ Section 11.45(3) (d), F.S.

¹¹ Section 112.3251, F.S.

¹² Section 1009.984, F.S.

¹³ *Id.* at (1).

¹⁴ *Id.* at (2).

¹⁵ *Id.* at (3).

¹⁶ Florida Department of Education, *Annual Report to the Commissioner 2015-2016*,

<http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf> (last visited Mar. 28, 2017).

The Florida Prepaid DSO administers the Florida Prepaid Tuition Scholarship Program pursuant to the provisions of s. 1009.984, F.S.¹⁷

The Florida Prepaid DSO provides businesses, community groups, and individuals the opportunity to fund tax-deductible college scholarships for Florida children. The donor may select the student and establish the scholarship criteria, subject to the DSO's approval.¹⁸

To fund these scholarships, the foundation receives an annual appropriation from the Florida Legislature¹⁹ and funding from community partners including other foundations, school districts, businesses, organizations, and individuals. The foundation may provide matching funds or the partner may underwrite the entire scholarship. Contributions to the foundation may be tax-deductible.²⁰

The Stanley Tate Project STARS (Scholarship Tuition for At-Risk Students) scholarship program, the DSO's most notable project, is a program for children from low-income families who are at risk of dropping out of school. Many of these children are the first in their families to have the opportunity to attend college. Students must maintain satisfactory academic progress and remain drug- and crime-free to receive a prepaid scholarship upon high school graduation. Since the Stanley Tate Project STARS scholarship program began, 32,546 scholarships have been awarded to low-income students at risk of dropping out of school, and who otherwise might not have had the opportunity to attend college.²¹

If the Florida Prepaid DSO is repealed, all properties revert to the Florida Prepaid College Board or to the state if the board ceases to exist.²²

This section of law is repealed on October 1, 2017, unless reviewed and saved from repeal by the Legislature.²³

The DSO has met the following statutory requirements:

- 1. The DSO is required to incorporate as a Not-for-Profit Corporation (s. 1009.983(1)(a), F.S.; incorporated under the provisions of ch. 617)**

The DSO is listed as an active Florida Not-for-Profit Corporation with the Florida Division of Corporations. All annual reports have been filed going back to April 5, 1995. A copy of all annual reports is available online.²⁴

- 2. The DSO is required to be organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the board. (s. 1009.983 (1)(b), F.S.)**

The DSO appears to be organized and operated in this manner and has met this requirement.²⁵

¹⁷ Section 1009.983(8)(a), F.S.

¹⁸ *Id.*

¹⁹ The Fiscal Year 2016-17 General Appropriation Act provides \$7.0 million. Specific Appropriation 67, Chapter 2015-232, Laws of Florida (Senate Bill 2500-A, General Appropriations Act)

²⁰ Section 1009.983(8)(a), F.S.

²¹ Stanley G. Tate Florida Prepaid College Foundation, *About the Foundation*, <https://www.floridaprepaidcollegefoundation.com/about.aspx> (last visited Mar. 28, 2017).

²² Section 1009.983 (2) (d), F.S.

²³ Section 1009.983 (9), F.S.

²⁴ Florida Division of Corporations, *Search Records, Detail by Entity Name*, <http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FLORIDAPREPAIDCOLLEGEFOUNDATION%20N353070&aggregateId=domnp-n35307-f4bbb7a4-2964-48c1-91c1-0462741579f9&searchTerm=Florida%20Prepaid%20College%20Foundation&listNameOrder=FLORIDAPREPAIDCOLLEGEFOUNDATION%20N353070> (last visited Mar. 28, 2017)

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3. The DSO is required to be operating in a manner consistent with the goals of the board and in the best interests of the state. (s. 1009.983(1)(c), F.S.)

The DSO appears to have met this requirement.²⁶ The DSO has committed to giving aspiring students the opportunity to build a better future for themselves and our state by providing college scholarships funded through partnerships with individuals, businesses, educational foundations and the Florida Legislature. The Stanley Tate Project STARS (Scholarship Tuition for At-Risk Students) scholarship program is the Foundation's hallmark program and annually receives an appropriation from the Legislature which is then matched with local organizations such as Take Stock in Children, and Education Foundations.

Since the Stanley Tate Project STARS scholarship program began, 32,546 scholarships have been awarded to low-income students at risk of dropping out of school, and who otherwise might not have had the opportunity to attend college. Annually the DSO supports approximately 50 local 501(c)(3) organizations from around the state to purchase approximately 1,500 scholarships for students in their community. Many of these students would not otherwise have the opportunity to go to college and all are required to meet with a mentor, meet academic standards, and graduate from high school.²⁷

During Fiscal Year 2015-2016, the DSO received more than \$20,000,000 in contributions to purchase scholarships, including the annual appropriation of \$7,000,000 for Project STARS. In addition, the Foundation had revenues in the amount of more than \$143,000 and expenses totaling more than \$253,000.²⁸

4. For each year the DSO's expenditures exceed \$100,000, it must provide for an annual financial audit and submit the audit to the Auditor General within nine months after the end of the fiscal year (s. 1009.983(3), F.S.)

The DSO has met this requirement. Each year the DSO is audited by an independent auditor. Annual audits from 2010 – 2016 are posted on their website.²⁹

Effect of Proposed Changes

This bill changes the repeal date from October 1, 2017 to October 1, 2022. This enables the DSO to remain in existence until 2022, allowing it to continue providing scholarships and services to Florida's students and parents, at which time it will have to be reviewed and saved from repeal by the Legislature.

²⁵ Florida Prepaid College Foundation, *About the Foundation*, <https://www.floridaprepaidcollegefoundation.com/about.aspx> (last visited Mar. 28, 2017)

²⁶ Florida Prepaid College Foundation, *Annual Report 2015, Foundation Facts*, p. 2, http://www.itppv.com/documents/pdf/foundation_2015_annual_report_web.pdf (last visited Mar. 27, 2017).

²⁷ Email from Casey Fisher, Foundation Manager, Florida Prepaid College Foundation, RE: Talking Points for the DSO Extension, answering a question from Representative Amber Mariano's Legislative Assistant Lisa Kauffman regarding how the DSO uses state dollars related to the DSO's mission and how much money flows through the DSO (Mar. 7, 2017).

²⁸ *Id.*

²⁹ Florida Prepaid College Foundation, *Financial Statements*, <https://www.floridaprepaidcollegefoundation.com/about-financial-statements.aspx> (last visited Mar. 28, 2017).

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.983(9) F.S., to change the date of repeal to from October 1, 2017 to October 1, 2022, saving from repeal the Florida Prepaid Foundation of Florida, Inc., the direct-support organization of the Florida Prepaid College Board.

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:

Extending the life of the direct service organization will allow Florida Prepaid to continue accepting donations and providing scholarships to at-risk students.

D. FISCAL COMMENTS:

Historically, the Florida Legislature has provided state matching funds on a dollar for dollar basis for the Florida Prepaid Tuition Scholarship Program, also known as Project STARS (Scholarship Tuition for At-Risk Students), administered by the Florida Prepaid. Funds are used to purchase prepaid tuition contracts for children from low-income families who are at risk of dropping out of school. The current appropriation in Fiscal Year 2016-2017 is \$7.0 million. Changes in the bill do not require an increased appropriation.

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

Not applicable.

1 A bill to be entitled
 2 An act relating to the direct-support organization for
 3 the Florida Prepaid Tuition Scholarship Program;
 4 amending s. 1009.983, F.S.; extending the repeal date
 5 of the direct-support organization for the Florida
 6 Prepaid Tuition Scholarship Program; providing an
 7 effective date.

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

10
 11 Section 1. Subsection (9) of section 1009.983, Florida
 12 Statutes, is amended to read:

13 1009.983 Direct-support organization; authority.—

14 (9) This section is repealed October 1, 2022 ~~2017~~, unless
 15 reviewed and saved from repeal by the Legislature.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1085 Florida Keys Community College

SPONSOR(S): Raschein and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	13 Y, 0 N	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee	11 Y, 0 N	Butler	Lloyd
3) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

This bill changes the name of "Florida Keys Community College" to "College of the Florida Keys". The institution has met all statutory requirements for the name change.

The bill may have nominal costs that can be absorbed by the college.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

With the approval of its district board of trustees, a Florida College System institution may change the name of the institution as listed in s. 1000.21(3), F.S., and use the designation “college” or “state college” if it has been authorized to grant baccalaureate degrees and has been accredited as a baccalaureate-degree-granting institution by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC).¹ A district board of trustees that approves the use of the designation “college” or “state college” must seek statutory codification of the name change during the next regular legislative session.²

Florida Keys Community College has met the statutory requirements for a name change.³ The college is accredited by the SACSCOC to award associate degrees⁴ and a Bachelor of Applied Science in Supervision and Management.⁵

On January 6, 2016, Florida’s State Board of Education unanimously approved Florida Keys Community College’s proposal to offer its first baccalaureate degree at their monthly meeting in Tallahassee.⁶ On December 4, 2016, the SACSCOC accredited the college to offer the Bachelor of Applied Science in Supervision and Management effective January 2017.⁷

Effect of Proposed Changes

The bill amends s. 1000.21(3)(h), F.S., changing the name of “Florida Keys Community College” to “College of the Florida Keys”. The college has complied with the statutory requirements for name changes.

B. SECTION DIRECTORY:

Section 1. Amends s. 1000.21(3)(h), F.S., changing the name of Florida Keys Community College to College of the Florida Keys.

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

¹ Section 1001.60(2)(b)1., F.S.

² Section 1001.60(2)(c), F.S.

³ Section 1001.60(2)(b)1., F.S.

⁴ <https://www.fkcc.edu/about/statement-of-accreditation/> (last visited Mar. 28, 2017).

⁵ Southern Association of Colleges and Schools, Commission on Colleges, *Accreditation Actions Taken by the SACSCOC Board of Trustees*, Dec. 4, 2016; p. 2; <http://www.sacscoc.org/2016decActionsanddisclosurestatements/16cract.december.pdf> (last visited Mar. 28, 2017); <https://www.fkcc.edu/academics/bachelors-degree-supervision-management/> (last visited Mar. 28, 2017).

⁶ <http://www.fldoe.org/core/fileparse.php/13170/urlt/agenda.pdf>; Jan. 6, 2016, <https://www.fkcc.edu/2016/01/bachelors-degree-approved-by-state-board/> (last visited Mar. 28, 2017).

⁷ Southern Association of Colleges and Schools, Commission on Colleges, *Accreditation Actions Taken by the SACSCOC Board of Trustees*, Dec. 4, 2016; p. 2; <http://www.sacscoc.org/2016decActionsanddisclosurestatements/16cract.december.pdf> (last visited Mar. 28, 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 college may incur costs related to the name change. Such costs may be associated with signage, publications, documentation, and other related items. Payment of such costs shall be the responsibility of the college institution.

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

Not applicable.

1 A bill to be entitled
2 An act relating to Florida Keys Community College;
3 amending s. 1000.21, F.S.; changing the name of
4 Florida Keys Community College to "The College of the
5 Florida Keys"; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Paragraph (h) of subsection (3) of section
10 1000.21, Florida Statutes, is amended to read:

11 1000.21 Systemwide definitions.—As used in the Florida K-
12 20 Education Code:

13 (3) "Florida College System institution" except as
14 otherwise specifically provided, includes all of the following
15 public postsecondary educational institutions in the Florida
16 College System and any branch campuses, centers, or other
17 affiliates of the institution:

18 (h) The College of the Florida Keys ~~Community College~~,
19 which serves Monroe County.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1139 Minority Teacher Education Scholars
SPONSOR(S): Davis
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1422

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	10 Y, 0 N	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee	11 Y, 0 N	Butler	Lloyd
3) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

The Minority Teacher Education Scholars Program (scholarship program) is a collaborative performance-based scholarship program for African-American, Hispanic-American, Asian-American, and Native American students. The scholarship program provides an annual scholarship in an amount that must be prorated based on available appropriations; the award may not exceed \$4,000. Awards are available to approved minority teacher education scholars who are enrolled in a Florida public or private postsecondary institution in their junior year and who are admitted into a teacher education program.

The bill:

- Revises the eligibility requirements for the scholarship program by removing a requirement that students enrolled in an approved teacher education program must be in their junior year to be eligible for the award, and requires that the student may not have earned more than 18 credit hours of upper-division education courses.
- Allows students to use the scholarship to pursue a graduate degree with a major in education.

The bill's changes potentially increase the number of students eligible for the scholarship program. The scholarship is currently authorized for up to 350 new students and 350 renewal students each year. In Fiscal Year 2015-2016, \$966,000 provided 309 students an average scholarship award of \$3,126. Florida statute requires annual scholarships to be prorated based on available appropriations; awards may not exceed \$4,000. Due to the proration requirement, the bill does not have an impact on state government.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Minority Teacher Education Scholars Program

Present Situation

The Minority Teacher Education Scholars Program (scholarship program) is a collaborative performance-based scholarship program for African-American, Hispanic-American, Asian-American, and Native American students. The scholarship program provides an annual scholarship in an amount that must be prorated based on available appropriation and may not exceed \$4,000 for each recipient who is enrolled in one of Florida's public or private universities or Florida College System (FCS) institutions in their junior year and is admitted into a teacher education program.¹

The Florida Fund for Minority Teachers, Inc. and (corporation) is a not-for-profit statutory corporation housed within the College of Education at the University of Florida that administers and manages the scholarship program.

A student may receive a scholarship for three consecutive years, if the student remains enrolled full-time in the scholarship program and makes satisfactory progress toward a baccalaureate degree with a major in education.

An eligible student is required to:²

- Meet Florida residency requirements for receipt of state student financial aid;
- Have earned 60 credit hours or an Associate of Arts degree;
- Have not earned a baccalaureate degree in education;
- Be classified as a junior and have not exceeded 18 hours of upper-division education credit at the time of application;
- Have and maintain a minimum 2.5 grade point average;
- Be a member of one of the following ethnic groups: African-American/Black, Hispanic-Latino, Asian-American/Pacific Islander or American Indian/Alaskan native; and
- Be newly admitted into a teacher education program at any of the scholarship program's participating institutions.

Upon graduation, a recipient is required to teach one year in a Florida public school for each year the scholarship was received. If a recipient does not graduate within the two to three years of receiving scholarship funding, or if a recipient does not teach in a Florida public school, the recipient will be required to repay the total amount of the scholarship received at an annual interest rate of eight percent, paid within ten years.³

¹ s. 1009.60(1), F.S.

² Florida Department of Education, Office of Student Financial Assistance, *Annual Report to the Commissioner 2015-16 (Jan. 2017)*, p. 45; <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf> (last visited Mar. 28, 2017).

³ Florida Department of Education, Office of Student Financial Assistance, *Minority Teacher Education Scholarship Florida Fund for Minority Teachers, Inc.*, 2016-2017 Fact Sheet, pp. 2-3; <http://www.floridastudentfinancialaid.org/SSFAD/factsheets/FFMT.pdf> (last visited Mar. 28, 2017).

Effect of Proposed Changes

The bill revises the eligibility requirements for the scholarship program by removing a requirement that students enrolled in an approved teacher education program must be in their junior year to be eligible for the award, and requires that the student may not have earned more than 18 credit hours of upper-division education courses. The bill also allows a student to use the scholarship to pursue a graduate degree with a major in education.

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.60, F.S., revising eligibility criteria for receipt of a minority teacher education scholarship.

Section 2. Amends s. 1009.605, F.S. revising the eligibility requirements for new scholarships and scholarship renewals.

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:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill's changes potentially increase the number of students eligible for the scholarship program. The scholarship is currently authorized for up to 350 new students and 350 renewal students each year. In Fiscal Year 2015-2016, \$966,000 provided 309 students an average scholarship award of \$3,126. Florida statute requires annual scholarships to be prorated based on available appropriations; awards may not exceed \$4,000.⁴

D. FISCAL COMMENTS:

The Fiscal Year 2016-2017 General Appropriations Act provides \$917,798 for the Minority Teacher Scholarship Program. Absent additional state appropriations in Fiscal Year 2017-2018, an increase in eligible students will require the Florida Fund for Minority Teachers, Inc. (FFMT), the non-profit

⁴ Section 1009.60(1), F.S.
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organization that administers the minority teacher education scholars program to utilize cash reserves to pay for additional scholarships. As of June 30, 2016, the FFMT had cash reserves of approximately \$1 million.⁵

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

Not applicable.

⁵ Section 1009.605(2)(b), F.S., requires the corporation to report this information to the Department of Education by June 30 each fiscal year. This is the latest cash balance information reported to House Higher Education Appropriations staff by DOE.

1 A bill to be entitled
2 An act relating to minority teacher education
3 scholars; amending s. 1009.60, F.S.; revising
4 eligibility criteria for receipt of a minority teacher
5 education scholarship; amending s. 1009.605, F.S.;
6 revising the scholar awards on which the Florida Fund
7 for Minority Teachers, Inc.'s budget projection to the
8 Department of Education must be based; providing an
9 effective date.

10

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

12

13 Section 1. Subsections (1) and (4) of section 1009.60,
14 Florida Statutes, are amended to read:

15 1009.60 Minority teacher education scholars program.—There
16 is created the minority teacher education scholars program,
17 which is a collaborative performance-based scholarship program
18 for African-American, Hispanic-American, Asian-American, and
19 Native American students. The participants in the program
20 include Florida's Florida College System institutions and its
21 public and private universities that have teacher education
22 programs.

23 (1) The minority teacher education scholars program shall
24 provide an annual scholarship in an amount that shall be
25 prorated based on available appropriations and may not exceed

26 \$4,000 for each approved minority teacher education scholar who
 27 is enrolled in one of Florida's public or private colleges or
 28 universities, in the junior year and is admitted into a teacher
 29 education program, and has not earned more than 18 credit hours
 30 of upper-division-level courses in education.

31 (4) A student may receive a scholarship from the program
 32 for 3 consecutive years if the student remains enrolled full-
 33 time in the program and makes satisfactory progress toward a
 34 baccalaureate degree with a major in education or a graduate
 35 degree with a major in education, leading to initial
 36 certification.

37 Section 2. Paragraph (a) of subsection (2) of section
 38 1009.605, Florida Statutes, is amended to read:

39 1009.605 Florida Fund for Minority Teachers, Inc.—

40 (2)(a) The corporation shall submit an annual budget
 41 projection to the Department of Education to be included in the
 42 annual legislative budget request. The projection must be based
 43 on the cost to award up to 350 scholarships to new scholars ~~in~~
 44 ~~the junior year~~ and up to 350 renewal scholarships ~~to the 350~~
 45 ~~rising seniors.~~

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1391 Education

SPONSOR(S): PreK-12 Innovation Subcommittee; Eisnaugle and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1556

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

SUMMARY ANALYSIS

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

The bill:

- requires a parent's notice of intent to provide home education to their child(ren) include the student's full legal name and provides that the notice is prima facie evidence of the validity of the provided information;
- authorizes school districts to provide a home education student access to career and technical courses and programs;
- authorizes school districts to offer industry certifications, national assessments and statewide, standardized assessments to a home education student;
- prohibits a district school superintendent from requiring evidence of a child's age if the child meets regular attendance requirements by attending certain educational institutions or programs;
- limits the documentation a school district can require from a home education student;
- exempts a home education program student from the grade point average requirement for admission to a dual enrollment program if the student meets the minimum score on a college placement test;
- exempts dual enrollment students from paying postsecondary institution technology fees and explicitly exempts public school, private school or home education dual enrollment students from payment of registration, tuition, technology and laboratory fees; and
- clarifies that private school and a home education program students are not required to reimburse tuition for dual enrollment.

The bill has no fiscal impact to the state.

The bill is effective on July 1, 2017.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Home Education Programs

Present Situation

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

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

Effect of Proposed Changes

The bill requires the notice of intent to include the student's full legal name and provides that the notice is prima facie evidence that the information is valid. The bill requires the superintendent to accept the notice of intent and immediately register the home education program. The bill prohibits the superintendent from requesting additional information unless the student chooses to participate in a school district program or service or the school district receives evidence rebutting the notice of intent.

The bill also allows, but does not require, a school district to provide access to career and technical courses and programs to a home education student and to report those students as full-time equivalent students (FTE) for funding in the Florida Education Finance Program (FEFP).

The bill requires school districts to notify home education students in the district of the date, time and availability of industry certifications, national assessments and statewide standardized assessments. A home education student must notify the school district of intent to take the available certificates or assessments.

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

School Attendance

Present Situation

With few exceptions, all children who will be six years of age on February 1, of each school year and are less than 16 years of age are required to attend school regularly. Children who will be five years of age by September 1, of each school year are eligible for public kindergarten.³

A principal may request evidence that a child has attained the appropriate age for kindergarten before admitting the student. The district superintendent may require evidence of the age of any child believed to be within the limits of compulsory attendance.⁴

¹ Department of Education at: <http://www.fl DOE.org/schools/school-choice/other-school-choice-options/home-edu/> (last visited March 14, 2017).

² Section 1002.41(1)(a), F.S.

³ Section 1003.21(1)(a), F.S.

Effect of Proposed Changes

The bill prohibits a district school superintendent from requiring evidence of a child's age when the child meets regular attendance requirements by attending a:

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

Court Procedure and Penalties

Present Situation

Florida law defines "habitual truant" as a student who has 15 or more unexcused absences within 90 calendar days with or without the knowledge or consent of the student's parent or guardian and who is subject to compulsory school attendance.⁵

In cases where an unexcused student does not enroll or attend school as required by law, the district school superintendent must institute a criminal prosecution against the student's parent.⁶ Each public school principal or designee must notify the district school board of each minor student under its jurisdiction who accumulates 15 unexcused absences in a period of 90 calendar days.⁷

Effect of Proposed Changes

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

Dual Enrollment Program

Present Situation

The dual enrollment program is an acceleration mechanism that allows an eligible secondary⁸ or home education student to enroll in a postsecondary course creditable toward high school completion and an associate or baccalaureate degree or career certificate.⁹ Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college, university or career certificate credit.¹⁰

Students must demonstrate readiness for college-level or career-level coursework. The student must have a 3.0 unweighted grade point average (GPA) for enrollment in college-level courses and a 2.0 unweighted GPA for enrollment in career certificate courses. Students must demonstrate adequate pre-collegiate preparation on a basic computation and communication skills assessment through the common placement examination when enrolling in a college credit course. Exceptions to the required GPAs may be granted if the participating educational entities agree and the terms of such agreement are contained in the dual enrollment interinstitutional articulation agreement.¹¹

⁴ Section 1003.21(4), F.S.

⁵ Section 984.03(27)(a), F.S.

⁶ Section 1003.27(2)(a), F.S.

⁷ Section 1003.27(2)(b), F.S.

⁸ For purposes of dual enrollment, "secondary" is defined as a student who is enrolled in grades 6-12 in a Florida public school or Florida private school. Section 1007.271(2), F.S.

⁹ Section 1007.271(1), F.S.

¹⁰ Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, available at <http://fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf> (last visited March 15, 2017).

¹¹ Section 1007.271(3), F.S.

Home education students can participate in the dual enrollment program. To participate in dual enrollment, a home education student must:¹²

- provide proof of enrollment in a home education program that meets statutory requirements;¹³
- be responsible for his or her own instructional materials unless provided for in the articulation agreement; and
- sign a home education articulation agreement¹⁴ with the postsecondary institution in which the student plans to enroll.

Each postsecondary institution eligible to participate in the dual enrollment program is required to enter into a home education articulation agreement with each eligible home education student seeking enrollment in a dual enrollment course and the student's parent. Initial and continued eligibility requirements for home education students may not exceed those required of other dually enrolled students. Articulation agreements must be annually submitted by the postsecondary institution to the Department of Education on or before August 1.¹⁵

Currently, a dual enrollment student is not required to pay registration, tuition or lab fees for dual enrollment courses taken at a public postsecondary career center, Florida College System (FCS) institution or state university.¹⁶ Home education students are responsible for their instructional materials and transportation. However, a FCS institution is not prohibited from providing instructional materials at no cost to a home education student.¹⁷

Effect of Proposed Changes

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

The bill exempts dual enrollment students from paying postsecondary institution technology fees and explicitly states that eligible public school, private school or home education program students are exempt from paying registration, tuition, technology and laboratory fees.

The bill clarifies that private schools and a home education program student are not required to reimburse tuition for dual enrollment students. Public schools continue to be required to reimburse tuition for each dual enrollment student in the district.

B. SECTION DIRECTORY:

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

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

Section 3. Amends s. 1003.27, F.S., relating to court procedures and penalties for students who do not enroll or attend class.

Section 4. Amends s. 1007.271, F.S., relating to dual enrollment programs.

Section 5. Provides an effective date of July 1, 2017.

¹² Section 1007.271(13), F.S.

¹³ Requirements for home education programs are outlined in s. 1002.41, F.S.

¹⁴ Section 1007.271(13)(b), F.S.

¹⁵ *Id.*

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

¹⁷ Section 1007.271(17), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the PreK-12 Innovation Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment removes an \$80 reimbursement for dual enrollment instructional materials provided to home education students. The second amendment removes the \$1 million in recurring funds appropriated from the General Revenue Fund to the Department of Education for implementing the \$80 reimbursement for dual enrollment instructional materials. The bill analysis is drafted to the committee substitute as passed by the PreK-12 Innovation Subcommittee.

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

26 district program; amending s. 1003.21, F.S.;

27 prohibiting a district school superintendent from

28 requiring certain evidence relating to a child's age

29 from children enrolled in specified schools and

30 programs; amending s. 1003.27, F.S.; requiring a

31 school and school district to comply with specified

32 provisions before instituting criminal prosecution

33 against certain parents relating to compulsory school

34 attendance; amending s. 1007.271, F.S.; exempting dual

35 enrollment students from paying technology fees;

36 prohibiting dual enrollment course and program

37 limitations for home education students from exceeding

38 limitations for other students; providing an exemption

39 from the grade point average requirement for initial

40 enrollment in a dual enrollment program for certain

41 home education students; providing that articulation

42 agreements for private schools and home education

43 students may not contain specified payment provisions;

44 providing an effective date.

45

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

47

48 Section 1. Paragraph (a) of subsection (1) and subsection

49 (3) of section 1002.41, Florida Statutes, are amended, and

50 subsections (11) through (13) are added to that section, to

51 read:

52 1002.41 Home education programs.—

53 (1) A "home education program" is defined in s. 1002.01.

54 The parent is not required to hold a valid regular Florida
55 teaching certificate.

56 (a)1. The parent shall notify the district school
57 superintendent of the county in which the parent resides of her
58 or his intent to establish and maintain a home education
59 program. The notice shall be in writing, signed by the parent,
60 and shall include the full legal names, addresses, and
61 birthdates of all children who shall be enrolled as students in
62 the home education program. The notice constitutes prima facie
63 evidence of the validity of each student's information provided
64 in the written notice. The notice shall be filed in the district
65 school superintendent's office within 30 days of the
66 establishment of the home education program.

67 2. The district school superintendent shall accept the
68 notice provided in subparagraph 1. and immediately register the
69 home education program upon receipt of the notice. The
70 registration of a home education program is a ministerial act by
71 the school district and may not require the parent to provide
72 additional information or verification unless the student
73 chooses to participate in a school district program or service
74 or the school district receives evidence rebutting information
75 provided in the notice.

76 3. The parent shall file a written notice of termination
 77 of the home education program ~~shall be filed~~ in the district
 78 school superintendent's office within 30 days after said
 79 termination.

80 (3) A home education program is not a school district
 81 program and shall be excluded from meeting the requirements of a
 82 school day.

83 (11) A school district may provide access to career and
 84 technical courses and programs for a home education program
 85 student who enrolls in a public school solely for the career and
 86 technical courses or programs. The school district providing the
 87 career and technical courses and programs shall report each
 88 student as a full-time equivalent student in the class and in a
 89 manner prescribed by the Department of Education, and funding
 90 shall be provided through the Florida Education Finance Program
 91 pursuant to s. 1011.62.

92 (12) Industry certifications, national assessments, and
 93 statewide, standardized assessments offered by the school
 94 district shall be available to home education program students.
 95 Each school district shall notify home education program
 96 students of the available certifications and assessments; the
 97 date, time, and locations for the administration of each
 98 certification and assessment; and the deadline for notifying the
 99 school district of the student's intent to participate and the
 100 student's preferred location.

101 (13) A school district may not further regulate, exercise
 102 control over, or require documentation from parents of home
 103 education program students beyond the requirements of this
 104 section unless the regulation, control, or documentation is
 105 necessary for participation in a school district program.

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

108 1003.21 School attendance.—

109 (4) Before admitting a child to kindergarten, the
 110 principal shall require evidence that the child has attained the
 111 age at which he or she should be admitted in accordance with the
 112 provisions of subparagraph (1)(a)2. The district school
 113 superintendent may require evidence of the age of any child whom
 114 he or she believes to be within the limits of compulsory
 115 attendance as provided for by law; however, he or she may not
 116 require evidence from children meeting regular attendance
 117 requirements by attending a school or program listed in s.
 118 1003.01(13)(b)-(e). If the first prescribed evidence is not
 119 available, the next evidence obtainable in the order set forth
 120 below shall be accepted:

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

124 (b) A duly attested transcript of a certificate of baptism
 125 showing the date of birth and place of baptism of the child,

126 accompanied by an affidavit sworn to by the parent;

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

129 (d) A bona fide contemporary religious record of the
130 child's birth accompanied by an affidavit sworn to by the
131 parent;

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

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

137 (g) If none of these evidences can be produced, an
138 affidavit of age sworn to by the parent, accompanied by a
139 certificate of age signed by a public health officer or by a
140 public school physician, or, if these are not available in the
141 county, by a licensed practicing physician designated by the
142 district school board, which states that the health officer or
143 physician has examined the child and believes that the age as
144 stated in the affidavit is substantially correct. Children and
145 youths who are experiencing homelessness and children who are
146 known to the department, as defined in s. 39.0016, shall be
147 given temporary exemption from this section for 30 school days.

148 Section 3. Subsection (2) of section 1003.27, Florida
149 Statutes, is amended to read:

150 1003.27 Court procedure and penalties.—The court procedure

151 and penalties for the enforcement of the provisions of this
 152 part, relating to compulsory school attendance, shall be as
 153 follows:

154 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

155 (a) In each case of nonenrollment or of nonattendance upon
 156 the part of a student who is required to attend some school,
 157 when no valid reason for such nonenrollment or nonattendance is
 158 found, the district school superintendent shall institute a
 159 criminal prosecution against the student's parent. However,
 160 criminal prosecution may not be instituted against the student's
 161 parent until the school and school district have complied with
 162 s. 1003.26.

163 (b) Each public school principal or the principal's
 164 designee shall notify the district school board of each minor
 165 student under its jurisdiction who accumulates 15 unexcused
 166 absences in a period of 90 calendar days. ~~Each designee of the~~
 167 ~~governing body of each private school, and each parent whose~~
 168 ~~child is enrolled in a home education program, may provide the~~
 169 ~~Department of Highway Safety and Motor Vehicles with the legal~~
 170 ~~name, sex, date of birth, and social security number of each~~
 171 ~~minor student under his or her jurisdiction who fails to satisfy~~
 172 ~~relevant attendance requirements and who fails to otherwise~~
 173 ~~satisfy the requirements of s. 322.091.~~ The district school
 174 superintendent must provide the Department of Highway Safety and
 175 Motor Vehicles the legal name, sex, date of birth, and social

176 security number of each minor student who has been reported
 177 under this paragraph and who fails to otherwise satisfy the
 178 requirements of s. 322.091. The Department of Highway Safety and
 179 Motor Vehicles may not issue a driver license or learner's
 180 driver license to, and shall suspend any previously issued
 181 driver license or learner's driver license of, any such minor
 182 student, pursuant to the provisions of s. 322.091.

183 (c) Each designee of the governing body of each private
 184 school and each parent whose child is enrolled in a home
 185 education program may provide the Department of Highway Safety
 186 and Motor Vehicles with the legal name, sex, date of birth, and
 187 social security number of each minor student under his or her
 188 jurisdiction who fails to satisfy relevant attendance
 189 requirements and who fails to otherwise satisfy the requirements
 190 of s. 322.091. The Department of Highway Safety and Motor
 191 Vehicles may not issue a driver license or learner's driver
 192 license to, and shall suspend any previously issued driver
 193 license or learner's driver license of, any such minor student,
 194 pursuant to the provisions of s. 322.091.

195 Section 4. Subsections (2), (10), and (11), paragraph (b)
 196 of subsection (13), subsection (16), and paragraph (n) of
 197 subsection (21) of section 1007.271, Florida Statutes, are
 198 amended, to read:

199 1007.271 Dual enrollment programs.—

200 (2) For the purpose of this section, an eligible secondary

201 student is a student who is enrolled in any of grades 6 through
 202 12 in a Florida public school or in a Florida private school
 203 that is in compliance with s. 1002.42(2) and provides a
 204 secondary curriculum pursuant to s. 1003.4282. A student
 205 ~~Students~~ who is ~~are~~ eligible for dual enrollment pursuant to
 206 this section may enroll in dual enrollment courses conducted
 207 during school hours, after school hours, and during the summer
 208 term. However, if the student is projected to graduate from high
 209 school before the scheduled completion date of a postsecondary
 210 course, the student may not register for that course through
 211 dual enrollment. The student may apply to the postsecondary
 212 institution and pay the required registration, tuition, and fees
 213 if the student meets the postsecondary institution's admissions
 214 requirements under s. 1007.263. Instructional time for dual
 215 enrollment may vary from 900 hours; however, the full-time
 216 equivalent student membership value is ~~shall be~~ subject to ~~the~~
 217 ~~provisions in~~ s. 1011.61(4). A student enrolled as a dual
 218 enrollment student is exempt from the payment of registration,
 219 tuition, technology, and laboratory fees. Applied academics for
 220 adult education instruction, developmental education, and other
 221 forms of precollegiate instruction, as well as physical
 222 education courses that focus on the physical execution of a
 223 skill rather than the intellectual attributes of the activity,
 224 are ineligible for inclusion in the dual enrollment program.
 225 Recreation and leisure studies courses shall be evaluated

226 individually in the same manner as physical education courses
 227 for potential inclusion in the program.

228 (10) Early admission is a form of dual enrollment through
 229 which an eligible secondary student enrolls ~~students enroll~~ in a
 230 postsecondary institution on a full-time basis in courses that
 231 are creditable toward the high school diploma and the associate
 232 or baccalaureate degree. A student must enroll in a minimum of
 233 12 college credit hours per semester or the equivalent to
 234 participate in the early admission program; however, a student
 235 may not be required to enroll in more than 15 college credit
 236 hours per semester or the equivalent. A student ~~Students~~
 237 enrolled pursuant to this subsection is ~~are~~ exempt from the
 238 payment of registration, tuition, technology, and laboratory
 239 fees.

240 (11) Career early admission is a form of career dual
 241 enrollment through which an eligible secondary student enrolls
 242 ~~students enroll~~ full time in a career center or a Florida
 243 College System institution in postsecondary programs leading to
 244 industry certifications, as listed in the CAPE Postsecondary
 245 Industry Certification Funding List pursuant to s. 1008.44,
 246 which are creditable toward the high school diploma and the
 247 certificate or associate degree. Participation in the career
 248 early admission program is limited to students who have
 249 completed a minimum of 4 semesters of full-time secondary
 250 enrollment, including studies undertaken in ~~the ninth~~ grade 9. A

251 student ~~Students~~ enrolled pursuant to this section is ~~are~~ exempt
 252 from the payment of registration, tuition, technology, and
 253 laboratory fees.

254 (13)

255 (b) Each postsecondary institution eligible to participate
 256 in the dual enrollment program pursuant to s. 1011.62(1)(i) must
 257 enter into a home education articulation agreement with each
 258 home education student seeking enrollment in a dual enrollment
 259 course and the student's parent. By August 1 of each year, the
 260 eligible postsecondary institution shall complete and submit the
 261 home education articulation agreement to the Department of
 262 Education. The home education articulation agreement must
 263 include, at a minimum:

264 1. A delineation of courses and programs available to
 265 dually enrolled home education students. Courses and programs
 266 may be added, revised, or deleted at any time by the
 267 postsecondary institution. Any course or program limitations may
 268 not exceed the limitations for other dually enrolled students.

269 2. The initial and continued eligibility requirements for
 270 home education student participation, not to exceed those
 271 required of other dually enrolled students. A high school grade
 272 point average may not be required for home education students
 273 who meet the minimum score on a common placement test adopted by
 274 the State Board of Education which indicates that the student is
 275 ready for college-level coursework; however, home education

276 student eligibility requirements for continued enrollment in
 277 college credit dual enrollment courses must include the
 278 maintenance of the minimum postsecondary grade point average
 279 established by the postsecondary institution.

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

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

284 (16) Public school, private school, or home education
 285 program students who meet the eligibility requirements of this
 286 section and who choose to participate in dual enrollment
 287 programs are exempt from the payment of registration, tuition,
 288 technology, and laboratory fees.

289 (21) Each district school superintendent and each public
 290 postsecondary institution president shall develop a
 291 comprehensive dual enrollment articulation agreement for the
 292 respective school district and postsecondary institution. The
 293 superintendent and president shall establish an articulation
 294 committee for the purpose of developing the agreement. Each
 295 state university president may designate a university
 296 representative to participate in the development of a dual
 297 enrollment articulation agreement. A dual enrollment
 298 articulation agreement shall be completed and submitted annually
 299 by the postsecondary institution to the Department of Education
 300 on or before August 1. The agreement must include, but is not

301 limited to:

302 (n) A funding provision that delineates costs incurred by
 303 each entity.

304 1. School districts shall pay public postsecondary
 305 institutions the standard tuition rate per credit hour from
 306 funds provided in the Florida Education Finance Program when
 307 dual enrollment course instruction takes place on the
 308 postsecondary institution's campus and the course is taken
 309 during the fall or spring term. When dual enrollment is provided
 310 on the high school site by postsecondary institution faculty,
 311 the school district shall reimburse the costs associated with
 312 the postsecondary institution's proportion of salary and
 313 benefits to provide the instruction. When dual enrollment course
 314 instruction is provided on the high school site by school
 315 district faculty, the school district is not responsible for
 316 payment to the postsecondary institution. A postsecondary
 317 institution may enter into an agreement with the school district
 318 to authorize teachers to teach dual enrollment courses at the
 319 high school site or the postsecondary institution. A school
 320 district may not deny a student access to dual enrollment unless
 321 the student is ineligible to participate in the program subject
 322 to provisions specifically outlined in this section.

323 2. Subject to annual appropriation in the General
 324 Appropriations Act, a public postsecondary institution shall
 325 receive an amount of funding equivalent to the standard tuition

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326 rate per credit hour for each dual enrollment course taken by a
 327 student during the summer term.

328 3. The payment provisions of this paragraph do not apply
 329 to an articulation agreement with a private school or a home
 330 education student.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 6037 Blind Services Direct-support Organization

SPONSOR(S): Fischer

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1458

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	11 Y, 0 N	McAlarney	Bishop
2) Higher Education Appropriations Subcommittee	12 Y, 0 N	deNagy	Lloyd
3) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

Direct-support organizations (DSO) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO is prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support. In 2014, the Legislature passed a bill that required DSOs statutory authority to be repealed.

The Blind Services Foundation of Florida, Inc. (Blind Services) DSO is a not-for-profit corporation created by the Florida Legislature in 2004. Its purpose is to raise funds to support services provided to Floridians who are blind. This DSO receives 20% of the funds raised through the sale of motor cycle license plates.

The statutory authority for the Blind Services DSO is scheduled for repeal on October 1, 2017 unless reviewed and saved from repeal by the Legislature. If the Blind Services DSO is repealed, all properties would revert to the Division of Blind Services.

This bill amends s. 413.0111, F.S., saving from repeal the Blind Services DSO.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Direct-Support Organizations

Direct-support organizations (DSO) are statutorily created entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a DSO is prescribed by its enacting statute and also, for most, by a written contract with the agency the DSO was created to support.

Prior to 2014, there was no formal review process in law to determine whether a DSO was established pursuant to such authorization, or whether the rationale for the authorization remained applicable.

Chapter 2014-96, Laws of Florida¹ established reporting and transparency requirements for each DSO that is created or authorized pursuant to law or executive order and created, approved or administered by a state agency. The DSO must report information related to its organization, mission, and finances to the agency it was created to support by August 1 of each year.² Specifically, a DSO must provide:³

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the DSO;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

Each agency receiving the above information from a DSO must make the information available to the public through the agency's website. If the DSO maintains a website, the agency's website must provide a link to the DSO's website.⁴ Additionally, any contract between an agency and a DSO must be contingent upon the DSO's submission and posting of this information.⁵ If a DSO fails to submit the required information for two consecutive years, the agency is required to terminate the contract between the agency and the DSO.⁶

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by the DSO. The report must also include a recommendation by the agency, with supporting rationale, to continue, terminate, or modify the agency's association with each organization.⁷

¹ Section 20.058, F.S.

² Section 20.058(1), F.S.

³ Section 20.058(1)(a)-(f), F.S.

⁴ Section 20.058(2), F.S.

⁵ Section 20.058(4), F.S.

⁶ *Id.*

⁷ Section 20.058(3), F.S.

Lastly, a law creating, or authorizing the creation of, a DSO must state that the creation of or authorization for the DSO is repealed on October 1 of the 5th year after enactment, unless reviewed and saved from repeal through reenactment by the Legislature. DSOs in existence on July 1, 2014, must be reviewed by the Legislature by July 1, 2019.

DSO Audit Requirements

DSOs with annual expenditures in excess of \$100,000 that are administered by a state agency are statutorily-required to provide for an annual financial audit of accounts and records to be conducted by an independent certified public accountant. Such audit report is submitted by the DSO within nine months after the end of the fiscal year to the Auditor General and to the state agency responsible for its creation, administration, or approval.⁸

Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of the DSO's accounts and records.⁹ The Auditor General is authorized to require and receive any records from the DSO, or from its independent auditor.¹⁰

DSO Ethics Code Requirements

Section 112.3251, F.S., requires a DSO created or authorized pursuant to law to adopt its own ethics code. The ethics code must contain the specified standards of conduct and disclosures provided in s. 112.313, F.S. and s. 112.3143(2), F.S. A DSO may adopt additional or more stringent standards of conduct and disclosure requirements and must conspicuously post its code of ethics on its website.¹¹

Blind Services Foundation of Florida, Inc. (Blind Services)

The Blind Services DSO was created by the Florida Legislature in 2004 as a DSO of the Florida Division of Blind Services (division).¹² Their statutory goal is to support programs of the division and raise funds to support services for the benefit of Floridians who are blind and or visually impaired.¹³ Specifically, this DSO is operated to benefit blind Floridians by:

- Conducting programs and activities;
- Initiating developmental projects;
- Raising funds;
- Requesting and receive grants, gifts, and bequests of moneys;
- Acquiring and administering securities, funds, objects of value, or other property, real or personal; and
- Making expenditures.¹⁴

The purposes and objectives of the Blind Services DSO must be consistent with the priority issues and objectives of the Department of Education (DOE) and be in the best interests of the state. The division may permit the use of state property and facilities by this DSO so long as it is directly used in keeping with the DSO's approved purposes.¹⁵

⁸ Section 215.981, F.S.

⁹ Section 11.45(3), F.S.

¹⁰ Section 11.45(3) (d), F.S.

¹¹ Section 112.3251, F.S.

¹² Section 413.0111 (2) (a), F.S.

¹³ Section 413.0111, F.S.

¹⁴ Section 413.0111 (1), F.S.

¹⁵ Section 413.0111 (3), F.S.

The division director may designate employees of the division to solicit donations from public or private sources to help with funding.¹⁶ Funds must be used for the enhancement of division programs and projects. All funds received and expended by the DSO must be deposited into a bank account held outside of the State Treasury¹⁷ and the funds must be used in a manner consistent with their purposes and goals.¹⁸ Also, administrative costs for running and promoting the Blind Services DSO must be paid by private funds.¹⁹ The annual audit requirements of s. 215.981 apply to the Blind Services DSO.²⁰

In addition to state, private, and corporate funding, the Blind Services DSO funding comes from motor cycle specialty license plates. The Department of Transportation (DOT) issues a specialty license plate to the owner or lessee of any motorcycle upon request and payment of the appropriate license taxes and fees.²¹ DOT collects an annual license plate use fee of \$20. The Florida Endowment for Vocational Rehabilitation (ABLE Trust) is currently receiving more than 30% of these funds.

The annual fees are distributed to the ABLE Trust as custodial agent. The ABLE Trust may retain a maximum of 10% of the proceeds from the sale of the license plate for administrative costs.²² The ABLE Trust must distribute the remaining funds in the following manner:

1. 20% to the ABLE Trust. These funds are restricted to the support of the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistant program pursuant to s. 413.402.²³
2. 20% to the Brain and Spinal Cord Injury Program Trust Fund.²⁴
3. 20% to Prevent Blindness Florida.²⁵
4. 20% to the Blind Services Foundation of Florida.²⁶
5. 20% to the Florida Association of Centers for Independent Living.²⁷

If the Blind Services DSO is repealed, all properties revert to the Division of Blind Services (division).²⁸ Approximately \$128,000 would revert to the division.

This section of law is repealed on October 1, 2017, unless reviewed and saved from repeal by the Legislature.²⁹

The DSO has met the following statutory requirements:

- 1. The DSO is required to incorporate as a Not-for-Profit Corporation. (s. 413.0111, F.S.; ch. 617)**

The DSO is listed as an active Florida Not-for-Profit Corporation with the Florida Division of Corporations. All annual reports have been filed going back to the DSO's December 10, 2004 founding. A copy of all annual reports and the Articles of Incorporation are available online.³⁰

¹⁶ Section 413.0111 (6), F.S.

¹⁷ Section 413.0111 (2) (f), F.S.

¹⁸ Section 413.0111 (4), F.S.

¹⁹ Section 413.0111 (2) (g), F.S.

²⁰ Section 413.0111 (5), F.S.

²¹ Section 320.08068 (2), F.S.

²² Section 320.08068 (4), F.S.

²³ Section 320.08068 (4) (d), F.S.

²⁴ Section 320.08068 (4) (a), F.S.

²⁵ Section 320.08068 (4) (b), F.S.

²⁶ Section 320.08068 (4) (c), F.S.

²⁷ Section 320.08068 (4) (e), F.S.

²⁸ Section 413.0111 (2) (e), F.S.

²⁹ Section 413.0111 (7), F.S.

³⁰ Florida Division of Corporations, Search Records, *Detail by Entity Name*,

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=BLINDSERVICESFOUNDATIONFLORIDA%20N040000115650&aggregateId=domnp-n04000011565-09515b1c-51b5-4a50-90bd->

2. **For each year the DSO's expenditures exceed \$100,000, it must provide for an annual financial audit and submit the audit to the Auditor General within nine months after the end of the fiscal year. (s. 215.981, F.S.)**

The DSO's annual expenditures do not exceed \$100,000. Therefore, the DSO is not required to have an annual audit and is in compliance.

3. **The DSO is required to form a board of directors. (s. 413.0111 (2) (b) – (c), F.S.)**

The DSO has formed a board. The current board includes leaders in the blind and visually impaired community who serve as non-paid volunteers.³¹ Currently, the board is self-appointed and operates according to their established bylaws.³² The board meets three times per year and has committee meetings. These meetings are conducted via teleconference.³³ All board meetings must adhere to Florida's Sunshine Law requirements required under s. 24, Art. I of the State Constitution, ch. 119, and s. 286.011, F.S.³⁴ The meetings are open to the public, advertised on their web site, and in the Florida Administrative Weekly.³⁵

4. **The DSO is required to maintain donations and direct service expenditures in a bank account outside of the State Treasury. (s. 413.0111 (f), F.S.)**

The DSO has bank accounts outside of the State Treasury.³⁶

5. **The purposes and objectives of the DSO must be consistent with the priority issues and objectives of the Department of Education and must be in the best interests of the state. (s. 413.0111 (3), F.S.)**

The DSO's purposes and objectives are consistent with assisting Floridians who are blind and visually impaired. They maintain their mission and are focused on strategies closely aligned with the priorities of the Department of Education and Division of Blind Services.

6. **Funds designated for the DSO must be used for the enhancement of programs and projects of the Division of Blind Services (s. 413.0111(4), F.S.)**

The DSO appears to be using the funds for assisting Floridians who are blind and visually impaired.

Effect of Proposed Changes

This bill eliminates s. 413.0111(7), F.S., which sunsets the Blind Services DSO unless it is reviewed and saved from repeal by the Legislature. This enables the DSO to remain in existence, thereby allowing it to continue providing assistance and services to blind and visually impaired Floridians.

[6fc643e18a95&searchTerm=blind%20Services%20foundation&listNameOrder=BLINDSERVICESFOUNDATIONFLORIDA%20N040000115650](http://www.blindservicesfoundation.org/WelcomePage.html) (last visited Mar. 28, 2017).

³¹ Blind Services Foundation of Florida, Inc., *Welcome Page*, <http://www.blindservicesfoundation.org/WelcomePage.html> (last visited Mar. 28, 2017)

³² Section 413.0111 (2) (b), F.S.

³³ *Id.*

³⁴ Section 413.0111 (2) (d), F.S.

³⁵ Blind Services Foundation of Florida, Inc., *Welcome Page*, <http://www.blindservicesfoundation.org/WelcomePage.html> (last visited Mar. 28, 2017)

³⁶ Email from Tanya Cooper, Director of Governmental Relations, Florida Department of Education, Florida Division of Blind Services, RE: DBS DSO Information, regarding the Blind Services Foundation of Florida, Inc. maintaining bank accounts outside of the State Treasury (Mar. 15, 2017).

STORAGE NAME: h6037e.EDC.DOCX

DATE: 3/28/2017

B. SECTION DIRECTORY:

Section 1. Amends s. 413.0111, F.S., saving from repeal the Blind Services Foundation of Florida, Inc. direct-support organization. The DSO is scheduled for repeal on October 1, 2017 unless saved from repeal by the Legislature.

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:

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

Not applicable.

1 A bill to be entitled
2 An act relating to the blind services direct-support
3 organization; amending s. 413.0111, F.S.; removing the
4 future repeal of provisions relating to the blind
5 services direct-support organization; providing an
6 effective date.

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

9
10 Section 1. Subsection (7) of section 413.0111, Florida
11 Statutes, is amended to read:



12 413.0111 Blind services direct-support organization.—

13 ~~(7) This section is repealed October 1, 2017, unless~~
14 ~~reviewed and saved from repeal by the Legislature.~~

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDC 17-03 School Improvement
SPONSOR(S): Education Committee
TIED BILLS: None **IDEN./SIM. BILLS:** None

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

SUMMARY ANALYSIS

The bill streamlines early warning system requirements and alleviates school improvement planning requirements by requiring a school improvement plan only for schools with a grade of "D" or "F." The bill also streamlines the school improvement process by:

- requiring the same level of intensive interventions and support strategies for "D" and "F" schools;
- requiring the school district to provide the SBE a district-managed turnaround plan by September 1 after a school earns a "D" or "F;"
- requiring the selection of another turnaround option after the school receives a third consecutive grade below a "C" unless the school is deemed likely to improve to a "C" and receives an additional year; and
- requiring another turnaround option be implemented after 2 years implementing the first plan unless the school is deemed likely to improve to a "C."

The bill provides that an educational emergency exists in a school district when a school earns a "D" or "F" and requires the district to execute a memorandum of understanding with the collective bargaining agent concerning the selection, placement, and expectations of instructional personnel and school administrators at the school. The memorandum must also be submitted to the SBE by September 1 after a school earns a "D" or "F."

The bill authorizes the establishment of "schools of success" and designation of "success operators" to provide students in areas of persistently low-performing schools with a high-quality education option designed to close the opportunity gap and increase student achievement. The bill:

- defines persistently low-performing schools as those subject to differentiated accountability for more than three years or closed as a result of school improvement requirements;
- authorizes the State Board of Education (SBE) to identify and designate success operators who meet specified criteria;
- removes barriers to success operators by creating a new notice and agreement process that is exempt from the current charter law and state procurement laws. The process:
 - allows a success operator to submit a notice of intent to establish a school of success in a school district with one or more persistently low-performing schools;
 - requires the school district to enter into a performance based agreement with the success operator which must include specified provisions;
- provides a school of success with specific exemptions from current law;
- provides provisions for facilities and funding for schools of success;
- establishes a grant program to cover specified operational expenses; and
- establishes the Schools of Success Revolving Loan Program to help schools of success cover school building construction and startup costs.

The bill takes effect July 1, 2017, except as otherwise provided.

The bill conforms to the proposed House General Appropriations Act.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

“Differentiated accountability” (DA) references the escalating interventions and supports that must be provided to schools receiving school grades of “D” or “F” under Florida’s statewide accountability system in order to help them improve student performance.¹ Of Florida’s approximately 3,500 public schools, 461 (13 percent) are currently subject to DA requirements.² As of the 2015-2016 school year, 115 schools have been in DA status, meaning they have earned a “D” or “F” for more than 3 consecutive years.³

2015-2016 Schools in DA for More than 3 Years					
# of Years in DA	# Schools	Avg % Scoring Lvl 3+ ELA assessment	Avg % Scoring Lvl 3+ Math assessment	Avg % Making ELA Learning Gains	Avg % Making Math Learning Gains
4	54	33.9%	33.3%	39.2%	40.8%
5+	61	24.7%	28.6%	39.1%	37.6%
Total	115	29.30%	30.95%	39.15%	39.20%

Although progressively intensive interventions and supports are provided by school districts and the Florida Department of Education (DOE) under the law, many schools fail to make sufficient improvement to demonstrate that their students are being adequately served. This highlights lax provisions in the law which allow school districts to maintain operation of low-performing schools, even for up to 10 years.⁴

The Florida Constitution provides that “[t]he state board of education shall be a body corporate and have such supervision of the system of free public education as is provided by law,” while local school boards have the power to “operate, control and supervise all free public schools within the school district.” Courts have held that this supervisory authority allows the SBE to approve or deny a charter application because the school board has control over the contractual process. “This broader supervisory authority may at times infringe on a school board’s local powers, but such infringement is expressly contemplated – and in fact encouraged by the very nature of the supervision – by the Florida Constitution.”⁵

In *Citizens for Strong Schools v. Florida State Board of Education et al.*,⁶ the trial court stated that “[t]here can be little doubt that allowing a school to remain in F status for an extended period of time raises serious issues regarding the constitutional acceptance of such an event. While the Department of Education’s hands may be tied by the legislation that it is required to follow, the Legislature is not similarly situated.” While “the State cannot be held liable for ineffective operational, control, and supervisory decisions at the local level, the court would be concerned about how long the Legislature would tolerate a local school board’s ineffectual operation that involves the presence of long term “F” schools.”⁷

¹ See s. 1008.33, F.S.; rule 6A-1.099811, F.A.C.

² Florida Department of Education, *Turning Around Low Performing Schools: hearing before the House PreK-12 Quality Subcommittee* (Jan. 25, 2017).

³ Email, Florida Department of Education, Office of Government Relations (Mar. 22, 2017).

⁴ Northwestern Middle School has received a “D” or “F” for the last 10 school years. *See id.*

⁵ *Sch. Bd. of Palm Beach Cnty. v. Fla. Charter Educ. Found., Inc.*, 42 Fla. L. Weekly D 189 (Fla. 4th DCA 2017).

⁶ Case No. 16-2862, (Fla. 1st DCA 2016).

⁷ *Citizens for Strong Schools v. Fla. St. Bd. of Ed. et al.*, Case No. 16-2862, (Fla. 1st DCA 2016).

Differentiated Accountability

Present Situation

The SBE is responsible for holding all school districts and public schools accountable for student performance⁸ through a state system of school improvement and education accountability that assesses student performance by school, identifies schools that are not meeting accountability standards, and institutes appropriate measures for enforcing improvement.⁹

The state system of school improvement and education accountability must:

- provide for uniform accountability standards;
- provide assistance of escalating intensity to schools not meeting accountability standards;
- direct support to schools in order to improve and sustain performance;
- focus on the performance of student subgroups; and
- enhance student performance¹⁰

School districts must be held accountable for improving the academic performance of all students and for identifying and improving schools that fail to meet accountability standards.¹¹

The academic performance of all students has a significant effect on the state school system. The SBE must equitably enforce the accountability requirements of the state school system and may impose state requirements on school districts in order to improve the academic performance of all districts, schools, and students.¹²

The DOE must annually identify each public school in need of intervention and support to improve student academic performance. All schools earning a grade of “D” or “F” are schools in need of intervention and support.¹³

The SBE must adopt a differentiated matrix of intervention and support strategies for assisting public schools identified as in need of intervention. The intervention and support strategies must address student performance and may include improvement planning, leadership quality improvement, educator quality improvement, professional development, curriculum alignment and pacing, and the use of continuous improvement and monitoring plans and processes. In addition, the SBE may prescribe reporting requirements to review and monitor the progress of the schools. The rule must define the intervention and support strategies for school improvement for schools earning a grade of “D” or “F” and the roles for the district and department. The rule shall differentiate among schools earning consecutive grades of “D” or “F,” or a combination thereof, and provide for more intense monitoring, intervention, and support strategies for these schools.¹⁴

The SBE must apply the most intense intervention and support strategies to schools earning an “F.” Within a year after receiving the first “F,” the school district must implement a differentiated matrix of intervention and support strategies, select a turnaround option, and submit a plan for implementing the turnaround option to the DOE. The plan must be approved by the SBE. Upon approval, the turnaround option must be implemented in the following school year.¹⁵ A school that earns a grade of “D” for 3 consecutive years must implement the district-managed turnaround option.¹⁶

⁸ Sections 1008.33(1) and (2)(a), 1008.34 and 1008.345, F.S.

⁹ Section 1008.33(2)(a), F.S.

¹⁰ Section 1008.33(2)(b), F.S.

¹¹ Section 1008.33(2)(c), F.S.

¹² Section 1008.33(3)(a), F.S., Art. IX, Fla. Const.

¹³ Sections 1008.33(3)(b) and 1008.34, F.S.

¹⁴ Sections 1008.33(3)(c) and 1002.33(9)(n), F.S.

¹⁵ Section 1008.33(4)(a), F.S.

¹⁶ Section 1008.33(5), F.S.

Turnaround options include:

- converting the school to a district-managed turnaround school;
- reassigning students to another school and monitor the progress of each reassigned student;
- closing the school and reopening the school as one or more charter schools, each with a governing board that has a demonstrated record of effectiveness;
- contracting with an outside entity that has a demonstrated record of effectiveness to operate the school; or
- implementing a hybrid of the above turnaround options or other turnaround models that have a demonstrated record of effectiveness.¹⁷

A school earning a grade of “F” or 3 consecutive grades of “D” must have a planning year followed by 2 full school years to implement the initial turnaround. Implementation of the turnaround option is no longer required if the school improves by at least one letter grade during the planning year.¹⁸

A school earning a grade of “F” or 3 consecutive grades of “D” that improves its letter grade must continue to implement strategies identified in its school improvement plan pursuant to s. 1001.42(18)(a). The department must annually review implementation of the school improvement plan for 3 years to monitor the school’s continued improvement. The department must annually review implementation of the school improvement plan for 3 years to monitor the school’s continued improvement.¹⁹

If a school with an “F” or 3 consecutive grades of “D” does not improve by at least one letter grade after 2 full years of implementing the turnaround option, the school district must select a different option and submit another implementation plan to the department for state board approval. Implementation of the new plan must begin the school year following the implementation period of the existing turnaround option, unless the SBE determines that the school is likely to improve a letter grade if additional time is provided to implement the existing turnaround option.²⁰

Effect of Proposed Changes

The bill requires the SBE to apply the intensive intervention and support strategies to schools earning a grade of “D” along with schools earning a grade of “F.” The bill requires such schools to immediately implement a differentiated matrix of intervention and support strategies and, by September 1, provide the DOE with a district managed turnaround plan and the memorandum of understanding it must execute as a result of an educational emergency. An educational emergency exists if a school district has one or more “D” or “F” schools and requires district school boards to negotiate to free “D” and “F” schools from restrictions that limit their ability to implement programs and strategies to improve student performance. The negotiations must result in a memorandum of understanding that addresses the selection, placement and expectations of instructional personnel and school administrators.

Upon approval by the SBE, the school district must implement the plan for the remainder of the year and continue implementation for the next full school year. The SBE may allow an additional year of implementation if the SBE determines the school is likely to improve to a “C” or higher after the first full school year of implementation. If the school’s grade does not improve to a “C” or higher after the additional year (its fourth consecutive grade below a “C”), or after the first full year of implementation if an additional year is not granted, the school must:

- reassign students to another school and monitor the progress of each student;

¹⁷ Section 1008.33(4)(b), F.S.

¹⁸ Section 1008.33(4)(c), F.S. *But see* 6A-1.099811(9)(a), F.A.C. (providing that a school district may discontinue implementing a turnaround plan only if it earns a school grade of “C” or higher).

¹⁹ Section 1001.42(18)(a) and 1008.33(4)(d), F.S.

²⁰ Section 1008.33(4)(e), F.S.

- close the school and reopen as one or more charter schools with a governing board that has a demonstrated record of effectiveness; or
- contract with an outside entity that has a demonstrated record of effectiveness to operate the school.

If a school does not improve to a “C” or higher after 2 full years of implementing the turnaround option, it must implement another turnaround option beginning with the next school year unless the SBE determines that the school is likely to improve to a “C” or higher if additional time is provided to implement the existing turnaround option.

The bill provides for earlier implementation of a community assessment team by requiring a team to be assigned to each school district or governing board with a school earning a “D,” whereas current law provides for assignment only when a school earns a grade of “F” or three consecutive grades of “D.” The bill requires the team to make recommendations based on effective intervention and support strategies identified by the commissioner²¹ for incorporation into the school’s improvement plan.

School Improvement Planning

Present Situation

With the exception of charter schools graded “A,” “B” or “C,”²² all Florida public schools must have a school improvement plan that is developed and implemented by the school’s advisory council.²³ If a school has a significant gap in achievement on statewide, standardized assessments²⁴ by one or more student subgroups;²⁵ has not significantly increased the percentage of students passing statewide, standardized assessments;²⁶ has not significantly increased the percentage of students demonstrating learning gains as determined using the school grade calculation²⁷ who passed statewide, standardized assessments; or has significantly lower graduation rates for a subgroup when compared to the state’s graduation rate,²⁸ the school’s improvement plan must include strategies for improving those results.²⁹

For non-charter schools earning a “D” or “F” in the most recent grades release and schools that improved from an “F” to a “C” or higher within the last three years, development and implementation of the plan is based on a form developed by the DOE.³⁰ In such cases, the plan must be submitted through the Continuous Improvement Management System (CIMS).³¹ The DOE reviews, approves, and

²¹ The Commissioner of Education is required to report intervention and support strategies used by school districts whose students in both the highest and lowest quartiles exceed the statewide learning growth for students in those quartiles. *See* s. 1008.345(5)(b), F.S.

²² Section 1002.33(9)(n)²²

²³ Sections 1001.42(18)(a) and 1001.452(2), F.S. SACs are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S.

²⁴ Statewide, standardized assessments include statewide, standardized assessments for English language arts (grades 3-10) and mathematics (grades 3-8); end-of-course assessments for Algebra I, Algebra II, Geometry, Biology I, Civics, and U.S. History; the Statewide Science Assessment (grades 5 and 8), and their associated alternate assessments for students with significant cognitive disabilities. *See* s. 1008.22(3), F.S.

²⁵ Subgroups include economically disadvantaged students, students from major racial/ethnic groups, students with disabilities, and students with limited English proficiency. 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

²⁶ A Level 3, Level 4, or Level 5 constitutes a passing score on statewide, standardized assessments. Section 1008.34(1)(a), F.S.

²⁷ *See* s. 1008.34(3)(b), F.S.

²⁸ Section 1008.34(3)(b)2.a., F.S.

²⁹ Section 1001.42(18)(a)1., F.S.

³⁰ *See* Florida Department of Education, *Form DA-2 Checklist for Focus and Priority Schools* (Dec. 2014), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-04620> (incorporated by reference in rule 6A-1.099811, F.A.C.).

³¹ CIMS is a web application developed by the DOE’s Bureau of School Improvement to provide district and school teams with an online platform for collaborative planning and problem solving as well as a public site for stakeholders to access approved plans. Florida Department of Education, Bureau of School Improvement, *Welcome to CIMS*, <https://www.floridacims.org/> (last visited Aug. 17, 2016).

also monitors implementation of the plan.³² Schools that receive a “D” three years in a row or that receive an “F” are assigned a community assessment team, which reviews the school’s performance data to determine causes for the low performance, including the role of school, area, and district administrative personnel.³³

Effect of Proposed Changes

To reduce paperwork and time associated with school improvement planning, the bill eliminates the requirement that schools with a grade above a “D” develop and implement a school improvement plan, except for schools that must implement strategies to address a deficiency enumerated above.

Charter School Requirements

Present Situation

Charter schools that earn a grade of “D” or “F” must develop a school improvement plan, which must be approved by the sponsor.³⁴ Corrective actions are required for charter schools earning three consecutive grades of “D,” two consecutive grades of “D” followed by a grade of “F,” or two nonconsecutive grades of “F” within a three-year period. Such a charter school may choose to:

- contract for educational services to be provided directly to students, instructional personnel, and school administrators;
- contract with an outside entity with a track record of effectiveness to operate the school;
- hire a new director or principal who has authority to hire new staff; or
- voluntarily close the school.³⁵

The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of “D,” a grade of “F” following two consecutive grades of “D,” or a second nonconsecutive grade of “F” within a 3-year period.³⁶ Corrective actions are no longer required if the charter school improves by at least one letter grade; however, the school must continue to implement its school improvement plan.³⁷ If a charter school does not improve by at least one letter grade after two full school years of implementing a corrective action, the school must choose another action.³⁸

A charter school’s contract is automatically terminated if the school earns two consecutive grades of “F,” unless the charter school qualifies for an exception.³⁹ A sponsor may terminate, at any time, a charter school that is required to implement a school improvement plan or corrective actions; however, this discretionary authority does not extend to charter schools that meet an exception to mandatory termination.⁴⁰

³² Florida Department of Education, Bureau of School Improvement, *Frequently Asked Questions: SIP*, <https://www.floridacims.org/faqs?category=sip> (last visited Sept. 8, 2016).

³³ Section 1008.345(6)(d), F.S.

³⁴ Section 1002.33(9)(n)1., F.S.

³⁵ Section 1002.33(9)(n)2.a., F.S.

³⁶ Section 1002.33(9)(n)2.b., F.S.

³⁷ Section 1002.33(9)(n)2.d., F.S.

³⁸ Section 1002.33(9)(n)2.c. and e., F.S. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action. The sponsor may waive corrective actions if it determines that the charter school is likely to improve its grade if additional time is given to implement the school improvement plan. The sponsor may also extend the implementation period for a corrective action based upon a similar standard. The sponsor may not waive or extend corrective actions if the charter school earns a second consecutive grade of “F” while in corrective action. *Id.* Unless an exception applies, such a charter school must be terminated by the sponsor. Section 1002.33(9)(n) 4, F.S.

³⁹ Section 1002.33(9)(n)4., F.S.

⁴⁰ Section 1002.33(9)(n)6., F.S.

The director and a representative of a charter school that is required to implement a school improvement plan or corrective action must annually appear before the sponsor to report the progress of the corrective strategies being implemented by the school.⁴¹

Effect of Proposed Changes

The bill requires corrective actions be taken by a charter school if the school earns three consecutive grades below a "C" and requires the corrective action be implemented in the school year following the third consecutive "C." The bill provides that corrective actions are no longer required if the charter school grade improves to a "C" or higher. The bill permits an exception to a "double 'F'" termination for a charter school that serves a majority of students who are zoned for a "D" or "F" school.

Schools of Success

Schools of Success Program

Effect of Proposed Changes

The bill provides for the establishment of Schools of Success to provide students in areas of persistently low-performing schools with a unique, high-quality education option designed to close the opportunity gap and increase student achievement.

The bill defines a School of Success as a charter school operated by a success operator to serve students from one or more persistently low-performing schools and is located within the attendance zone of the persistently low-performing school or within a five mile radius of the school, whichever is greater. The bill defines success operators as nonprofit organizations that operate three or more charter schools with a record of serving students from low-income families and receives the designation from the SBE. In determining success operator status, the SBE must determine whether the past performance of the operator meets or exceeds the following criteria:

- Student achievement results which must exceed the district and state averages in the state in which the school operates.
- College attendance rates at all schools currently operated by the entity which must exceed 80 percent.
- The percent of students enrolled at all schools currently operated by the entity eligible for a free or reduced price lunch which must exceed 70 percent.
- The operator is in good standing with the authorizer in each state in which it operates.
- The audited financial statements of the operator are free of material exceptions and going concern issues.
- Other outcome measures determined by the SBE.

A success operator may also qualify if the operator:

- was awarded a U.S. Department of Education Charter School Program Grant for Replication and Expansion of High-Quality Charter Schools within the past 3 years;
- receives funds through the National Fund or Regional Fund of the Charter School Growth Funds; or
- is selected by a district school board as part of the turnaround process requirements under the bill.

Once measurable criteria is established, any operator seeking status as a success operator must meet those qualifications, unless an operator is selected by a district as a turnaround option. Any operator seeking success operator status must meet those qualifications, unless the operator is selected. The bill authorizes initial success operator status to be valid for up to 5 years. If a success operator seeks

renewal of its status, renewal is solely based on the academic and financial performance of all schools established in Florida by the success operator since its initial designation.

The bill authorizes a success operator to submit a notice of intent to open a school of success in the school district where a persistently low-performing school has been identified.

The bill requires the notice of intent to include:

- an academic focus and plan;
- a financial plan;
- the goals and objectives for increasing student achievement for student from low-income families;
- a completed or planned community outreach plan;
- the organizational history of success in working with student with similar demographics;
- the grade levels to be served and enrollment projections;
- the proposed location proposed for the school and its proximity to the persistently low-performing school; and
- a staffing plan.

The school district must enter into a performance based agreement with a success operator. The performance based agreement must:

- incorporate the notice of intent;
- identify the location proposed for the school and its proximity to the persistently low-performing school.
- enumerate the grades to be served each year of the agreement and whether the school will serve children in school readiness or prekindergarten;
- describe the plan of action and specific milestones for student recruitment and enrollment of students from persistently low-performing schools, including enrollment preferences and procedures for conducting transparent admissions lotteries. Students from persistently low-performing schools are exempt from any enrollment lottery to the extent permitted by federal grant requirement;
- establish the current incoming baseline standard of student academic achievement, the outcomes to be achieved and the method of measurement that will be used;
- describe the methods of involving parents and expected levels for the involvement;
- describe the grounds for termination, including failure to meet the requirements for student performance, generally accepted standards of fiscal management or material violation of the terms of the agreement. The nonrenewal or termination of a performance based agreement must comply with the requirements of s. 1002.33(8);
- allow the success operator to open additional schools to serve students zoned for a persistently low-performing school;
- provide for an initial term of at least five years. The agreement must be renewed, unless the school fails to meet the requirements for student performance, the generally accepted standards of fiscal management or the school materially violates the law or terms of the agreement;
- require transportation of students to conform to statutory guidelines. The governing body of the school may provide transportation through an agreement with the district school board, a private provider or parents. Transportation cannot be a barrier to equal access for student residing in a reasonable distance of school;
- require that any agreement to borrow or secure funds from a source other than the state or school district must indemnify the state and school district from any and all liability;
- provide that any financial agreement entered into by the success operator is not an obligation of the state or school district and is payable only from funds pledged by such agreement; and
- prohibit the pledge of credit or taxing power of the state or school district.

The bill requires a school district that fails to enter into a performance based agreement within 60 days to reduce the charter school administrative fee to one percent for all charter schools operating in the

district. Upon successful execution of the performance based agreement, the district may resume withholding the full administrative fee but may not recover previous lost fees. The bill allows an aggrieved charter school to recover attorney's fees and costs in actions to recover withheld administrative fees.

The bill requires that disputes between success operators and school district regarding performance based agreements be submitted to a magistrate that is agreed to by both parties. If the parties are unable to agree, the dispute will be submitted to a qualified magistrate appointed by the Commissioner of Education. The bill requires the magistrate to hold hearings and make recommendations to the SBE, which may not alter the statutory provisions of performance agreements. The final decision of the SBE may be appealed to the First District Court of Appeals. The bill permits the success operator to recover attorney's fees and cost if the SBE determines the district acted unlawfully with regard to the performance agreement.

The bill requires the SBE to:

- publish an annual list of persistently low-performing schools;
- adopt a standard notice of intent and performance based agreement to be used by success operators and school boards;
- resolve disputes between a success operator and a school district arising from a performance-based agreement or a contract, including the appointment of a special magistrate to hold hearings and render decisions regarding disputes; and
- provide students in persistently low-performing schools with a public school that meets accountability standards.

As discussed above, the bill addresses the conditions that allow a school to persistently fail to meet the needs of its students, while recognizing a school district's authority to operate, control, and supervise schools within the district, by requiring a school district with a "D" or "F" to enter into a performance based agreement with a success operator who has submitted a notice of intent. However, the SBE, in the exercise of its supervisory authority, may contract with a success operator if the school district fails to do so. Unlike *Duval County School Board*,⁴² the bill authorizes the SBE to exercise its supervisory authority only when a school district fails to fulfill its constitutional duty. If the SBE enters into a performance based agreement with a success operator, the district must transfer to the school of success the proportionate share of state funds allocated from the FEFP.

The bill provides success operators with the following statutory authority:

- allows a school of success to be designated as a local educational agency for the purposes of receiving federal funds;
- provides that, for the purpose of tort liability, the operator, school of success and its employees or agent are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions. The sponsor is not liable for civil damages under state law for the employment actions or personal injury, property damage or death resulting from an act or omission of an operator, the school of success and its employees or agents;
- allows a school of success to be either a private or public employer;
- allows a success operator to employ staff that do not meet the educator certification requirements, so long as the school disqualifies staff from employment in any position that requires direct contact with students if the staff member is statutorily disqualified for such employment; and
- allows calculation for class size compliance to be the average at the school level.

⁴² In *Duval County School Board v. State Board of Education*, 998 So. 2d 641 (Fla. 1st DCA 2008), several school districts challenged s. 1002.335 F.S., which created an independent state-level entity that could directly authorize the creation of charter schools. School districts could retain exclusive authority to sponsor charter schools if approved by the state board. The court found that the law was facially unconstitutional because it created a parallel system of free public education outside the control of locally elected school boards.

The bill provides that schools of success are exempt from chapters 1000-1013 of the Florida Statutes and all board polices, except statutes pertaining to:

- the student assessment program and school grading;
- student progression and graduation;
- services to students with disabilities
- civil rights and discrimination;
- student health, safety and welfare;
- public meetings and records public inspection and criminal and civil penalties;
- public records; and
- code of ethics for public officers and employees.

The bill provides that a school of success must utilize facilities which comply with the Florida Building Code except for the State Requirements for Educational Facilities. Schools of success that utilize school district facilities must comply with the State Requirements for Educational Facilities only if the school district and success operator have entered into a mutual management plan for the reasonable maintenance of such facilities. The mutual management plan must have a provision requiring the district school board to maintain the school facilities in the same manner as its other public schools within the district.

The local governing authority cannot impose any local building requirements or site-development restrictions that are addressed by and more stringent than those found in the State Requirements for Educational Facilities of the Florida Building Code. The local governing authority must treat school of success equitably in comparison to similar requirements, restrictions, and site planning processes imposed upon public schools. The local municipality is the agency with jurisdiction for inspection of a facility and issuance of a certificate of occupancy or use. If in an unincorporated area, the authority is placed with the county governing authority. If an official or employee of the local governing authority refuses to comply with this paragraph, the aggrieved school has the right to bring an action in circuit court to enforce its rights by injunction.

The bill provides that facilities of a school of success are exempt from a number of taxes, fees and assessments. The bill also provides that a number of existing community and state facilities may provide space to schools of success.

The bill requires each district to annually provide a list of its underutilized, vacant or surplus property and facilities to the DOE. A success operator operating a school of success may utilize an underutilized, vacant, or surplus educational facility at no cost or at a mutually agreed cost not to exceed \$600 per student. The success operator cannot sell or dispose of the facility without written permission from the school district. An underutilized, vacant or surplus property is an entire, or portion of, a property that is not fully used (or used irregularly or intermittently) by the school district for instructional or program use.

Schools of Success Funding

The bill provides that a school of success is funded in the same manner as other charter schools and traditional schools. A school of success is considered a charter school for purposes of charter capital outlay, but may not use the funds to purchase real property or construct school facilities. In addition, the bill provides school of success with priority in the DOE's Public Charter School Grant Program competitions.

The bill creates a special category of grants and aids for school of success. Eligible expenditures from an appropriation in the special category may include:

- Preparing teachers, school leaders, and specialized instructional support personnel, including costs associated with:
 - providing professional development; and

- hiring and compensating teachers, school leaders, and specialized instructional support personnel for services beyond the school day and year.
- Acquiring supplies, training, equipment, and educational materials including developing and acquiring instructional materials.
- Providing one-time, startup costs associated with providing transportation to students to and from the charter school.
- Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.
- Providing funds to cover the nonvoted ad valorem millage that would otherwise be required for schools and the required local effort funds when the state board enters into an agreement with a success operator.

The bill provides that if a school of success is not renewed or is terminated, any unencumbered funds and all equipment and property purchased with the funds revert to ownership of the state. Such reversion must focus on tangible or irrecoverable costs, such as rental or leasing fees, normal maintenance, and limited renovations. The reversion of all property secured with grant funds is subject to the complete satisfaction of all lawful liens or encumbrances.

Funds from the special category which are not disbursed by June 30 of the fiscal year in which the funds are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

The bill establishes the Schools of Success Revolving Loan Program within the DOE. The purpose of the program is to provide assistance to charter schools to meet school building construction and to pay for expenses related to starting up a new charter school. The fund will comprise legislatively appropriated funding, repaid loan funding, and interest earned. The bill requires that all repayments of principal and interest be returned to the loan fund and made available for loans to other applicants.

The bill limits funds provided through the program to 25 percent of the total cost of the project. The total cost of the project must be calculated based on 80 percent of the cost per student station multiplied by the capacity of the facility. The interest rate on loans from the fund may be used to defray the costs of administration. The rate must be the lower of the rate paid on monies held in the fund or a rate equal to 50 percent of the statewide maximum bond interest rate authorized pursuant to state law.

A success operator that has been designated by the state board and has executed a performance based agreement shall receive a loan for projects that are located in the attendance area of a persistently low-performing school or within a five mile radius and primarily serve students from low-performing schools.

The bill allows the department to select a third-party administrator to administer the program and report annually to the department. However, the department must continue to administer the program until a third-party administrator is selected. The department must post on its website the projects that have received loans, the geographic distribution of the projects, the status of the projects, the costs of the program, and student outcomes.

Funds appropriated for the program which but are not disbursed by June 30 of the fiscal year in which they are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

Early Warning Systems

Present Situation

Currently, schools with a 6th, 7th or 8th grade class must implement an early warning system (EWS) to identify students who need additional support to improve academic performance. The EWS must include the following early warning indicators:

- Attendance below 90 percent.
- One or more suspensions.
- Course failure in English Language Arts or math.
- A Level 1 score on the statewide, standardized assessment in English Language Arts or math.
- Additional indicators deemed appropriate by the school district.

The schools' child study team or a school-based team must convene to determine appropriate intervention strategies when a student exhibits two or more early warning indicators. The school must provide 10 days' written notice of the meeting to the parent. The notice must include the meeting's purpose, time and location and provide the parent the opportunity to participate.⁴³

Schools with a 6th, 7th or 8th grade class must include data and information in its school improvement plan regarding the schools early warning system. The information must include:

- a list of the early warning indicators used;
- the number of students who have two or more early warning indicators;
- the number of students in each grade that exhibits each early warning indicator; and
- a description of all intervention strategies used to improve academic performance of students identified by the early warning system.

The school must also describe in its school improvement plan the strategies used by the school to implement the instructional practices for middle grades emphasized by the district's professional development system.⁴⁴

Effect of Proposed Changes

The bill expands the schools that must implement an EWS from schools with a 6th, 7th or 8th grade class to schools that serve any students in kindergarten through grade 8.

The bill clarifies that the EWS indicator that identifies a course failure in English Language Arts or math must be for any grading period and includes a substantial reading deficiency for a kindergarten through grade 3 student as an EWS indicator.

The bill requires a school-based team, rather than a "child study team," to be responsible for monitoring EWS data and to implement appropriate intervention strategies for a student who exhibits two or more early learning indicators unless the student is already being served by an intervention program. The team may include a school psychologist. Because not all schools are required to implement a school improvement plan, the bill eliminates the requirement that a school's improvement plan include middle grades EWS data and related information.⁴⁵

⁴³ Section 1001.42(18)(b), F.S.

⁴⁴ Section 1001.42(18)(a), F.S.

⁴⁵ Early warning system is already a component of the school improvement plan for schools with a grade of "D" or "F." See Florida Department of Education, *Form SIP-1, School Improvement Plan* (Dec. 2014), available at https://www.flrules.org/gateway/readRefFile.asp?refId=4622&filename=SIP-1_2014-15.pdf (incorporated by reference in rule 6A-1.099811, F.A.C.).

B. SECTION DIRECTORY:

Section 1. Amends s. 1001.42, F.S., relating to the powers and duties of the district school board.

Section 2. Amends s. 1008.33, F.S., relating to the authority to enforce public school improvement.

Section 3. Amends s. 1008.345, F.S., relating to the implementation of state system of school improvement and education accountability.

Section 4. Amends s. 1002.33, F.S., relating to charter schools.

Section 5. Creates s. 1002.333, F.S., relating to persistently low-performing schools.

Section 6. Creates s. 1001.291, F.S., establishing schools of success revolving loan program; providing criteria for administration of the program.

Section 7. Provides for the severability of the provisions of the bill.

Section 8. Provides an effective date of July 1, 2017, except as otherwise provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The proposed House General Appropriations Act provides \$200 million in recurring General Revenue funds to implement the provisions of this act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules regarding schools of success.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to school improvement; amending s.
 3 1001.42, F.S.; requiring only specified schools to
 4 submit a school improvement plan; revising criteria
 5 and implementation of the early warning system;
 6 redefining what constitutes an educational emergency
 7 situation and establishing duties of district school
 8 boards; amending s. 1008.33, F.S.; providing that
 9 intervention and support services apply consistently
 10 to any school meeting specified criteria; expediting
 11 implementation of a district managed turnaround plan;
 12 revising turnaround options available to a district
 13 entering its second or third turnaround phase;
 14 amending s. 1008.345, F.S.; requiring a community
 15 assessment team for specified schools; amending
 16 1002.33, F.S.; revising requirements for corrective
 17 action by charter schools that meet specified
 18 requirements; revising criteria for waiver of
 19 automatic charter termination; creating s. 1002.333,
 20 F.S.; providing definitions; providing eligibility
 21 criteria for success operators; authorizing success
 22 operators to establish schools of success in specified
 23 areas; outlining components of a performance based
 24 agreement; providing specific statutory exemptions for
 25 schools of success; providing requirements for

26 facilities used by schools of success; requiring
 27 districts to annually provide a list of underutilized,
 28 vacant or surplus property to the Department of
 29 Education; providing that schools of success shall be
 30 funded through the Florida Education Finance Program;
 31 establishing additional funding sources and guidelines
 32 for eligible expenditures; providing mechanism to
 33 address noncompliance; specifying enforcement
 34 authority for the State Board of Education; providing
 35 the state board with rulemaking authority; creating s.
 36 1001.291, F.S.; establishing schools of success
 37 revolving loan program; providing criteria for
 38 administration of the program; providing for
 39 severability; providing an effective date.

40
 41 Be It Enacted by the Legislature of the State of Florida:

42
 43 Section 1. Subsections (18) and (21) of section 1001.42,
 44 Florida Statutes, are amended to read:

45 1001.42 Powers and duties of district school board.—The
 46 district school board, acting as a board, shall exercise all
 47 powers and perform all duties listed below:

48 (18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—
 49 Maintain a system of school improvement and education
 50 accountability as provided by statute and State Board of

51 Education rule. This system of school improvement and education
 52 accountability shall be consistent with, and implemented
 53 through, the district's continuing system of planning and
 54 budgeting required by this section and ss. 1008.385, 1010.01,
 55 and 1011.01. This system of school improvement and education
 56 accountability shall comply with the provisions of ss. 1008.33,
 57 1008.34, 1008.345, and 1008.385 and include the following:

58 (a) School improvement plans.-

59 ~~1-~~ The district school board shall annually approve and
 60 require implementation of a new, amended, or continuation school
 61 improvement plan for each school in the district which has a
 62 school grade of "D" or "F;" . ~~If a school has a significant gap~~
 63 ~~in achievement on statewide, standardized assessments~~
 64 ~~administered pursuant to s. 1008.22 by one or more student~~
 65 ~~subgroups, as defined in the federal Elementary and Secondary~~
 66 ~~Education Act (ESEA), 20 U.S.C. s. 6311(b)(2)(C)(v)(II); has not~~
 67 ~~significantly increased the percentage of students passing~~
 68 ~~statewide, standardized assessments; has not significantly~~
 69 ~~increased the percentage of students demonstrating Learning~~
 70 ~~Gains, as defined in s. 1008.34 and as calculated under s.~~
 71 ~~1008.34(3)(b), who passed statewide, standardized assessments;~~
 72 ~~or has significantly lower graduation rates for a subgroup when~~
 73 ~~compared to the state's graduation rate, that school's~~
 74 ~~improvement plan shall include strategies for improving these~~
 75 ~~results. The state board shall adopt rules establishing~~

76 thresholds and for determining compliance with this
77 subparagraph.

78 ~~2. A school that includes any of grades 6, 7, or 8 shall~~
79 ~~include annually in its school improvement plan information and~~
80 ~~data on the school's early warning system required under~~
81 ~~paragraph (b), including a list of the early warning indicators~~
82 ~~used in the system, the number of students identified by the~~
83 ~~system as exhibiting two or more early warning indicators, the~~
84 ~~number of students by grade level that exhibit each early~~
85 ~~warning indicator, and a description of all intervention~~
86 ~~strategies employed by the school to improve the academic~~
87 ~~performance of students identified by the early warning system.~~
88 ~~In addition, a school that includes any of grades 6, 7, or 8~~
89 ~~shall describe in its school improvement plan the strategies~~
90 ~~used by the school to implement the instructional practices for~~
91 ~~middle grades emphasized by the district's professional~~
92 ~~development system pursuant to s. 1012.98(4)(b)9.~~

93 (b) Early warning system.—

94 1. A school that serves any students in kindergarten
95 through grade ~~includes any of grades 6, 7, or 8~~ shall implement
96 an early warning system to identify students in such grades ~~6,~~
97 ~~7,~~ and ~~8~~ who need additional support to improve academic
98 performance and stay engaged in school. The early warning system
99 must include the following early warning indicators:

100 a. Attendance below 90 percent, regardless of whether

- 101 absence is excused or a result of out-of-school suspension.
- 102 b. One or more suspensions, whether in school or out of
- 103 school.
- 104 c. Course failure in English Language Arts or mathematics
- 105 during any grading period.
- 106 d. A Level 1 score on the statewide, standardized
- 107 assessments in English Language Arts or mathematics or, for
- 108 students in kindergarten through grade 3, a substantial reading
- 109 deficiency as provided in s. 1008.25(5)(a).

110

111 A school district may identify additional early warning

112 indicators for use in a school's early warning system. The

113 system must also include data on the number of students

114 identified by the system as exhibiting two or more early warning

115 indicators, the number of students by grade level that exhibit

116 each early warning indicator, and a description of all

117 intervention strategies employed by the school to improve the

118 academic performance of students identified by the early warning

119 system.

120 2. A school-based team responsible for implementing the

121 requirements of this paragraph shall monitor the data from the

122 early warning system. The team may include a school

123 psychologist. When a student exhibits two or more early warning

124 indicators, the team, in consultation with the student's parent,

125 shall school's child study team under s. 1003.02 or a school-

126 ~~based team formed for the purpose of implementing the~~
 127 ~~requirements of this paragraph shall convene to determine~~
 128 ~~appropriate intervention strategies for the student unless the~~
 129 ~~student is already being served by an intervention program at~~
 130 ~~the direction of a school-based, multidisciplinary team. Data~~
 131 ~~and information relating to a student's early warning indicators~~
 132 ~~must be used to inform any intervention strategies provided to~~
 133 ~~the student The school shall provide at least 10 days' written~~
 134 ~~notice of the meeting to the student's parent, indicating the~~
 135 ~~meeting's purpose, time, and location, and provide the parent~~
 136 ~~the opportunity to participate.~~

137 (21) ~~AUTHORITY TO DECLARE AN~~ EDUCATIONAL EMERGENCY. ~~Shall~~
 138 ~~May declare an emergency in cases in which one or more schools~~
 139 ~~in the district are failing or are in danger of failing and~~
 140 ~~negotiate special provisions of its contract with the~~
 141 ~~appropriate bargaining units to free these schools with a school~~
 142 ~~grade of "D" or "F" from contract restrictions that limit the~~
 143 ~~school's ability to implement programs and strategies needed to~~
 144 ~~improve student performance. The negotiations shall result in a~~
 145 ~~memorandum of understanding that addresses the selection,~~
 146 ~~placement, and expectations of instructional personnel and~~
 147 ~~school administrators. For purposes of this subsection, an~~
 148 ~~educational emergency exists in a school district if one or more~~
 149 ~~schools in the district have a school grade of "D" or "F."~~

150

151 Section 2. Subsections (3), (4), and (5) of section
 152 1008.33, Florida Statutes, are amended to read:
 153 1008.33 Authority to enforce public school improvement.—
 154 (3)(a) The academic performance of all students has a
 155 significant effect on the state school system. Pursuant to Art.
 156 IX of the State Constitution, which prescribes the duty of the
 157 State Board of Education to supervise Florida's public school
 158 system, the state board shall equitably enforce the
 159 accountability requirements of the state school system and may
 160 impose state requirements on school districts in order to
 161 improve the academic performance of all districts, schools, and
 162 students based upon the provisions of the Florida K-20 Education
 163 Code, chapters 1000-1013; the federal ESEA and its implementing
 164 regulations; and the ESEA flexibility waiver approved for
 165 Florida by the United States Secretary of Education.
 166 (b) ~~Beginning with the 2011-2012 school year, the~~ The
 167 Department of Education shall annually identify each public
 168 school in need of intervention and support to improve student
 169 academic performance. All schools earning a grade of "D" or "F"
 170 pursuant to s. 1008.34 are schools in need of intervention and
 171 support.
 172 (c) The state board shall adopt by rule a differentiated
 173 matrix of intervention and support strategies for assisting
 174 traditional public schools identified under this section and
 175 rules for implementing s. 1002.33(9)(n), relating to charter

176 schools. The intervention and support strategies must address
 177 student performance and may include improvement planning,
 178 leadership quality improvement, educator quality improvement,
 179 professional development, curriculum alignment and pacing, and
 180 the use of continuous improvement and monitoring plans and
 181 processes. In addition, the state board may prescribe reporting
 182 requirements to review and monitor the progress of the schools.
 183 The rule must define the intervention and support strategies for
 184 school improvement for schools earning a grade of "D" or "F" and
 185 the roles for the district and department. ~~The rule shall~~
 186 ~~differentiate among schools earning consecutive grades of "D" or~~
 187 ~~"F," or a combination thereof, and provide for more intense~~
 188 ~~monitoring, intervention, and support strategies for these~~
 189 ~~schools.~~

190 (4) (a) The state board shall apply intensive ~~the most~~
 191 ~~intense~~ intervention and support strategies to schools earning a
 192 grade of "D" or "F." In the first full school year after a
 193 school initially earns a grade of "D" or "F," the school
 194 district must immediately implement intervention and support
 195 strategies prescribed in rule under paragraph (3) (c), ~~select a~~
 196 ~~turnaround option from those provided in subparagraphs (b)1.~~
 197 ~~45., and submit a plan for implementing the turnaround option to~~
 198 and, by September 1, provide the department with the memorandum
 199 of understanding negotiated in accordance with s. 1001.42(21)
 200 and a district managed turnaround plan for approval by the state

201 board. Upon approval by the state board, the school district
 202 must implement the plan for the remainder of the school year and
 203 continue for one full school year. The state board may allow a
 204 school an additional year of implementation before the school
 205 must implement a turnaround option required by paragraph (b) if
 206 it determines that the school is likely to improve to a "C" or
 207 higher after the first full school year of implementation. ~~For~~
 208 ~~approval by the state board. Upon approval by the state board,~~
 209 ~~the turnaround option must be implemented in the following~~
 210 ~~school year.~~

211 ~~(b) The turnaround options available to a school district~~
 212 ~~to address a~~ Unless an additional year of implementation is
 213 provided pursuant to paragraph (a), a school that earns a three
 214 consecutive grades below a "C" grade of "F" must implement one
 215 of the followingare:

216 ~~1. Convert the school to a district managed turnaround~~
 217 ~~school;~~

218 ~~2~~1. Reassign students to another school and monitor the
 219 progress of each reassigned student;

220 ~~3~~2. Close the school and reopen the school as one or more
 221 charter schools, each with a governing board that has a
 222 demonstrated record of effectiveness; or

223 ~~4~~3. Contract with an outside entity that has a
 224 demonstrated record of effectiveness to operate the school.
 225

226 ; ~~or~~

227 5. ~~Implement a hybrid of turnaround options set forth in~~
 228 ~~subparagraphs 1. 4. or other turnaround models that have a~~
 229 ~~demonstrated record of effectiveness.~~

230 (c) ~~A school earning a grade of "F" shall have a planning~~
 231 ~~year followed by 2 full school years to implement the initial~~
 232 ~~turnaround option selected by the school district and approved~~
 233 ~~by the state board. Implementation of the turnaround option is~~
 234 ~~no longer required if the school improves to a "C" or higher by~~
 235 ~~at least one letter grade.~~

236 (d) ~~A school earning a grade of "F" that improves its~~
 237 ~~letter grade must continue to implement strategies identified in~~
 238 ~~its school improvement plan pursuant to s. 1001.42(18)(a). The~~
 239 ~~department must annually review implementation of the school~~
 240 ~~improvement plan for 3 years to monitor the school's continued~~
 241 ~~improvement.~~

242 (e) If a school earning a grade of "D" or "F" does not
 243 improve by to a "C" or higher ~~at least one letter grade~~ after 2
 244 full school years of implementing the turnaround option selected
 245 by the school district under paragraph (b), the school district
 246 must ~~select a different option and~~ implement ~~submit~~ another
 247 turnaround option implementation plan ~~to the department for~~
 248 ~~approval by the state board. Implementation of the~~ turnaround
 249 option approved plan must begin the school year following the
 250 implementation period of the existing turnaround option, unless

251 the state board determines that the school is likely to improve
 252 to a "C" or higher ~~a letter grade~~ if additional time is provided
 253 to implement the existing turnaround option.

254
 255 ~~(5) A school that earns a grade of "D" for 3 consecutive~~
 256 ~~years must implement the district managed turnaround option~~
 257 ~~pursuant to subparagraph (4)(b)1. The school district must~~
 258 ~~submit an implementation plan to the department for approval by~~
 259 ~~the state board.~~

260 Section 3. Paragraph (d) of subsection (6) of section
 261 1008.345, Florida Statutes, is amended to read:

262 1008.345 Implementation of state system of school
 263 improvement and education accountability.—

264 (6)

265 (d) The commissioner shall assign a community assessment
 266 team to each school district or governing board with a school
 267 that earned a grade of "D" or "F" ~~or three consecutive grades of~~
 268 "D" pursuant to s. 1008.34 to review the school performance data
 269 and determine causes for the low performance, including the role
 270 of school, area, and district administrative personnel. The
 271 community assessment team shall review a high school's
 272 graduation rate calculated without high school equivalency
 273 diploma recipients for the past 3 years, disaggregated by
 274 student ethnicity. The team shall make recommendations to the
 275 school board or the governing board and to the State Board of

276 Education based on the interventions and support strategies
 277 identified pursuant to subsection (5) to ~~which~~ address the
 278 causes of the school's low performance and for incorporation and
 279 ~~may be incorporated~~ into the school improvement plan. The
 280 assessment team shall include, but not be limited to, a
 281 department representative, parents, business representatives,
 282 educators, representatives of local governments, and community
 283 activists, and shall represent the demographics of the community
 284 from which they are appointed.

285 Section 4. Paragraph (n) of subsection (9) of section
 286 1002.33, Florida Statutes, is amended to read:

287 1002.33 Charter schools.—

288 (9) CHARTER SCHOOL REQUIREMENTS.—

289 (n)1. The director and a representative of the governing
 290 board of a charter school that has earned a grade of "D" or "F"
 291 pursuant to s. 1008.34 shall appear before the sponsor to
 292 present information concerning each contract component having
 293 noted deficiencies. The director and a representative of the
 294 governing board shall submit to the sponsor for approval a
 295 school improvement plan to raise student performance. Upon
 296 approval by the sponsor, the charter school shall begin
 297 implementation of the school improvement plan. The department
 298 shall offer technical assistance and training to the charter
 299 school and its governing board and establish guidelines for
 300 developing, submitting, and approving such plans.

301 2.a. If a charter school earns three consecutive grades
 302 below a "C" of "D," ~~two consecutive grades of "D" followed by a~~
 303 ~~grade of "F," or two noneconsecutive grades of "F" within a 3-~~
 304 ~~year period,~~ the charter school governing board shall choose one
 305 of the following corrective actions:

306 (I) Contract for educational services to be provided
 307 directly to students, instructional personnel, and school
 308 administrators, as prescribed in state board rule;

309 (II) Contract with an outside entity that has a
 310 demonstrated record of effectiveness to operate the school;

311 (III) Reorganize the school under a new director or
 312 principal who is authorized to hire new staff; or

313 (IV) Voluntarily close the charter school.

314 b. The charter school must implement the corrective action
 315 in the school year following receipt of a third consecutive
 316 grade below a "C" of "D," ~~a grade of "F" following two~~
 317 ~~consecutive grades of "D," or a second noneconsecutive grade of~~
 318 ~~"F" within a 3-year period.~~

319 c. The sponsor may annually waive a corrective action if
 320 it determines that the charter school is likely to improve a
 321 letter grade if additional time is provided to implement the
 322 intervention and support strategies prescribed by the school
 323 improvement plan. Notwithstanding this sub-subparagraph, a
 324 charter school that earns a second consecutive grade of "F" is
 325 subject to subparagraph 3.4-

326 d. A charter school is no longer required to implement a
 327 corrective action if it improves to a "C" or higher ~~by at least~~
 328 ~~one letter grade~~. However, the charter school must continue to
 329 implement strategies identified in the school improvement plan.
 330 The sponsor must annually review implementation of the school
 331 improvement plan to monitor the school's continued improvement
 332 pursuant to subparagraph 5.

333 e. A charter school implementing a corrective action that
 334 does not improve to a "C" or higher ~~by at least one letter grade~~
 335 after 2 full school years of implementing the corrective action
 336 must select a different corrective action. Implementation of the
 337 new corrective action must begin in the school year following
 338 the implementation period of the existing corrective action,
 339 unless the sponsor determines that the charter school is likely
 340 to improve to a "C" or higher ~~a letter grade~~ if additional time
 341 is provided to implement the existing corrective action.
 342 Notwithstanding this sub-subparagraph, a charter school that
 343 earns a second consecutive grade of "F" while implementing a
 344 corrective action is subject to subparagraph 3. 4.

345 3. ~~A charter school with a grade of "D" or "F" that~~
 346 ~~improves by at least one letter grade must continue to implement~~
 347 ~~the strategies identified in the school improvement plan. The~~
 348 ~~sponsor must annually review implementation of the school~~
 349 ~~improvement plan to monitor the school's continued improvement~~
 350 ~~pursuant to subparagraph 5.~~

351 4. A charter school's charter contract is automatically
 352 terminated if the school earns two consecutive grades of "F"
 353 after all school grade appeals are final unless:

354 a. The charter school is established to turn around the
 355 performance of a district public school pursuant to s.
 356 1008.33(4)(b)3. Such charter schools shall be governed by s.
 357 1008.33;

358 b. The charter school serves a student population the
 359 majority of which resides in a school zone served by a district
 360 public school subject to s. 1008.33(4) ~~that earned a grade of~~
 361 ~~"F" in the year before the charter school opened~~ and the charter
 362 school earns at least a grade of "D" in its third year of
 363 operation. The exception provided under this sub-subparagraph
 364 does not apply to a charter school in its fourth year of
 365 operation and thereafter; or

366 c. The state board grants the charter school a waiver of
 367 termination. The charter school must request the waiver within
 368 15 days after the department's official release of school
 369 grades. The state board may waive termination if the charter
 370 school demonstrates that the Learning Gains of its students on
 371 statewide assessments are comparable to or better than the
 372 Learning Gains of similarly situated students enrolled in nearby
 373 district public schools. The waiver is valid for 1 year and may
 374 only be granted once. Charter schools that have been in
 375 operation for more than 5 years are not eligible for a waiver

376 under this sub-subparagraph.

377

378 The sponsor shall notify the charter school's governing board,
 379 the charter school principal, and the department in writing when
 380 a charter contract is terminated under this subparagraph. The
 381 letter of termination must meet the requirements of paragraph
 382 (8)(c). A charter terminated under this subparagraph must follow
 383 the procedures for dissolution and reversion of public funds
 384 pursuant to paragraphs (8)(e)-(g) and (9)(o).

385 5. The director and a representative of the governing
 386 board of a graded charter school that has implemented a school
 387 improvement plan under this paragraph shall appear before the
 388 sponsor at least once a year to present information regarding
 389 the progress of intervention and support strategies implemented
 390 by the school pursuant to the school improvement plan and
 391 corrective actions, if applicable. The sponsor shall communicate
 392 at the meeting, and in writing to the director, the services
 393 provided to the school to help the school address its
 394 deficiencies.

395 6. Notwithstanding any provision of this paragraph except
 396 sub-subparagraphs 4.a.-c., the sponsor may terminate the charter
 397 at any time pursuant to subsection (8).

398 Section 5. Effective upon becoming law, Section 1002.333,
 399 Florida Statutes, is created to read:

400 1002.333 - PERSISTENTLY LOW-PERFORMING SCHOOLS

401 (1) DEFINITIONS - As used in this section, the term:
 402 (a) "success operator" means an entity identified by the
 403 department pursuant to subsection (2).
 404 (b) "School of Success" means a charter school operated by
 405 a success operator to serve students from one or more
 406 persistently low-performing schools and that is located in the
 407 attendance zone of a persistently low-performing school or
 408 within a five mile radius of such school, whichever is greater.
 409 (c) "Persistently low-performing school" means a school
 410 that has been subject to a differentiated matrix of intervention
 411 and support strategies for more than three years and schools
 412 that were closed pursuant to s. 1008.33(4) within two years of
 413 submission of a notice of intent.
 414 (2) SUCCESS OPERATOR - A success operator is a nonprofit
 415 organization with tax exempt status under s. 501(c)(3) of the
 416 Internal Revenue Code that operates 3 or more charter schools
 417 serving students in K-12 in Florida or other states with a
 418 record of serving students from low-income families and is
 419 designated by the State Board of Education as a success operator
 420 based on a determination that:
 421 (a) The past performance of the operator meets or exceeds
 422 the following criteria:
 423 1. The student achievement exceeds the district and state
 424 averages in the states in which the schools operate;
 425 2. The average college attendance rate at all schools

426 currently operated by the entity exceeds eighty percent, if
 427 available;

428 3. The percentage of students enrolled at all schools
 429 currently operated by the entity eligible for a free or reduced
 430 price lunch under the Richard B. Russell National School Lunch
 431 Act exceeds seventy percent;

432 4. The operator is in good standing with the authorizer
 433 in each state in which it operates;

434 5. The audited financial statements of the operator are
 435 free of material exceptions and "going concern" issues; and

436 6. Other outcome measures as determined by the state
 437 board;

438 (b) The operator was awarded a United States Department of
 439 Education Charter School Program grant for Replication and
 440 Expansion of High-Quality Charter Schools, within the preceding
 441 three years before applying to be a Success Operator; or

442 (c) The operator receives funding through the National
 443 Fund or Regional Fund of the Charter School Growth Fund to
 444 accelerate the growth of the nation's best charter schools.

445 (d) The operator was selected by a district school board in
 446 accordance with s. 1008.33.

447
 448 An entity that meets the requirements of paragraph (b) or (c)
 449 prior to the adoption of measurable criteria pursuant to
 450 paragraph (a) shall be designated as a success operator.

451 (3) Initial status as a success operator is valid for 5
 452 years from the opening of a school of success. If a success
 453 operator seeks renewal of its status, such renewal shall solely
 454 be based upon the academic and financial performance of all
 455 Florida schools established by the operator since its initial
 456 designation.

457 (4) ESTABLISHMENT OF SCHOOLS OF SUCCESS - A success
 458 operator may submit a notice of intent to open a school of
 459 success with the school district in which a persistently low-
 460 performing school has been identified by the state board
 461 pursuant to subsection (10).

462 (a) The notice of intent must include:

- 463 1. Academic focus and plan;
- 464 2. Financial plan;
- 465 3. Goals and objectives for increasing student achievement
 466 for the students from low-income families;
- 467 4. A completed or planned community outreach plan;
- 468 5. Organizational history of success in working with
 469 students with similar demographics;
- 470 6. Grade levels to be served and enrollment projections;
- 471 7. Proposed location or geographic area proposed for the
 472 school and its proximity to the persistently low-performing
 473 school; and
- 474 8. Staffing plan.

475 (b) Notwithstanding the requirements of s. 1002.33, a

476 school district shall enter into a performance based agreement
 477 with a success operator to open schools to serve students from
 478 persistently low-performing schools.

479 (5) PERFORMANCE BASED AGREEMENT - The following components
 480 comprise the entirety of the performance based agreement:

481 (a) The Notice of Intent which is incorporated by
 482 reference and attached to the agreement.

483 (b) The location or geographic area proposed for the
 484 schools of success and their proximity to the persistently low-
 485 performing school.

486 (c) An enumeration of the grades to be served in each year
 487 of the agreement and whether the school will serve children in
 488 school readiness or prekindergarten.

489 (d) A plan of actions and specific milestones for student
 490 recruitment and enrollment of students from persistently low-
 491 performing schools; the plan of actions includes enrollment
 492 preferences and procedures for conducting transparent admissions
 493 lotteries that are open to the public. Students from
 494 persistently low-performing schools shall be exempt from any
 495 enrollment lottery to the extent permitted by federal grant
 496 requirements.

497 (e) A delineation of the current incoming baseline
 498 standard of student academic achievement, the outcomes to be
 499 achieved, and the method of measurement that will be used.

500 (f) A description of the methods of involving parents and

501 expected levels for such involvement.

502 (g) The grounds for termination, including failure to meet
 503 the requirements for student performance established pursuant to
 504 paragraph (e), generally accepted standards of fiscal
 505 management, or material violation of terms of the agreement. The
 506 nonrenewal or termination of a performance based agreement must
 507 comply with the requirements of s. 1002.33(8).

508 (h) A provision allowing the success operator to open
 509 additional schools to serve students in or zoned for a
 510 persistently low-performing school if the success operator
 511 maintains its status in accordance with s. 1002.333(3).

512 (i) A provision establishing the initial term as five
 513 years. The agreement shall be renewed, upon the request of the
 514 success operator, unless the school fails to meet the
 515 requirements for student performance established pursuant to
 516 paragraph (e) or generally accepted standards of fiscal
 517 management, or the school of success materially violates the law
 518 or the terms of the agreement.

519 (j) A requirement to provide transportation consistent
 520 with the requirements of subpart I.E. of chapter 1006 and s.
 521 1012.45. The governing body of the school of success may provide
 522 transportation through an agreement or contract with the
 523 district school board, a private provider, or parents.
 524 Transportation shall not be a barrier to equal access for all
 525 students residing within reasonable distance of the school.

526 (k) A requirement that any arrangement entered into to
 527 borrow or otherwise secure funds for the school of success from
 528 a source other than the state or a school district shall
 529 indemnify the state and the school district from any and all
 530 liability, including, but not limited to, financial
 531 responsibility for the payment of the principal or interest.

532 (l) A provision that any loans, bonds, or other financial
 533 agreements are not obligations of the state or the school
 534 district but are obligations of the school of success and are
 535 payable solely from the sources of funds pledged by such
 536 agreement.

537 (m) A prohibition on the pledge of credit or taxing power
 538 of the state or the school district.

539 (6) STATUTORY AUTHORITY OF SCHOOLS OF SUCCESS-

540 (a) A school of success may be designated as a local
 541 educational agency, if requested, for the purposes of receiving
 542 federal funds and, in doing so, accept the full responsibility
 543 for all local education agency requirements and the schools for
 544 which it will perform local education agency responsibilities.
 545 Students enrolled in a school established by a success operator
 546 designated as a local educational agency are not eligible
 547 students for purposes of calculating the district grade pursuant
 548 to s. 1008.34(5).

549 (b) For the purposes of tort liability, the success
 550 operator, the school of success, and its employees or agents

551 shall be governed by s. 768.28. The sponsor shall not be liable
 552 for civil damages under state law for the employment actions, or
 553 personal injury, property damage, or death resulting from an act
 554 or omission of an operator, the school of success, and its
 555 employees or agents.

556 (c) A school of success may be either a private or a public
 557 employer. As a public employer, the school of success may
 558 participate in the Florida Retirement System upon application
 559 and approval as a "covered group" under s. 121.021(34). If a
 560 school of success participates in the Florida Retirement System,
 561 the school of success employees shall be compulsory members of
 562 the Florida Retirement System.

563 (d) A success operator may employ school administrators and
 564 instructional personnel who do not meet the requirements of
 565 1012.56, so long as the instructional personnel and school
 566 administrators are eligible for such employment under s.
 567 1012.315.

568 (e) Compliance with s. 1003.03 shall be calculated as the
 569 average at the school level.

570 (f) Schools of success operated by a success operator shall
 571 be exempt from all statutes in chapters 1000-1013 and all school
 572 board policies. However, a success operator shall be in
 573 compliance with the following statutes in chapters 1000-1013:

574 1. Those statutes pertaining to the student assessment
 575 program and school grading system.

576 2. Those statutes pertaining to student progression and
 577 graduation.

578 3. Those statutes pertaining to the provision of services
 579 to students with disabilities.

580 4. Those statutes pertaining to civil rights, including s.
 581 1000.05, relating to discrimination.

582 5. Those statutes pertaining to student health, safety,
 583 and welfare.

584 6. Those statutes relating to public meetings and
 585 records, public inspection, and criminal and civil penalties
 586 pursuant to s. 286.011. The governing board of a school of
 587 success must hold at least two public meetings per school year
 588 in the school district where the school of success is located.
 589 Any other meetings of the governing board may be held in
 590 accordance with s. 120.54(2)(b)2.

591 7. Those statutes relating to public records pursuant to
 592 chapter 119.

593 8. Those statutes pertaining to the code of ethics for
 594 public officers and employees pursuant to ss. 112.313(2), (3),
 595 (7), and (12) and 112.3143(3).

596 (7) FACILITIES. -

597 (a) A school of success shall utilize facilities which
 598 comply with the Florida Building Code pursuant to chapter 553
 599 except for the State Requirements for Educational Facilities.
 600 Schools of success that utilize school district facilities must

601 comply with the State Requirements for Educational Facilities
 602 only if the school district and the success operator have
 603 entered into a mutual management plan for the reasonable
 604 maintenance of such facilities. The mutual management plan shall
 605 contain a provision by which the district school board agrees to
 606 maintain the school facilities in the same manner as its other
 607 public schools within the district. The local governing
 608 authority shall not adopt or impose any local building
 609 requirements or site-development restrictions, such as parking
 610 and site-size criteria, that are addressed by and more stringent
 611 than those found in the State Requirements for Educational
 612 Facilities of the Florida Building Code. A local governing
 613 authority must treat schools of success equitably in comparison
 614 to similar requirements, restrictions, and site planning
 615 processes imposed upon public schools. The agency having
 616 jurisdiction for inspection of a facility and issuance of a
 617 certificate of occupancy or use shall be the local municipality
 618 or, if in an unincorporated area, the county governing
 619 authority. If an official or employee of the local governing
 620 authority refuses to comply with this paragraph, the aggrieved
 621 school or entity has an immediate right to bring an action in
 622 circuit court to enforce its rights by injunction. An aggrieved
 623 party that receives injunctive relief may be awarded reasonable
 624 attorney fees and court costs.

625 (b) Any facility, or portion thereof, used to house a

626 school of success shall be exempt from ad valorem taxes pursuant
 627 to s. 196.1983. Library, community service, museum, performing
 628 arts, theatre, cinema, church, Florida College System
 629 institution, college, and university facilities may provide
 630 space to schools of success within their facilities under their
 631 preexisting zoning and land use designations without obtaining a
 632 special exception, rezoning, land use charter, or other
 633 approval.

634 (c) School of success facilities are exempt from
 635 assessments of fees for building permits, except as provided in
 636 s. 553.80; fees for building and occupational licenses; impact
 637 fees or exactions; service availability fees; and assessments
 638 for special benefits.

639 (d) No later than October 1, each school district shall
 640 annually provide to the Department of Education a list of all
 641 underutilized facilities owned or operated by the school
 642 district and all underutilized, vacant, or surplus properties
 643 owned or operated by the school district. A success operator
 644 establishing a school of success may utilize an educational
 645 facility identified in this paragraph, at no cost or at a
 646 mutually agreeable cost not to exceed six hundred dollars per
 647 student. A success operator receiving property pursuant to this
 648 paragraph may not sell or dispose of such property without
 649 written permission of the school district.

650 (e) "Underutilized, vacant, or surplus property" is

651 defined as entire property or portion thereof, with or without
 652 improvements, which is not fully used or is used irregularly or
 653 intermittently by the school district for instructional or
 654 program use.

655 (8) NONCOMPLIANCE. - A school district that does not enter
 656 into a performance based agreement within 60 days of receipt of
 657 a notice of intent shall reduce the administrative fees withheld
 658 pursuant to s. 1002.33(20) to one percent for all charter
 659 schools operating in the school district. Upon execution of the
 660 performance based agreement, the school district may resume
 661 withholding the full amount of administrative fees, but may not
 662 recover any fees that would have otherwise accrued during the
 663 period of noncompliance. Any charter school that had
 664 administrative fees withheld in violation of this subsection may
 665 recover attorneys' fees and costs to enforce the requirements of
 666 this subsection. A school district subject to the requirements
 667 of this section shall file monthly report detailing the
 668 reduction in the amount of administrative fees withheld.

669 (9) FUNDING.

670 (a) Schools of success shall be funded in accordance with
 671 s. 1002.33(17).

672 (b) Schools of success shall receive priority in the
 673 department's Public Charter School Grant Program competitions.

674 (c) Schools of success shall be considered a charter school
 675 for purposes of 1013.62, except charter capital outlay may not

676 be used to purchase real property or for construction of school
 677 facilities.

678 (d) Schools of success shall receive funds from the
 679 "Special Categories: Grants and Aids - Schools of Success" which
 680 is hereby created in addition to the categories enumerated in s.
 681 216.011(1)(c). Eligible expenditures from an appropriation in
 682 the "Special Categories: Grants and Aids - Schools of Success"
 683 shall include:

684 1. Preparing teachers, school leaders, and specialized
 685 instructional support personnel, including costs associated
 686 with:

687 a. Providing professional development; and
 688 b. Hiring and compensating teachers, school leaders, and
 689 specialized instructional support personnel for services beyond
 690 the school day and year.

691 2. Acquiring supplies, training, equipment, and educational
 692 materials including developing and acquiring instructional
 693 materials.

694 3. Providing one-time, startup costs associated with
 695 providing transportation to students to and from the charter
 696 school.

697 4. Carrying out community engagement activities, which may
 698 include paying the cost of student and staff recruitment.

699 5. Providing funds to cover the nonvoted ad valorem millage
 700 that would otherwise be required for schools and the required

701 local effort funds calculated pursuant to s. 1011.62 when the
 702 state board enters into an agreement with a success operator
 703 pursuant to subsection (9).

704 (d) If a school of success is not renewed or is terminated,
 705 any unencumbered funds and all equipment and property purchased
 706 with the funds shall revert to the ownership of the state. The
 707 reversion of such equipment, property, and furnishings shall
 708 focus on tangible or irrecoverable costs such as rental or
 709 leasing fees, normal maintenance, and limited renovations. The
 710 reversion of all property secured with grant funds is subject to
 711 the complete satisfaction of all lawful liens or encumbrances.

712 (e) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 713 the balance of any appropriation from the Grants and Aids,
 714 Schools of Success Funding appropriation category which is not
 715 disbursed by June 30 of the fiscal year in which the funds are
 716 appropriated may be carried forward for up to 5 years after the
 717 effective date of the original appropriation.

718 (10) STATE BOARD OF EDUCATION AUTHORITY AND OBLIGATIONS. -
 719 Pursuant to Art. IX of the State Constitution, which prescribes
 720 the duty of the State Board of Education to supervise Florida's
 721 public school system, the state board shall:

722 (a) Publish an annual list of persistently low-performing
 723 schools after the release of preliminary school grades.

724 (b) Adopt a standard notice of intent and performance based
 725 agreement that must be used by success operators and school

726 boards to eliminate regulatory and bureaucratic barriers that
 727 delay access to high quality schools for students in
 728 persistently low-performing schools.

729 (c) Resolve disputes between a success operator and a
 730 school district arising from a performance based agreement or a
 731 contract between a charter operator and a school district under
 732 the requirements of 1008.33. The Commissioner of Education shall
 733 appoint a special magistrate who is a member of the Florida Bar
 734 in good standing and who has no less than 5 years' experience in
 735 administrative law. The special magistrate shall hold hearings
 736 to determine facts relating to the dispute and to render a
 737 recommended decision for resolution to the State Board of
 738 Education. The recommendation may not alter in any way the
 739 provisions of the performance agreement as provided in s.
 740 1002.333(5). The special magistrate may administer oaths and
 741 issue subpoenas on behalf of the parties to the dispute or on
 742 his or her own behalf. Within 15 calendar days after the close
 743 of the final hearing, the special magistrate shall transmit a
 744 recommended decision to the State Board of Education and to the
 745 representatives of both parties by registered mail, return
 746 receipt requested. The State Board of Education must approve or
 747 reject the recommended decision at its next regularly scheduled
 748 meeting that is more than 7 calendar days and no more than 30
 749 days after the date the recommended decision is transmitted. The
 750 decision by the State Board of Education is a final agency

751 action which may be appealed to the District Court of Appeal,
 752 First District in accordance with s. 120.68. A charter school
 753 may recover attorney's fees and costs if the State Board of
 754 Education determines that the school district unlawfully
 755 implemented or otherwise impeded implementation of the
 756 performance agreement pursuant to this paragraph.

757 (d) Provide students in persistently low-performing schools
 758 with a public school that meets accountability standards. The
 759 state board may enter into a performance based agreement with a
 760 success operator when a school district has not improved the
 761 school through the interventions and support provided by s.
 762 1008.33 or complied with the requirements of subsection (4).
 763 Upon the state board's execution of the performance based
 764 agreement with a success operator, the school district shall
 765 transfer to the school of success the proportionate share of
 766 state funds allocated from the Florida Education Finance
 767 Program.

768 (11) RULES. - The state board shall adopt rules pursuant
 769 to ss. 120.536(1) and 120.54 to implement this section.

770 Section 6. Section 1001.292, Florida Statutes, is created
 771 to read:

772 1001.292 .-SCHOOLS OF SUCCESS REVOLVING LOAN PROGRAM. -

773 (1) The Schools of Success Revolving Loan Program is
 774 established within the department to provide assistance to
 775 success operators to meet school building construction needs and

776 pay for expenses related to the startup of a new charter school.
 777 The program shall consist of money appropriated by the
 778 Legislature, money received from the repayment of loans made
 779 from the program, and interest earned.

780 (2) Funds provided pursuant to this section may not exceed
 781 twenty-five percent of the total cost of the project which shall
 782 be calculated based on eighty percent of the cost per student
 783 station established by s. 1013.64(6)(b) multiplied by the
 784 capacity of the facility.

785 (3) The department may contract with a third-party
 786 administrator to administer the program. If the department
 787 contracts with a third-party administrator, funds shall be
 788 granted to the third-party administrator to create a revolving
 789 loan fund for the purpose of financing projects that meet the
 790 requirements of subsection (4). The third-party administrator
 791 shall report to the department annually. The department shall
 792 continue to administer the program until the third-party
 793 administrator is selected.

794 (4) Success operators that have been designated by the
 795 state board and have executed a performance based agreement
 796 pursuant to s. 1002.333 shall receive a loan up to the amount
 797 provided in subsection (2) for projects that:

798 1. Are located in the attendance area of a persistently
 799 low-performing school or within a five mile radius of such
 800 school; and

801 2. Primarily serve students from the persistently low-
 802 performing school.

803 (5) The department shall post on its website the projects
 804 that have received loans, the geographic distribution of the
 805 projects, the status of the projects, the costs of the program,
 806 and student outcomes.

807 (6) All repayments of principal and interest shall be
 808 returned to the loan fund and made available for loans to other
 809 applicants.

810 (7) Interest on loans provided under this program may be
 811 used to defray the costs of administration and shall be the
 812 lower of:

813 (a) The rate paid on monies held in the fund; or

814 (b) A rate equal to fifty percent of the rate authorized
 815 under the provisions of s. 215.84.

816 (8) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 817 funds appropriated for this purpose which are not disbursed by
 818 June 30 of the fiscal year in which the funds are appropriated
 819 may be carried forward for up to 5 years after the effective
 820 date of the original appropriation.

821 Section 7. If any provision of this act or its application
 822 to any person or circumstance is held invalid, the invalidity
 823 does not affect the remaining provisions or applications of the
 824 act which can be given effect without the invalid provision or
 825 application, and to this end the provisions of this act are

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826 severable.

827 Section 8. Except as otherwise expressly provided in this

828 act, this act shall take effect July 1, 2017.