

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: SB 2524 Education

SPONSOR(S): Appropriations

TIED BILLS: IDEN./SIM. BILLS:

FINAL HOUSE FLOOR ACTION: 83 Y's 24 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

SB 2524 passed the House on March 14, 2022, as amended by the conference committee.

The bill conforms applicable statutes to the appropriations provided in the conference report of the General Appropriations Act for prekindergarten through grade 12 education for the 2022-2023 fiscal year. The bill contains portions of CS/HB 5101, HB 5201, CS/CS/HB 1193, CS/CS/CS/HB 1199, CS/CS/CS/HB 1203, and SB 2524.

For the PreK-12 education system, the bill:

- Modifies K-12 virtual instruction by:
 - Clarifying which K-12 virtual instruction options are authorized to enroll students statewide.
 - Requiring all virtual full-time equivalent (FTE) students to be funded in the Florida Education Finance Program (FEFP) using the same calculation methodology.
 - Requiring that out-of-district virtual FTE students are funded with state FEFP funds only.
 - Requiring the Department of Education (DOE) to develop a standard virtual charter school contract.
 - Requiring additional performance and accountability data in contracts with approved virtual instruction program providers.
- Expands public school choice by:
 - Requiring school districts to regularly update school capacity and maintain a wait list for purposes of controlled open enrollment.
 - Increasing the amount of the transportation scholarship for public school students.
 - Establishing the Driving Choice Grant Program to increase the efficiency of public school transportation and improve access to reliable and safe transportation for students participating in public educational choice options.
- Modifies school readiness (SR) program funding by establishing:
 - A methodology for allocating SR program funds to the early learning coalitions (ELC).
 - A distribution methodology for the ELCs to allocate the SR program funds to the eligible SR providers.
 - Three SR allocations for eligible SR providers to include: (a) Gold Seal Quality Care Program allocation, (b) Differential Payment Program allocation, and (c) Special Needs Differential allocation.
- Requires the principals of the Early Learning Programs Estimating Conference to develop official cost-of-care information based on actual school SR direct services program expenditures and information.
- Modifies and improves student literacy by:
 - Establishing a New Worlds literacy micro-credential that enables teachers in prekindergarten through grade 12 to provide evidence-based reading interventions.
 - Providing financial incentives for teachers who earn the micro-credential and provide intensive interventions.
 - Revising requirements and authorized expenditures for the New Worlds Reading Instruction Allocation in the FEFP.
- Requires students enrolled in a juvenile justice education program to be funded similar to a traditional student in the FEFP.
- Provides flexibility in the school improvement process by authorizing school districts to contract with additional entities when developing and implementing an external operator turnaround option plan.
- Requires the State Board of Education to annually review the school grading scale and make adjustments when certain thresholds are met.
- Requires the DOE to collect annually until January 1, 2025, data from school districts on the amount of instructional time spent on district- and state-required assessments and report findings to the Governor and the Legislature.

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

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- Revises Florida’s teacher preparation program accountability system by focusing performance metrics on candidate readiness and critical shortage areas.
- Protects parental rights by requiring that the decision to withhold information from a parent related to his or her child’s well-being be documented and redetermined annually.
- Specifies that teacher evaluation procedures are not a mandatory subject of collective bargaining.
- Requires that school districts include compensation for longevity of service in calculating salary adjustments for employees on the grandfathered salary schedule.
- Requires educational entities to use the Agency for Health Care Administration Provider Background Screening Clearinghouse to conduct background screenings.
- Establishes a criminal penalty for individuals who knowingly fail to report sexual misconduct by a school authority figure.
- Creates the Safer, Smarter School Program to implement revised health education standards.

For the Higher Education System, the bill:

- Expands access to nursing education programs by:
 - Revising data collection and reporting requirements.
 - Creating the Linking Industry to Nursing Education (LINE) Fund and the Prepping Institutions, Programs, Employers, and Learners through Incentives for Nursing Education (PIPELINE) Fund.
- Creates the Student Open Access Resources (SOAR) Grant Program and Repository to provide funding for public postsecondary institution open education resources to expand textbook affordability for students.
- Establishes the Inclusive Transition and Employment Management Program within the DOE.
- Increases the number of programs for which a student may receive a Program of Strategic Emphasis tuition and fee waiver.
- Provides instructional materials for private school students free of charge and revises reporting and reimbursement deadlines for the Dual Enrollment Scholarship Program.
- Requires Effective Access to Student Education (EASE) institutions to publicly report on performance metrics.
- Expands institutional eligibility and student accessibility to the Open Door Grant Program.
- Makes changes to university performance funding metrics and eligibility.
- Clarifies the authority to establish fees for Educational Research Child Development Centers.
- Establishes the Hamilton Center for Classical and Civic Education at the University of Florida.
- Revises maximum dormitory beds allowable in Florida College System facilities.

Subject to the Governor’s veto powers and unless otherwise stated in the bill, the effective date of this bill is July 1, 2022.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Virtual Instruction

Present Situation

Overview

All school districts are required by law to offer at least one virtual instruction option for their students.¹ These options include:

- Contract with the Florida Virtual School (FLVS) or establish a franchise of the FLVS.
- Contract with an approved virtual instruction provider.
- Enter into an agreement with other school districts to allow the participation of its students in an approved virtual instruction program provided by the other school district.
- Establish a school district operated full-time or part-time K-12 virtual instruction program.
- Enter into an agreement with a virtual charter school authorized by the school district under s. 1002.33, F.S.

School districts may implement more than one option and may implement a different option for each grade grouping. For all virtual instruction options, classroom teachers must hold a Florida teaching certificate and the curriculum must align with all applicable state standards.²

Each student enrolled in a virtual instruction program or virtual charter school must comply with the compulsory attendance requirements of s. 1003.21, F.S. and take the statewide assessments pursuant to s. 1008.22, F.S.³

Virtual Student Enrollments

Over the past 5 years, the number of full-time equivalent (FTE) virtual student enrollments has steadily increased with a significant increase in Fiscal Year 2020-2021 due to the impact the pandemic had on students' choice of taking virtual instruction courses instead of in-person courses.

5-Year History of District Virtual FTE Student Enrollment*		
Fiscal Year	Enrollments	Difference from Prior Year
2017-2018	15,308.41	
2018-2019	17,847.55	2,539.14
2019-2020	20,588.56	2,741.01
2020-2021	58,510.92	37,922.36
2021-2022	52,718.49	(5,792.43)

*Data Source – Florida Department of Education

The Department of Education (DOE) has assigned specific school numbers for the virtual instruction options. School districts use these prescribed school numbers when they report their applicable virtual FTE students during the various FTE surveys conducted throughout the fiscal year. The following chart provides a 3-year comparison of virtual FTE student enrollments for the different virtual instruction options:

3-Year History of Virtual FTE Enrollments by Virtual Instruction Option*

¹ Section 1002.45(1)(c), F.S.

² Section 1002.45, F.S.

³ Section 1002.45(6), F.S.

Option	2019-20	2020-21	Difference from Prior Year	2021-22	Difference from Prior Year
Contract with Approved Virtual Program Provider	2,018.01	6,987.63	4,969.62	8,275.52	1,287.89
FLVS Franchise	10,012.29	30,388.08	20,375.79	21,690.01	(8,699.07)
Contract with Approved Virtual Course Provider	2,015.74	4,432.91	2,417.17	4,184.83	(248.08)
District-developed Virtual Program	2,910.15	11,519.55	8,609.40	10,288.00	(1,231.55)
Virtual Charter School	3,632.37	5,182.75	1,550.38	8,281.13	3,098.38
Florida Virtual School	39,213.49	54,336.58	15,123.09	50,238.40	(4,098.18)
TOTAL	59,802.05	112,847.50	53,045.45	102,956.89	(9,890.61)

* Data Source – Florida Department of Education

Current law authorizes all students, including home education and private school students, to participate in the following virtual instruction options:⁴

- School district operated part-time or full-time kindergarten through grade 12 virtual instruction programs under s. 1002.45(1)(b).
- Part-time or full-time virtual charter school instruction authorized under s. 1002.33, F.S., to students within the school district or to students in order school districts throughout the state pursuant to s. 1002.31, F.S.
- Virtual courses offered in the course code directory to students within the school district or to students in other school districts throughout the state pursuant to s. 1003.498, F.S.
- Florida Virtual School instructional services authorized under s. 1002.37, F.S.

While the majority of students enrolling in a virtual instruction program option reside within the school district offering the program, the number of students enrolling in a virtual instruction option who reside outside of the school district offering the option is increasing.

Comparison of Out-of-District Virtual FTE Students*					
	2019-20 Final FEFP	2020-21 Final FEFP	1-Year Increase	2021-20 3 rd Calc FEFP	1-Year Increase
FTE Residing In-District	17,367.46	49,219.36	31,851.89	39,318.06	(9,901.30)
FTE Residing Out-of-District	3,017.89	9,108.22	6,090.33	13,270.23	4,162.01
Total FTE	20,385.35	58,327.58	37,942.23	52,588.29	(5,739.29)
Percent Out-of-District	15 percent	16 percent		25 percent	

* Data Source – Florida Department of Education

Approved Virtual Instruction Program Providers

Current law defines an “approved provider” to mean a provider that is approved by the DOE, the FLVS, a franchise of the FLVS, or a Florida College System (FCS) institution.⁵

To be approved by the DOE, a virtual instruction provider must document compliance with a number of items established in statute.⁶ The DOE must annually publish online a list of providers approved to offer virtual instruction programs.⁷

⁴ Section 1002.455, F.S.

⁵ Section 1002.45(1)(a), F.S.

⁶ Section 1002.45(2), F.S.

⁷ *Id.*

Each approved virtual instruction program provider contracted by a school district must comply with the assessment and accountability requirements established in statute. One of the requirements is to receive a school grade under s. 1008.34, F.S., or a school improvement rating under s. 1008.341, F.S., as applicable.⁸ The school grade or school improvement rating received by each approved virtual instruction program provider is based on the aggregated assessment scores of all students served by the provider statewide.⁹

The DOE is required to develop an evaluation method for approved virtual instruction program providers of part-time programs which must include the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessment, the percentage of students taking Advanced Placement examinations, and the percentage of students scoring 3 or higher on an Advanced Placement examination.¹⁰

Funding for Virtual Instruction

The Florida Education Finance Program (FEFP) is the primary mechanism for funding the operating costs of Florida school districts and is the foundation for financing Florida's K-12 educational programs. The FEFP is composed of both state and local revenues and to ensure equalized funding per student, it takes into account various factors such as the individual educational needs of students, the local property tax base, the costs of educational programs, and district cost differentials.¹¹

There are two main parts of the FEFP:

- The base FEFP which represents approximately 60 percent of the total FEFP funding; it is the part of the FEFP that provides state and local revenues to school districts based on each district's total number and type of FTE students.¹²
- Categoricals which are allocations funded in the FEFP to either ensure equalized access to educational services and resources by all public school students or to fund specific statutory policies.

The base FEFP plus all the categoricals represent the total amount appropriated in the FEFP.

Students enrolled in a virtual instruction program or a virtual charter school are funded in the FEFP the same as a traditional student and as provided in the General Appropriations Act.¹³ However, a virtual FTE student may not be included in the funds provided for the purpose of fulfilling the class size requirements in ss. 1003.03 and 1011.685, F.S.¹⁴ The school district providing the virtual instruction reports the FTE students for a virtual instruction program or virtual charter school to the DOE and is funded for the virtual FTE students in the FEFP.¹⁵

A virtual FTE student is funded the same as a traditional FTE student in the FEFP; the base FEFP amount¹⁶ and all applicable categoricals, with the exception of the class size reduction categorical as mentioned above. The total funding amount includes both state and local FEFP funds.

Funding for a virtual FTE student reported by the FLVS is different than the funding generated by a virtual FTE student reported by a school district. The calculation methodology for funding FLVS

⁸ Section 1002.45(8)(a)2., F.S.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 1011.62, F.S.

¹² Section 1011.62(1)(s), F.S.

¹³ Section 1002.45(7), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 1011.62(1)(s), F.S.

students includes the base FEFP amount and only certain categoricals. Additionally, the FLVS is funded with state FEFP funds only.¹⁷

Effect of the Bill

The bill authorizes an approved virtual instruction program provider to enroll students residing in the school district executing the contract with the provider as well as students in other school districts throughout the state pursuant to controlled open enrollment requirements. The bill amends the controlled open enrollment statute to require each virtual charter school and each school district with a contract with an approved virtual instruction program provider to determine capacity based on the enrollment requirements of s. 1002.45(1)(e)4., F.S.

The bill requires the DOE to develop a standard virtual charter school contract and renewal contract for use by the school district and the virtual charter school.

For approved virtual instruction program providers, the bill:

- Requires approval of a virtual instruction program provider by the State Board of Education (SBE).
- Requires the annual financial audit report to be completed by an independent auditor who is a certified public accountant licensed under chapter 473, F.S.;
- Includes additional requirements in a contract executed with the school district to include submitting a monthly financial statement summary sheet and providing certain student academic achievement data; and
- Requires a district grade based upon the aggregated assessment scores of all students served by the provider statewide and a separate school grade for each school district with which the provider contracts based on the assessment scores of all students served within the school district.

The bill aligns the calculation methodology for determining the amount of funds that district virtual FTE students receive in the FEFP with the FEFP calculation methodology for students enrolled and reported by the FLVS. The bill also specifies that only state FEFP funds can be used for out-of-district virtual FTE students enrolled in a school district virtual instruction program.

Controlled Open Enrollment

Present Situation

Parents of public school students may seek school choice options such as controlled open enrollment and other options specifically identified in statute.¹⁸

Controlled open enrollment is a public education delivery system that allows school districts to make student school assignments using a parents' indicated preferential public school choice as a significant factor.¹⁹ Controlled open enrollment allows a parent from any school district in the state whose child is not subject to a current expulsion or suspension order to seek enrollment and transport his or her child to any public school in the state of Florida, including a charter school, which has not reached capacity.²⁰ The school district or charter school shall accept the student, pursuant to that school district's or charter school's controlled open enrollment process, and report the student for purposes of the school district's or charter school's funding pursuant to the FEFP.²¹ A school district or

¹⁷ Section 1002.37(3), F.S.

¹⁸ Section 1002.20(6), F.S.

¹⁹ Section 1002.31(1), F.S.

²⁰ Section 1002.31(2)(a), F.S. Capacity is subject to the maximum class size pursuant to s. 1003.03 F.S. and s. 1, Art. IX of the State Constitution.

²¹ Section 1002.31(2)(a), F.S.

charter school may provide student transportation, at their discretion, to students who choose to enroll in a school as part of the controlled open enrollment process.²²

Capacity determinations for each traditional public school and charter school must be current and identified on the school district's or charter school's respective website.²³ In determining the capacity of each district school, the district school board shall incorporate the specifications, plans, elements, and commitments contained in the school district educational facilities plan and the long-term work programs required under s. 1013.35 F.S.²⁴ Each charter school governing board shall determine capacity based upon its charter school contract.²⁵

Each district school board must adopt a controlled open enrollment process and post the process on its website.²⁶ The process must include the requirements specified in current law.²⁷

Districts must provide preferential treatment in their controlled open enrollment processes to:²⁸

- Dependent children of active duty military personnel whose move resulted from military orders.
- Children who have been relocated due to a foster care placement in a different school zone.
- Children who move due to a court-ordered change in custody due to separation or divorce, or the serious illness or death of a custodial parent.
- Students residing in the district.

Charter schools are required to annually post on their website the application process to participate in their controlled open enrollment plan.²⁹

Effect of the Bill

The bill requires school districts and charter schools to identify and disclose on their websites the capacity for its schools, by grade level, and to update such data every 12 weeks.

The bill requires each district school board to adopt by rule and post on its website the process required to participate in controlled open enrollment. The process must require:

- School districts to provide information on transportation options, such as:
 - The responsibility of school districts to provide transportation to another public school pursuant to the Opportunity Scholarship Program, the John M. McKay Scholarships for Students with Disabilities (McKay) program, and the Family Empowerment Scholarship (FES) program.
 - The availability of funds for transportation under the FES program, Florida Tax Credit Scholarship (FTC) program, and the funds for student transportation pursuant to s. 1011.68, F.S.
 - Any other transportation the school district may provide.
 - Any transportation options available in the community.
- School districts to maintain a wait list of students who are denied access due to capacity and notify parents when space becomes available.
- Schools to accept students throughout the school year as capacity becomes available.

²² *Id.*

²³ Section 1002.31(2)(b), F.S.

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 1002.31(3), F.S.

²⁷ *Id.*

²⁸ Section 1002.31(2)(c), F.S.

²⁹ Section 1002.31(2)(d), F.S. A charter school may provide preferential treatment in its controlled open enrollment participation process to the enrollment limitations pursuant to s. 1002.33(10), F.S., if such special purposes are identified in the charter agreement.

Student Transportation

Present Situation

All public school buses³⁰ owned, operated, rented, leased and contracted for by any public school board or charter school, used to transport children to and from school or school-related events must meet certain requirements.³¹

There are four vehicle categories that indicate the type of vehicle used to transport a student. These include:³²

- School buses meeting Florida School Bus Specifications.³³
- Passenger car or allowable multipurpose passenger vehicle owned, operated, or contracted by the school board or charter school, transporting fewer than 10 students.
- Privately owned motor vehicle or boat (for certain students with disabilities or isolated students).
- General-purpose transportation (city buses, trains, etc.).

Federal regulations do not prohibit the use of vans by schools, but require any van (with a capacity of more than 10) sold or leased for use as a school bus to meet the safety standards applicable to school buses. Federal regulations apply only to the manufacture and sale/lease of new vehicles. Each state prescribes its own regulations that apply to the use of any vehicle that is used to transport students.³⁴

School districts are also responsible for transportation costs for students participating in:

- The Opportunity Scholarship Program³⁵ when parents choose that their student be enrolled in a higher-performing public school in the school district.³⁶
- The McKay program³⁷ when parents choose a public school consistent with the school district's choice plan under controlled open enrollment.³⁸
- The FES program³⁹ when parents choose another public school in the school district.⁴⁰

A scholarship of \$750 may be awarded to eligible students⁴¹ under the FTC program⁴², the FES program⁴³ and the McKay program⁴⁴ to cover the cost of transportation to a public school in which a student is enrolled that is different from the school the student was assigned or a lab school.⁴⁵

³⁰ A "school bus" is defined as a motor vehicle regularly used for the transportation of prekindergarten disability program and kindergarten through grade 12 students of the public schools to and from school or to and from school activities, and is owned, operated, rented, contracted or leased by any district school. Section 1006.25, F.S. The federal government defines "school bus" as a bus that is sold or introduced in interstate commerce for purposes that include carrying students to and from school or related events." Title 49 CFR Part 571.3

³¹ Florida Department of Education, *Florida School Bus Specifications* (January 2020), available at, <https://www.fldoe.org/core/fileparse.php/7585/urlt/2020FLSchoolBusSpec.pdf>.

³² Florida Department of Education Bureau of PK-20 Education Data Warehouse and Office of Funding and Financial Reporting, *Full-time Equivalent (FTE) General Instructions 2020-21*, at 72, available at, <https://www.fldoe.org/core/fileparse.php/7507/urlt/2021FTEGeneralInstruct.pdf>.

³³ Rule 6A-3.003, F.A.C.

³⁴ 49 U.S.C. s. 30101. This statute applies to school buses sold to public and parochial schools.

³⁵ Section 1002.38, F.S.

³⁶ Section 1002.38(3)(e), F.S.

³⁷ Section 1002.39, F.S.

³⁸ Section 1002.39(5)(a)3., F.S.

³⁹ Section 1002.394, F.S.

⁴⁰ Section 1002.394(7)(c)3., F.S.

⁴¹ A scholarship for transportation under the FES Program may only be awarded if the student is on the direct certification list, the student's household income level does not exceed 185 percent of the federal poverty index, or the student is placed in foster care or in out-of-home care and the school district does not provide the student with transportation to the school. Section 1002.394(12)(a)4., F.S.

⁴² Section 1002.395, F.S.

⁴³ Section 1002.394, F.S.

⁴⁴ Section 1002.39, F.S.

⁴⁵ Sections 1002.395(6)(d)2.; 1002.395(11)(a)3.; 1002.394(4)(a)2.; and 1002.394(12)(a)4., F.S.

Many states have policies to provide families with schooling options beyond their residentially assigned school, such as open enrollment or public charter schools. But administrative hurdles and transportation challenges can limit access to those options.⁴⁶ Policymakers are working to make it easier for families to access more schooling options by decreasing administrative barriers in open enrollment programs and creating more flexible transportation policies to help families access the best schooling opportunities for their children.⁴⁷

Effect of the Bill

The bill revises the amount of the transportation scholarship available to students in the FES program, the McKay program, and the FTC program from \$750 to the per student amount expended by the school district on students riding a bus, whichever is greater.

The bill allows an eligible nonprofit scholarship-funding organization (SFO) to use administrative funds to develop or contract with rideshare programs or to facilitate carpool strategies for recipients of a transportation scholarship.

The bill expands the use of motor vehicles other than school buses by school districts when used to transport students between school sites. Currently, it is limited to transporting a student to a career education program that is not offered at the high school in which the student is enrolled.

The bill clarifies that when the transportation of students is provided in a vehicle other than a school bus that is owned, operated, rented, contracted, or leased by a school district or charter school, the vehicle must be a multifunction school activity bus when transporting more than 10 persons.

The bill establishes the Driving Choice Grant Program within the DOE to improve access to reliable and safe transportation for students who participate in public educational school choices and to support innovative solutions that increase the efficiency of public school transportation. Grant proposals may include:

- Transportation resource planning and sharing among school districts and local governments.
- Developing or contracting with rideshare programs or developing carpool strategies.
- Developing options to reduce costs and increase efficiencies while improving access to transportation options for families.
- Developing options to address personnel challenges.
- Expanding the use of transportation funds under ss. 1002.394, 1002.395, and 1011.68, F.S., to help cover the cost of transporting students to and from school.

The bill requires the DOE to publish on its website, by December 31, 2023, an interim report and by December 31, 2024, a final report that includes the:

- Best practices used by grant recipients to increase transportation options for students, including any transportation barriers addressed by grant recipients.
- Number of students served by grant recipients including the number of students transported to a school that is different from the school to which the student is assigned.

The bill revises the requirements for use of student transportation funds to include transportation of students by parents or carpools when transportation on a school bus is impractical, as defined by rule.

⁴⁶ Bellwether Educational Partners, *Expanding Educational Options: Emergent Policy Trends* (Jan. 2022), available at, https://bellwethereducation.org/sites/default/files/Bellwether_ExpandingEducationalOptions_FINAL_1.25.22.pdf.

⁴⁷ Bellwether Education Partners, *The Challenges and Opportunities in School Transportation Today* (July 2019), available at, <https://bellwethereducation.org/publication/challenges-and-opportunities-school-transportation-today>.

Education Choice

Present Situation

To help students take advantage of educational choice options, Florida offers multiple student scholarship programs for students who meet the eligibility requirements:

- The FES program,⁴⁸ a school voucher program for students of families with limited financial means and students of military families, and an education savings account program for students with disabilities; program is administered by an eligible nonprofit SFO; and scholarships are funded in the FEFP.
- The FTC Program,⁴⁹ a tax-credit scholarship program for families with limited financial resources; administered by an eligible nonprofit SFO; and funded with tax credit revenues.
- The Hope Scholarship Program, a school voucher program serving students who have reported an incident of battery, harassment, hazing, bullying or other encounter as defined in law; administered by an eligible nonprofit SFO; and funded with tax credit revenues.⁵⁰
- The McKay program,⁵¹ a school voucher program for eligible students with disabilities; administered by the DOE; and funded in the FEFP.

For the FES program for students of families with limited financial means, the maximum number of awarded scholarships was statutorily-set for the 2019-2020 school year at 18,000 students.⁵² Beginning in the 2020-2021 school year, the maximum number of students awarded a scholarship can increase by 1 percent of the state's total public school student enrollment.⁵³ An eligible student who meets specified requirements is excluded from the maximum number of students.⁵⁴

For the FES program for students with disabilities, the maximum number of awarded scholarships was statutorily-set at 20,000 students beginning the 2021-2022 school year.⁵⁵ Beginning in the 2022-2023 school year, the maximum number of students awarded a scholarship can increase by 1 percent of the state's total number of exceptional student education FTE students. An eligible student who meets specified requirements is excluded from the maximum number of students.⁵⁶

Certain education choice scholarship programs include as one of their student eligibility prohibitions a student who is enrolled in a Florida public school to include a charter school and the Department of Juvenile Justice education program.⁵⁷ For the scholarship programs administered by an eligible nonprofit SFO, current law requires the SFO to provide student data to the DOE so the DOE can complete a cross-check to verify that a student is not currently enrolled in a Florida public school. The SFO must provide the DOE with the documentation necessary to verify the student's initial and continued participation. Upon completion of the cross check, for the FES program scholarships, the DOE must quarterly transfer, from state funds only, the scholarship amount to the SFO.⁵⁸

Effect of the Bill

Beginning with the 2022-2023 school year, the maximum number of FES scholarships for students with disabilities increases from 20,000 to 26,500. The bill maintains the current annual growth rates;

⁴⁸ Section 1002.394, F.S., and Rule 6A-6.0952, F.A.C.

⁴⁹ Section 1002.395, F.S., and Rule 6A-6.0960, F.A.C.

⁵⁰ Section 1002.40, F.S., and Rule 6A-6.0951, F.A.C.

⁵¹ Section 1002.39, F.S., and Rule 6A-0.970, F.A.C. The McKay program will merge into the FES program beginning in the 2022-2023 school year. Section 1002.394(12), F.S.

⁵² Section 1002.394(12), F.S.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ See ss. 1002.394(6), 1002.395(4), and 1002.40(4), F.S.

⁵⁸ Section 1002.394(11), F.S.

however, the growth rate goes into effect in the 2023-2024 school year rather than the 2022-2023 school year.

For the FES program for students from families with limited financial means, the bill clarifies that a dependent child of a member of the United States Armed Forces, a foster child, or an adopted child; and a child determined eligible who either spent the prior year in attendance at a Florida public school, or is eligible to enroll in kindergarten are excluded from the maximum number of students annually allowed to participate in the FES program.

The bill maintains the requirement that the DOE complete a cross check of the list of participating students to verify eligibility but removes the requirement that the cross-check be completed before to the distribution of each quarterly scholarship payment. The bill requires the DOE to use the results of the cross-check to adjust payments to the eligible SFO and school districts when the FEFP is recalculated.

Department of Juvenile Justice Education Programs

Present Situation

Florida law authorizes education programs for the four types of juvenile justice services provided by the Department of Juvenile Justice (DJJ) to ensure that all eligible students receive a high-quality education designed to meet their unique needs. The DOE is the lead agency for the education programs and sets standards for curriculum and other support services.⁵⁹ The school district of the county in which the juvenile justice service is located must provide or contract for appropriate educational assessments and programs of instruction and special education services.⁶⁰ For the 2021-2022 school year, there is a total of 3,700.75 FTE students enrolled in a juvenile justice education program.⁶¹

Funding for students enrolled in a juvenile justice education program is provided through the FEFP and must include, at a minimum:⁶²

- Unweighted FTE x Program Cost Factor x Base Student Allocation x DCD (base FEFP funding)
+
- DJJ Allocation Categorical +
- Proportionate share of the ESE Guaranteed Allocation (if applicable), Supplemental Academic Instruction Allocation, and Instructional Materials Allocation +
- Proportionate share of the state average of the discretionary local effort as calculated in s. 1003.52(13)(a), F.S.

Effect of the Bill

The bill modifies the funding for eligible students enrolled in a juvenile justice education program to be the same as a traditional FTE student funded in the FEFP and as specified in the General Appropriations Act.

Florida Education Finance Program

Present Situation

The FEFP was established in 1973 and is the primary mechanism for funding the operating costs of Florida school districts and is the foundation for financing Florida's K-12 educational programs. The

⁵⁹ Section 1003.52(3), F.S.

⁶⁰ Section 1003.52(3), F.S.

⁶¹ Fiscal Year 2021-2022 Florida Education Finance Program (FEFP), Third Calculation.

⁶² Section 1003.52(13)(a), F.S.

FEFP is composed of both state and local revenues and to ensure equalized funding per student, it takes into account various factors such as the individual educational needs of students, the local property tax base, the costs of educational programs, district cost differentials (DCDs), and the sparsity of the population.⁶³ The FEFP is used to calculate the revenue allocations for all 67 school districts, six lab schools and the Florida Virtual School.

The FEFP funds are primarily generated by multiplying the number of FTE students in each of the funded education programs by cost factors to obtain weighted FTE students. Weighted FTE students are then multiplied by a base student allocation and by a DCD to determine the base FEFP funding which includes both state and local funds.⁶⁴ Program costs factors are determined by the Legislature and represent relative cost differences among the FEFP education programs.⁶⁵

In addition to the base FEFP funding, additional supplements or allocations (often times referred to as categoricals) are included in the FEFP to address specific types of student populations or needs, geographic issues, district size, or specific educational policy initiatives. Each categorical is statutorily authorized with each law specifying its eligibility criteria and allocation methodology. For Fiscal Year 2021-2022, there are 18 categoricals funded in the FEFP with all but two of the categoricals funded with both state and local FEFP funds.⁶⁶ Three of these categoricals include:

- Digital Classroom Allocation – provides funds to assist school districts integrating technology into classroom teaching and learning.⁶⁷
- Sparsity Supplement – provides funds to school districts with 24,000 or fewer FTE students to assist with diseconomies of scale.
- Funding Compression and Hold Harmless Allocation – provides funds to school districts if the district's prior year total funds per FTE student were less than the statewide average or if its DCD in the current year is less than the prior year.⁶⁸

Effect of the Bill

The bill repeals the Digital Classroom Allocation, expands eligibility for the Sparsity Supplement to include school districts with 30,000 or fewer FTE students, and does not re-enact the Funding Compression and Hold Harmless Allocation.

Dual Enrollment

Present Situation

Overview

Dual enrollment is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward both a high school diploma and a career certificate or an associate or baccalaureate degree.⁶⁹ To be eligible for dual enrollment a student must be enrolled in grades 6 through 12 in a Florida public school or in a Florida private school that is in compliance with the requirements specified in law⁷⁰ and provides a secondary curriculum pursuant to law. Students who meet the eligibility requirement and who participate in dual enrollment programs are exempt from the payment of registration, tuition, and laboratory fees.⁷¹

⁶³ Section 1011.62, F.S.

⁶⁴ Section 1011.62(1)(s), F.S.

⁶⁵ Section 1011.62(1)(c), F.S.

⁶⁶ Chapter 2020-111, L.O.F.

⁶⁷ Section 1011.62(10), F.S.

⁶⁸ Section 1011.62(17), F.S.

⁶⁹ Section 1007.271(1), F.S.

⁷⁰ Section 1002.42, F.S.

⁷¹ Section 1007.271, F.S. However, s. 1011.62(1)(i), F.S., specifies that the exemption from tuition and fees does not apply to dual enrollment at an eligible private postsecondary institution.

Instructional Materials

Instructional materials assigned for use within dual enrollment courses must be made available free of charge to dual enrollment students from Florida public high schools.⁷² Florida law neither prohibits nor requires a FCS institution to provide free instructional materials to a home education student or a student from a private school. Instructional materials purchased by a district school board or a FCS institution board of trustees on behalf of dual enrollment students remain the property of the board against which the purchase is charged.⁷³

Dual Enrollment Scholarship Program

The Dual Enrollment Scholarship Program (program) was created in 2021⁷⁴ to provide reimbursements to postsecondary institutions for students participating in dual enrollment, as follows:

- Beginning in the 2022 summer term, the program reimburses postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by public school, private school, or home education program secondary students during the summer term.
- Beginning in the 2021 fall term, the program reimburses eligible postsecondary institutions for tuition and related instructional materials costs for dual enrollment courses taken by private school or home education program secondary students during the fall or spring terms.

In order to receive a reimbursement, a participating postsecondary institution must comply with required deadlines as specified in law.⁷⁵ If the statewide reimbursement amount is greater than the appropriation, the institutional reimbursement amounts must be prorated among the institutions that have reported eligible students to the DOE by the specified deadlines.⁷⁶

Effect of the Bill

The bill specifies that instructional materials for use in dual enrollment courses must be made available to all participating students free of charge, rather than only to public school students. The bill modifies the deadlines for postsecondary institutions to report dual enrollment students for reimbursement provided through the Dual Enrollment Scholarship Program and requires that reimbursements be distributed to requesting institutions no later than 30 days after the end of the term.

School Readiness Program

Present Situation

Overview

The Division of Early Learning (DEL) within the DOE is the lead administrator for federal and state child care funds and is responsible for developing, adopting, and implementing quality standards and outcome measures that benefit and improve Florida's comprehensive early childhood care and

⁷² Section 1007.271(17), F.S.

⁷³ *Id.*

⁷⁴ Section 4, ch. 2021-160, L.O.F. The General Appropriations Act appropriated \$15,550,000 to the Dual Enrollment Scholarship Program for tuition and related instructional materials costs. Specific Appropriation 73A, ch. 2021-36, L.O.F.

⁷⁵ Section 1009.30, F.S.

⁷⁶ *Id.*

education system.⁷⁷ The DEL partners with 30 local early learning coalitions⁷⁸ (ELC) and the Redlands Christian Migrant Association to deliver comprehensive early childhood care and education services statewide. One of the three main early learning programs that the DEL oversees is the School Readiness (SR) program.

Established in 1999,⁷⁹ the SR program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.⁸⁰ The SR program offers financial assistance for child care to these families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screenings and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, Migrant Head Start, Child Care Resource and Referral and the Voluntary Prekindergarten Program.⁸¹

The DEL administers the program at the state level and early learning coalitions administer the SR program at the county and regional levels. The program’s two main goals are to help families become financially self-sufficient and to help each child from a qualifying family develop school readiness skills. These skills are measured by standards and outcomes adopted by the DEL as well as statewide screening of kindergarten students.⁸²

Federal regulations governing the Child Care and Development Block Grant, the primary funding source for the SR program, authorize states to use grant funds for child care services, if:⁸³

- The child is under 13 years of age, or at the state’s option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision.
- The child’ family income does not exceed 185 percent of the state’s median income for a family of the same size.
- The child:
 - Resides with a parent or parents who work or attend job training or educational programs; or
 - Receives, or needs to receive, protective services.

Student enrollment in the SR program for the 2020-2021 school year, the most recent year data, was 209,801 as follows:⁸⁴

Age Group	Enrollments	Percentage of Total Enrollments
Infants	7,588	4%
Toddlers	19,561	9%
2-Year Olds	26,515	13%
3-Year Olds	31,029	15%
4-Year Olds	31,317	15%
5-Year Olds	19,893	9%

⁷⁷ Florida Department of Education, Division of Early Learning Annual Report for Fiscal Year 2020-2021, *Improving Program Quality*, p. 12, available at

http://www.floridaearlylearning.com/Content/Uploads/floridaearlylearning.com/files/DEL_Annual_Report_2020-21_FINAL_ADA.pdf [hereinafter *Improving Program Quality*].

⁷⁸ Section 1002.83, F. S.

⁷⁹ Section 1, ch. 99-357, L.O.F.

⁸⁰ Sections 1002.81 and 1002.87, F.S.

⁸¹ Division of Early Learning, *School Readiness Program*, <http://www.floridaearlylearning.com/school-readiness> (last visited January 31, 2022).

⁸² *Improving Program Quality* at 22, *supra*, note 76.

⁸³ See 45 C.F.R. s. 98.20(a).

⁸⁴ *Improving Program Quality* at 20, *supra*, note 76.

School Age	73,637	35%
Special Needs	261	0%
TOTAL	209,801	100%

School Readiness Providers

In order to be eligible to provide the SR program, a provider must be:⁸⁵

- A licensed child care facility;
- A licensed or registered family day care home;
- A licensed large family day care home;
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's Child Care and Development Fund plan.

For Fiscal Year 2020-2021, there was a total of 6,760 providers offering the SR program with the following breakdown:⁸⁶

Provider Type*	Enrollments	Percentage of Total Enrollments
Licensed Private	4,623	68%
Licensed/Registered Family Child Care Home	991	15%
Licensed Large Family Day Care Home	304	5%
Public/Nonpublic School	632	9%
License-exempt	210	3%
TOTAL	6,760	100%

*No informal providers served SR children during Fiscal Year 2020-2021.

School Readiness Funding

Funding for the SR program comes from four sources:⁸⁷

- Federal Child Care and Development Block Grant.
- Federal Temporary Assistance for Needy Families Block Grant.
- Federal Social Services Block Grant.
- State General Revenue Fund.

The Legislature appropriates the SR program funds to the early learning coalitions and the Redlands Christian Migrant Association, with participating providers receiving their funding primarily from reimbursements from the coalitions and tuition payments by participating families.⁸⁸ The ELCs reimburse eligible school readiness providers with appropriated funds for each eligible child, either through child care certificates provided by parents or through contracted slots.⁸⁹ The reimbursement and co-payment amounts are determined locally by the ELC, subject to approval by the DEL. Any additional amount a parent must pay is based on the difference between the provider's tuition rate and the sum of the reimbursement rate and required parent co-payment. Reimbursement amounts vary

⁸⁵ Section 1002.88(1)(a), F.S.

⁸⁶ *Improving Program Quality* at 20, *supra*, note 76.

⁸⁷ *Id.* at 18.

⁸⁸ Sections 1002.84(8) and 1002.89, F.S.; *See* Specific Appropriation 83, Fiscal Year 2021-2022 General Appropriations Act, ch. 2021-36, L.O.F.

⁸⁹ *See* rule 6M-4.500(1), F.A.C.

based on provider type and level of care, and co-payments are determined by the ELCs using a sliding fee scale.⁹⁰

School Readiness Market Rate

The Code of Regulations (C.F.R.) 45 Part 98 requires states receiving the Child Care and Development Block Grant to ensure equal access to child care by setting a fair market rate every two years.⁹¹ Current law defines the “market rate” to mean the price that a child care or early childhood education provider charges for full-time or part-time daily, weekly, or monthly child care or early childhood education services.⁹² The DOE is statutorily required to approve a market rate schedule until an alternative model has been approved by the federal Administration of Children and Families.⁹³

Based in part on recommendations by the Office of Child Care within the federal Department of Health and Human Services, the DOE calculates the average market rate and the 75th percentile market rate, referred to as the prevailing market rate,⁹⁴ for each county to help the ELCs determine provider reimbursement rates.⁹⁵ Market rates are established for the different provider types and different levels of care for each county.⁹⁶

To calculate the market rates, the DEL sorts provider private pay rates for a given level of care within the county from highest to lowest and identifies the 75th percentile pay rate. Although there is no minimum threshold for provider reimbursement rates in law, the early learning coalitions must consider the market rate schedule in determining its own minimum reimbursement rates, which must be approved by the DEL.⁹⁷ In addition, a provider may receive additional funding above the minimum reimbursement rate if it qualifies for any of the following quality-based differentials:⁹⁸

- Up to an additional 20 percent for Gold Seal Quality Care status.
- Up to an additional 10 percent for achieving certain CLASS scores identified in rule (also known as the quality performance incentive).
- An additional 5 percent for participating in a DEL-approved child assessment tool.

Gold Seal Quality Care Program

In 1996, the Legislature establishes the Gold Seal Quality Care program to recognize child care facilities and family day care homes that have gone above the required minimum licensing standards to become accredited by recognized agencies whose standards reflect quality in the level of care and supervision provided to children⁹⁹. The Gold Seal Quality Care program is not an accreditation but a designation with potential benefits to those that participate including, but no limited to:¹⁰⁰

- A positive marketing tool for prospective parents.
- Tax exemptions – the Department of Revenue issues the exemption certificates for sales tax. This exemption is for certain educational materials. Each county property appraiser processes the application and issues the property tax exemption.
- Higher reimbursement for SR providers.
- Eligibility to participate in Voluntary Prekindergarten.

⁹⁰ Section 1002.895(4), F.S.; rules 6M-4.400(2) and 6M-4.500(1), F.A.C.

⁹¹ See 45 C.F.R. § 98.45(a) and (c). Alternatively, states may set payment rates using an alternative methodology approved by the federal Administration for Children and Families.

⁹² Section 1002.81(10), F.S.

⁹³ Section 1002.895(1), F.S.

⁹⁴ Section 1002.81(12), F.S.

⁹⁵ Section 1002.895(4), F.S.

⁹⁶ Section 1002.895(2)(a) and (b), F.S.

⁹⁷ Section 1002.89(4), F.S.

⁹⁸ See s. 1002.82(2)(o), F.S.; rule 6M-4.500(9), (10), and (11), F.A.C.

⁹⁹ See <http://www.floridaearlylearning.com/providers/gold-seal-quality-care-program> (last visited February 21, 2022).

¹⁰⁰ *Id.*

Participation in this program is voluntary and is available to all SR providers that meet the definition of child care with the exception of certain licensed-exempt school-age programs identified in chapter 65C-22.008(3), F.A.C.

In order to be approved by the DOE for participation in the Gold Seal Quality Care program, an accrediting association must apply to the DOE and demonstrate that it:¹⁰¹

- Is a recognized accrediting association.
- Has accrediting standards that substantially meet or exceed the Gold Seal Quality Care standards adopted by the State Board of Education.
- Is a registered corporation with the Department of State.
- Can provide evidence that the process for accreditation has, at a minimum, all of the following components specified in current law.

For a SR provider that has achieved Gold Seal Quality Care status, current statute authorizes that the provider receive a minimum of a 20 percent rate differential for each enrolled SR child by care level and unit of child care.¹⁰²

Differential Payment Program

In 2018, the Legislature established the differential payment program and required the program to be implemented no later than July 1, 2019.¹⁰³ The differential payment program is based on the quality measures adopted by the DOE and may not exceed a total of 15 percent for each care level and unit of child care for a child care provider. No more than 5 percent of the 15 percent total differential may be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using a child assessment identified in statute. Providers below the minimum program assessment score adopted for contracting purposes are ineligible for such payment.¹⁰⁴

In the Fiscal Year 2021-2022 General Appropriations Act (GAA), \$40 million from the Child Care and Development Block Grant Trust Fund is provided for purposes of implementing the differential payment program.¹⁰⁵

School Readiness Estimating Conference

Current law establishes several consensus estimating conferences to assist in a variety of governmental planning and budgeting functions. Data from consensus estimating conferences are used primarily in the development of the constitutionally-required Long-Range Financial Outlook, the Governor's budget recommendations, and the GAA.¹⁰⁶

Current law establishes the Early Learning Programs Estimating Conference to develop, as needed to support the state planning, budgeting, and appropriations processes, estimates and forecasts of the unduplicated count of children eligible for the SR program in accordance with the standards of eligibility established in s. 1002.87, F.S., and of children eligible for the Voluntary Prekindergarten Education Program in accordance with s. 1002.53(2), F.S.¹⁰⁷

¹⁰¹ Section 1002.945(3)(a), F.S.

¹⁰² Section 1002.945(6), F.S.

¹⁰³ See ch. 2018-136, L.O.F.

¹⁰⁴ Section 1002.82(2)(o), F.S.

¹⁰⁵ See Specific Appropriation 83, Fiscal Year 2021-2022 General Appropriation Act, ch. 2021-36, L.O.F.

¹⁰⁶ See Office of Economic & Demographic Research, *Consensus Estimating Conferences*,

<http://edr.state.fl.us/Content/conferences/index.cfm> (last visited January 31, 2022).

¹⁰⁷ Section 216.136(8), F.S.

The DEL is required to provide information on needs and waiting lists for the SR Program to the conference principals.¹⁰⁸

The last Early Learning Programs Estimating Conference for the SR program was held on November 8, 2004.¹⁰⁹

Effect of the Bill

The bill establishes a methodology for allocating the SR program funds to each ELC if the annual allocation is not determined in the GAA or the substantive bill implementing the GAA. The bill creates three new allocations, subject to legislative appropriations, for eligible SR providers to include:

- Gold Seal Quality Care Program allocation.
- Differential payment program allocation.
- Special needs differential allocation.

The bill requires the DOE to use funds from these three allocations to help meet the federal targeted requirements for improving quality as authorized in the approved state Child Care and Development Fund Plan.

The bill establishes a distribution methodology for the ELCs to allocate SR program funds to eligible providers.

The bill requires the principals of the Early Learning Programs Estimating Conference, established in s. 216.136, Florida Statutes, to annually develop official cost of care information based on actual school readiness direct services program expenditures and information provided pursuant to s. 1002.895, F.S. Conference principals must agree on the cost of child care by level and care type, provider type weights, and the methods of computation. The bill requires the DOE to provide all required and necessary data to the conference principals. The bill requires the Early Learning Programs Estimating Conference to provide the official cost of care information to the Legislature at least 90 days before the scheduled annual legislative session.

The bill clarifies that the market rate schedule must differentiate rates by specific provider types and requires the DOE to establish procedures to annually collect data regarding the cost of care to include, but not limited to, data from the Department of Economic Opportunity's Bureau of Workforce Statistics and Economic Research and data from child care providers.

Reading Instruction

Present Situation

Overview

Early literacy has proven to have a significant relationship with graduation rates across a variety of contributing factors. According to research, third graders who are not reading at grade level are among the most vulnerable to drop out of school later.¹¹⁰ Research¹¹¹ has shown that students who were not proficient in reading by the end of third grade were four times more likely to drop out of high school than

¹⁰⁸ *Id.*

¹⁰⁹ Office of Economic & Demographic Research, *Consensus Estimating Conferences*, <http://edr.state.fl.us/Content/conferences/index.cfm> (last visited January 31, 2022).

¹¹⁰ National Council of State Legislators, *Pre-Kindergarten-Third Grade Literacy* (December 2017), available at <https://www.ncsl.org/research/education/pre-kindergarten-third-grade-literacy.aspx>.

¹¹¹ Annie E. Casey Foundation, *Early Warning! Why Reading by the End of Third Grade Matters* (2010), https://assets.aecf.org/m/resourcedoc/AECF-Early_Warning_Full_Report-2010.pdf.

proficient readers. Third grade has been identified as important to reading literacy because it is the final year children are learning to read, after which students are “reading to learn”.¹¹²

Student performance on the grade 3 Florida Standards Assessment in English Language Arts (ELA) shows that, statewide 54 percent of grade 3 students scored a level 3 or above, indicating satisfactory performance on the assessment.¹¹³ Nationally, on the National Assessment of Educational Progress (NAEP) reading assessment, average scores in reading for Florida students in grade 4 show a significant increase from 1992 to 2019. However, scores peaked in 2013 and have since decreased.¹¹⁴

Reading Certification and Endorsement

Teachers are able to earn a subject area certification or endorsement in reading. A teacher must be certified or endorsed in reading to:

- Provide instruction to a third grade student retained for failing the ELA assessment.¹¹⁵
- Beginning with the 2022-2023 school year, supervise teacher preparation students during internships in kindergarten through grade 3 or during enrollment in a reading certificate program.¹¹⁶

In addition, when using funds from the reading instruction allocation funded in the FEFP, a teacher is required to be certified or endorsed in reading to:

- Teach summer reading camps.
- Provide reading interventions to students with a substantial deficiency in reading.
- Qualify as a literacy coach.¹¹⁷

A teacher may earn a certification in reading by completing:

- A master’s or higher degree with a graduate major in reading.
- A bachelor’s or higher degree with thirty semester hours in reading.¹¹⁸

A certified teacher may earn an endorsement to a valid Florida certificate by completing the appropriate subject area testing requirements, the requirements of an approved school district program, or the in-service components for an endorsement.¹¹⁹ Reading certificate and endorsement programs must align with the 2011 Reading Endorsement Competencies adopted by the SBE.¹²⁰

There are four pathways to earn a reading endorsement

- Completing 15 semester hours in college-level reading coursework rooted in scientifically-based reading research with a focus on both preventions and remediation of reading difficulties.
- Completing the required competencies through a school district’s approved reading endorsement add-on program.

¹¹² National Council of State Legislators, *Pre-Kindergarten-Third Grade Literacy* (December 2017), available at <https://www.ncsl.org/research/education/pre-kindergarten-third-grade-literacy.aspx>.

¹¹³ Florida Department of Education, *2021 Florida Standards Assessments, English Language Arts*, available at <https://www.fldoe.org/accountability/assessments/k-12-student-assessment/results/2021.stml>.

¹¹⁴ National Assessment of Educational Progress, *NAEP Data Explorer*, <https://www.nationsreportcard.gov/ndecore/xplore/NDE> (Reading, Grade 4, Florida composite score).

¹¹⁵ Section 1008.25(7)(b)3., F.S.

¹¹⁶ Section 1004.04(5)(b)1.e., F.S.

¹¹⁷ Rule 6A-6.053, F.A.C.

¹¹⁸ Rule 6A-4.0291, F.A.C.

¹¹⁹ Section 1012.586(1), F.S.

¹²⁰ 2011 Reading Endorsement Competencies, *Incorporated by reference* in rule 6A-4.0163, F.A.C., including 300 hours of education and experience in foundations of reading instruction, application of instructional practices, foundations of assessment, foundations and applications of differentiated instruction, and demonstration of accomplishment, available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-00556>.

- Passing the K-12 Reading Certification Subject Area Exam administered by the DOE. This pathway expires on June 30, 2024.¹²¹
- Obtaining a certificate from an approved internationally known organization with a reputation for setting reading standards.¹²²

The DOE is required to adopt, by the beginning of the 2022-2023 school year, at least one statewide, competency-based pathway by which instructional personnel may earn a reading endorsement. The pathway must be available for a participant to complete in person or remotely.¹²³

Reading Instruction Allocation

The reading instruction allocation was established as a categorical in the FEFP in Fiscal Year 2004-2005 and allocates funds to school districts to provide a system of comprehensive reading instruction to students enrolled in kindergarten through grade 12.¹²⁴ Eligible uses of these funds include:

- An additional hour of intensive reading instruction beyond the normal school day for students in the 300 lowest-performing elementary schools on the statewide, standardized ELA assessment.
- Reading intervention teachers and reading coaches.
- Professional development for teachers to earn a certification or an endorsement in reading.
- Summer reading camps for students in kindergarten through grade 5 who exhibit certain reading deficiencies.
- Supplemental instructional materials that are grounded in scientifically-based reading research as identified by the Just Read, Florida! Office (JRFO).
- Intensive interventions for students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the statewide, standardized ELA assessment.¹²⁵

District school boards must develop reading plans that detail the specific uses of the reading instruction allocation. The plans must be annually submitted to the DOE before May 1 in the format prescribed by the DOE for approval by the JRFO. The plans must provide for intensive reading interventions that incorporate evidence-based strategies identified by the JRFO and are delivered by a teacher who is certified or endorsed in reading.¹²⁶

If a school district and the JRFO cannot reach agreement on the contents of the plan, the school district may appeal to the SBE for resolution. School districts are allowed reasonable flexibility in designing their plans and are encouraged to offer reading intervention through innovative methods, including career academies. The DOE only releases funds to school districts with an approved plan, and is required to withhold funds upon a determination that reading instruction allocation funds are not being used to implement the approved plan.¹²⁷

Reading Scholarship Accounts Program

The Reading Scholarship Accounts program was established in July 2018 and offers educational options for students on a first-come, first-serve basis for students in grades 3 through 5 who are enrolled in a Florida public school and who scored below a Level 3 on the grade 3 or grade 4 statewide,

¹²¹ Rule 6A-4.0292, F.A.C.

¹²² Section 1012.568(1)(b), F.S., Reading Recovery Teacher of the National Louis University Reading Recovery Center is the only approved program. DOE, *Florida Internationally Recognized Organizations, available at <https://www.fldoe.org/core/fileparse.php/7539/urlt/FAIRO.pdf>*.

¹²³ Section 1012.586(2)(a), F.S.

¹²⁴ Section 1011.62(8), F.S.

¹²⁵ *Id.*

¹²⁶ *Id.*

¹²⁷ *Id.*

standardized ELA assessment in the prior school year. An eligible student who is classified as an English Language Learner (ELL) student and is enrolled in a program or is receiving services that are specifically designed to meet the instructional needs of ELL students receives priority.¹²⁸

For Fiscal Year 2021-2022, the Legislature appropriated \$7.6 million in nonrecurring general revenue funds for the Reading Scholarship Accounts program in the amount of \$500 per eligible student.¹²⁹

Eligible uses of the scholarship award include:¹³⁰

- Instructional materials.
- Curriculum.
- Tuition and fees for part-time tutoring services. The services shall be provided by a person who holds a valid Florida educator's teaching certificate;¹³¹ a person who holds a baccalaureate or graduate degree in the subject area; a person who holds an adjunct teaching certificate;¹³² or a person who has demonstrated a mastery of subject area knowledge.¹³³
- Fees for specialized summer education programs designed to improve reading or literacy skills.
- Fees for after-school education programs designed to improve reading or literacy skills.

The New Worlds Reading Initiative

In 2021, the Legislature established the New Worlds Reading Initiative (NWRI) under the DOE to improve literacy skills and instill a love of reading by providing high-quality, free books to students in kindergarten through grade 5 who are reading below grade level.¹³⁴ For Fiscal Year 2021-2022, the program was appropriated \$200 million¹³⁵ to:¹³⁶

- Mail a new book, in English, Spanish, or Creole, to each eligible, enrolled K-5 grade public school student in Florida each month for free.
- Provide families with reading resources, in English, Spanish, or Creole, that build reading confidence and conversation skills.
- Help students build a personalized library based on their interests.
- Reinforce the science of reading strategies.
- Support parents and caregivers as they continue to build their child's love of reading.

The DOE selected the Lastinger Center for Learning at the University of Florida (UF) to administer, organize, and launch the NWRI. The UF Lastinger Center for Learning, in partnership with Scholastic,¹³⁷ began delivering books to children in December 2021.¹³⁸

The UF Lastinger Center for Learning is responsible for:¹³⁹

- Developing, in consultation with the JRFO,¹⁴⁰ a selection of high-quality books encompassing diverse subjects and genres for each grade level to be mailed to students in the initiative.
- Distributing books at no cost to students either directly or through an agreement with a book distribution company.

¹²⁸ Section 1002.411(2), F.S.

¹²⁹ See Specific Appropriation 108, ch. 2021-36, L.O.F.

¹³⁰ Section 1002.411(3), F.S.

¹³¹ Section 1012.56, F.S.

¹³² Section 1012.57, F.S.

¹³³ Section 1012.56(5), F.S.

¹³⁴ Section 1003.485(2), F.S.

¹³⁵ See Specific Appropriation 145 and Section 152, ch. 2021-36, L.O.F.

¹³⁶ Florida Department of Education, New Worlds Reading, available at, <https://www.newworldsreading.com/fl/en/home.html> (last visited Feb. 9, 2022).

¹³⁷ Scholastic is one of the largest publishers and distributors of children's books.

¹³⁸ *Id.*

¹³⁹ Section 1003.485(2)(b), F.S.

¹⁴⁰ See s. 1002.215, F.S.

- Assisting local implementation of the initiative by providing marketing materials to school districts and any partnering nonprofit organizations to assist with public awareness campaigns and other activities designed to increase family engagement and instill a love of reading in students.
- Maintaining a clearinghouse for information on national, state, and local nonprofit organizations that support efforts to improve literacy and provide books to children.
- Developing training materials for parents of students in the initiative, including brief video training modules, which engage families in reading and assist with improving student literacy skills.
- Annually submitting to the department an annual financial report that includes, at a minimum, the amount of eligible contributions received by the administrator; the amount spent on each activity, including administrative expenses; and the number of students and households served under the initiative.
- Maintaining separate accounts for operating funds and funds for the purchase and delivery of books.
- Expending eligible contributions received only for the purchase and delivery of books and to implement the requirements of the program, as well as for administrative expenses not to exceed 2 percent of total eligible contributions.¹⁴¹
- Providing the taxpayer that made the contribution with a certificate of contribution upon receipt of a contribution.

Each school district must notify the parent of a student who meets the eligibility criteria and provide the parent with the application form developed by the administrator, which must allow for the selection of specific book topics or genres for the student.¹⁴² Once an eligible student is identified, the school district must coordinate with the administrator to initiate book delivery on a monthly basis during the school year.¹⁴³

At the beginning of each school year, students must be provided options for specific book topics or genres in order to maximize student interest in reading.¹⁴⁴ A student's eligibility for the initiative continues until promotion to grade 6 or until the student's parent opts out of the initiative.¹⁴⁵

Effect of the Bill

The bill expands the purpose of the NWRI to include improving the literacy skills of students in kindergarten through grade 12. The bill modifies the components that comprise the NWRI by adding:

- The New Worlds Reading Scholarship program (formerly named the Reading Scholarship Accounts program) established in s. 1002.411, F.S.,
- The New Worlds Scholar tutoring program established in s. 1008.365(8), F.S., and
- A new literacy micro-credential program.

The bill creates the literacy micro-credential program and requires the NWRI administrator to develop the micro-credential that requires teachers to demonstrate competency to:

- Diagnose literacy difficulties and determine the appropriate range of literacy interventions.
- Use evidence-based instructional and intervention practices.
- Effectively use progress monitoring and intervention materials.

¹⁴¹ Section 1003.485(2)(b), F.S. Notwithstanding s. 1002.395(6)(j)2., F.S., the administrator may carry forward up to 25 percent of eligible contributions to the following state fiscal year for purposes authorized by this subsection. Any eligible contributions in excess of the 25 percent carry forward not used to provide additional books throughout the year to eligible students shall revert to the state treasury.

¹⁴² Section 1003.485(4)(b), F.S.

¹⁴³ Section 1003.485(4)(c), F.S.

¹⁴⁴ Section 1003.485(4)(d), F.S.

¹⁴⁵ Section 1003.485(4)(e), F.S.

The bill also requires the NWRI administrator to administer the literacy micro-credential program which must include components on content, student learning, pedagogy, and professional development. The micro-credential must be competency-based and designed for eligible instructional personnel to complete the credentialing process in no more than 60 hours, in an online format. The literacy micro-credential must be available by December 31, 2022, at no cost, to instructional personnel, prekindergarten instructors, and child care personnel.

The bill expands the eligibility of The New Worlds Reading Scholarship program to include students enrolled in kindergarten through grade 5, rather than students in grade 3 through grade 5, who have a substantial reading deficiency identified under s. 1008.25(5)(a), F.S., or who scored below a Level 3 on the statewide, standardized ELA assessment in the prior school year.

The bill modifies the eligible used of the funds from the reading instruction allocation in the FEFP as follows:

- Removes the specific requirement for the 300 lowest-performing elementary schools on the statewide, standardized ELA assessment to use the allocation to provide an additional hour of intensive reading instruction.
- Clarifies that reading coaches must be certified or endorsed in reading.
- Provides flexibility for professional development options by authorizing school boards to use funds from the allocation to help instructional personnel and certified prekindergarten teachers funded in the FEFP earn a certification, a credential, endorsement, or advanced degree in scientifically-researched and evidence-based reading instruction.
- Authorizes teachers or other district personnel who possess a literacy micro-credential to teach summer camps for students in kindergarten through grade 5.
- Removes the requirement that scientifically-researched and evidence-based supplemental instructional materials purchased with the allocation must be identified by the JRFO.
- Authorizes allocation funds to be used for incentives for instructional personnel and certified prekindergarten teachers funded in the FEFP who possess a reading certification or endorsement or a literacy micro-credential and provide educational support to improve student literacy.
- Authorizes allocation funds to be used to provide tutoring in reading.
- Authorizes intensive reading interventions to be provided by instructional personnel who possess a literacy micro-credential and who are supervised by an individual certified or endorsed in reading.

The bill removes the requirement that the DOE prescribes the format for district-developed comprehensive reading plans and that the JRFO must approve the reading plans. The bill requires school districts to develop their comprehensive reading plans, in consultation with the State Regional Literacy Director, that identify the specific uses of their portion of the reading instruction allocation.

The bill provides that instructional personnel who possess a literacy micro-credential and are delivering intensive reading interventions must be supervised by an individual who is certified or endorsed in reading.

Background Screening for School Employees

Present Situation

Employee Background Screenings

Florida provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.¹⁴⁶

¹⁴⁶ Chapter 435, F.S.

Chapter 435, F.S., establishes standard procedures for criminal history background screening of prospective employees and outlines the screening requirements. There are two levels of background screening: Level 1 and Level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,¹⁴⁷ and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.¹⁴⁸ A Level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.¹⁴⁹

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.¹⁵⁰ Such information for a Level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to FDLE.¹⁵¹

For both Level 1 and 2 screenings, the employer must submit the information necessary for screening to FDLE within five working days after receiving it.¹⁵² Additionally, for both levels of screening, FDLE must perform a criminal history record check of its records.¹⁵³ For a Level 1 screening, this is the only information searched, and once complete, FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.¹⁵⁴ For Level 2 screening, FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.¹⁵⁵ As with a Level 1 screening, FDLE responds to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information. If the employer or agency finds that an individual has a history containing one of these offenses, it must disqualify that individual from employment.

The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.¹⁵⁶

Disqualifying Offenses

Regardless of whether the screening is Level 1 or Level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the 51 specified offenses prohibited under Florida law, or similar law of another jurisdiction.¹⁵⁷

¹⁴⁷ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nsopw.gov/> (last visited March 17, 2022).

¹⁴⁸ Florida Department of Law Enforcement, *State of Florida Criminal History Records Check* <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited March 17, 2022).

¹⁴⁹ Section 435.04, F.S.

¹⁵⁰ Section 435.05(1)(a), F.S.

¹⁵¹ Section 435.03(1) and 435.04(1)(a), F.S.

¹⁵² Section 435.05(1)(b)-(c), F.S.

¹⁵³ Id.

¹⁵⁴ Section 435.05(1)(b), F.S.

¹⁵⁵ Section 435.05(1)(c), F.S.

¹⁵⁶ Section 435.05(1)(d), F.S.

¹⁵⁷ Section 435.04(2), F.S.

Exemption from Disqualification

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency for one or more of the disqualifying offenses, s. 435.07, F.S., allows the secretary of the appropriate agency to exempt applicants from that disqualification under certain circumstances, including when:¹⁵⁸

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for a disqualifying felony; or
- The applicant has completed or been lawfully released from confinement, supervision, or a nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,¹⁵⁹ career offender,¹⁶⁰ or sexual offender (unless not required to register)¹⁶¹ cannot ever be exempted from disqualification.¹⁶²

Current law does not prohibit a person from becoming certified as a teacher if he or she is ineligible for an exemption from a disqualifying offense under s. 435.07, F.S.

Care Provider Background Screening Clearinghouse

Many different agencies, programs, employers, and professionals serve vulnerable populations in Florida. Personnel working with those entities who serve vulnerable persons are subject to background screening. However, due to restrictions placed on the sharing of criminal history information, persons who work for more than one agency or employer, who change jobs, or who wish to volunteer for such an entity, often must undergo a new and duplicative background screening and fingerprinting.

Policies imposed by the FBI prevent the sharing of criminal history information except within a given "program." Since each regulatory area is covered by a different controlling statute and screenings are done for separate purposes, the screenings have been viewed as separate "program" areas and sharing of results has not been allowed.¹⁶³ In addition, screenings are only accurate as of the date they are run. Arrests or convictions occurring after the screening are not known until the person is rescreened or self-reports.

In 2012, the Legislature created the Care Provider Background Screening Clearinghouse (Clearinghouse) to create a single "program" of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.¹⁶⁴ Designated agencies include the Agency for Health Care Administration (AHCA), the Department of Health, the Department of Children and Families (DCF), the Department of Elder Affairs, the Agency for Persons with Disabilities, and Vocational Rehabilitation within the DOE.¹⁶⁵ Once a person's screening record is in the Clearinghouse, that person will avoid the need for any future state screens and related fees.¹⁶⁶ Final implementation of the Clearinghouse by the designated state agencies was required by October 1, 2013. The Clearinghouse was initially implemented by AHCA on January 1, 2013.

¹⁵⁸ Section 435.07(1), F.S.

¹⁵⁹ Section 775.261, F.S.

¹⁶⁰ Section 775.261, F.S.

¹⁶¹ Section 943.0435, F.S.

¹⁶² Section 435.07(4)(b), F.S.

¹⁶³ See Pub. L. No. 92-544 (Oct. 25, 1972); 28 C.F.R. Part 20; 28 C.F.R. s. 50.12.

¹⁶⁴ Chapter 2012-73, L.O.F.

¹⁶⁵ Section 435.02(5), F.S. (defines "Specified agency").

¹⁶⁶ Agency for Health Care Administration, *Clearinghouse Renewals*,

https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Renewals.shtml (last visited March 17, 2022).

Qualified entities and educational entities are not currently required to conduct background screenings through the Clearinghouse.

Background Screening of Individuals at Schools

To be eligible to work in a district school system, a person must meet the following basic specification requirements:

- Be of good moral character.
- Be at least 18 years of age.
- Be employed in an instructional capacity.
- Be eligible for employment in a school district.¹⁶⁷
- When required by law, hold a certificate or license issued under rules of the SBE or the DCF.¹⁶⁸

Instructional and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students must also undergo background screening as specified in law.¹⁶⁹

Individuals who work in or provide services to school districts, charter schools, alternative schools, and private schools participating in state school choice scholarship programs¹⁷⁰ must undergo a fingerprint-based background screening before being permitted access to school grounds.¹⁷¹ The individuals who must undergo background screening fall under three personnel classifications: instructional and noninstructional personnel;¹⁷² noninstructional school district employees and contracted personnel;¹⁷³ and noninstructional contractors.¹⁷⁴ Candidates for educator certification must also undergo background screening.¹⁷⁵

The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.¹⁷⁶ Because they are more likely to have direct contact with students, candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel must be screened against a distinct list of 51 disqualifying offenses applicable to employment with public schools and school districts.¹⁷⁷ Athletic coaches employed by public schools must be certified by the DOE and are subject to the same background screening standards as other individuals seeking certification.¹⁷⁸ In contrast, noninstructional contractors, individuals who are not school district employees and have no direct contact with students, are screened against a statutory list of 12 disqualifying offenses.¹⁷⁹

¹⁶⁷ See Section 1012.315, F.S. Eligibility requirements prohibit registered sex offenders or persons that have been convicted or found guilty of a crime.

¹⁶⁸ Section 1012.32, F.S.

¹⁶⁹ See ss. 1012.465 and 1012.56, F.S.

¹⁷⁰ The background screenings conducted by such private schools are conducted through the VECHS.

¹⁷¹ Sections 1002.421, 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

¹⁷² Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

¹⁷³ Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

¹⁷⁴ Noninstructional contractors are vendors or contractors who are not school district employees, are permitted access to school grounds when students are present, and have little or no direct contact with students. Section 1012.467(1)(a), F.S.

¹⁷⁵ Sections 1012.315, 1012.32(2)(a), and 1012.56(10)(a), F.S.

¹⁷⁶ See ss. 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

¹⁷⁷ Sections 1012.315, 1012.32, and 1012.465, F.S.

¹⁷⁸ Section 1012.55(2), F.S. See also 1012.56, F.S.; Rule 6A-4.004(4), F.S.

¹⁷⁹ See s. 1012.467(2)(g), F.S. The law references eight specific offenses plus crimes involving lewd and lascivious behavior in ch. 800, F.S., which include four such offenses. *Id.*

Fingerprints taken for a background screening are submitted to the FDLE for statewide criminal and juvenile records checks and to the FBI for national criminal records checks. The cost of the background screening may be borne by the district school board, the charter school, or the individual who is subject to the screening requirements.¹⁸⁰

The FDLE enters and retains the fingerprints in the Automated Fingerprint Identification System (AFIS), and retains them in the Applicant Fingerprint Retention and Notification Program (AFRNP) database.¹⁸¹ Any arrest fingerprints the FDLE receives through the Criminal Justice Information Program¹⁸² must then be searched against the fingerprints retained in the AFRNP. Any arrest record that is identified with the retained fingerprints of a person subject to the background screening must be reported to the employing or contracting school district.¹⁸³

Screening results for contractors, both those who have direct contact with students and those who simply have access to school property when students are present, are entered into the Florida Shared School Results (FSSR) system,¹⁸⁴ which allows the results to be shared with other school districts through a secure internet website or other secure electronic means. However, the screening results for instructional personnel hired or contracted by an approved virtual instruction provider are not included in FSSR. As a result, these individuals must often undergo background screening by multiple school districts using the provider's services.¹⁸⁵

In addition to fingerprint-based background screening, before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in a state school choice scholarship program must:¹⁸⁶

- Conduct an employment history check of the individual's previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- Screen the individual through use of the DOE Professional Practices' Database of Disciplinary Actions Against Educators, Teacher Certification Database, and the disqualification list;¹⁸⁷ and
- Document the findings.

The disqualification list is maintained by the DOE and includes the identity of any person who:¹⁸⁸

- Has been permanently denied an educator certificate or whose certificate was permanently revoked and has been placed on the list as directed by the EPC.¹⁸⁹
- Has been permanently disqualified by the Commissioner as an owner or operator of a private school participating in a state scholarship program.
- Has been terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student.
- Is ineligible for educator certification or employment under s. 1012.315, F.S.

An individual on the disqualification list is prohibited from serving or applying to serve as an employee or contracted personnel at any public school, charter school, or private school participating in a state

¹⁸⁰ Section 1012.32(2), F.S. (flush-left provision at end of subsection).

¹⁸¹ Section 1012.32(3)(a), F.S.; s. 943.05(2), F.S.; rule 11C-6.010(1), F.A.C.

¹⁸² Section 943.051, F.S.

¹⁸³ Section 1012.32(3)(b), F.S.

¹⁸⁴ Florida Department of Law Enforcement, *Jessica Lunsford Act Information*, <http://www.fdle.state.fl.us/JLA/Jessica-Lunsford-Act-Information.aspx> (last visited March 17, 2022).

¹⁸⁵ Section 1012.467(7)(a), F.S.

¹⁸⁶ Sections 1002.33(12)(g)4. (charter schools), 1002.421(4)(c) (private schools), and 1012.27(6), F.S. (school districts).

¹⁸⁷ See s. 1001.10(4)(b), F.S.; see also Florida Department of Education, *Employment Screening Tools*, <https://www.fldoe.org/teaching/professional-practices/employment-screening-tools.stml> (last visited March 17, 2022) (includes links to the Professional Practices' Database of Disciplinary Actions Against Educators and the Teacher Certification Database).

¹⁸⁸ Section 1001.10(4)(b), F.S.

¹⁸⁹ Section 1012.795, F.S.

scholarship program. Any individual who knowingly violates this prohibition commits a third degree felony.¹⁹⁰

The DOE may remove a person included on the disqualification list if the person demonstrates the following:

- A completed law enforcement investigation resulted in an exoneration or no finding of guilt; and a completed investigation and proceeding by the responsible education agency resulting in a finding that the person did not commit the disqualifying conduct;
- The person was included on the disqualification list in error; or
- The employer that submitted the person for inclusion revokes his or her request.¹⁹¹

Additionally, the DOE is required to investigate complaints or allegations made against certified educators and initiate proceedings to suspend or revoke the educator's certificate if grounds exist to do so. The law specifically references certified educators employed by traditional public schools, charter schools, and private schools participating in a state school choice scholarship programs, while omitting approved virtual instruction providers.¹⁹²

The law also requires law enforcement agencies to notify the appropriate district school superintendent, charter school governing board, private school owner or administrator, president of the Florida School for the Deaf and the Blind, or university lab schools director or principal, as applicable, within 48 hours if an employee is arrested for a felony or a misdemeanor involving the abuse of children or sale or possession of controlled substances.¹⁹³

Upon notification by law enforcement, the principal must, within 24 hours, notify parents of enrolled students who had direct contact with the employee and include, at a minimum, the employee's name and the specific charges against him or her.¹⁹⁴

The FDLE charges an annual fee to each school district for performing services and establishing procedures for the retention and results of personnel fingerprinting.¹⁹⁵

Effect of the Bill

The bill amends s. 435.02, F.S., to require school districts, lab schools, the Florida School for the Deaf and the Blind, the FLVS, virtual instruction providers, charter schools, Hope operators, and private schools participating in an educational scholarship program to conduct background screenings using the Clearinghouse beginning January 1, 2023. These entities must be fully implemented into the Clearinghouse by January 1, 2024, or by a date determined by AHCA.

The bill amends ss. 943.0585 and 943.059, F.S., to prohibit individuals seeking employment at any of these entities from denying or failing to acknowledge arrests covered by a sealed or expunged record.

The bill requires AHCA to follow a staggered schedule when conducting rescreening for education entities entering the Clearinghouse:

- Employees last screened on or before June 30, 2019, must be rescreened by June 30, 2024.
- Employees last screened between July 1, 2019, and June 30, 2021, must be rescreened by June 30, 2025.
- Employees last screened between July 1, 2021, through December 31, 2021, must be rescreened by June 30, 2026.

¹⁹⁰ Sections 775.082 and 775.083, F.S.

¹⁹¹ Section 1001.10(4)(c), F.S.

¹⁹² Section 1012.796(1), F.S.

¹⁹³ Section 1012.797, F.S.

¹⁹⁴ *Id.*

¹⁹⁵ Section 1012.32(3)(b), F.S.

Because charter schools will conduct background screenings using the Clearinghouse, the bill repeals the requirement that a district school board reimburse a charter school for the cost of background screening if the district school board fails to notify the charter school of eligible personnel or board members within a specified number of days.

Reporting Sexual Misconduct in Florida Public Schools

Present Situation

Sexual Misconduct in Florida Public Schools

Florida law prohibits the employment of specific individuals in district public schools,¹⁹⁶ charter schools,¹⁹⁷ and private schools.¹⁹⁸ A person may be ineligible for employment due to registration as a sexual offender or having been terminated or resigned in lieu of termination for sexual misconduct with a student.¹⁹⁹ Additionally, a person is ineligible for employment in any position that requires direct contact with students if he or she has been convicted or found guilty of, has had adjudication withheld for, or has pled guilty or nolo contendere to specified offenses.²⁰⁰

Section 1006.061, F.S., requires public notices to be posted in all district school boards, charter schools, and private schools that accept scholarship students, notifying students, visitors, and employees.²⁰¹

- That all employees and agents of the school have an affirmative duty to report all actual or suspected cases of child abuse, abandonment, or neglect, have immunity from liability if they report cases in good faith, and have a duty to comply with all provisions of law relating to child abuse, abandonment, and neglect.²⁰²
- Of policies and procedures for reporting alleged misconduct by school district employees which affects the health, safety, or welfare of a student; the contact person for the report; and penalties for employees.²⁰³
- Of the statewide phone number of the central abuse hotline, instructions on how to call 911 for emergencies, directions for accessing the DCF website and the DOE website.²⁰⁴

In 2021, the Legislature passed HB 131, which requires school districts and the DOE to fully investigate allegations of sexual misconduct with students.²⁰⁵ In addition, district school boards must adopt policies establishing standards of ethical conduct for employees including educational support personnel, instructional personnel, administrative personnel, and school officers. School district employees must complete training on ethical conduct standards, including the duty to report misconduct that involves a violation of s. 800.101, F.S., for engaging in or soliciting sexual, romantic, or lewd conduct with a student, including a report to law enforcement.²⁰⁶

Effect of the Bill

Under the bill, a person commits a first degree misdemeanor if he or she knowingly or willingly:

¹⁹⁶ Section 1012.796(1), F.S.

¹⁹⁷ Section 1002.33(12)(g), F.S.

¹⁹⁸ Section 1002.421(1)(r), F.S.

¹⁹⁹ Section 1001.42(7), F.S.

²⁰⁰ Section 1012.315, F.S.

²⁰¹ Section 1006.061, F.S.

²⁰² Section 1006.061(1), F.S.

²⁰³ Section 1006.061(2), F.S.

²⁰⁴ Section 1006.061(4), F.S.

²⁰⁵ Section 1, ch. 2021-138, L.O.F.

²⁰⁶ Section 1001.42(6), F.S.

- Fails to make a report regarding an incident of an authority figure engaging in or soliciting sexual, romantic, or lewd conduct with a student.
- Submits false, inaccurate, or incomplete information while reporting an authority figure engaging in or soliciting sexual, romantic, or lewd conduct with a student.
- Coerces or threatens another person with the intent to alter his or her testimony or written report regarding an incident of an authority figure engaging in or soliciting sexual, romantic, or lewd conduct with a student.

A first degree misdemeanor is punishable by up to one year in county jail and a fine of \$1,000.²⁰⁷

Duties and Responsibilities of District School Superintendents

Present Situation

Each district school superintendent must exercise all powers and perform all duties as set forth in law provided that, in so doing, he or she must advise and counsel with the district school board. The district school superintendent must perform all tasks necessary to make sound recommendations, nominations, proposals, and reports required by law to be acted upon by the district school board. A district school superintendent's responsibilities include, but are not limited to, the following:²⁰⁸

- Assisting in the organization of the district school board.
- Maintaining records of the district school board.
- Making recommendations regarding the establishment, organization, and operation of schools, classes, and services within the district.
- Directing the work of school district personnel.
- Providing for the transportation of students.
- Recommending such records as should be kept in addition to those prescribed by rules of the SBE; prepare forms for keeping such records as are approved by the district school board; ensure that such records are properly kept; and make all reports that are needed or required.

Effect of the Bill

The bill expands a district school superintendent's responsibilities for school records to include maintaining records and reports relating to any determination to withhold from a parent information regarding the provision of any services to support the mental, physical, or emotional well-being of the parent's minor child. Any such determination must be based solely on child-specific information personally known to the school personnel and as documented and approved by the school principal or his or her designee. Such determination must be annually reviewed and redetermined.

Teacher Preparation Programs

Present Situation

State-approved teacher preparation programs are offered by Florida public and private postsecondary institutions, public school districts, and private providers by which candidates for educator certification can, depending on the type of program, demonstrate mastery of general knowledge, professional preparation and education competence, and/or subject area knowledge for purposes of attaining an educator certificate.²⁰⁹

Initial state program approval is based on standards adopted and established by the DOE. Each program approved must require students, at a minimum to:

²⁰⁷ Sections 775.082 and 775.083, F.S.

²⁰⁸ Section 1001.51, F.S.

²⁰⁹ See Florida Department of Education, *Professional Development in Florida*, <http://www.fldoe.org/teaching/professional-dev/> (last visited March 17, 2022). See also rule 6A-5.066, F.A.C.; ss. 1004.04(3)(a) and 1004.85(1), F.S.

- Have a grade point average of 2.5 or higher in the general education component of undergraduate studies or have completed a bachelor’s degree from an accredited college or university with a minimum 2.5 GPA;²¹⁰ and
- Pass the General Knowledge Test of the Florida Teacher Certification Examination or, for a graduate level program, obtain a baccalaureate degree from an institution that is accredited or approved pursuant to the rules of the state board.²¹¹

There are three types of state-approved teacher preparation programs that individuals may use to receive the training needed to attain teaching credentials.²¹²

Initial Teacher Preparation Programs

Initial Teacher Preparation programs are “traditional” teacher preparation programs that require candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas(s), mastery of general knowledge, and mastery of professional preparation and education competence. Program completers qualify for a professional educator certificate.²¹³

Educator Preparation Institutes

Educator Preparation Institutes are alternative certification programs offered by postsecondary institutions and qualified private providers for baccalaureate degree holders. These programs provide professional preparation for career-changers and recent college graduates who do not already possess a Professional Educator Certificate and require mastery of general knowledge, mastery of subject area knowledge and mastery of professional preparation and education competence.²¹⁴

District Professional Development Certification and Education Competency Programs

District Professional Development Certification and Education Competency Programs are cohesive competency-based professional preparation certification programs offered by school districts, charter schools, and charter management districts by which the instructional staff can satisfy the mastery of professional preparation and education competence requirements.²¹⁵ In addition to completing the district program, candidates must demonstrate mastery of general knowledge and subject area knowledge.²¹⁶

Requirements for Teacher Preparation Programs

The state board is charged with maintaining a system for development and approval of teacher preparation programs.²¹⁷ The system allows postsecondary educator preparation institutions to employ varied and innovative educator preparation techniques while being held accountable for producing graduates with the competencies and skills necessary to:

- Achieve the state’s education goals.
- Help the state’s diverse student population meet high standards for academic achievement.
- Maintain safe, secure classroom learning environments.
- Sustain the state system of school improvement and education accountability.²¹⁸

²¹⁰ Section 1004.04(3)(b)1., F.S.

²¹¹ Section 1004.04(3)(b)2., F.S.

²¹² Florida Department of Education, *Educator Preparation*, <http://www.fldoe.org/teaching/preparation> (last visited March 17, 2022). See also rule 6A-5.066, F.A.C.

²¹³ See s. 1004.04, F.S.; rule 6A-5.066(1)(o), F.A.C.

²¹⁴ See s. 1004.85, F.S.; rule 6A-5.066(1)(k), F.A.C.

²¹⁵ Section 1012.56(8)(a), F.S.

²¹⁶ See s. 1012.56(2)(g) and (h), F.S.

²¹⁷ Section 1004.04(1), F.S.

²¹⁸ *Id.* See Florida Department of Education, *Professional Development in Florida*, <http://www.fldoe.org/teaching/professional-dev/> (last visited March 17, 2022).

The DOE is responsible for approving teacher preparation programs based on evidence of a program's capacity to meet the requirements for continued program approval established in law and state board rule.²¹⁹

Each candidate enrolled in a teacher preparation program must receive instruction and be assessed on the uniform core curricula in his or her area of program concentration during course work and field experiences.²²⁰

Educator preparation institutes may offer competency-based certification programs specifically designed for noneducation major baccalaureate degree holders.²²¹ The SBE must establish, in rule, uniform core curricula for each state-approved teacher preparation program including, but not limited to:²²²

- Candidate instruction and assessment in the Florida Educator Accomplished Practices across content areas.
- The use of state-adopted content standards to guide curricula and instruction.²²³
- Scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies.²²⁴
- Content literacy and mathematical practices.
- Strategies appropriate for instruction of English language learners.
- Strategies appropriate for instruction of students with disabilities.
- Strategies to differentiate instruction based on student needs.
- The use of character-based classroom management.
- Strategies appropriate for the early identification of a student in crisis or experiencing a mental health challenge and the referral of such student to a mental health professional for support.
- Strategies to support the use of technology in education and distance learning.²²⁵

In addition, before program completion, each candidate must demonstrate his or her ability to positively impact student learning growth in the candidate's area(s) of program concentration during a prekindergarten through grade 12 field experience and must pass each portion of the Florida Teacher Certification Examination (FTCE) required for a professional certificate in the area(s) of program concentration.²²⁶

Continued approval of educator preparation institutes is determined by the Commissioner of Education based on a periodic review of these areas:²²⁷

- Documentation from the program that each program completer has met the requirements established in law.
- Evidence of performance in each of the following:
 - Placement rate of program completers into instructional positions in Florida public schools and private schools, if available.
 - Rate of retention for employed program completers in instructional positions in Florida public schools.

²¹⁹ See s. 1004.04(4), F.S.; rule 6A-5.066(2) and (5), F.A.C.

²²⁰ Section 1004.04(2)(c), F.S.

²²¹ Section 1004.85(3), F.S.

²²² Section 1004.04(2)(b)1.-8., F.S.

²²³ The State Board of Education has adopted the Next Generation Sunshine State Standards, which establish the core content of the curricula taught in the state and specify the core content knowledge and skills that K-12 public school students are expected to acquire. Rule 6A-1.09401(1), F.A.C.; s. 1003.41(1), F.S.

²²⁴ The Just Read, Florida! Office must assist teacher preparation programs and educator preparation institutes with this requirement. Section 1001.215(11), F.S.

²²⁵ Section 1004.85(3)(a)1., F.S.

²²⁶ Section 1004.04(2)(d), F.S.

²²⁷ Section 1004.85(4)(a)-(b), F.S.

- Performance of students in prekindergarten through grade 12 who are assigned to in-field program completers on statewide assessments using the results of the student learning growth formula adopted by the DOE pursuant to law.
- Performance of students in prekindergarten through grade 12 who are assigned to in-field program completers aggregated by student subgroup, as defined in the ESEA²²⁸ as a measure of how well the program prepares teachers to work with a diverse population of students in a variety of settings in Florida public schools.
- Results of program completers' annual evaluations under the teacher evaluation systems.
- Production of program completers in statewide critical teacher shortage areas as identified in law.

Each approved educator preparation institute pursuant to this must submit to the DOE annual performance evaluations that measure the effectiveness of the programs, including the pass rates of participants on all examinations required for teacher certification, employment rates, longitudinal retention rates, and satisfaction surveys of employers and candidates.²²⁹

Preservice Field Experiences

All postsecondary instructors, school district personnel, and school sites preparing instructional personnel through preservice field experience courses and internships must meet specified requirements,²³⁰ including a minimum number of at least three years teaching,²³¹ evidence of clinical educator training, and proof of successful past experience in employment.²³² Preservice field experience must fully prepare a future educator to manage a classroom, exposing the candidate to the area of concentration with a diverse population of students in a variety of challenging environments.²³³

Teacher Preparation Approval System and Scoring

A January 2022 report based on an audit of Florida's teacher preparation program accountability system makes recommendations to update and improve program-approval criteria.²³⁴ The audit notes that due to overly specific and restrictive measures, only 82 of 318 programs have enough performance data to receive a rating.²³⁵ In addition, the use of summative ratings, rather than weighted criteria, affects the accuracy of program quality ratings.²³⁶

Some of the audit report's recommendations include: limiting consideration of teacher placements to those in Florida; eliminating teacher retention, as studies have shown little correlation between retention and program quality; eliminating subgroup performance on state assessments due to limited data; and including candidate readiness based on passage rates on the FTCE.²³⁷ According to the report, fair evaluation of very small preparation programs can be facilitated by providing the DOE flexibility in determining the number of completers necessary for an evaluation.²³⁸ The report also noted that the DOE could allow completion of national accreditation to satisfy state approval requirements.²³⁹

²²⁸ 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

²²⁹ Section 1004.85(5), F.S.

²³⁰ Section 1004.04(5), F.S.

²³¹ Section 1004.04(5)(a), F.S.

²³² Section 1004.04(5)(b), F.S.

²³³ Section 1004.04(5)(c), F.S.

²³⁴ UPD Consulting, *Florida Department of Education Teacher Preparation Approval System and Scoring Audit Report* (Jan. 2022), on file with staff of the House Education and Employment Committee.

²³⁵ *See id.* at 3.

²³⁶ *Id.*

²³⁷ *See id.* at 8-12.

²³⁸ *See id.* at 16.

²³⁹ *See id.* at 15.

In addition to approval criteria, the report recommends that preservice teacher candidates receive additional field experience before participating in a “culminating” field experience, *i.e.*, internship or, for an educator preparation institute, becoming the teacher of record.²⁴⁰ Citing a Florida Council of 100 report detailing the disparity between student grades and statewide, standardized assessments, the report also recommends including strategies for research-based standards-aligned assessment and grading practices in the uniform core curricula.²⁴¹

Effect of the Bill

The bill incorporates multiple recommendations from the audit report by:

- Revising the uniform core curricula for teacher preparation programs to include strategies that support evidence-based, standards-aligned content and grading practices.
- Revising program evaluation criteria to:
 - Remove subgroup performance on statewide, standardized assessments and teacher retention.
 - Add candidate readiness based on FTCE passage rates and additional weight for placement in teacher shortage areas.
- Authorizing the SBE to weight certain evaluation criteria and approve programs based on national accreditation.
- Requiring the SBE to adopt criteria for streamlining evaluations for small programs, including criteria for determining whether a review is necessary, whether remote review procedures may be used, and whether program data may be aggregated at the program or institution level.
- Beginning with candidates entering a program in the 2023-2024 school year, requiring that:
 - Candidates in a traditional preparation program complete 60 hours of field experience before participating in a culminating field experience.
 - Candidates in an educator preparation institute complete a period of field experience as determined in state board rule before becoming the teacher of record.

Instructional Personnel in Florida District Schools

Present Situation

Overview

Section 1012.01(2), F.S., defines “instructional personnel” as any K-12 staff member who provides direct instructional services or direct instructional support to students in kindergarten through grade 12.²⁴² Instructional personnel include:

- Classroom teachers.
- Staff who provide student personnel services, e.g., certified school counselors, social workers, career specialists, and school psychologists.
- Librarians and media specialists.
- Other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel.²⁴³

“School administrators” include school principals, assistant principals, school directors, and career center directors.²⁴⁴

²⁴⁰ *Id.* at 18.

²⁴¹ *Id.* at 17.

²⁴² Section 1012.01(2), F.S.

²⁴³ *Id.*

²⁴⁴ *See* s. 1012.01(3), F.S. School administrators are a subset of K-12 administrative personnel who perform management activities such as developing and executing broad policies for the school district. Administrative personnel include district-based instructional and non-instructional administrators, as well as school administrators who perform administrative duties at the school-level. *Id.*

Each district school superintendent must establish procedures for evaluating the job performance of all district instructional, administrative, and supervisory personnel.²⁴⁵ Instructional personnel and school administrators must be evaluated annually, except that newly hired classroom teachers must be evaluated at least twice in their first year of teaching in the school district.²⁴⁶

Each evaluation of instructional personnel must be performed by the employee's supervisor, who may consider input from other trained personnel.²⁴⁷ School districts must provide training to evaluators on the proper use of the evaluation criteria and procedures and must include processes for monitoring evaluator reliability and system effectiveness.²⁴⁸ Instructional personnel and school administrators are evaluated using the following criteria:

- Student performance.
- Instructional practice (for instructional personnel).
- Instructional leadership (for school administrators).
- Other indicators of performance identified by the district school board, such as peer reviews.²⁴⁹

At least one-third of an instructional personnel or school administrator evaluation must be based upon student performance and at least another one third based on instructional practice or instructional leadership.²⁵⁰

Instructional practice criteria for classroom teachers are based upon the Florida Educator Accomplished Practices (FEAPs). For non-classroom instructional personnel who are not classroom teachers, instructional practice criteria must be based upon the FEAPs and may include specific job expectations related to student support.²⁵¹

Instructional practice indicators are aligned to the FEAPs adopted in state board rule.²⁵² The FEAPs provide the essential competencies and skills for effective teaching and form the foundation for teacher preparation programs, certification requirements, and performance evaluation systems.²⁵³ In district evaluation systems, instructional practice indicators measure the FEAPs regarding:

- Instructional design and lesson planning.
- The learning environment, including classroom management.
- Instructional delivery and facilitation.
- Assessment of student progress.
- Continuous professional improvement.
- Professional responsibility and ethical conduct.²⁵⁴

Instructional personnel and school administrator evaluations must be based upon the performance of the students assigned to their classrooms or schools.²⁵⁵ All personnel being evaluated must be fully informed of the criteria, data sources, methodologies, and procedures before evaluation takes place.²⁵⁶ If an employee is not performing satisfactory work, the employee must be notified in writing. The notice must

²⁴⁵ Section 1012.34(1)(a), F.S.

²⁴⁶ Section 1012.34(3)(a), F.S. "Newly hired classroom teachers" include first-time teachers new to the profession as well as veteran teachers new to the school district.

²⁴⁷ Section 1012.34(3)(c), F.S.

²⁴⁸ Section 1012.34(2)(f), F.S.

²⁴⁹ Section 1012.34(3)(a)1., 2., and 4., F.S.

²⁵⁰ Section 1012.34(3)(a)1-3., F.S.

²⁵¹ Section 1012.34(3)(a)2., F.S. The Educator Accomplished Practices are adopted in rule and include several competencies and skills that are essential to effective teaching. Rule 6A-5.065, F.A.C.

²⁵² Rule 6A-5.065, F.A.C.

²⁵³ Rule 6A-5.065(1)(a), F.A.C.

²⁵⁴ Rule 6A-5.065(2), F.A.C.

²⁵⁵ Section 1012.34(3), F.S.

²⁵⁶ Section 1012.34(3)(a)4.b., F.S.

contain recommendations with respect to specific areas of unsatisfactory performance, assistance for the employee, and a notice of probation for 90 calendar days.²⁵⁷

The district superintendent must annually report evaluation systems and evaluation results of instructional personnel and administrators to the DOE²⁵⁸ to calculate district and statewide student performance.²⁵⁹

The DOE reviews and approves each school district's performance evaluation system annually. District evaluation systems must:

- Be based upon sound educational principles and contemporary research in effective educational practices.
- Be designed to support effective instruction and student learning growth.
- Be used when developing district and school improvement plans as well as identifying professional development.
- Provide appropriate instruments, procedures, timely feedback, and criteria for improving the quality of instruction.
- Examine performance data from multiple sources, including opportunities for parental input;
- Identify teaching fields for which special evaluation criteria are necessary.
- Differentiate among four levels of performance.
- Provide for training on the use of the evaluation system.²⁶⁰

The four levels of performance for school district performance evaluation systems include highly effective; effective; needs improvement, or for instructional personnel in their first 3 years of employment who need improvement, developing; and unsatisfactory.²⁶¹ Upon approval, the DOE posts a list of department-approved evaluation systems and the approval dates.²⁶²

Implications of School District Personnel Evaluations

As of July 1, 2014, district school boards must have a performance salary schedule, based on performance measurements, and a grandfathered salary schedule, based on seniority and degree level, for instructional personnel and school administrators.²⁶³ Instructional personnel retain the right to collectively bargain compensation awarded under both the performance salary schedule and the grandfathered salary schedule; however, the priorities for negotiating compensation under each salary schedule differ.²⁶⁴ Compensation for school administrators is determined by the district school board.

Under the performance salary schedule, annual salary adjustments may be given only to employees rated highly effective or effective on annual performance evaluations.²⁶⁵ The salary adjustment for highly effective performance must be greater than the highest annual salary adjustment available to an employee of the same classification on any salary schedule adopted by the school district. The salary adjustment for effective performance must be between 50 and 75 percent of the adjustment provided to

²⁵⁷ Section 1012.34(4), F.S.

²⁵⁸ Section 1012.34(1)(a), F.S.

²⁵⁹ Section 1012.34(1), F.S. The most recent evaluation results for the 2018-19 school year are available on the DOE website. See Florida Department of Education, Performance Evaluation, *District Evaluation Ratings*, <https://www.fldoe.org/teaching/performance-evaluation/>. (last visited March 17, 2022).

²⁶⁰ Section 1012.34(1)(b), (2), and (3)(a), F.S. See rule 6A-5.030, F.A.C. (establishing process for submitting district evaluation system plans to the DOE for approval).

²⁶¹ Section 1012.34(2)(e), F.S.

²⁶² Florida Department of Education, *Performance Evaluation*, <https://www.fldoe.org/teaching/performance-evaluation/> (last visited March 17, 2022).

²⁶³ Section 1012.22(1)(c)4. and 5., F.S.

²⁶⁴ Section 1012.22(1)(c)4. and 5.; s. 447.309(1), F.S.

²⁶⁵ Section 1012.22(1)(c)5.b., F.S. Student performance data used in a classroom teacher's evaluation is determined by the school district pursuant to s. 1012.34(3)(a)1. and (7), F.S. It may include student learning growth calculated using a formula adopted by the Commissioner of Education. See s. 1012.34(7)(b), F.S.

a highly effective employee.²⁶⁶ Employees rated below effective are not eligible for a salary adjustment.²⁶⁷

The grandfathered salary schedule is the salary schedule or schedules adopted by a district school board before July 1, 2014, in which compensation is generally based upon seniority and educational degree level.²⁶⁸ An undefined portion of instructional personnel compensation must be based upon performance, as measured by annual performance evaluations. The grandfathered salary schedules for instructional personnel²⁶⁹ and school administrators must include differentiated pay based upon district-determined factors, including additional responsibilities, school demographics, critical teacher shortage areas, and level of job performance difficulties.²⁷⁰

Although the law requires that instructional personnel who are on a performance salary schedule receive higher salary adjustments, based on their performance evaluations, than instructional personnel on any other salary schedule, some school districts have provided additional compensation to make up this difference, including by providing longevity compensation for personnel on the grandfathered salary schedule.²⁷¹

If budget constraints limit a school board's ability to fully fund all adopted salary schedules, the board may not disproportionately reduce the performance salary schedule.²⁷² Performance evaluation ratings may also impact school assignment and eligibility for an annual or professional services contract.²⁷³

Collective Bargaining

Employees of the state, including instructional personnel employed by a school district, have the constitutional right to collective bargaining through representatives of their choosing.²⁷⁴ Florida law defines "collective bargaining" as the performance of the mutual obligations of a public employer and the bargaining agent of the employee organization to meet at reasonable times, to negotiate in good faith, and to execute a written contract with respect to agreements reached concerning the terms and conditions of employment. Neither the public employer nor the employee organization may be compelled to agree to a proposal or required to make a concession unless otherwise provided by law.²⁷⁵

The law prohibits, as an unfair labor practice, a public employer from refusing to bargain in good faith with the certified bargaining agent on terms and conditions of employment.²⁷⁶ However, a public employer is not *per se* required to bargain matters of managerial right, including the ability to set standards of services offered to the public.²⁷⁷ In September 2021, the Public Employment Relations Commission ruled that a school district's personnel evaluation procedures, including the criteria that it used to evaluate instructional practice and set performance ratings, were a mandatory subject of

²⁶⁶ Section 1012.22(1)(c)5.b., F.S.

²⁶⁷ See s. 1012.22(1)(c)5.b.III., F.S.

²⁶⁸ Section 1012.22(1)(c)4., F.S.

²⁶⁹ Unlike the definition of "instructional personnel" in s. 1012.01(2), F.S., the definition of "instructional personnel" for salary schedule purposes excludes substitute teachers and education paraprofessionals. See s. 1012.22(1)(c)1.c., F.S.

²⁷⁰ Section 1012.22(1)(c)4., F.S.

²⁷¹ See, e.g., WEAR-TV, *Escambia County teachers to see increased salaries under new agreement* (Feb. 17, 2022), available at <https://weartv.com/news/local/escambia-county-teachers-to-see-increased-salaries-under-new-agreement>. Escambia County School District is implementing a salary adjustment in the 2021-2022 school year to include a longevity supplement of \$1,000, as compared to a \$600 increase for other employees, so that all personnel on the grandfathered salary schedule that received at least an "effective" rating in the previous school year receive the same salary increase as employees on the performance salary schedule.

²⁷² Section 1012.22(1)(c)5., F.S. (flush-left provisions at end of subparagraph).

²⁷³ See ss. 1012.2315(6), 1012.33(2)(a), 1012.335(2)(c)3., F.S., and rule 6A-1.099811(5)(b), F.A.C.

²⁷⁴ Art. I, s. 6, Fla. Const.; s. 447.03, F.S.

²⁷⁵ Section 447.203(14), F.S.

²⁷⁶ See s. 447.501(1)(c), F.S.

²⁷⁷ See s. 447.209, F.S.

bargaining.²⁷⁸ In other words, the school district committed an unfair labor practice by unilaterally changing instructional personnel evaluation procedures.²⁷⁹ Based on this decision, a school district may be required to undergo collective bargaining to revise evaluation requirements, which may result in impasse and relating proceedings.²⁸⁰

Effect of the Bill

Effective upon becoming a law, the bill specifies that school district evaluation procedures constitute standards of service offered to the public, within the meaning of section 447.209, F.S., and are not subject to mandatory collective bargaining.

Effective upon becoming a law, the bill specifies that any compensation for longevity of service may still be awarded to instructional personnel who are not on a performance salary schedule, but must be included in calculating differentiated salary adjustments, relative to instructional personnel on the performance salary schedule, as required by law.

Florida's Statewide Student Assessment Program

Present Situation

Florida Standards Assessment and the Next Generation Sunshine State Standards Assessment

The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff.²⁸¹ The Florida Standards Assessments (FSA) and Next Generation Sunshine State Standards (NGSSS) assessments measure student achievement of the standards contained in the Florida Standards and the NGSSS, respectively. The statewide assessments program also provides feedback and accountability indicators to Florida educators, policy makers, students, and other citizens.²⁸²

The commissioner is required to design and implement a statewide standardized assessment program aligned to the core curricular content established in the NGSSS.²⁸³ The statewide standardized assessment program for students in grades 3 through 10 is as follows:²⁸⁴

- FSA:
 - ELA: grades 3-10.²⁸⁵
 - Mathematics: grades 3–8.
 - End-of-Course (EOC) assessments for students who are enrolled in the corresponding course:
 - Algebra 1.²⁸⁶
 - Geometry.
- NGSSS Assessments:

²⁷⁸ *The Orange County Classroom Teachers Association, Inc. v. School District of Orange Cnty.*, No. 21U-285, CA-2018-050 at 38 (Public Employees Relations Commission Sept. 24, 2021). (Requiring the School District of Orange County to meet with representatives of the Union for purposes of collective bargaining concerning the teacher evaluation system).

²⁷⁹ *See id.* at 35.

²⁸⁰ *See s. 447.403, F.S.*

²⁸¹ Section 1008.22(1), F.S.

²⁸² Florida Department of Education, *Florida Statewide Assessments: Statewide Assessments Guide 2020-2021*, at 1 (2021), available at <https://www.fldoe.org/core/fileparse.php/5663/urlt/swapig.pdf>.

²⁸³ Section 1008.22(3), F.S.

²⁸⁴ Section 1008.22(3)(a) and (b), F.S.

²⁸⁵ Section 1008.22(3)(a), F.S. provides for grade 10 ELA retakes for students who have not achieved the passing score needed for graduation requirements. Students can earn a concordant score on an ACT or SAT to satisfy the graduation requirement. Section 1008.22(9), F.S.

²⁸⁶ Required for high school graduation under s. 1003.4282(3)(b), F.S. Students can earn a comparative score on an assessment identified by the commissioner. Section 1008.22(10), F.S.

- Grade 5 and grade 8 science.
- EOC assessments for students who are enrolled in the corresponding courses:
 - Biology I.
 - United States History.
 - Civics.

Standardized Test Administration and Testing Schedule

The ELA and mathematics FSA for grades 3 through 6 is currently administered in a paper-based format.²⁸⁷ Statewide EOC assessments,²⁸⁸ the grade 7 and 8 mathematics FSA, and grades 7 through 10 ELA FSA are administered in a computer-based format.²⁸⁹

The grade 3 ELA FSA and the writing portion of the ELA FSA must be administered no earlier than April 1 each year.²⁹⁰ The spring administration of the ELA FSA in grades 4 through 10, mathematics FSA in grades 3 through 8, and EOC assessments must be administered no earlier than May 1 of each year.²⁹¹ The Commissioner of Education is required to establish schedules for the administration of statewide, standardized assessments and the reporting of student assessment results.²⁹² The 2021-2022 school year FSA and EOC administration schedule is below.²⁹³

²⁸⁷ Section 1008.22(3)(a), F.S.

²⁸⁸ Section 1008.22(3)(b)5., F.S.

²⁸⁹ Florida Department of Education, *Florida Statewide Assessments: Statewide Assessments Guide 2020-2021*, at 35 (2021), available at <https://www.fldoe.org/core/fileparse.php/5663/urlt/swapig.pdf>.

²⁹⁰ Section 1008.22(7)(c)1. F.S. The test administration window may not exceed 2 weeks.

²⁹¹ Section 1008.22(7)(c)2.-3., F.S. The test administration window for paper-based assessments may not exceed 2 weeks. The test administration for computer-based assessments may not exceed 4 weeks.

²⁹² Section 1008.22(7)(a), F.S.

²⁹³ Florida Department of Education, *Florida Statewide Assessment Program 2021-22 Schedule*, available at <https://info.fldoe.org/docushare/dsweb/Get/Document-8789/dps-2019-197a.pdf>.

FLORIDA STATEWIDE ASSESSMENT PROGRAM 2021–2022 SCHEDULE*

English Language Arts (ELA), Mathematics, and Science	
Dates	Assessment
April 4–15, 2022	Grades 4–10 ELA Writing Grade 3 ELA Reading
May 2–13, 2022	Grades 4–6 ELA Reading Grades 3–6 Mathematics
May 2–27, 2022	Grades 7–10 ELA Reading Grades 7 & 8 Mathematics
May 9–20, 2022	Grades 5 & 8 Science
End-of-Course Assessments	
Dates	Assessment
September 13–October 15, 2021 November 29–December 17, 2021 May 2–27, 2022 July 11–22, 2022	Algebra 1, Biology 1, Civics, Geometry & U.S. History
Florida Standards Assessments (FSA) Retakes	
Dates	Assessment
September 13–October 15, 2021	Grade 10 ELA Reading Retake Grade 10 ELA Writing Retake
February 21–March 11, 2022	Grade 10 ELA Writing Retake Grade 10 ELA Reading Retake Algebra 1 Retake

* School districts establish daily testing schedules within these windows according to state-provided guidance. For more detailed scheduling information for a specific school or district, please visit that organization's website.

The Commissioner of Education must also publish on the DOE website a uniform testing calendar that is provided to school districts,²⁹⁴ so that school districts can populate the calendar with the state- and district-required assessments.²⁹⁵ School districts are required to publish the uniform testing calendar on their website each school year.²⁹⁶ A school district may not schedule more than 5 percent of a student's total school hours in a school year to administer statewide, standardized assessments and district-required local assessments.²⁹⁷

Voluntary Prekindergarten through Grade 8 Progress Monitoring Tool

Children who enrolled in a private or public Voluntary Prekindergarten (VPK) program, for the 2021-2022 program year and prior years, are assessed with the Florida VPK assessment.²⁹⁸ The Florida VPK assessment is a progress monitoring tool, aligned with the Early Learning and Developmental standards: 4 years old to kindergarten that measures a child's abilities in print knowledge, phonological awareness, mathematics, and oral language/vocabulary.²⁹⁹ The Florida VPK assessment includes a pre- and post-assessment.³⁰⁰

²⁹⁴ Section 1008.22(7)(b), F.S.

²⁹⁵ Section 1008.22(7)(d), F.S.

²⁹⁶ *Id.*

²⁹⁷ Section 1008.22(7)(e), F.S.

²⁹⁸ Rule 6A-1.09433, F.A.C.

²⁹⁹ Office of Early Learning, *About Assessments in VPK and Kindergarten Screening*, <http://www.floridaeearlylearning.com/vpk/vpk-providers/assessments-flkrs> (last visited March 17, 2022).

³⁰⁰ Rule 6M-8.620, F.A.C.

- The pre-assessment or assessment period 1 is administered within the first thirty calendar days of the VPK class schedule.
- The post-assessment or assessment period 3 is administered within the last thirty calendar days of the VPK class schedule.

Students who enrolled in public school kindergarten for the 2021-2022 school year, and prior school years, were assessed with the Florida Kindergarten Readiness Screener (FKRS) within the first 30 school days of the school year.³⁰¹ The FKRS is a computer adaptive assessment, which is completed by students in less than 20 minutes and measures student proficiency in three broad domains:³⁰²

- Word knowledge and skills.
- Comprehension strategies and constructing meaning.
- Numbers and operations.

There is no federal requirement for states to administer assessments in kindergarten through grade 2. As of 2019, Florida was one of 12 states that did not offer a statewide kindergarten through grade 2 assessment system or a list of approved kindergarten through grade 2 assessment systems for school districts.³⁰³ In 2021, the Legislature required implementation of a statewide VPK program through grade 8 coordinated screening and progress monitoring system (CSPM) that includes grades kindergarten through grade 2.³⁰⁴

Beginning with the 2022-2023 school year, private and public VPK program providers and public schools in Florida must participate in the CSPM for students in VPK through grade 8. The CSPM must be administered three times during the school or program year and must:³⁰⁵

- Measure student progress in the VPK program³⁰⁶ through grade 8 in meeting the appropriate expectations in early literacy and mathematics skills and in ELA and mathematics standards.
- Measure student performance in oral language development, phonological and phonemic awareness, knowledge of print and letters, decoding, fluency, vocabulary, and comprehension, as applicable by grade level.
- Be a valid, reliable, and developmentally appropriate computer-adaptive assessment that identifies students who have a substantial deficiency in reading, including identifying students with characteristics of dyslexia.
- Provide data that can be used for the VPK program accountability requirements.
- Provide VPK program providers, school districts, schools and teachers with data and resources that enhance instruction and parental communication.
- Provide information to the DOE to aid in the development of educational programs, policies and supports for the VPK program providers and school districts.

Beginning with the 2022-2023 program year, each private prekindergarten provider and public school in the VPK program must participate in a program assessment of each VPK classroom based on teacher-child interactions.³⁰⁷ The DOE must adopt a methodology for calculating each private prekindergarten

³⁰¹ Section 1002.68(3)(a), F.S.

³⁰² Florida Department of Education, *Assessment for reading, language and vocabulary, and numeracy*, (2020), available at <https://www.fldoe.org/core/fileparse.php/18494/urlt/StarEarlyLiteracy.pdf>.

³⁰³ Council of Chief State School Officers, *K-2 Assessments: An Update on State Adoption and Implementation*, at 6 (2019), available at <https://ccsso.org/sites/default/files/2019-06/K-2%20Assessments%20Paper%20FINAL.pdf>.

³⁰⁴ Section 15, ch. 2021-9, L.O.F.

³⁰⁵ Section 1008.25(8)(a), F.S.

³⁰⁶ Section 1008.2125(2)(a), F.S., requires that students in VPK and kindergarten be assessed with the coordinated screening and progress monitoring system within the first 30 days after enrollment, midyear, and within the last 30 days of the program or school year.

³⁰⁷ Section 1002.68(2), F.S.

provider's and public school provider's performance metric, which includes program assessment scores and learning growth and outcomes based on CSPM results.³⁰⁸

School District Assessments

The measurement of student performance is the responsibility of school districts, except in those subjects and grade levels measured under the statewide, standardized assessment program.³⁰⁹ School districts are required annually, by October 1, to post the uniform assessment calendars that delineate which assessments are statewide, standardized assessments and which are district-required assessments.³¹⁰ For the 2020-2021 and 2021-2022 school years, the DOE required that school districts submit progress monitoring results to the DOE for progress monitoring assessments that were administered during the school year.³¹¹

Effect of the Bill

Effective upon this act becoming a law, and annually until January 1, 2025, the DOE must collect from each school district, by grade level, the range and median number of minutes per school year, including as a percentage of net instructional time, students in prekindergarten through grade 5 spend on district-required assessments and the coordinated screening and progress monitoring as well as on state-required assessments and the CSPM. Annually, beginning January 1, 2023, through January 1, 2025, the DOE must submit a report to the Governor and the Legislature summarizing the data collected from school districts, including recommendations for minimizing duplicative district-required assessments and progress monitoring.

School Grades

Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.³¹² School grades are also used to determine whether a school must select or implement a turnaround option³¹³ or whether a school is eligible for school recognition funds as appropriated by the Legislature.³¹⁴

The annual reports must identify schools as having one of the following grades:³¹⁵

- "A," for schools making excellent progress – 62% or higher of total points
- "B," for schools making above average progress – 54% to 61% of total points
- "C," for schools making satisfactory progress – 41% to 53% of total points
- "D," for schools making less than satisfactory progress – 32% to 40% of total points
- "F," for schools failing to make adequate progress – 31% or less of total points

The SBE must periodically review the school grading scale to determine if the scale should be adjusted upward to meet raised expectations and encourage increased student performance. The SBE must notify the public of any adjustments and explain the reasons for the adjustment and the impact it will have on school grades.³¹⁶

³⁰⁸ Section 1002.68(4)(a), F.S.

³⁰⁹ Section 1008.22(6), F.S.

³¹⁰ Section 1008.22(7)(d), F.S.

³¹¹ Florida Department of Education Emergency Order 2020-EO-06.

³¹² Section 1008.34(1), F.S.

³¹³ See s. 1008.33(4), F.S.

³¹⁴ See s. 1008.36, F.S.

³¹⁵ Section 1008.34(2), F.S.; rule 6A-1.09981(4)(d), F.A.C.

³¹⁶ Section 1008.34(3)(c)1., F.S.

Elementary, middle, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. Middle and high school models include additional components beyond the basic model.³¹⁷ Combination school models include the additional components for the grades served (e.g., a school serving grades K through 12 would include the additional components for the middle and high school models).

School Grades Models							
Basic/Elementary (700 Points)			Middle School (Basic +200 Points)		High School (Basic+300 Points)		
English Language Arts	Mathematics	Science	Civics EOC Assessment	Acceleration Success	U.S. History EOC Assessment	Graduation Rate	Acceleration Success
Achievement (0% to 100%)	Achievement (0% to 100%)	Achievement (0% to 100%)	Achievement (0% to 100%)	Percentage of students who pass high school EOC assessments & industry certifications (0% to 100%)	Achievement (0% to 100%)	Overall, 4-year graduation rate (0% to 100%)	Percent of students eligible to earn college credit through AP, IB, AICE, dual enrollment, or earned an industry certification ³¹⁸ (0% to 100%)
Learning Gains (0% to 100%)	Learning Gains (0% to 100%)						
Learning Gains of Low 25% (0% to 100%)	Learning Gains of Low 25% (0% to 100%)						

A school’s grade must include only those components for which at least 10 students have complete data. If a school does not meet the 10-student threshold for a component, it will receive a school grade based only on the remaining components.³¹⁹ In addition, a high school’s graduation rate must include students who transfer to a private school with which the school district has a contractual relationship.³²⁰

Student achievement is determined by the percentage of full-year enrolled students who scored at level 3 or above on statewide, standardized assessments and the EOC assessments in ELA, mathematics, Civics, U.S. History, science, Biology I, Algebra I, and Geometry.³²¹ English language learners are included in achievement calculations after enrollment in a school in the U.S. for more than 2 years and gains calculations after 1 year.³²²

The learning gains component measures the growth demonstrated by a student from one year to the next in one of four ways:³²³

- Increasing at least one achievement level on the statewide, standardized assessment in the same subject area.
- For students who score below level 3, improving by at least one “subcategory” within level 1 or level 2, based on the student’s scale score, on the next year’s assessment for that subject area.
- For students who score a level 3 or a level 4, improving the scale score on the next year’s assessment for that subject area.

³¹⁷ See s. 1008.34(3)(b), F.S.; rule 6A-1.09981(4)(a)-(c), F.A.C.
³¹⁸ See s. 1008.34(3)(b)2.b., F.S. (2020). In 2020, the Legislature revised the acceleration success component to include the percentage of students who complete at least 300 clock hours of qualifying coursework through career dual enrollment. The 2021 graduating class will be the first graduating class that can participate in career dual enrollment to be counted toward their school’s grade. The first time career dual enrollment will be included in the school grades calculation will be the summer of 2022. In the 2022-2023 school year, the school grades calculation will also include the percentage of students who earn a qualifying score on the Armed Services Vocational Aptitude Battery and two credits in Junior Reserve Officers’ Training Corps from the same U.S. Armed Forces Branch.
³¹⁹ See s. 1008.34(3)(a), F.S.
³²⁰ Section 1008.22(3)(d)3., F.S.
³²¹ See s. 1008.34(3)(b)1., F.S.
³²² See s. 1008.34(3)(b)1., F.S. (flush left provisions at the end of the subparagraph).
³²³ See rule 6A-1.09981(2)(b), F.A.C.

- For students who score a level 5, scoring a level 5 on the next year’s assessment for that subject area.

An additional learning gains component is included for current-year, full-year-enrolled students whose prior-year assessment scores are in the school’s lowest performing 25 percent on the statewide, standardized ELA and math assessments.³²⁴

Effect of the Bill

The bill requires the SBE to annually review the school grading scale and to adjust the grading scale when more than 75 percent of schools of a school type (i.e. elementary, middle, high, or combination schools) receive a grade of “A” or “B.” The adjustment must raise the minimum number of percentage points required for each grade to the next closest number ending in 5 or 0. This may result in each school type having a different grading scale, depending on the performance of schools of that type. The first adjustment to the grading scale would occur no earlier than the 2023-2024 school year. The bill suspends adjustments once an “A” requires 90 percent or more of the points; a “B” requires 80 to 89 percent of the points; a “C” requires 70 to 79 percent of the points; and a “D” requires 60 to 69 percent of the points.

School Improvement

Present Situation

Overview

Florida’s system of improving low-performing schools is referred to as “school improvement” (SI). Under SI, the lowest-performing schools receive more comprehensive, state-provided intervention and support than schools that are closer to meeting student achievement goals.³²⁵ Intervention and support is required for traditional public schools earning a letter grade of “D,” or “F.”³²⁶ Upon receipt of its first grade of “D,” a school is considered a Tier I SI school in need of support and intervention from the school district and the DOE.³²⁷ Intensive intervention and support strategies must be applied through turnaround plans to schools earning two consecutive grades of “D” or a grade of “F”.³²⁸

In addition, Florida’s approved statewide accountability plan pursuant to the Every Student Succeeds Act (ESSA)³²⁹ describes circumstances in which schools will be identified for either targeted or comprehensive support and improvement as required by ESSA. Under the plan, a school will be identified for comprehensive support and improvement if it has a federal percent of points index (school grades model plus English language acquisition progress for English language learners) below 41%, a grade of D or F, a 4-year adjusted cohort graduation rate at or below 67 percent, or has a “chronically low-performing subgroup of students.”³³⁰ A school will be identified for targeted support and improvement if it has one or more subgroups whose federal percent of points is 31% or lower over the

³²⁴ Section 1008.34(3)(b)1.g.-h., F.S.; rule 6A-1.09981(4)(a)5.-8., F.A.C.

³²⁵ Section 1008.33(2)(b) and (4), F.S.; *see* rule 6A-1.099811, F.A.C. School improvement requirements were originally established under the 2002 reauthorization of ESEA, otherwise known as the No Child Left Behind (NCLB) Act of 2001. Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

³²⁶ Section 1008.33(3)(b), F.S.

³²⁷ Rule 6A-1.099811(3)(a), F.A.C.

³²⁸ Section 1008.33(4)(a), F.S.

³²⁹ *See* 20 U.S.C. s. 6301 *et seq.* ESSA requires state educational agencies, such as the DOE, to provide comprehensive or targeted supports to certain low performing schools in order to receive federal Title I funds. *See* 20 U.S.C. s. 6311(d).

³³⁰ The recognized subgroups for a statewide accountability plan under ESSA are: 1) economically disadvantaged students; 2) students from major ethnic and ethnic groups; 3) children with disabilities; 4) and English learners. 20 U.S.C. s. 6311(c)(2). A “chronically low-performing subgroup of students” is a subgroup of students at a Title I school identified for targeted support and improvement whose performance does not improve after implementing the supports over a state-determined number of years. *See* 20 U.S.C. s. 6311(c)(4).

last 3 years or one or more subgroups whose federal percent of points is 40% or lower in the current year.³³¹

All Florida public schools that earn a “D” or “F” must have a SI plan, which is developed and implemented by the school’s advisory council.³³² For non-charter schools, development and implementation of the plan is based on a form developed by the DOE.³³³ In such cases, the plan must be submitted through the Continuous Improvement Management System (CIMS).³³⁴ The DOE reviews, approves, and also monitors implementation of the plan.³³⁵

In addition, the law provides that an educational emergency exists if one or more schools in a school district earns a grade of “D” or “F.”³³⁶ Once an educational emergency exists, the district must negotiate a memorandum of understanding with its teachers union to provide students at the school with effective teachers and administrators. The district must submit the memorandum to the DOE by September 1.³³⁷ The memorandum must address the selection, placement, and expectations of instructional personnel and provides principals with the autonomy under the Principal Autonomy Project Initiative relating to certain personnel and budgetary decisions.³³⁸

Initiation of School Improvement Process

If a school earns two consecutive grades of “D” or a grade of “F,” it must immediately implement a differentiated matrix of intervention and support strategies. Districts with a SI school must coordinate with the DOE, the regional executive director or designee, and the school to identify and implement tailored support and improvement strategies designed to address low performance at the school.³³⁹

Florida law specifies seven general types of intervention and support strategies for traditional public schools. These strategies include SI planning; leadership and educator quality improvement; professional development; curriculum review, pacing, and alignment across grade levels to improve background knowledge in social studies, science, and the arts; and the use of continuous improvement and monitoring plans and processes.³⁴⁰

The DOE implements SI using regional teams of school improvement specialists, each led by an executive director, in four offices across the state. The teams provide on-the-ground support to district

³³¹ See Florida Department of Education, *ESSA State Plan*, (September 24, 2018), available at <http://www.fldoe.org/core/fileparse.php/14196/urlt/FL-ESSA-StatePlan.pdf>; see also United States Department of Education, *Education Department Releases Final Regulations to Promote a High-Quality, Well-Rounded Education and Support All Students*, (Nov. 28, 2016), <https://content.govdelivery.com/accounts/USED/bulletins/1759bf0> (last visited March 23, 2022).

³³² Sections 1001.42(18)(a) and 1001.452(2), F.S.; rule 6A-1.099811(3)(a), F.A.C. School advisory councils are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. School advisory councils 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. See also s. 1002.33(9)(n), F.S. (requiring a charter school earning a “D” or “F” to submit a school improvement plan to the sponsor).

³³³ 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.).

³³⁴ CIMS is a web application developed by the FDOE’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 March 23, 2022).

³³⁵ Rule 6A-1.099811(1), F.A.C.

³³⁶ Section 1001.42(21), F.S.; rule 6A-1.099811(2)(j), F.A.C.

³³⁷ See s. 41, ch. 2017-116, L.O.F., codified at s. 1008.33(4)(a), F.S. School grades are typically released no later than the second week of July each year.

³³⁸ See *id.* See also s. 1012.28(8), F.S. (providing qualifying principals autonomy over certain budgetary and personnel decisions).

³³⁹ Rule 6A-1.099811(5)(a), F.A.C.

³⁴⁰ Section 1008.33(3)(c), F.S.; rule 6A-1.099811(5)(b)1.-9., F.A.C.

administrators, instructional coaches, and school leadership teams of low-performing schools.³⁴¹ Each team supports the districts and schools that are annually designated for SI within its region. The teams are used to help districts effectively use data and align available supports and resources to each SI school's needs.³⁴² The SI supports are intended to build capacity by focusing on systems and structures needed to accelerate and sustain school improvement and by employing a gradual release model.³⁴³ Supports are offered in consultation with the district to determine local needs, and typically include facilitation of collaborative processes such as data and risk analysis, needs assessment, strategic planning and problem solving, performance management, professional development, and cross-district networking.³⁴⁴

The regional teams also review, provide feedback, and monitor progress on the implementation of SI plans, turnaround option plans, and SI grants.³⁴⁵

Turnaround Options

Schools that earn two consecutive grades of "D" or a grade of "F" must also implement a district-managed turnaround plan through which the school district manages the 2-year turnaround plan at the school.³⁴⁶ The school district must submit a district-managed turnaround plan to the SBE for approval by October 1.³⁴⁷

Once the district-managed turnaround plan is approved 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. If the school's grade does not improve to a "C" or higher after the second year, the school must select from the following turnaround options:³⁴⁸

- Reassign students to another school and monitor the progress of each student.
- Close the school and reopen as one or more charter schools with a governing board that has a demonstrated record of effectiveness.
- Contract with an external operator that has a demonstrated record of effectiveness to operate the school.

The external operator may include a district-managed charter school in which all instructional personnel are not employees of the school district, but are employees of an independent governing board composed of members who did not participate in the review or approval of the charter.

The SBE may allow a school an additional year of implementation before the school must implement a different turnaround option if it determines that the school is likely to improve to a grade of "C" or higher after the first full school year of implementation.³⁴⁹

Effect of the Bill

The bill codifies the existing requirement that when a school initially receives a grade of "D" it must begin implementing intervention and support strategies. Any school receiving an initial grade of "F" or two consecutive grades of "D" must still initiate the school improvement turnaround process, but may submit a turnaround plan prior to earning a second consecutive grade of "D."

³⁴¹ See Florida Department of Education, Bureau of School Improvement, *Regional Support to School Districts*, <http://www.fldoe.org/schools/k-12-public-schools/school-improvement/reg-support.stml> (last visited March 23, 2022).

³⁴² *Id.*

³⁴³ *See id.*

³⁴⁴ *See id.*

³⁴⁵ *See id.*

³⁴⁶ Section 1008.33(4)(a), F.S.; Rule 6A-1.099811(6)(a)-(b), F.A.C.

³⁴⁷ Section 1008.33(4)(a), F.S.

³⁴⁸ Section 1008.33(4)(b)1.-3., F.S.; rule 6-A 1.099811(6)(b), F.A.C.

³⁴⁹ Section 1008.33(4)(a), F.S.

The bill provides school districts flexibility in implementing an external operator turnaround option by specifying services that may be contracted, including the option to contract with a charter school network as the external turnaround contractor, and the bill specifies that a school district and the outside entity enter into 2 year performance-based contract. The SBE may require a school district to modify or cancel a contract with an external operator.

Effective Access to Student Education (EASE) Tuition Assistance Program

Present Situation

EASE (formerly known as the Florida Resident Access Grant, or FRAG) is a grant program administered by the DOE³⁵⁰ with the following parameters:

- Student eligibility requirements:³⁵¹
 - Must be enrolled as a full-time undergraduate student at an eligible college or university in a program of study leading to a baccalaureate degree.
 - Must not be enrolled in a program of study leading to a degree in theology or divinity.
 - Must be making satisfactory academic progress as defined by the SBE.
 - Must not have completed more than 110 percent of the degree program enrolled in.
- Institutional eligibility requirements:³⁵²
 - Must be an independent nonprofit college or university.
 - Must be located in and chartered by the state of Florida.
 - Must be accredited by the Commission on Colleges of the Southern Association of Colleges and Schools.
 - Must grant baccalaureate degrees.
 - Must not be a state university or a FCS institution.
 - Must have a secular purpose, so long as the receipt of state aid by students at the institution would not have the primary effect of advancing or impeding religion or result in an excessive entanglement between the state and any religious group.

Funding for the EASE program is appropriated in the GAA.³⁵³ Award amounts may be prorated based on the number of students eligible to receive the award. As specified in the Fiscal Year 2021-2022 GAA, the Legislature appropriated funds to support 40,430 qualified Florida residents with an award of \$2,841,³⁵⁴ at 34 EASE-eligible institutions.

All institutions that receive EASE funding are required to submit an annual accountability report to the DOE with the most recently available information on Florida resident students and include, at a minimum, the following performance metrics, by institution:³⁵⁵

- Access rate based upon percentage of Pell-eligible students.
- Affordability rate based upon average student loan debt; federal, state, and institutional financial assistance; and average tuition and fees.
- Graduation rate.
- Retention rate.
- Postgraduate employment or continuing education rate.

Effect of the Bill

The bill requires each institution eligible to receive the EASE funds to post prominently on its website, by October 1st of each year, its performance on the metrics specified in law, as reported to the DOE.

³⁵⁰ Section 1009.89(2), F.S.

³⁵¹ Section 1009.89(4), F.S.

³⁵² Section 1009.89(3), F.S.

³⁵³ Section 1009.89(5), F.S.

³⁵⁴ See Specific Appropriation 64, Fiscal Year 2021-2022 General Appropriations Act, ch. 2021-36, L.O.F.

³⁵⁵ Section 1009.89(5)(c), F.S.

Buy One, Get One Free Tuition & Fee Waiver

Present Situation

Tuition and Out-of-State Fees

Under Florida law, “tuition” is defined as the basic fee charged to a student for instruction provided by a public postsecondary educational institution in the state.³⁵⁶ A student who is classified as a “resident for tuition purposes” is a student who qualifies for the in-state tuition rate.³⁵⁷

The resident undergraduate tuition rate for the SUS is currently set in statute at \$105.07 per credit hour.³⁵⁸ The average tuition and fees per credit hour are \$201.01.³⁵⁹

Buy One, Get One Free Tuition & Fee Waiver

Beginning in 2021, the SUS institutions must provide “buy one, get one free” or BOGO tuition and fee waivers on upper-level courses in one of eight science, technology, engineering, or math (STEM) programs of strategic emphasis (PSE), as adopted by the BOG.³⁶⁰ Specifically, for every course in a qualifying PSE in which a student is enrolled, a state university must waive 100 percent of the tuition and fees for an equivalent course in such program. To be eligible, a student must:³⁶¹

- Be an resident for tuition purposes;
- Earn at least 60 semester credit hours towards a baccalaureate degree within two academic years after initial enrollment at a Florida public postsecondary institution; and
- Be enrolled in one of eight STEM PSE.

On June 22, 2021, the BOG adopted eight STEM PSE: Civil Engineering, Computer + Information Science, Computer Engineering, Electrical + Electronics Engineering, Information Technology, Management Information Systems, Mathematics, and Physics.³⁶²

The tuition and fee waiver is applicable only for upper-level courses and for up to 110 percent of the number of required credit hours of the degree program for which the student is enrolled.³⁶³ This means that for a 120-credit hour state university baccalaureate degree program, the waiver is applicable unless the student has earned an excess of 132 credit hours.

A state university is eligible to earn incentive funding, subject to appropriation, based on the number and value of waivers it grants.³⁶⁴ The Fiscal Year 2021-2022 GAA provided \$25 million in recurring funding for this purpose. Waivers were provided during the Fall 2021 term to an estimated 7,811 students, totaling approximately \$6.9 million.³⁶⁵

³⁵⁶ Section 1009.01 (1), F.S.

³⁵⁷ Section 1009.21(1)(g), F.S.

³⁵⁸ Section 1009.24(4)(a), F.S.

³⁵⁹ See State University System of Florida, *Tuition and Required Fees, 2021-22*, <https://www.flbog.edu/wp-content/uploads/2021/07/2021-2022-SUS-Tuition-and-Fees-Report.pdf>

³⁶⁰ Section 1009.26(18)(a), F.S.

³⁶¹ *Id.*

³⁶² State University System, Strategic Planning Committee Meeting Agenda for June 22, 2021, [https://www.flbog.edu/session/strategic-planning-committee-klwekqle/ Strategic Planning Committee - State University System of Florida \(flbog.edu\)](https://www.flbog.edu/session/strategic-planning-committee-klwekqle/Strategic-Planning-Committee--State-University-System-of-Florida-(flbog.edu))

³⁶³ Section 1009.26(b), F.S.

³⁶⁴ *Id.*

³⁶⁵ Email from Renee Fargason, Assistant Vice Chancellor, Board of Governors, dated January 13, 2022.

Effect of the Bill

The bill increases the number of waiver-eligible PSE from eight to 10. Beginning in the 2022-2023 academic year, students will be eligible to receive the tuition and fee waiver in two additional PSE, specifically in the critical workforce gap analysis category, as adopted by the BOG.

Open Door Grant Program

Present Situation

In 2021, the Legislature established the Open Door Grant Program (ODG)³⁶⁶ in order to create and sustain a demand-driven supply of credentialed workers for high-demand occupations, expand the affordability of workforce training and credentialing, and increase the interest of current and future workers in short-term, high-demand career and technical education credentialing and certificate programs. Grants are provided to school districts' postsecondary technical centers and the FCS institutions to cover up to two-thirds of the cost of short-term, high-demand programs for eligible students upon successful completion and award of a credential of value. The ODG provides short-term training for high-demand programs in Florida, offering job seekers an opportunity to obtain expedited and affordable training.

Under the ODG, and eligible student must complete the Free Application for Federal Student Aid (FAFSA)³⁶⁷ and:

- For a student who does not receive state or federal aid, at the time of enrollment, the student is responsible for paying one-third of the cost of the program and signing an agreement to either complete the program or pay an additional one-third of the program cost in the event of non-completion. Grant funds may be used to cover the student's one-third of the cost of the program for students in integrated education and training programs and students who do not have a high school diploma and meet requirements established by the DOE.³⁶⁸
- For a student who does receive state or federal aid, grant funds may be awarded to cover the unmet need after all eligible aid is accounted for.³⁶⁹

The ODG funds, which are subject to availability³⁷⁰ and provided to institutions on a first-come, first-serve basis,³⁷¹ can be used to cover the cost of a program, which includes tuition and fees, examination, books, and materials.³⁷²

The DOE must prioritize funding for integrated education and training programs in which institutions establish partnerships with local workforce development boards to provide basic skills instruction contextually and concurrently with workforce training that results in the award of credentials on the Master Credential List. Additionally, one-quarter of the appropriated grant funds must be prioritized to serve students attending rural institutions, and no more than one-quarter of the funds can be disbursed annually to any one eligible institution.³⁷³ The DOE may not reimburse any institution more than \$3,000 per completed workforce training program by an eligible student.³⁷⁴

Institutions must annually report to the SBE on program completion, attainment, and participant wage and demographics categorized by credential name and relevant occupation.

³⁶⁶ Section 1009.895, F.S.

³⁶⁷ Section 1009.895(4), F.S.

³⁶⁸ Section 1009.895(5)(a), F.S.

³⁶⁹ Section 1009.895(5)(b), F.S.

³⁷⁰ Section 1009.895(5), F.S.

³⁷¹ Section 1009.895(3), F.S.

³⁷² Section 1009.895(1)(a), F.S.

³⁷³ Section 1009.895(3), F.S.

³⁷⁴ Section 1009.895(6), F.S.

Effect of the Bill

The bill expands the list of grant-eligible institutions to include school districts with eligible integrated education and training programs. Additionally, the bill removes the requirement that students must complete a yearly FAFSA to be considered eligible for the ODG. Lastly, the bill provides that an institution may cover the student's one-third of the cost of the program, based on student need, as determined by the institution.

Nursing Education Programs

Present Situation

Nursing Shortage

According to a recent report commissioned by the Florida Hospital Association and Safety Net Hospital Alliance of Florida, Florida could be short over 59,000 nurses by 2035.³⁷⁵ This figure includes a shortage of over 37,386 registered nurses and over 21,659 licensed practical nurses, though the report noted considerable variation in projected workforce adequacy by geographic area within the state.³⁷⁶ In addition to the projected future nursing shortage, the Florida Hospital Association has noted that, as of 2019, Florida had an RN vacancy rate of 11 percent.³⁷⁷

As a percent of nurses are approaching retirement or departing the profession due to a variety of reasons, including burnout, institutions that offer nursing education programs are unable to accept qualified applicants into their programs due to lack of program capacity. According to a 2019-2020 American Association of Critical-Care Nurses report, United States nursing schools turned away 80,407 qualified applicants from baccalaureate and graduate nursing programs in 2019 due to an insufficient number of faculty, clinical sites, classroom space, and clinical preceptors, as well as budget constraints.³⁷⁸ In 2019-2020, 5,316 qualified applicants applied to state university nursing programs while only 1,922 students were accepted.³⁷⁹

REACH Office

During the 2021 Legislative Session, the Legislature passed the Reimagining Education and Career Help Act (REACH Act) to address the evolving needs of Florida's economy by increasing the level of collaboration and cooperation among state businesses and education communities while improving training within and equity and access to a more integrated workforce and education system.³⁸⁰ The REACH Act created the Office of Reimagining Education and Career Help (REACH Office) in the Executive Office of the Governor to facilitate alignment and coordination of entities responsible for the state's workforce development system.

Two of the REACH Office's responsibilities include:

³⁷⁵ *Florida Nurse Workforce Projections: 2019 to 2035*, prepared for the Florida Hospital Association and the Safety Net Hospital Alliance of Florida, IHS Markit, Pg. 33, <https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3Aac48ae7d-ff75-4a08-9a3d-cebbd0d08c27#pageNum=1> (last visited January 31, 2022).

³⁷⁶ *Id.*

³⁷⁷ Florida Hospital Association, *Florida's Nurse Workforce One-Pager*, <https://acrobat.adobe.com/link/track?uri=urn%3Aaaid%3A289adfdf-e855-487c-bb2c-534e7d646ef8#pageNum=1> (last visited January 31, 2022).

³⁷⁸ American Association of Colleges of Nursing, Fact Sheets, *Nursing Faculty Shortage*, <https://www.aacnnursing.org/news-information/fact-sheets/nursing-faculty-shortage> (last visited January 31, 2022).

³⁷⁹ Email, Christy England, Vice Chancellor for Academic and Student Affairs, Board of Governors, dated January, 20, 2022.

³⁸⁰ Section 1, ch. 2021-164, L.O.F., codified in s. 14.36, F.S.

- Streamline the clinical placement process and increase clinical placement opportunities for students, hospitals, and other clinical sites by administering, directly or through a contract, a web-based centralized clinical placement system for use by all nursing education programs.³⁸¹
- Direct the objectives of the Talent Development Council.³⁸²

Florida Talent Development Council

The Florida Talent Development Council (FTDC) is statutorily charged with developing a coordinated, data-driven, statewide approach to meeting Florida's needs for a 21st century workforce that employers and educators use as part of Florida's talent supply system.³⁸³ The FTDC is responsible for coordinating, facilitating, and communicating statewide efforts to meet the supply and demand needs for the state's health care workforce.³⁸⁴ Each December 1, the FTDC is required to report on its efforts in this area.³⁸⁵

To support the FTDC's efforts, the BOG and the SBE are required to do the following:

- Conduct a statistically valid biennial data-driven gap analysis of the healthcare workforce.³⁸⁶
- Provide 10-year trend information on nursing education programs.³⁸⁷

In providing the 10-year trend information on nursing education programs, the BOG and the SBE must work together with the Florida Department of Health (DOH), the Commission for Independent Education (CIE), and postsecondary institutions receiving EASE grants to provide data on the following:³⁸⁸

- Number and type of programs and student slots available.
- Number of student applications submitted, the number of qualified student applicants, and the number of students accepted.
- Number of program graduates.
- Program retention rates of students tracked from program entry to graduation.
- Graduate passage rates on and the number of times each graduate took the National Council of State Boards of Nursing Licensing Examination.
- Number of graduates who become employed as practical or professional nurses in the state.
- Educational advancement of nurses through career pathways by comparing their initial degree to their highest degree obtained for the preceding 10 years.

The FTDC is also required to develop a survey for use by the DOH, the CIE, the Independent Colleges and Universities of Florida (ICUF), and postsecondary institutions participating in EASE, to collect information on trends in nursing education programs. The survey must include, but is not limited to, a student's age, gender, race, ethnicity, veteran status, wage, employer information, loan debt, and retirement expectations.³⁸⁹

As of January 2022, the full results on the statistically valid biennial data-driven gap analysis of the healthcare workforce are still pending.

³⁸¹ Section 14.36(3)(i), F.S.

³⁸² Section 14.36(3)(j), F.S.

³⁸³ Section 1004.015(1), F.S.

³⁸⁴ Section 1004.015(6), F.S.

³⁸⁵ *Id.*

³⁸⁶ Section 1004.015(6)(a), F.S.

³⁸⁷ Section 1004.015(6)(b), F.S.

³⁸⁸ *Id.*

³⁸⁹ Section 1004.015(6)(c), F.S.

Florida Postsecondary Nursing Education Programs

Florida's postsecondary education institutions offer a variety of nursing education programs that prepare students for varying levels of licensure. Licensed practical nurse (LPN) programs are offered at 28 career centers and 13 FCS institutions, while all 28 FCS institutions offer associate of science in nursing (ASN) and bachelor of science in nursing (BSN) programs.³⁹⁰ Ten state universities offer 20 pre-licensure nursing education programs.³⁹¹ Seventeen of the 30 Independent Colleges and Universities of Florida (ICUF) member institutions offer nursing education programs.³⁹²

Florida Center for Nursing

The Florida Center for Nursing (center) was established by the Legislature in 2001, to address the issues of supply and demand for nursing, including the recruitment, retention, and utilization of nurse workforce resources.³⁹³ The center's primary goals are to:³⁹⁴

- Develop a strategic statewide plan for nursing manpower in this state by:
 - Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand.
 - Analyzing the current supply and demand in the state and making future projections of such, including assessing the impact of this state's participation in the Nurse Licensure Compact.
 - Selecting from the plan priorities to be addressed.
- Convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to:
 - Review and comment on data analysis prepared for the center.
 - Recommend systemic changes, including strategies for implementation of recommended changes.
 - Evaluate and report the results of these efforts to the Legislature and others.
- Enhance and promote recognition, reward, and renewal activities for nurses in the state by:
 - Promoting nursing excellence programs such as magnet recognition by the American Nurses Credentialing Center.
 - Proposing and creating additional reward, recognition, and renewal activities for nurses.
 - Promoting media and positive image-building efforts for nursing.

Nursing Student Loan Forgiveness Program

The Nursing Student Loan Forgiveness Program exists to encourage qualified personnel to seek employment in areas of this state in which critical nursing shortages exist.³⁹⁵ The primary function of the program is to increase employment and retention of registered nurses and licensed practical nurses in nursing homes and hospitals in the state and in state-operated medical and health care facilities, public schools, birth centers, federally sponsored community health centers, family practice teaching hospitals, and specialty children's hospitals by making repayments toward loans received by students from federal or state programs or commercial lending institutions for the support of postsecondary study in accredited or approved nursing programs.³⁹⁶

³⁹⁰ *Nursing Completions* Data file provided by Florida Department of Education, December 1, 2021.

³⁹¹ Email, Christy England, Vice Chancellor for Academic and Student Affairs, Board of Governors, Dated November 19, 2021.

³⁹² Florida Board of Nursing, Education and Training Programs – Education Program Information, <https://floridasnursing.gov/education-and-training-programs/> (last visited Jan. 29, 2022).

³⁹³ Chapter 2001-277, L.O.F. and s. 464.0195, F.S.

³⁹⁴ Section 464.0195, F.S.

³⁹⁵ Section 1009.66(1), F.S.

³⁹⁶ *Id.*

Effect of the Bill

Linking Industry to Nursing Education Fund

The bill establishes the Linking Industry to Nursing Education (LINE) fund as a competitive grant program that provides matching funds, on a dollar-to-dollar basis, to participating institutions that partner with a healthcare provider to recruit faculty and clinical preceptors, increase capacity of high-quality nursing education programs and increase the number of nursing education program graduates who are prepared to enter the workforce.

The bill specifies the criteria that an institution's nursing education program must meet in order to be eligible for the LINE fund to include:

- For a certified nursing assistant program, a completion rate of at least 70 percent for the prior year.
- For a licensed practical nurse, associate of science in nursing and bachelor of science in nursing program, a first-time passage rate on the National Council of State Boards of Nursing Licensing Examination of at least 70 percent for the prior year.

The bill identifies the types of institutions, with the applicable nursing education programs, that are eligible to receive the LINE funds to include:

- Technical career centers.
- Charter technical career centers.
- FCS institutions.
- State universities.
- Independent nonprofit colleges or universities located and chartered in the state and accredited by a U.S. DOE recognized accrediting agency or association to grant baccalaureate degrees.

The bill establishes the process for institutions to submit proposals requesting participation in the LINE fund which must include identifying the healthcare partner, located and licensed to operate in the state, whose monetary contributions will be matched by the LINE fund on a dollar-to-dollar basis.

The bill identifies the minimum criteria that the DOE and the BOG must use to review and evaluate each proposal. The bill requires institutions with approved proposals, to notify either the DOE or the BOG upon receipt of their healthcare partner's funds; this then authorizes the BOG or the DOE to release the LINE funds to the institution.

The bill specifies the eligible uses of the LINE funds to included: (a) funding scholarships to students who are residents, (b) recruiting additional faculty, (c) purchasing equipment, and (d) supporting simulation centers to advance high-quality nursing education programs throughout the state. Funds may not be used for the construction of new buildings.

The bill requires each institution receiving LINE funds in the previous fiscal year, to submit a report to the BOG or the DOE that documenting expansion as outlined in the proposal and the use of funds. At minimum, the report must include, by program level, the number of additional nursing education students enrolled, the number who received scholarships, including the average award amount, and the outcomes of students as reported by the FTDC.

The bill requires the BOG and the DOE to adopt regulations and rules, respectively, to administer the LINE fund, establish dates for the submission and review of proposals, the awarding of funds, and other regulations and rules necessary to implement the provision's requirements.

Prepping Institutions, Programs, Employers, and Learners through Incentives for Nursing Education Fund

The bill establishes the Prepping Institutions, Programs, Employers, and Learners through Incentives for Nursing Education (PIPELINE) fund to reward performance and excellence among public postsecondary nursing education programs.

The bill specifies the type of institutions that are eligible to receive performance-based incentives from the PIPELINE fund to include:

- Technical career centers that offer a licensed practical nurse program.
- Charter technical career centers that offer a licensed practical nurse program.
- FCS institutions.
- State universities.

The bill specifies that, subject to an appropriation, each institution will receive an allocation based on the performance of its respective nursing education program or programs according to the following metrics:

- The number of nursing education program completers, by program.
- The first-time National Council of State Boards of Nursing Licensing Examination passage rate of the institution's nursing education program completers, by program.

Additionally, the bill specifies that allocations will reward excellence among nursing education programs with an average first-time National Council of State Boards of Nursing Licensing Examination passage rate above the national average.

Florida Talent Development Council

The bill revises the FTDC's duties and removes the requirement that the BOG and the SBE support the FTDC by conducting a statistically valid biennial data-driven gap analysis of the healthcare workforce. The bill requires the Florida Center for Nursing to complete the gap analysis.

The bill requires the following additional data to be collected as part of the 10-year trend information on nursing education programs:

- Number of students enrolled in nursing education programs.
- Outcomes of students enrolled at institutions participating in the LINE or PIPELINE Fund.
- Outcomes of students who have received student loan forgiveness under the Nursing Student Loan Forgiveness Program to include for the four prior fiscal year, the number of graduates who have received a repayment, the amount repaid on behalf of each graduate, each graduate's employer of record for each repayment and the length of employment at each employer, and the level or levels of nursing licensure earned by each graduate.

The bill also requires the FTDC to develop definitions for data elements for the survey on trends in nursing education programs and requires the survey be uniform.

Florida Center for Nursing

The bill requires the Florida Center for Nursing (Center) to conduct a statistically valid biennial data-driven gap analysis of the supply and demand of the health care workforce. Additionally, the bill requires gap analysis to include the Center's current statutory responsibilities to establish and maintain a database on nursing supply and demand in the state and how supply and demand impact the state's participation in the Nurse Licensure Compact.

The bill also requires the Center, when developing its strategic statewide plan for nursing manpower in the state, to:

- Develop recommendations to increase nurse faculty and clinical preceptors, support nurse faculty development, and promote advanced nurse education.

- Develop best practices in the academic preparation and continuing education needs of qualified nurse educators, nurse faculty, and clinical preceptors.
- Collect data on nurse faculty, employment, distribution, and retention.
- Pilot innovative projects to support the recruitment, development, and retention of qualified nurse faculty and clinical preceptors.
- Encourage and coordinating the development of academic-practice partnerships to support nurse faculty employment and advancement.
- Develop distance learning infrastructure for nursing education and advancing faculty competencies in the pedagogy of teaching and the evidence-based use of technology, simulation, and distance learning techniques.

The bill removes the following components from inclusion in the Center's strategic statewide plan for nursing manpower in the state:

- To convene various groups representative of nurses, other health care providers, business and industry, consumers, legislators, and educators to review and comment on data analysis prepared by the center.
- Recommend systemic changes, including strategies for implementation of recommended changes.
- Evaluate and report the results of these efforts to the Legislature and others.

Open Education Resources

Present Situation

Textbook and Instructional Materials Affordability

According to the U.S. Bureau of Labor Statistics, consumer prices for college textbooks have increased by roughly 36% since July 2011.³⁹⁷ In 2018, the Florida Virtual Campus conducted a Textbook Affordability Student Survey involving 21,430 students across all public colleges and universities,³⁹⁸ that indicated the high costs of textbooks and related instructional materials have negatively impacted students' success. The survey responses indicated:³⁹⁹

- 64.3% - Do not purchase the required textbooks.
- 42.8% - Take fewer courses.
- 40.6% - Do not register for a specific course.
- 35.6% - Earn a poor grade because they cannot afford to buy the textbook.
- 22.9% - Drop a course.

Since 2008, Florida⁴⁰⁰ has been working to reduce costs and make textbooks and instructional materials more affordable for students.

In 2016, the Legislature enacted textbook affordability legislation that authorized each FCS and State University System (SUS) institution board of trustees to adopt policies in consultation with textbook and instructional materials providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials.⁴⁰¹

³⁹⁷ Bureau of Labor Statistics, 2021, *Cost of college tuition has remained stable since 2019* (August 31, 2021), <https://www.bls.gov/opub/ted/2021/cost-of-college-tuition-has-remained-stable-since-september-2019.htm> (last visited Jan. 29, 2022).

³⁹⁸ House Higher Education Appropriations Subcommittee, *Meeting Packet for Nov. 4, 2021*, at 10, <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3089&Session=2022&DocumentType=Meeting+Packets&FileName=hea+11-4-21.pdf>

³⁹⁹ *Id.*, at 13.

⁴⁰⁰ Section 1, ch. 2008-78, L.O.F.

⁴⁰¹ Section 3, ch. 2016-236, L.O.F.

After receiving input from students, faculty, bookstores, and publishers, the SBE and the BOG are required to adopt textbook and instructional materials affordability policies, procedures, and guidelines for implementation by the FCS and the SUS institutions, respectively, that further efforts to minimize the cost of textbooks and instructional materials for students attending such institutions. The policies, procedures, and guidelines must address the requirements specified in law.⁴⁰²

Each FCS institution and SUS board of trustees must report to its respective chancellor by September 30 of each year, the institution's textbook and instructional materials selection process for general education courses with identified cost variances and high-enrollment courses, specific initiatives designed to reduce costs, implementation status of cost saving policies, and the number of courses and sections that were unable to meet the textbook and instructional materials posting deadline. By November 1 of each year, each chancellor is required to provide a summary of the institution reports to the SBE and the BOG, as appropriate.⁴⁰³

Open Education Resources

In order to help mitigate the high costs of textbooks and related instructional materials to students, postsecondary education institutions are beginning to develop and implement various cost saving measures, which include the increased usage of open educational resources and open-access materials in courses and degree programs. Open Education Resources (OER) are materials for teaching, learning, and research that are not only free but have a perpetually open license enabling them to be used and reused without charge or need to ask permission. With OER, materials can be retained, reused, revised, remixed, and redistributed.⁴⁰⁴

During a November 4, 2021, Higher Education Appropriation Subcommittee (HEA) meeting, a panel of Florida public state university and college representatives presented on how their institutions are addressing the rising costs of textbooks and related instructional materials. Of them:

- Florida International University has created a statewide searchable database of courses that use OER and low-cost materials, and is open to all state university and college faculty across the state to contribute to and use as a repository/resource in their own content curation process.
- University of Central Florida holds monthly open conversations amongst various state universities and colleges regarding OER funding and grant opportunities that arise at the state and national levels.
- Santa Fe College discussed how they use open access and low cost textbooks for all general education courses, as well as faculty-curated open-access resources for use in other common courses.

Additional discussion in the HEA meeting highlighted that while OER resources are useful for a broad array of educational applications, there are no formal processes by which they are reviewed for inaccuracies or outdated information. This has the potential to put undue pressure on instructors who seek to provide a balance between accessibility and accuracy of the information they present to their students. The panelists indicated that a major limiting factor to postsecondary institutions' implementation of OER courses was the amount of faculty time and effort needed to curate and vet the information and resources to be used in development of these courses. In order to develop one course using OER, around 180 staff hours⁴⁰⁵ are required to compile and review information from the vast number of free resources available to ensure quality and accuracy of information.

⁴⁰² Section. 1004.085(6), F.S.

⁴⁰³ *Id.*

⁴⁰⁴ House Higher Education Appropriations Subcommittee, *supra* note 195, at 15.

⁴⁰⁵ R. Griffiths, J. Mislavy, S. Wang, A. Ball, L. Shear, and D. Desrochers, *OER at Scale: The Academic and Economic Outcomes of Achieving the Dream's OER Degree Initiative*, SRI International, 2020.

In 2021, the Legislature established the Florida Postsecondary Academic Library Network (Network) under the joint oversight of the BOG and the DOE.⁴⁰⁶ The purpose of the Network is to deliver the following services⁴⁰⁷ to public postsecondary education institutions in Florida:

- Provision of information regarding and access to distance learning courses and degree programs offered by public postsecondary education institutions within the state.
- Coordination with the FCS and the SUS to identify and provide online academic support services and resources when the multi-institutional provision of such services and resources is more cost effective or operationally effective.
- Administration of a single library automation system and associated resources and services that all public postsecondary institutions use to support learning, teaching, and research needs, and development of automated library management tools.
- Coordination, with the FCS institutions' and state universities' library staff, of the negotiation of statewide licensing of electronic library resources and preferred pricing agreements, issue purchase orders, and entering into contracts for the acquisition of library support services, electronic resources, and other goods and services necessary to carry out its authorized duties.
- Promote and provide recommendations concerning the use and distribution of low cost, no cost, or open-access textbooks and education resources and innovative pricing techniques that comply with all applicable laws, in regards to copyrighted material and statewide accessibility measures, as a method for reducing costs.
- Provision of appropriate help desk support, training, and consultation services to institutions and students.

The Network is hosted at the Northwest Regional Data Center at Florida State University⁴⁰⁸ and is required to annually report to the chancellors of the SUS and the FCS regarding the implementation and operation of all its components, including but not limited to usage information collected, information and associated costs relating to the services and functions of the program, and the implementation and operation of the automated library services. The chancellors are required to provide an annual report on the performance of the host entity in delivering the services and any recommendations for changes needed to the Governor, the President of the Senate, the Speaker of the House of Representatives, the BOG, and the SBE.⁴⁰⁹

Funding for the Network is appropriated in the General Appropriations Act (GAA).⁴¹⁰

Effect of the Bill

The bill establishes the Student Open Access Resources (SOAR) Repository and the SOAR Grant Program within the Network.

The bill requires the chancellors of the FCS and the SUS to collaborate and take the lead in identifying and developing processes to coordinate and support the adaptation or development of OER by teams of faculty, librarians, and instructional designers within a public postsecondary institution or across multiple institutions. These processes include, but are not limited to, ensuring quality and accuracy of content, suitability for publication, and compliance with federal and state copyright laws and regulations. Pursuant to the processes developed by the chancellors, the Network is tasked with:

- Serving as the lead agency.
- Managing interinstitutional collaborations.
- Hosting approved digital assets and on-demand printing capabilities.

⁴⁰⁶ Section 4, ch. 2021-85, L.O.F.

⁴⁰⁷ Section 1006.73(1), F.S.

⁴⁰⁸ Florida Virtual Campus, *Organization Profile – Current Activity*, <https://www.flvc.org/organization-profile> (January 28, 2022)

⁴⁰⁹ Section 1006.73(4), F.S.

⁴¹⁰ See s. 2, Specific Appropriations 129B and 145A, ch. 2021-36, L.O.F.

- Ensuring compliance with all federal and state laws and regulations relating to accessibility, copyright, and quality assurance.
- Providing training for resource and professional development.
- Administering the SOAR Grant Program.

The bill establishes the SOAR Repository, a statewide, internet-based, searchable database of OER curated by the faculty of FCS and SUS institutions. The resources available in the database must comply with the processes developed by the chancellors of the FCS and SUS, be based upon the statewide course number system, and accelerate textbook affordability.

The bill establishes the SOAR Grant Program which, subject to appropriation, will provide funding support to FCS and SUS institutions for the development and curation of OER and for migrating existing content to the SOAR Repository. The bill specifies that the Network shall prioritize courses with high student enrollment, courses with high textbook or materials costs, and courses identified as core general courses when establishing grant award criteria. Institutions that receive grant funds must agree to openly license and share any OER that they develop or adapt in the SOAR Repository. Additionally, institutions are required to prominently post, and clearly identify with an icon OER courses with zero textbook costs on course registration systems to maximize awareness and cost savings to students.

Educational Research Centers for Child Development

Upon approval of the university president, the student government association of any state university may establish an educational research center for child development (center). Each center is a child day care center established to provide care for the children of students, both grade and undergraduate, faculty, and other staff and employees of the university.⁴¹¹ Each center must give highest priority to serving the children of students, followed by the children of staff and faculty.⁴¹² Each center must also provide an opportunity for interested schools or departments of the university to conduct educational research programs and establish internship programs within each center.⁴¹³

Operations may be financed either through the capital improvement trust fund fee, activity and service fee allocations, user charges, grants and donations, or any combination of these sources.⁴¹⁴ Section 1011.48(3), F.S., specifies that each center is authorized to charge fees for the care and services it provides. Such fees must be approved by the Board of Governors and may be imposed on a sliding scale based on ability to pay or any other factors deemed relevant by the board.⁴¹⁵ However, s. 1009.24(14)(s), F.S., specifies that each university board of trustees is authorized to establish a fee for an educational research center for child development for child care and services offered by the center.

Effect of the Bill

The bill specifies that fees for a university educational research center for child development are determined by the university board of trustees and are not required to be approved by the Board of Governors.

⁴¹¹ Section 1011.48(1), F.S.

⁴¹² Board of Governors Regulation 10.004(3). It is recognized that intent of this program is to provide research and training activities which are representative of a comprehensive scope of child development needs throughout the community. To this end, university regulations shall include an admission process that is inclusive of race, ethnicity, socioeconomic status, gender, as well as mental and physical ability. Board of Governor Regulation 10.004(7).

⁴¹³ Section 1011.48(1), F.S.

⁴¹⁴ Board of Governors Regulation 10.004(5).

⁴¹⁵ Fees should be set at the level required to support the cost of providing the service. Exceptions should be made for the children of students and may be made for low-income faculty and staff. Board of Governors Regulation 10.004(9).

Inclusive Transition and Employment Management Program

Present Situation

Despite the strength of the U.S. labor market, persons with disabilities are strikingly under-employed. As of July 2018, only 29 percent of Americans of working age (between ages 16 and 64) with disabilities participated in the workforce, compared with 75 percent of Americans without a disability. In 2017, the unemployment rate for persons with disabilities was more than twice that for those without a disability – 9.2 percent versus 4.2 percent.⁴¹⁶

The Marino Campus is funded by the Dan Marino Foundation, to prepare young adults with autism and other developmental disabilities for gainful employment, social competence, and independent living by building the necessary skills through a unique postsecondary opportunity. In addition to foundational coursework in the areas of independent living and life skills, the Marino Campus features three areas of program concentration: hospitality, computer technology, and business office support. The 760-hour certificate programs provide students 300 clock hours in industry certification courses, 310 clock hours of internships, and 150 hours of core/elective courses. The employment rate of graduates is 72 percent.⁴¹⁷

Effect of the Bill

The bill establishes the Inclusive Transition and Employment Management (ITEM) Program and authorizes financial support for the program, which provides services to young adults with disabilities related to transitional skills, education, and on-the-job experience to allow these students to gain and retain employment.

Civic Literacy

Present Situation

The mission of Florida's K-20 education system is to "allow its students to increase their proficiency by allowing them the opportunity to expand their knowledge and skills through rigorous and relevant learning opportunities."⁴¹⁸ A priority of the system is to prepare students to become civically engaged and knowledgeable adults who positively contribute to their communities.⁴¹⁹

At the postsecondary level, the mission of Florida's education system is to "develop human resources, to discover and disseminate knowledge, to extend knowledge and its application beyond the boundaries of its campuses, and to develop in students heightened intellectual, cultural, and humane sensitivities; scientific, professional, and technological expertise; and a sense of purpose."⁴²⁰ Inherent in this broad mission are methods of instruction, research, extended training, and public service designed to educate people and improve the human condition."⁴²¹

For Florida's public universities, the BOG's approved mission for the university system as it advances toward 2025 states "the mission of the State University System of Florida is to provide undergraduate, graduate and professional education, research, and public service of the highest quality through a

⁴¹⁶ Accenture, *Getting to Equal: The Disability Inclusion Advantage* (2018), available at https://www.accenture.com/_acnmedia/pdf-89/accenture-disability-inclusion-research-report.pdf, at 4.

⁴¹⁷ Marino Campus, <https://www.marinocampus.org/> (last visited Feb. 2, 2022). The Marino Campus is accredited by the Middle States Association of Colleges and Schools. Dan Marino Foundation, *2021 Annual Report* (June 30, 2021).

⁴¹⁸ Section 1000.03(4), F.S.

⁴¹⁹ Section 1000.03(5)(c), F.S.

⁴²⁰ Section 1004.01(2), F.S.

⁴²¹ *Id.*

coordinated system of institutions of higher learning, each with its own mission and collectively dedicated to serving the needs of a diverse state and global society.”⁴²²

In 2020, the Legislature created the Florida Institute of Politics within the College of Social Sciences and Public Policy at Florida State University (FSU) and The Adam Smith Center for the Study of Economic Freedom at Florida International University (FIU).⁴²³

The purpose of the Florida Institute of Politics at FSU is to provide the southeastern region of the United States with a world class, bipartisan, nationally renowned institute of politics. The following are goals of the institute:⁴²⁴

- Motivate students to become aware of the significance of government and civic engagement at all levels and politics in general, including providing students opportunities to be politically active and civically engaged and greater awareness for public service.
- Plan and host forums to allow students and guests to hear from and interact with experts from government, politics, policy, and journalism.
- Become a national and state resource on polling information and survey methodology.
- Provide fellowships and internship opportunities to students in government, nonprofit organizations, and community organizations.
- Provide training for newly elected state and local public officials.
- Organize and sponsor conferences, symposia, and workshops throughout Florida to educate and inform citizens, elected officials, and policymakers regarding effective policymaking techniques and processes.
- Create and promote research and awareness of politics, citizen involvement, and public service.
- Collaborate with related policy institutes and research activities at other institutions of higher education to motivate, increase, and sustain citizen involvement in public affairs.

The Adam Smith⁴²⁵ Center for the Study of Economic Freedom at FIU is created with the following goals:⁴²⁶

- Study the effect of government and free-market economies on individual freedom and human prosperity.
- Conduct and promote research on the effect of political and economic systems on human prosperity.
- Plan and host research workshops and conferences to allow students, scholars, and guests to exchange in civil discussion of democracy and capitalism.

Provide fellowship and mentoring opportunities to students engaged in scholarly studies of the effect of political and economic systems on human prosperity.

Effect of the Bill

The bill authorizes the board of trustees of the University of Florida to use funds provided in the Fiscal Year 2022-2023 GAA to establish the Hamilton Center for Classical and Civic Education (Center) as an academic unit within the university. The bill establishes the purpose of the Center is to support teaching and research concerning the ideas, traditions, and texts that form the foundations of western and American civilization. The Center must coordinate with the Florida Institute of Politics and the Adam Smith Center for the Study of Economic Freedom and assist with the curation and implementation of the “Portraits in Patriotism” program.

⁴²² Florida Board of Governors, *2025 System Strategic Plan* (Amended Oct. 2019), at 8, available at https://www.flbog.edu/wp-content/uploads/2025_System_Strategic_Plan_2019.pdf.

⁴²³ Chapter 2020-117, L.O.F.

⁴²⁴ Section 1004.6499, F.S.

⁴²⁵ Adam Smith was a Scottish philosopher and economist, best known as the author of *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776). The Library of Economics and Liberty, *Adam Smith 1723-1790*, <https://www.econlib.org/library/Enc/bios/Smith.html> (last visited March 17, 2022).

⁴²⁶ Section 1004.64991, F.S.

State University System Performance-Based Incentive

Present Situation

The SUS Performance-Based Incentive is awarded to state universities using performance-based metrics⁴²⁷ adopted by the BOG.⁴²⁸ The BOG performance funding model is based on four guiding principles:

- Use metrics that align with strategic plan goals.
- Reward excellence or improvement.
- Have a few clear, simple metrics.
- Acknowledge the unique mission of the different institutions.

The BOG model contains the following performance metrics for purposes of evaluating each state university:⁴²⁹

- Percent of bachelor's degree graduates employed (earning \$30,000+) or continuing their education.
- Median wages of Bachelor's graduates employed full-time.
- Average cost to the student (net tuition per 120 credit hours).
- Four year graduation rate (full-time First-Time-In-College).
- Academic progress rate (2nd year retention with GPA above 2.0).
- Bachelor's degrees awarded in areas of strategic emphasis.
- University access rate (percent of undergraduates with a Pell Grant).
- Alternative metrics:
 - Graduate degrees awarded in areas of strategic emphasis.
 - Freshman in the top 10% of graduating high school class (New College only).
- Additional graduation metrics:
 - Two-year graduate rate for the FCS associate in arts transfer students.
 - Six-year graduation rate for students who received a Pell Grant in their first year.
 - Academic progress rate, 2nd year retention for first time enrolled in college students with a Pell Grant (Florida Polytechnic University only).
- Institution Board of Trustees Choice.⁴³⁰

The first seven metrics apply to all institutions. One of the alternative metrics only applies to New College of Florida and one of the additional graduation metrics applies to Florida Polytechnic University.

Institutions receive scores for each metric based on the achievement of both excellence and improvement.⁴³¹ The lowest benchmark receives one point, while the highest receives ten points. The higher of the two scores (excellence and improvement) for each metric is applied to the overall score for each institution.

⁴²⁷ Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (March 2022), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Mar-2022.pdf>.

⁴²⁸ Section 1001.92(1), F.S.

⁴²⁹ Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (March 2022), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Mar-2022.pdf>.

⁴³⁰ Each Board of Trustees selects a metric from the University Work Plan that is applicable to the mission of the university and has not been previously chosen for the model.

⁴³¹ Benchmarks for Excellence were based on the BOG 2025 System Strategic Plan goals and analysis of relevant data trends. Benchmarks for Improvement were determined after reviewing data trends for each metric. Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (March 2022), available at <https://www.flbog.edu/wp-content/uploads/2022/03/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Mar-2022.pdf>.

The performance funding model includes both a state investment (appropriated by the Legislature) for performance funding and an institutional investment which is a matched amount reallocated from the university system base budget. These “institutional base” funds are the cumulative recurring state appropriations that the Legislature has appropriated to each institution.⁴³² In Fiscal Year 2021-2022, performance funding included a state investment of \$265,000,000 and an institutional investment of \$295,000,000.⁴³³

The state investment is allocated based on points earned, with a maximum of 100 points possible. Institutions are eligible for their proportional amount of the state’s investment if they: score within the top three institutions; score the same or higher than the previous year; or score less than the previous year, but the previous year’s score was higher or the same as the year before. Any institution with a score the same or lower than the previous year’s score for two consecutive years, must submit a student success plan to the BOG in order to be eligible for their proportional amount of the state’s investment (baseline scores begin with the June 2018 results).⁴³⁴

The institutional investment is also allocated based on points earned, with a maximum of 100 points possible. Any institution that fails to meet the BOG’s minimum performance funding threshold (a total score of less than 70 points)⁴³⁵ has a portion of its institutional investment withheld, and is required to submit an improvement plan that specifies the activities and strategies for improving its performance.⁴³⁶ A state university may submit an improvement plan for only one fiscal year.

Effect of the Bill

The bill updates the graduation rate metric for the FCS associate in arts transfer students from 2-year graduation rate to 3-year graduation rate.

The bill prohibits any university from receiving performance funding when there is substantiated discrimination based on a violation of individual freedom.

Safer, Smarter Schools

Present Situation

Required Instruction and Health Education

Each district school board is responsible for providing all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet the SBE

⁴³² Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (March 2022), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Mar-2022.pdf>.

⁴³³ Specific Appropriation 145, s. 2, ch. 2021-36, L.O.F.

⁴³⁴ Section 1001.92(2), F.S.; Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (March 2022), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Mar-2022.pdf>; In Nov. 2018 the BOG approved new changes to the allocation methodology eliminating the bottom three requirement which prevented the three lowest scoring institutions from being eligible for the state’s investment. In addition, beginning with the 2021-22 fiscal year, if a university’s score is below 70 points, it will only be eligible to receive 50% of its prorated state investments after successfully implementing a student success plan. Florida Board of Governors, *Performance Funding Model, Approved Changes to the Model 2019-20*, available at https://www.flbog.edu/wp-content/uploads/Changes_2019-20.pdf.

⁴³⁵ The performance funding threshold for institutional investment was previously set at a total score of less than 51 points. The BOG approved changes to the threshold in Oct. 2019 effective immediately, increasing the threshold incrementally to 55 for 2020 and 60 for 2021. Florida Board of Governors, *Performance Funding Model, Approved Changes to the Model 2020-21*, available at <https://www.flbog.edu/wp-content/uploads/Changes-2020-21.pdf>.

⁴³⁶ Section 1001.92(3)(a)-(b), F.S.; Florida Board of Governors, *Board of Governors Performance Funding Model Overview* (March 2022), available at <https://www.flbog.edu/wp-content/uploads/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-Mar-2022.pdf>.

adopted standards in reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.⁴³⁷

Public school teachers are required to teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, and employing approved methods of instruction and certain prescribed courses of study, including health education and character development.⁴³⁸ The SBE is encouraged to adopt standards and pursue assessment of the requirements for prescribed courses of study and methods of instruction employed by public school teachers.⁴³⁹

Instruction on comprehensive age-appropriate and developmentally appropriate K-12 health education must address concepts of community health, consumer health, environmental health, and family life, including:⁴⁴⁰

- Mental and emotional health.
- Injury prevention and safety.
- Internet safety.
- Nutrition.
- Personal health.
- Prevention and control of disease.
- Substance use and abuse.
- Prevention of child sexual abuse, exploitation, and human trafficking.
- For students in grades 7 through 12, a teen dating violence and abuse component.
- For students in grades 6 through 12, an awareness of the benefits of sexual abstinence as the expected standard and the consequences of teenage pregnancy

On July 14, 2021, the SBE adopted updated standards for health education.⁴⁴¹

Lauren's Kids Safer, Smarter Schools Curriculum

Lauren's Kids is a nonprofit organization dedicated to educating adults and children about sexual abuse prevention through in-school curricula, awareness campaigns, and speaking engagements around the country and the world. The organization's mission is to prevent child sexual abuse through education and awareness and to help survivors heal with guidance and support.⁴⁴²

One program offered by Lauren's Kids is called Safer, Smarter Schools. The program provides educator support, training, and professional development opportunities year-round. From grade-level curriculum implementation training to online courses for beginning teachers, principals, and administrators, as well as materials for guidance professionals, Lauren's Kids helps to support educators as they work to provide Safer, Smarter Schools for students.⁴⁴³

⁴³⁷ Section 1003.42(1), F.S.

⁴³⁸ Section 1003.42(2), F.S. Required instruction includes, for example, the history and content of the Declaration of Independence, the arguments in support of adopting our republican form of government, flag education, the history of the Holocaust, the history of African Americans, and kindness to animals. *Id.* Instructional staff of charter schools are exempt from the required instruction section of law. Section 1002.33(16), F.S.

⁴³⁹ Section 1003.42(2), F.S.

⁴⁴⁰ Section 1003.42(2)(n), F.S.

⁴⁴¹ Florida Department of Education, *July 14, 2021 – Meeting Agenda*, <https://www.fldoe.org/policy/state-board-of-edu/meetings/2021/2021-07-14/> (last visited March 17, 2022).

⁴⁴² See <https://laurenskids.org/>.

⁴⁴³ See [Child Sexual Abuse Prevention Training | Professional Development Support | Safer, Smarter Schools \(safersmarterschools.org\)](https://safersmarterschools.org/)

Effect of the Bill

The bill establishes the Safer, Smarter Schools program to implement the revised health education standards established in the required instruction specified in law. The program curriculum is a comprehensive personal safety curriculum that helps support students in the attainment of learning protective principles to help keep them safe from abuse and exploitation.

Florida College System Dormitory Facilities

Present Situation

An FCS institution or its direct-support organization has limited authority to plan and construct facilities and to acquire additional property.⁴⁴⁴ Residency opportunities within the FCS are predominately off campus and provided through a third party, often for specific student populations such as international students, student athletes, or specific scholarship recipients.⁴⁴⁵ However, Florida law authorizes an FCS institution campus within a municipality designated as an area of critical state concern,⁴⁴⁶ which meets planning and development requirements, to construct dormitories for up to 300 beds for FCS institution students.⁴⁴⁷ State funds and tuition and fee revenues may not be used for construction, debt service payments, maintenance, or operation of such dormitories. Additional dormitory beds constructed after July 1, 2016, may not be financed through the issuance of bonds.⁴⁴⁸ However, nonpublic entities may issue bonds as part of a public-private partnership between the college and a nonpublic entity.⁴⁴⁹

Effect of the Bill

The bill increases the number of dormitory beds allowable from 300 to 340, increases the maximum building height from 45 to 60 feet and provides authority for an additional 25 beds for employees, educators and first responders.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁴⁴⁴ Section 1013.40, F.S.

⁴⁴⁵ Florida College System, *Student Housing in the Florida College System*, available at <http://www.fldoe.org/core/fileparse.php/7480/urlt/0082726-faqhousing.pdf>.

⁴⁴⁶ Section 380.05, F.S. The Areas of Critical State Concern Program was created by the "Florida Environmental Land and Water Management Act of 1972." The program is intended to protect resources and public facilities of major statewide significance, within designated geographic areas, from uncontrolled development that would cause substantial deterioration of such resources. The designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, the Florida Keys Area, and the City of Key West Area.

⁴⁴⁷ Section 1013.40(4), F.S. Currently, only Florida Keys Community College meets this requirement and is able to construct such dormitory facilities.

⁴⁴⁸ Section 1013.40(4), F.S.

⁴⁴⁹ *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill is expected to have a significant economic impact on the private sector. State postsecondary institutions that cultivate and implement the OER in course curriculum will reduce textbook and institutional materials costs to students, providing greater access to higher education. Expanding the BOGO waivers to additional PSA will have a positive fiscal impact on students enrolled in select courses. Expanding the list of eligible institutions that can participate in the ODG program will help to produce a more qualified and credentialed workforce, particularly in high-demand occupations. Allowing institutions to cover certain costs for students in ODG programs will save students money and increase access to postsecondary education. Postsecondary institutions that enhance and expand their nursing education programs, as well as those that partner with healthcare providers, stand to supply the state with more qualified nurses to address critical workforce and healthcare shortages.

D. FISCAL COMMENTS:

The bill conforms applicable statutes to the appropriations provided in the conference report of the General Appropriations Act for prekindergarten through higher education included in the conference report of the Fiscal Year 2022-2023 GAA.

For the PreK-12 system, the conference report on the Fiscal Year 2022-2023 GAA provides the following appropriations to implement the applicable provisions of SB 2524:

- \$789.9 million for the school readiness program allocation.
- \$71.2 million for the school readiness hold harmless
- \$70.0 million for the Gold Seal Quality Care program allocation.
- \$40.0 million for the differential payment program allocation.
- \$5.0 million for the special needs differential allocation.
- \$30.0 million for the literacy micro-credential program.

Additionally, the FEFP appropriated in the conference report on the Fiscal Year 2022-2023 GAA includes:

- Funding for the estimated 1,969 additional FTE students awarded a scholarship through the FES program for students with disabilities.
- No funding for the Digital Classroom Allocation.
- Funding for all estimated virtual FTE students based on the calculation methodology used for the FLVS.

For the Higher Education system, the conference report on the Fiscal Year 2022-2023 GAA provides the following appropriations to implement the applicable provisions of SB 2524:

- \$265 million for the State Investment for university performance.
- \$10.8 million for the SOAR Respository and Grant program.
- \$1.6 million for the ITEM program.
- \$75.4 million for the EASE grant program.
- \$20.1 million for the Dual Enrollment Scholarship Program.
- \$100.0 million for the PIPELINE Fund.

- \$35.0 million for the Open Door Grant Program.
- \$25.0 million for the LINE Fund.
- \$3.0 million for the Hamilton Center for Classical and Civic Education.
- \$31.3 million for university incentives for BOGO tuition and fee waivers.