



Education Committee

Wednesday, February 7, 2018

9:00 AM

Reed Hall (102 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Education Committee

Start Date and Time: Wednesday, February 07, 2018 09:00 am
End Date and Time: Wednesday, February 07, 2018 12:00 pm
Location: Reed Hall (102 HOB)
Duration: 3.00 hrs

Consideration of the following bill(s):

CS/HB 1 The Hope Scholarship Program by PreK-12 Appropriations Subcommittee, Donalds
CS/HB 515 Offenses Against Student Safety by Criminal Justice Subcommittee, White, Mariano
CS/HB 731 Home Education by PreK-12 Innovation Subcommittee, Sullivan
HB 839 The Display of the State Motto by Daniels, Ponder
HB 887 Reading Instruction by Harrell
CS/CS/HJR 1031 Limitation on Terms of Office for Members of a District School Board by Public Integrity & Ethics Committee, PreK-12 Quality Subcommittee, Fischer, Raburn
HB 1201 Education for Prisoners by Ahern
CS/CS/HB 1279 School District Accountability by PreK-12 Appropriations Subcommittee, PreK-12 Quality Subcommittee, Sullivan

Consideration of the following proposed committee substitute(s):

PCS for HB 1391 -- Sexual Offenses Against Students

NOTICE FINALIZED on 02/05/2018 4:20PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1 The Hope Scholarship Program
SPONSOR(S): PreK-12 Appropriations Subcommittee; Donalds and others
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	9 Y, 5 N	Dehmer	Healy
2) PreK-12 Appropriations Subcommittee	9 Y, 4 N, As CS	Seifert	Potvin
3) Education Committee		Healy	Hassell

SUMMARY ANALYSIS

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

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

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

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

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

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

Contingent upon CS/HB 7055 or similar legislation adopted at the 2018 Regular Session of the Legislature failing to become law, for the 2018-2019 fiscal year, the sum of \$2 million in recurring funds from the General Revenue Fund is appropriated to the Department of Education to implement the provisions of this act.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

School Safety and Student Discipline

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

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

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

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

¹ Section 1006.07(1)(a), F.S.

² Section 1006.07(2), F.S.

³ *Id.*

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

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

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

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

Each school district's bullying and harassment policy must:

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

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

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

⁴ *Id.*

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

⁶ Section 1006.08(1), F.S.

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

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

⁹ Section 1006.147(2), F.S.

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

¹¹ Section 1006.147(4)(j), F.S.

¹² Section 1006.09(6), F.S.

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

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

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

Florida Tax Credit Scholarship Program

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

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

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

¹⁴ Presentation by Department of Health to the PreK-12 Innovation Subcommittee, Oct. 25, 2017, available at <https://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?PublicationType=Committees&CommitteeId=2908&Session=2018&DocumentType=Meeting%20Packets&FileName=pki%2010-25-17.pdf>

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

¹⁶ Section 1002.395, F.S.

¹⁷ Section 1002.395(1)(b), F.S.

¹⁸ Section 1002.395(1) and (5), F.S.

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

²⁰ Section 1002.3953 (6)(d), F.S. An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution. Section 1002.395(2)(e), F.S.

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

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

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

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

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

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

SFOs must:

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

²¹ Section 1002.395(16)(a), F.S.

²² Section 1002.395(6)(m), F.S.

²³ Section 1002.395(16)(b), F.S.

²⁴ Section 1002.395(16)(d), F.S.

²⁵ Section 1002.395(16)(i), F.S.

²⁶ See 42 U.S.C. s. 2000d.

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

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

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

Motor Vehicle Taxes

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

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

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

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

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

²⁹ Section 1002.395(6)(j)1., F.S.

³⁰ Florida Department of Revenue, Sales and Use Tax on Motor Vehicles, available at http://floridarevenue.com/Forms_library/current/gt800030.pdf

³¹ Florida: Sales Tax Handbook at <https://www.salestaxhandbook.com/florida/sales-tax-vehicles>

Effect of Proposed Changes

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

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

A student is ineligible for a scholarship to a private school if the student is:

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

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

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

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

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

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

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

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

The bill specifically requires the SFO to:

- receive applications and determine student eligibility;
- notify parents of their receipt of a scholarship on a first-come, first-served basis, based upon the funds provided;
- establish a date by which a student must confirm his or her intent to renew participation;
- award scholarships to eligible students, giving priority to renewing students; and
- notify the DOE of any violations regarding the program.

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

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

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

The HSP is funded by taxpayers who make an eligible contribution to a scholarship funding organization. The eligible contribution provides the taxpayer with a credit against any tax due as a result of the purchase or acquisition of a motor vehicle. The credit may not exceed the amount of taxes owed. Each eligible contribution is limited to a single payment of \$105 at the time of purchase of a motor vehicle or at the time of registration of a motor vehicle that was not purchased from a dealer. The purchaser elects whether or not to contribute at the time of the purchase or registration of the vehicle. Contributions must be made to a dealer at the time of purchase or to an agent of the Department of Revenue (DOR) at the time of registration, if the vehicle was not purchased from a dealer.

The bill provides that a dealer, designated agent, or private tag agent must:

- provide the purchaser a contribution election form, as prescribed by the DOR, at the time of purchase or at the time of registration if the vehicle is not purchased from a dealer;
- collect eligible contributions;
- remit to the SFO no later than the date the return is due the total amount of contributions made to the SFO and collected during the preceding reporting period. The dealer shall also report this information to DOR no later than the date the return is due; and
- report on each return filed with the DOR the total amount of credits allowed under during the preceding calendar month.

The SFO must report to the DOR, on or before the 20th day of each month, the total amount of contributions received in the preceding calendar month. The report must include:

- the federal employer identification number of designated agent, private tag agent, or dealer who remitted contributions to the SFO during that reporting period; and
- the amount of contributions received from each designated agent, private tag agent, or dealer during that period.

If a dealer or organization fails to submit the above required reports, they will be subject to a \$1,000 penalty for every month, or part thereof, the report is not provided, up to a maximum of \$10,000. The penalty shall be collected by DOR and transferred to the General Revenue Fund. The penalty must be settled or compromised if DOR determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud.

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

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

The sentencing judge must order an offender to make restitution to the SFO in the amount stolen. Upon finding that a dealer failed to remit a contribution for which the dealer claimed credit, DOR shall notify the dealer of such finding and request evidence from the dealer that the remittance obligation was met within 30 days after such notice. If the dealer fails to provide evidence that the remittance obligation was met, DOR may impose a civil fine in an amount equal to twice the amount the dealer failed to remit. If the fine is not paid within 60 days after it was imposed, DOR may bring a civil action under s. 120.69 to recover the fine.

B. SECTION DIRECTORY:

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

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

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

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Section 1 of the bill delineates the Department of Education's obligations for the administration of the Hope Scholarship Program to include contracting with an independent entity to provide an annual evaluation of the program. The bill includes a \$2 million appropriation to DOE to implement the provisions of this act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

Also, see the FISCAL COMMENTS section.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

On December 1, 2017, the Revenue Estimating Conference reviewed the proposed language of HB 132. The results of the impact conference was an estimated 11.1% of vehicle purchasers would elect to contribute to the Hope Scholarship. In Fiscal Year 2016-17 there were 3.5 million purchases of new and used cars and light trucks in Florida. Anticipating that 11.1% of those purchases result in a contribution of \$105 each to the Hope Scholarship Program, the impact on General Revenue will be an estimated negative \$40.3 million.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The State Board of Education shall adopt rules to administer the program, except the DOR shall adopt rules specific to the provisions for tax collection, remittance, reporting, and penalties for noncompliance with these provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2018, the PreK-12 Appropriations Subcommittee adopted four amendments and reported HB 1 favorably as a committee substitute. The amendments:

- Provided definitions for “dealer” and “designated agent” to be a tax collector other certified agent and clarified the definition of “eligible contribution”;
- Specified that once a student obtains a Hope scholarship, he or she is eligible to continue with that scholarship until graduation from high school or until the student returns to public school;

³² http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/page173-177.pdf

- Allowed for electronic funds transfer for scholarship payments from the SFO to an eligible private school, consistent with the Florida Tax Credit Scholarship Program;
- Clarified processes for tax contributions, collections and tax credits;
- Included remittance and reporting schedules for car dealers and tax collectors or agents;
- Clarified DOR's role in assuring compliance with remittance of tax contributions by specifying fines and criminal penalties for noncompliance.
- Provided a \$2 million dollar appropriation to DOE to implement the provisions of this act.

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

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

51 the award or use of program funds; prohibiting
 52 additional regulations for private schools
 53 participating in the program beyond those necessary to
 54 enforce program requirements; requiring the State
 55 Board of Education to adopt rules to administer the
 56 program; creating s. 212.1832, F.S.; authorizing
 57 certain persons to elect to direct certain state sales
 58 and use tax revenue to be transferred to a nonprofit
 59 scholarship-funding organizations for the Hope
 60 Scholarship Program; providing requirements for motor
 61 vehicle dealers; requiring the Department of Revenue
 62 to disregard certain tax credits for specified
 63 purposes; amending s. 213.053, F.S.; requiring the
 64 Department of Revenue to share specified information
 65 with eligible nonprofit scholarship-funding
 66 organizations; providing that certain requirements
 67 apply to such organizations; authorizing the
 68 Department of Revenue to adopt emergency rules for
 69 specified purposes; providing a contingent
 70 appropriation; providing an effective date.

71

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

73

74 Section 1. Section 1002.40, Florida Statutes, is created
 75 to read:

76 1002.40 The Hope Scholarship Program.-

77 (1) PURPOSE.-The Hope Scholarship Program is established
 78 to provide the parent of a public school student who was
 79 subjected to an incident listed in subsection (3) an opportunity
 80 to transfer the student to another public school or to request a
 81 scholarship for the student to enroll in and attend an eligible
 82 private school.

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

84 (a) "Dealer" has the same meaning as provided in s.
 85 212.06(2).

86 (b) "Department" means the Department of Education.

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

89 (d) "Eligible contribution" or "contribution" means a
 90 monetary contribution from a person purchasing a motor vehicle,
 91 subject to the restrictions provided in this section, to an
 92 eligible nonprofit scholarship-funding organization. The person
 93 making the contribution may not designate a specific student as
 94 the beneficiary of the contribution.

95 (e) "Eligible nonprofit scholarship-funding organization"
 96 or "organization" has the same meaning as provided in s.
 97 1002.395(2) (f).

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

100 (g) "Motor vehicle" has the same meaning as provided in s.

101 320.01(1)(a), but does not include heavy trucks, truck tractors,
 102 trailers, and motorcycles.

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

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

107 (j) "School" includes any educational program or activity
 108 conducted by a public K-12 educational institution, any school-
 109 related or school-sponsored program or activity, and riding on a
 110 school bus, as defined in s. 1006.25(1), including waiting at a
 111 school bus stop.

112 (k) "Unweighted FTE funding amount" means the statewide
 113 average total funds per unweighted full-time equivalent funding
 114 amount that is incorporated by reference in the General
 115 Appropriations Act, or by a subsequent special appropriations
 116 act, for the applicable state fiscal year.

117 (3) PROGRAM ELIGIBILITY.—Beginning with the 2018-2019
 118 school year, contingent upon available funds, and on a first-
 119 come, first-served basis, a student enrolled in a Florida public
 120 school in kindergarten through grade 12 is eligible for a
 121 scholarship under this program if the student has been subjected
 122 to an incident of battery; harassment; hazing; bullying;
 123 kidnapping; physical attack; robbery; sexual offenses,
 124 harassment, assault, or battery; threat or intimidation; or
 125 fighting at school.

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

129 (a) Enrolled in a public school, including, but not
 130 limited to, the Florida School for the Deaf and the Blind; the
 131 College-Preparatory Boarding Academy; a developmental research
 132 school authorized under s. 1002.32; or a charter school
 133 authorized under s. 1002.33, s. 1002.331, or s. 1002.332;

134 (b) Enrolled in a school operating for the purpose of
 135 providing educational services to youth in the Department of
 136 Juvenile Justice commitment programs;

137 (c) Participating in a virtual school, correspondence
 138 school, or distance learning program that receives state funding
 139 pursuant to the student's participation unless the participation
 140 is limited to no more than two courses per school year; or

141 (d) Receiving any other educational scholarship pursuant
 142 to this chapter.

143 (5) TERM OF HOPE SCHOLARSHIP.—For purposes of continuity
 144 of educational choice, a Hope scholarship shall remain in force
 145 until the student returns to public school or graduates from
 146 high school, whichever occurs first. A scholarship student who
 147 enrolls in a public school or public school program is
 148 considered to have returned to a public school for the purpose
 149 of determining the end of the scholarship's term.

150 (6) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—

151 (a) Upon receipt of a report of an incident listed in
 152 subsection (3), the school principal shall provide a copy of the
 153 report to the parent and investigate the incident to determine
 154 if the incident must be reported as required by s. 1006.09(6).
 155 Upon conclusion of the investigation or within 15 days after the
 156 incident was reported, whichever occurs first, the school
 157 district shall notify the parent of the program and offer that
 158 parent an opportunity to enroll his or her student in another
 159 public school or to request and receive a scholarship to attend
 160 an eligible private school, subject to available funding. A
 161 parent who chooses to enroll his or her student in a Florida
 162 public school located outside the district in which the student
 163 resides pursuant to s. 1002.31 shall be eligible for a
 164 scholarship to transport the student as provided in paragraph
 165 (12) (b).

166 (b) For each student participating in the program in a
 167 private school who chooses to participate in the statewide
 168 assessments under s. 1008.22 or the Florida Alternate
 169 Assessment, the school district in which the student resides
 170 must notify the student and his or her parent about the
 171 locations and times to take all statewide assessments.

172 (7) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—An
 173 eligible private school may be sectarian or nonsectarian and
 174 shall:

175 (a) Comply with all requirements for private schools

176 participating in state school choice scholarship programs
 177 pursuant to this section and s. 1002.421.

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

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

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

185 2. Annually administering or making provision for students
 186 participating in the program in grades 3 through 10 to take one
 187 of the nationally norm-referenced tests identified by the
 188 department or the statewide assessments pursuant to s. 1008.22.
 189 Students with disabilities for whom standardized testing is not
 190 appropriate are exempt from this requirement. A participating
 191 private school shall report a student's scores to his or her
 192 parent.

193 3. Cooperating with the student whose parent chooses to
 194 have the student participate in the statewide assessments
 195 pursuant to s. 1008.22 or, if a private school chooses to offer
 196 the statewide assessments, administering the assessments at the
 197 school.

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

201 b. A participating private school shall submit a request
 202 in writing to the department by March 1 of each year in order to
 203 administer the statewide assessments in the subsequent school
 204 year.

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

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

210 (f) Provide a report from an independent certified public
 211 accountant who performs the agreed-upon procedures developed
 212 under s. 1002.395(6)(o) if the private school receives more than
 213 \$250,000 in funds from scholarships awarded under this section
 214 in a state fiscal year. A private school subject to this
 215 paragraph must annually submit the report by September 15 to the
 216 organization that awarded the majority of the school's
 217 scholarship funds. The agreed-upon procedures must be conducted
 218 in accordance with attestation standards established by the
 219 American Institute of Certified Public Accountants.

220
 221 If a private school is unable to meet the requirements of this
 222 subsection, the commissioner may determine that the private
 223 school is ineligible to participate in the program.

224 (8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
 225 shall:

226 (a) Establish a toll-free hotline that provides parents
 227 and private schools with information on participation in the
 228 program.

229 (b) Annually verify the eligibility of private schools
 230 that meet the requirements of subsection (7).

231 (c) Require an annual notarized and sworn compliance
 232 statement by participating private schools certifying compliance
 233 with state laws and retain such records.

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

238 (e) Maintain a list of nationally norm-referenced tests
 239 identified for purposes of satisfying the testing requirement in
 240 paragraph (10)(f). The tests must meet industry standards of
 241 quality in accordance with State Board of Education rule.

242 (f) Require quarterly reports by an eligible nonprofit
 243 scholarship-funding organization regarding the number of
 244 students participating in the scholarship program, the private
 245 schools in which the students are enrolled, and other
 246 information deemed necessary by the department.

247 (g) Contract with an independent entity to provide an
 248 annual evaluation of the program by:

249 1. Reviewing the school climate and code of student
 250 conduct of each public school at which 10 or more reported

251 | incidents occurred to determine areas in the school or school
 252 | district procedures involving reporting, investigating, and
 253 | communicating a parent's and student's rights that are in need
 254 | of improvement. At a minimum, the review must include:

255 | a. An assessment of the investigation time and quality of
 256 | the response of the school and the school district.

257 | b. An assessment of the effectiveness of communication
 258 | procedures with the students involved in an incident, the
 259 | students' parents, and the school and school district personnel;

260 | c. An analysis of school incident and discipline data;

261 | d. The challenges and obstacles relating to implementing
 262 | recommendations from this review.

263 | 2. Reviewing the school climate and code of student
 264 | conduct of each public school a student transferred to if the
 265 | student was from a school identified in subparagraph 1. in order
 266 | to identify best practices and make recommendations to a public
 267 | school at which the incidents occurred.

268 | 3. Reviewing the performance of participating students
 269 | enrolled in a private school in which at least 51 percent of the
 270 | total enrolled students in the prior school year participated in
 271 | the program and in which there are at least 10 participating
 272 | students who have scores for tests administered.

273 | 4. Surveying the parents of participating students to
 274 | determine academic, safety, and school climate satisfaction and
 275 | to identify any challenges or obstacles in addressing the

276 incident or relating to the use of the scholarship.

277 (h) Upon the request of a participating private school,
278 provide at no cost to the school the statewide assessments
279 administered under s. 1008.22 and any related materials for
280 administering the assessments. Students at a private school may
281 be assessed using the statewide assessments if the addition of
282 those students and the school does not cause the state to exceed
283 its contractual caps for the number of students tested and the
284 number of testing sites. The state shall provide the same
285 materials and support to a private school that it provides to a
286 public school. A private school that chooses to administer
287 statewide assessments under s. 1008.22 shall follow the
288 requirements set forth in ss. 1008.22 and 1008.24, rules adopted
289 by the State Board of Education to implement those sections, and
290 district-level testing policies established by the district
291 school board.

292 (i) Establish a process by which individuals may notify
293 the department of any violation by a parent, private school, or
294 school district of state laws relating to program participation.
295 The department shall conduct an inquiry or make a referral to
296 the appropriate agency for an investigation of any written
297 complaint of a violation of this section if the complaint is
298 signed by the complainant and is legally sufficient. A complaint
299 is legally sufficient if such complaint contains ultimate facts
300 that show that a violation of this section or any rule adopted

301 by the State Board of Education pursuant to this section has
 302 occurred. In order to determine legal sufficiency, the
 303 department may require supporting information or documentation
 304 from the complainant. A department inquiry is not subject to the
 305 requirements of chapter 120.

306 (j)1. Conduct site visits to participating private
 307 schools. The purpose of the site visits is solely to verify the
 308 information reported by the schools concerning the enrollment
 309 and attendance of students, the credentials of teachers,
 310 background screening of teachers, and teachers' fingerprinting
 311 results. The department may not make more than seven site visits
 312 each year; however, the department may make additional site
 313 visits at any time to a school that has received a notice of
 314 noncompliance or a notice of proposed action within the previous
 315 2 years.

316 2. Annually, by December 15, report to the Governor, the
 317 President of the Senate, and the Speaker of the House of
 318 Representatives the department's actions with respect to
 319 implementing accountability in the program under this section
 320 and s. 1002.421, any substantiated allegations or violations of
 321 law or rule by an eligible private school under this program and
 322 the corrective action taken by the department.

323 (9) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.—

324 (a) The Commissioner of Education:

325 1. Shall deny, suspend, or revoke a private school's

326 participation in the program if it is determined that the
 327 private school has failed to comply with the provisions of this
 328 section. However, if the noncompliance is correctable within a
 329 reasonable amount of time and if the health, safety, or welfare
 330 of the students is not threatened, the commissioner may issue a
 331 notice of noncompliance which provides the private school with a
 332 timeframe within which to provide evidence of compliance before
 333 taking action to suspend or revoke the private school's
 334 participation in the program.

335 2. May deny, suspend, or revoke a private school's
 336 participation in the program if the commissioner determines that
 337 an owner or operator of the private school is operating or has
 338 operated an educational institution in this state or in another
 339 state or jurisdiction in a manner contrary to the health,
 340 safety, or welfare of the public.

341 a. In making such a determination, the commissioner may
 342 consider factors that include, but are not limited to, acts or
 343 omissions by an owner or operator which led to a previous denial
 344 or revocation of participation in an education scholarship
 345 program; an owner's or operator's failure to reimburse the
 346 department for scholarship funds improperly received or retained
 347 by a school; imposition of a prior criminal sanction related to
 348 an owner's or operator's management or operation of an
 349 educational institution; imposition of a civil fine or
 350 administrative fine, license revocation or suspension, or

351 program eligibility suspension, termination, or revocation
 352 related to an owner's or operator's management or operation of
 353 an educational institution; or other types of criminal
 354 proceedings in which an owner or operator was found guilty of,
 355 regardless of adjudication, or entered a plea of nolo contendere
 356 or guilty to, any offense involving fraud, deceit, dishonesty,
 357 or moral turpitude.

358 b. For purposes of this subparagraph, the term "owner or
 359 operator" includes an owner, operator, superintendent, or
 360 principal of, or a person who has equivalent decisionmaking
 361 authority over, a private school participating in the
 362 scholarship program.

363 (b) The commissioner's determination is subject to the
 364 following:

365 1. If the commissioner intends to deny, suspend, or revoke
 366 a private school's participation in the program, the department
 367 shall notify the private school of such proposed action in
 368 writing by certified mail and regular mail to the private
 369 school's address of record with the department. The notification
 370 shall include the reasons for the proposed action and notice of
 371 the timelines and procedures set forth in this paragraph.

372 2. The private school that is adversely affected by the
 373 proposed action shall have 15 days after receipt of the notice
 374 of proposed action to file with the department's agency clerk a
 375 request for a proceeding pursuant to ss. 120.569 and 120.57. If

376 the private school is entitled to a hearing under s. 120.57(1),
 377 the department shall refer the request to the Division of
 378 Administrative Hearings.

379 3. Upon receipt of a request referred pursuant to this
 380 paragraph, the director of the Division of Administrative
 381 Hearings shall expedite the hearing and assign an administrative
 382 law judge who shall commence a hearing within 30 days after the
 383 receipt of the formal written request by the division and enter
 384 a recommended order within 30 days after the hearing or within
 385 30 days after receipt of the hearing transcript, whichever is
 386 later. Each party shall be allowed 10 days in which to submit
 387 written exceptions to the recommended order. A final order shall
 388 be entered by the agency within 30 days after the entry of a
 389 recommended order. The provisions of this subparagraph may be
 390 waived upon stipulation by all parties.

391 (c) The commissioner may immediately suspend payment of
 392 scholarship funds if it is determined that there is probable
 393 cause to believe that there is:

394 1. An imminent threat to the health, safety, or welfare of
 395 the students; or

396 2. Fraudulent activity on the part of the private school.
 397 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
 398 activity pursuant to this section, the department's Office of
 399 Inspector General is authorized to release personally
 400 identifiable records or reports of students to the following

401 persons or organizations:

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

406 b. A person or entity authorized by a court of competent
 407 jurisdiction in compliance with an order of that court or the
 408 attorney of record pursuant to a lawfully issued subpoena,
 409 consistent with the Family Educational Rights and Privacy Act,
 410 20 U.S.C. s. 1232g.

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

417
 418 The commissioner's suspension of payment pursuant to this
 419 paragraph may be appealed pursuant to the same procedures and
 420 timelines as the notice of proposed action set forth in
 421 paragraph (b).

422 (10) PARENT AND STUDENT RESPONSIBILITIES FOR PROGRAM
 423 PARTICIPATION.—A parent who applies for a Hope Scholarship is
 424 exercising his or her parental option to place his or her
 425 student in an eligible private school.

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

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

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

434 (d) Each parent and each student has an obligation to the
 435 private school to comply with the private school's published
 436 policies.

437 (e) Upon reasonable notice to the department and the
 438 school district, the parent may remove the student from the
 439 private school and place the student in a public school in
 440 accordance with this section.

441 (f) The parent must ensure that the student participating
 442 in the program takes the norm-referenced assessment offered by
 443 the private school. The parent may also choose to have the
 444 student participate in the statewide assessments pursuant to s.
 445 1008.22. If the parent requests that the student participating
 446 in the program take the statewide assessments pursuant to s.
 447 1008.22 and the private school has not chosen to offer and
 448 administer the statewide assessments, the parent is responsible
 449 for transporting the student to the assessment site designated
 450 by the school district.

451 (g) Upon receipt of a scholarship warrant, the parent to
 452 whom the warrant is made must restrictively endorse the warrant
 453 to the private school for deposit into the account of the
 454 private school. If payment is made by funds transfer in
 455 accordance with paragraph (12)(d), the parent must approve each
 456 payment before the scholarship funds may be deposited. The
 457 parent may not designate any entity or individual associated
 458 with the participating private school as the parent's attorney
 459 in fact to endorse a scholarship warrant or approve a funds
 460 transfer. A parent who fails to comply with this paragraph
 461 forfeits the scholarship.

462 (11) OBLIGATIONS OF NONPROFIT SCHOLARSHIP-FUNDING
 463 ORGANIZATIONS.—An organization may establish scholarships for
 464 eligible students by:

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

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

469 (c) Establishing a date by which the parent of a
 470 participating student must confirm continuing participation in
 471 the program.

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

474 (e) Preparing and submitting quarterly reports to the
 475 department pursuant to paragraphs (8)(f). In addition, an

476 eligible nonprofit scholarship-funding organization must submit
 477 in a timely manner any information requested by the department
 478 relating to the scholarship program.

479 (f) Notifying the department of any violation of this
 480 section.

481 (12) FUNDING AND PAYMENT.—

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

486 1. Eighty-eight percent for a student enrolled in
 487 kindergarten through grade 5.

488 2. Ninety-two percent for a student enrolled in grade 6
 489 through grade 8.

490 3. Ninety-six percent for a student enrolled in grade 9
 491 through grade 12.

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

495 (c) When a student enters the program, the organization
 496 must receive all documentation required for the student's
 497 participation, including a copy of the report of the incident
 498 received pursuant to subsection (6) and the private school's and
 499 the student's fee schedules. The initial payment shall be made
 500 after verification of admission acceptance, and subsequent

501 payments shall be made upon verification of continued enrollment
 502 and attendance at the private school.

503 (d) Payment of the scholarship by the eligible nonprofit
 504 scholarship-funding organization may be by individual warrant
 505 made payable to the student's parent or by funds transfer,
 506 including, but not limited to, debit cards, electronic payment
 507 cards, or other means of payment that the department deems to be
 508 commercially viable or cost-effective. If payment is made by
 509 warrant, the warrant must be delivered by the eligible nonprofit
 510 scholarship-funding organization to the private school of the
 511 parent's choice, and the parent shall restrictively endorse the
 512 warrant to the private school. If payment is made by funds
 513 transfer, the parent must approve each payment before the
 514 scholarship funds may be deposited. The parent may not designate
 515 any entity or individual associated with the participating
 516 private school as the parent's attorney in fact to endorse a
 517 scholarship warrant or approve a funds transfer.

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

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

525 (g) An organization may use up to 3 percent of eligible

526 contributions received during the state fiscal year in which
 527 such contributions are collected for administrative expenses if
 528 the organization has operated as an eligible nonprofit
 529 scholarship-funding organization for at least the preceding 3
 530 fiscal years and did not have any findings of material weakness
 531 or material noncompliance in its most recent audit under s.
 532 1002.395(6) (m). Such administrative expenses must be reasonable
 533 and necessary for the organization's management and distribution
 534 of eligible contributions under this section. No funds
 535 authorized under this paragraph shall be used for lobbying or
 536 political activity or expenses related to lobbying or political
 537 activity. Up to one-third of the funds authorized for
 538 administrative expenses under this paragraph may be used for
 539 expenses related to the recruitment of contributions. An
 540 eligible nonprofit scholarship-funding organization may not
 541 charge an application fee.

542 (h) Moneys received pursuant to this section do not
 543 constitute taxable income to the qualified student or his or her
 544 parent.

545 (13) OBLIGATIONS OF THE AUDITOR GENERAL.—

546 (a) The Auditor General shall conduct an annual
 547 operational audit of accounts and records of each organization
 548 that participates in the program. As part of this audit, the
 549 Auditor General shall verify, at a minimum, the total number of
 550 students served and transmit that information to the department.

551 The Auditor General shall provide the commissioner with a copy
 552 of each annual operational audit performed pursuant to this
 553 paragraph within 10 days after the audit is finalized.

554 (b) The Auditor General shall notify the department of any
 555 organization that fails to comply with a request for
 556 information.

557 (14) SCHOLARSHIP FUNDING TAX CREDITS—

558 (a) A tax credit is available under s. 212.1832(1) for use
 559 by a person that makes an eligible contribution. Each eligible
 560 contribution is limited to a single payment of \$105 per motor
 561 vehicle purchased at the time of purchase of a motor vehicle or
 562 a single payment of \$105 per motor vehicle purchased at the time
 563 of registration of a motor vehicle that was not purchased from a
 564 dealer. Payments of contributions shall be made to a dealer at
 565 the time of purchase of a motor vehicle or to a designated agent
 566 or private tag agent at the time of registration of a motor
 567 vehicle that was not purchased from a dealer. An eligible
 568 contribution shall be accompanied by a contribution election
 569 form provided by the Department of Revenue. The form shall
 570 include, at a minimum, a brief description of the Hope
 571 Scholarship Program and a section allowing the consumer to
 572 designate, from all participating scholarship funding
 573 organizations, which organization will receive the donation. For
 574 purposes of this subsection, the term "purchase" does not
 575 include the lease or rental of a motor vehicle.

576 (b) A dealer, designated agent, or private tag agent
 577 shall:
 578 1. Provide the purchaser the contribution election form,
 579 as provided by the Department of Revenue, at the time of
 580 purchase of a motor vehicle or at the time of registration of a
 581 motor vehicle that was not purchased from a dealer.
 582 2. Collect eligible contributions.
 583 3. Using a form provided by the Department of Revenue,
 584 which shall include the dealer's or agent's federal employer
 585 identification number, remit to an organization no later than
 586 the date the return filed pursuant to s. 212.11 is due the total
 587 amount of contributions made to that organization and collected
 588 during the preceding reporting period. The dealer shall also
 589 report this information to the Department of Revenue no later
 590 than the date the return filed pursuant to s. 212.11 is due.
 591 4. Report to the Department of Revenue on each return
 592 filed pursuant to s. 212.11 the total amount of credits granted
 593 under s. 212.1832 for the preceding reporting period.
 594 (c) An organization shall report to the Department of
 595 Revenue, on or before the 20th day of each month, the total
 596 amount of contributions received pursuant to paragraph (b) in
 597 the preceding calendar month, on a form provided by the
 598 Department of Revenue. Such report shall include:
 599 1. The federal employer identification number of each
 600 designated agent, private tag agent, or dealer who remitted

601 contributions to the organization during that reporting period.

602 2. The amount of contributions received from each
 603 designated agent, private tag agent, or dealer during that
 604 reporting period.

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

609 1. If the total amount stolen is less than \$300, the
 610 offense is a misdemeanor of the second degree, punishable as
 611 provided in s. 775.082 or s. 775.083. Upon a second conviction,
 612 the offender is guilty of a misdemeanor of the first degree,
 613 punishable as provided in s. 775.082 or s. 775.083. Upon a third
 614 or subsequent conviction, the offender is guilty of a felony of
 615 the third degree, punishable as provided in s. 775.082, s.
 616 775.083, or s. 775.084.

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

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

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

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

629 (f) Upon a finding that a dealer failed to remit a
630 contribution under subparagraph(b)3. for which the dealer
631 claimed a credit pursuant to s. 212.1832(2), the Department of
632 Revenue shall notify the dealer of such finding and request
633 evidence from the dealer that demonstrates the remittance
634 obligation was met within 30 days after such notice is issued.
635 If, 30 days after the notice is issued, the dealer fails to
636 provide evidence to the Department of Revenue that the
637 contribution in question was remitted, the Department of Revenue
638 may impose a civil fine in an amount equal to twice the amount
639 of contributions the dealer failed to remit, which fine shall be
640 transferred into the General Revenue Fund. If the fine is not
641 paid within 60 days after the fine is imposed, the Department of
642 Revenue may bring a civil action under s. 120.69 to recover the
643 fine.

644 (g) Any dealer, designated agent, private tag agent, or
645 organization that fails to timely submit reports to the
646 Department of Revenue required in paragraphs (b) and (c) is
647 subject to a penalty of \$1,000 for every month, or part thereof,
648 the report is not provided, up to a maximum amount of \$10,000.
649 This penalty shall be collected by the Department of Revenue and
650 shall be transferred into the General Revenue Fund. This penalty

651 must be settled or compromised if it is determined by the
 652 Department of Revenue that the noncompliance is due to
 653 reasonable cause and not to willful negligence, willful neglect,
 654 or fraud.

655 (15) LIABILITY.—The state is not liable for the award or
 656 any use of awarded funds under this section.

657 (16) SCOPE OF AUTHORITY.—This section does not expand the
 658 regulatory authority of this state, its officers, or any school
 659 district to impose additional regulation on participating
 660 private schools beyond those reasonably necessary to enforce
 661 requirements expressly set forth in this section.

662 (17) RULES.—The State Board of Education shall adopt rules
 663 to administer this section, except the Department of Revenue
 664 shall adopt rules to administer subsection (14).

665 Section 2. Section 212.1832, Florida Statutes, is created
 666 to read:

667 212.1832 Credit for contributions to the Hope Scholarship
 668 Program.—

669 (1) Upon adoption of rules, the purchaser of a motor
 670 vehicle shall be granted a credit of 100 percent of an eligible
 671 contribution made to an eligible nonprofit scholarship-funding
 672 organization under s. 1002.40 against any tax imposed by the
 673 state and collected from the purchaser by a dealer, designated
 674 agent, or private tag agent as a result of the purchase or
 675 acquisition of a motor vehicle. For purposes of this subsection,

676 the term "purchase" does not include the lease or rental or a
 677 motor vehicle.

678 (2) A dealer shall take a credit against any tax imposed
 679 by the state under this chapter on the purchase of a motor
 680 vehicle in an amount equal to the credit granted to the
 681 purchaser under subsection (1).

682 (3) For purposes of the distributions of tax revenue under
 683 s. 212.20, the department shall disregard any tax credits
 684 allowed under this section to ensure that any reduction in tax
 685 revenue received that is attributable to the tax credits results
 686 only in a reduction in distributions to the General Revenue
 687 Fund. The provisions of s. 1002.40 apply to the credit
 688 authorized by this section.

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

691 213.053 Confidentiality and information sharing.—

692 (21) (a) The department may provide to an eligible
 693 nonprofit scholarship-funding organization, as defined in s.
 694 1004.20, a dealer's name, address, federal employer
 695 identification number, and information related to differences
 696 between credits taken by the dealer pursuant to s. 212.1832(2)
 697 and amounts remitted to the eligible nonprofit scholarship-
 698 funding organization under s. 1002.40(14)(b)3. The scholarship-
 699 funding organization may use the information for purposes of
 700 recovering eligible contributions designated for that

701 organization which were collected by the dealer but never
 702 remitted to the organization.

703 (b) Nothing in this subsection authorizes the disclosure
 704 of information if such disclosure is prohibited by federal law.
 705 The eligible nonprofit scholarship-funding organization is bound
 706 by the same requirements of confidentiality and the same
 707 penalties for a violation of the requirements as the department.

708 Section 4. The Department of Revenue may, and all
 709 conditions are deemed met to, adopt emergency rules pursuant to
 710 ss. 120.536(1) and 120.54, Florida Statutes, to administer this
 711 act.

712 Section 5. Contingent upon CS/HB 7055 or similar
 713 legislation in the 2018 Regular Session of the Legislature or an
 714 extension thereof failing to become law, for the 2018-2019
 715 fiscal year, the sum of \$2 million in recurring funds from the
 716 General Revenue Fund is appropriated to the Department of
 717 Education to implement the provisions of this act.

718 Section 6. This act shall take effect upon becoming a law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee

2 Representative Donalds offered the following:

3

4 **Amendment**

5 Remove line 152 and insert:

6 subsection (3), the school principal, or his or her designee,

7 shall provide a copy of the



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Donalds offered the following:

3
 4 **Amendment (with title amendment)**

5 Between lines 717 and 718, insert:

6 Section 6. Section 1002.421, Florida Statutes, is amended to
 7 read:

8 1002.421 ~~Accountability of private schools participating~~
 9 ~~in State school choice scholarship program accountability and~~
 10 ~~oversight programs.~~

11 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A Florida
 12 private school participating in ~~the Florida Tax Credit~~
 13 ~~Scholarship Program established pursuant to s. 1002.395 or an~~
 14 educational scholarship program established pursuant to this
 15 chapter must be a Florida private school as defined in s.
 16 1002.01(2), be registered, and be in compliance ~~comply~~ with all



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17 requirements of this section in addition to private school
18 requirements outlined in s. 1002.42, specific requirements
19 identified within respective scholarship program laws, and other
20 provisions of Florida law that apply to private schools, and
21 must:-

22 ~~(2) A private school participating in a scholarship~~
23 ~~program must be a Florida private school as defined in s.~~
24 ~~1002.01(2), must be registered in accordance with s. 1002.42,~~
25 ~~and must:-~~

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

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

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

33 (d) Provide to the department or scholarship-funding
34 organization all documentation required for a student's
35 participation, including the private school's and student's
36 individual fee schedule, and ~~Complete student enrollment and~~
37 ~~attendance verification requirements, including use of an online~~
38 attendance verification as required by the department or
39 scholarship-funding organization ~~form~~, prior to scholarship
40 payment.

41 (e) Annually complete and submit to the department a



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42 notarized scholarship compliance statement certifying that all
43 school employees and contracted personnel with direct student
44 contact have undergone background screening pursuant to s.
45 943.0542 and have met the screening standards of s. 435.04.

46 (f) Demonstrate fiscal soundness and accountability by:

47 1. Being in operation for at least 3 school years or
48 obtaining a surety bond or letter of credit for the amount equal
49 to the scholarship funds for any quarter and filing the surety
50 bond or letter of credit with the department.

51 2. Requiring the parent of each scholarship student to
52 personally restrictively endorse the scholarship warrant to the
53 school or approve a funds transfer before any funds are
54 deposited for a student. The school may not act as attorney in
55 fact for the parent of a scholarship student under the authority
56 of a power of attorney executed by such parent, or under any
57 other authority, to endorse a scholarship warrant or approve a
58 funds transfer warrants on behalf of such parent.

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

61 1. Firesafety.

62 2. Building safety.

63 (h) Employ or contract with teachers who hold
64 baccalaureate or higher degrees, have at least 3 years of
65 teaching experience in public or private schools, or have
66 special skills, knowledge, or expertise that qualifies them to



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67 provide instruction in subjects taught.

68 (i) Maintain a physical location in the state at which
69 each student has regular and direct contact with teachers.

70 (j) Publish on the school's website, or in a written
71 format, information for parents regarding the school, including,
72 but not limited to, programs, services, and the qualifications
73 of classroom teachers.

74 (k) At a minimum, provide the parent of each scholarship
75 student with a written explanation of the student's progress on
76 a quarterly basis.

77 (l) Cooperate with a student whose parent chooses to
78 participate in the statewide assessments pursuant to s. 1008.22.

79 (m)-(i) Require each employee and contracted personnel with
80 direct student contact, upon employment or engagement to provide
81 services, to undergo a state and national background screening,
82 pursuant to s. 943.0542, by electronically filing with the
83 Department of Law Enforcement a complete set of fingerprints
84 taken by an authorized law enforcement agency or an employee of
85 the private school, a school district, or a private company who
86 is trained to take fingerprints and deny employment to or
87 terminate an employee if he or she fails to meet the screening
88 standards under s. 435.04. Results of the screening shall be
89 provided to the participating private school. For purposes of
90 this paragraph:

91 1. An "employee or contracted personnel with direct

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92 student contact" means any employee or contracted personnel who
93 has unsupervised access to a scholarship student for whom the
94 private school is responsible.

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

97 3. Continued employment of an employee or contracted
98 personnel after notification that he or she has failed the
99 background screening under this paragraph shall cause a private
100 school to be ineligible for participation in a scholarship
101 program.

102 4. An employee or contracted personnel holding a valid
103 Florida teaching certificate who has been fingerprinted pursuant
104 to s. 1012.32 is not required to comply with the provisions of
105 this paragraph.

106 5.~~(3)(a)~~ All fingerprints submitted to the Department of
107 Law Enforcement as required by this section shall be retained by
108 the Department of Law Enforcement in a manner provided by rule
109 and entered in the statewide automated biometric identification
110 system authorized by s. 943.05(2)(b). Such fingerprints shall
111 thereafter be available for all purposes and uses authorized for
112 arrest fingerprints entered in the statewide automated biometric
113 identification system pursuant to s. 943.051.

114 6.~~(b)~~ The Department of Law Enforcement shall search all
115 arrest fingerprints received under s. 943.051 against the
116 fingerprints retained in the statewide automated biometric

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117 identification system under subparagraph 5 ~~paragraph (a)~~. Any
118 arrest record that is identified with the retained fingerprints
119 of a person subject to the background screening under this
120 section shall be reported to the employing school with which the
121 person is affiliated. Each private school participating in a
122 scholarship program is required to participate in this search
123 process by informing the Department of Law Enforcement of any
124 change in the employment or contractual status of its personnel
125 whose fingerprints are retained under subparagraph 5 ~~paragraph~~
126 ~~(a)~~. The Department of Law Enforcement shall adopt a rule
127 setting the amount of the annual fee to be imposed upon each
128 private school for performing these searches and establishing
129 the procedures for the retention of private school employee and
130 contracted personnel fingerprints and the dissemination of
131 search results. The fee may be borne by the private school or
132 the person fingerprinted.

133 7.~~(e)~~ Employees and contracted personnel whose
134 fingerprints are not retained by the Department of Law
135 Enforcement under subparagraphs 5. and 6. ~~paragraphs (a) and (b)~~
136 are required to be refingerprinted and must meet state and
137 national background screening requirements upon reemployment or
138 reengagement to provide services in order to comply with the
139 requirements of this section.

140 8.~~(d)~~ Every 5 years following employment or engagement to
141 provide services with a private school, employees or contracted



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142 personnel required to be screened under this section must meet
143 screening standards under s. 435.04, at which time the private
144 school shall request the Department of Law Enforcement to
145 forward the fingerprints to the Federal Bureau of Investigation
146 for national processing. If the fingerprints of employees or
147 contracted personnel are not retained by the Department of Law
148 Enforcement under subparagraph 5. paragraph (a), employees and
149 contracted personnel must electronically file a complete set of
150 fingerprints with the Department of Law Enforcement. Upon
151 submission of fingerprints for this purpose, the private school
152 shall request that the Department of Law Enforcement forward the
153 fingerprints to the Federal Bureau of Investigation for national
154 processing, and the fingerprints shall be retained by the
155 Department of Law Enforcement under subparagraph 5 paragraph
156 (a).

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

159 ~~(a) Disqualify instructional personnel and school~~
160 ~~administrators, as defined in s. 1012.01, from employment in any~~
161 ~~position that requires direct contact with students if the~~
162 ~~personnel or administrators are ineligible for such employment~~
163 ~~under s. 1012.315.~~

164 (n) (b) Adopt policies establishing standards of ethical
165 conduct for instructional personnel and school administrators.
166 The policies must require all instructional personnel and school



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167 administrators, as defined in s. 1012.01, to complete training
168 on the standards; establish the duty of instructional personnel
169 and school administrators to report, and procedures for
170 reporting, alleged misconduct by other instructional personnel
171 and school administrators which affects the health, safety, or
172 welfare of a student; and include an explanation of the
173 liability protections provided under ss. 39.203 and 768.095. A
174 private school, or any of its employees, may not enter into a
175 confidentiality agreement regarding terminated or dismissed
176 instructional personnel or school administrators, or personnel
177 or administrators who resign in lieu of termination, based in
178 whole or in part on misconduct that affects the health, safety,
179 or welfare of a student, and may not provide the instructional
180 personnel or school administrators with employment references or
181 discuss the personnel's or administrators' performance with
182 prospective employers in another educational setting, without
183 disclosing the personnel's or administrators' misconduct. Any
184 part of an agreement or contract that has the purpose or effect
185 of concealing misconduct by instructional personnel or school
186 administrators which affects the health, safety, or welfare of a
187 student is void, is contrary to public policy, and may not be
188 enforced.

189 (o)~~(e)~~ Before employing instructional personnel or school
190 administrators in any position that requires direct contact with
191 students, conduct employment history checks of each of the

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192 personnel's or administrators' previous employers, screen the
193 personnel or administrators through use of the educator
194 screening tools described in s. 1001.10(5), and document the
195 findings. If unable to contact a previous employer, the private
196 school must document efforts to contact the employer.

197 (p) Require each owner or operator of the private school,
198 prior to employment or engagement to provide services, to
199 undergo level 2 background screening as provided under chapter
200 435. For purposes of this paragraph, the term "owner or
201 operator" means an owner, operator, superintendent, or principal
202 of, or a person with equivalent decisionmaking authority over, a
203 private school participating in a scholarship program
204 established pursuant to this chapter. The fingerprints for the
205 background screening must be electronically submitted to the
206 Department of Law Enforcement and may be taken by an authorized
207 law enforcement agency or a private company who is trained to
208 take fingerprints. However, the complete set of fingerprints of
209 an owner or operator may not be taken by the owner or operator.
210 The owner or operator shall provide a copy of the results of the
211 state and national criminal history check to the Department of
212 Education. The cost of the background screening may be borne by
213 the owner or operator.

214 1. Every 5 years following employment or engagement to
215 provide services, each owner or operator must meet level 2
216 screening standards as described in s. 435.04, at which time the



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217 owner or operator shall request the Department of Law
218 Enforcement to forward the fingerprints to the Federal Bureau of
219 Investigation for level 2 screening. If the fingerprints of an
220 owner or operator are not retained by the Department of Law
221 Enforcement under subparagraph 2., the owner or operator must
222 electronically file a complete set of fingerprints with the
223 Department of Law Enforcement. Upon submission of fingerprints
224 for this purpose, the owner or operator shall request that the
225 Department of Law Enforcement forward the fingerprints to the
226 Federal Bureau of Investigation for level 2 screening, and the
227 fingerprints shall be retained by the Department of Law
228 Enforcement under subparagraph 2.

229 2. Fingerprints submitted to the Department of Law
230 Enforcement as required by this paragraph must be retained by
231 the Department of Law Enforcement in a manner approved by rule
232 and entered in the statewide automated biometric identification
233 system authorized by s. 943.05(2)(b). The fingerprints must
234 thereafter be available for all purposes and uses authorized for
235 arrest fingerprints entered in the statewide automated biometric
236 identification system pursuant to s. 943.051.

237 3. The Department of Law Enforcement shall search all
238 arrest fingerprints received under s. 943.051 against the
239 fingerprints retained in the statewide automated biometric
240 identification system under subparagraph 2. Any arrest record
241 that is identified with an owner's or operator's fingerprints



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242 must be reported to the owner or operator, who must report to
243 the Department of Education. Any costs associated with the
244 search shall be borne by the owner or operator.

245 4. An owner or operator who fails the level 2 background
246 screening is not eligible to participate in a scholarship
247 program under this chapter.

248 5. In addition to the offenses listed in s. 435.04, a
249 person required to undergo background screening pursuant to this
250 part or authorizing statutes must not have an arrest awaiting
251 final disposition for, must not have been found guilty of, or
252 entered a plea of nolo contendere to, regardless of
253 adjudication, and must not have been adjudicated delinquent for,
254 and the record must not have been sealed or expunged for, any of
255 the following offenses or any similar offense of another
256 jurisdiction:

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

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

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

260 d. Section 409.9201, relating to Medicaid fraud.

261 e. Section 741.28, relating to domestic violence.

262 f. Section 817.034, relating to fraudulent acts through
263 mail, wire, radio, electromagnetic, photoelectronic, or
264 photooptical systems.

265 g. Section 817.234, relating to false and fraudulent
266 insurance claims.

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- 267 h. Section 817.505, relating to patient brokering.
- 268 i. Section 817.568, relating to criminal use of personal
269 identification information.
- 270 j. Section 817.60, relating to obtaining a credit card
271 through fraudulent means.
- 272 k. Section 817.61, relating to fraudulent use of credit
273 cards, if the offense was a felony.
- 274 l. Section 831.01, relating to forgery.
- 275 m. Section 831.02, relating to uttering forged
276 instruments.
- 277 n. Section 831.07, relating to forging bank bills, checks,
278 drafts, or promissory notes.
- 279 o. Section 831.09, relating to uttering forged bank bills,
280 checks, drafts, or promissory notes.
- 281 p. Section 831.30, relating to fraud in obtaining
282 medicinal drugs.
- 283 q. Section 831.31, relating to the sale, manufacture,
284 delivery, or possession with the intent to sell, manufacture, or
285 deliver any counterfeit controlled substance, if the offense was
286 a felony.
- 287 6. At least 30 calendar days before a transfer of
288 ownership of a private school, the owner or operator shall
289 notify the parent of each scholarship student.
- 290 7. The owner or operator of a private school that has been
291 deemed ineligible to participate in a scholarship program



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292 pursuant to this chapter may not transfer ownership or
293 management authority of the school to a relative in order to
294 participate in a scholarship program as the same school or a new
295 school. For purposes of this subparagraph, the term "relative"
296 means father, mother, son, daughter, grandfather, grandmother,
297 brother, sister, uncle, aunt, cousin, nephew, niece, husband,
298 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,
299 brother-in-law, sister-in-law, stepfather, stepmother, stepson,
300 stepdaughter, stepbrother, stepsister, half-brother, or half-
301 sister.

302 (q) Provide a report from an independent certified public
303 accountant who performs the agreed-upon procedures developed
304 pursuant to s. 1002.395(6)(o) if the private school receives
305 more than \$250,000 in funds from scholarships awarded under this
306 chapter in a state fiscal year. A private school subject to this
307 subsection must annually submit the report by September 15 to
308 the scholarship-funding organization that awarded the majority
309 of the school's scholarship funds. However, a school that
310 receives more than \$250,000 in scholarship funds only through
311 the John M. McKay Scholarship for Students with Disabilities
312 Program pursuant to s. 1002.39 must submit the report by
313 September 15 to the department. The agreed-upon procedures must
314 be conducted in accordance with attestation standards
315 established by the American Institute of Certified Public
316 Accountants.

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317
318 The department shall suspend the payment of funds ~~under ss.~~
319 ~~1002.39 and 1002.395~~ to a private school that knowingly fails to
320 comply with this subsection, and shall prohibit the school from
321 enrolling new scholarship students, for 1 fiscal year and until
322 the school complies.

323 ~~(5) If The inability of a private school fails to meet the~~
324 ~~requirements of this subsection or has consecutive years of~~
325 ~~material exceptions listed in the report required under~~
326 ~~paragraph (q), the commissioner may determine that the private~~
327 ~~school is ineligible section shall constitute a basis for the~~
328 ~~ineligibility of the private school to participate in a~~
329 ~~scholarship program as determined by the department.~~

330 (2) DEPARTMENT OF EDUCATION OBLIGATIONS.-

331 (a) The Department of Education shall:

332 1. Annually verify the eligibility of private schools that
333 meet the requirements of this section, specific requirements
334 identified within respective scholarship program laws, and other
335 provisions of state law that apply to private schools.

336 2. Establish a toll-free hotline that provides parents and
337 private schools with information on participation in the
338 scholarship programs.

339 3. Establish a process by which individuals may notify the
340 department of any violation by a parent, private school, or
341 school district of state laws relating to program participation.

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342 If the department has reasonable cause to believe that a
343 violation of this section or any rule adopted by the State Board
344 of Education has occurred, it shall conduct an inquiry or make a
345 referral to the appropriate agency for an investigation. A
346 department inquiry is not subject to the requirements of chapter
347 120.

348 4. Require an annual, notarized, sworn compliance
349 statement from participating private schools certifying
350 compliance with state laws, and retain such records.

351 5. Coordinate with the entities conducting the health
352 inspection for a private school to obtain copies of the
353 inspection reports.

354 6. Conduct site visits to private schools entering a
355 scholarship program for the first time. Beginning with the 2019-
356 2020 school year, a private school is not eligible to receive
357 scholarship payments until a satisfactory site visit has been
358 conducted and the school is in compliance with all other
359 requirements of this section.

360 7. Coordinate with the State Fire Marshal to obtain access
361 to fire inspection reports for private schools. The authority
362 conducting the fire safety inspection shall certify to the State
363 Fire Marshal that the annual inspection has been completed and
364 that the school is in full compliance. The certification shall
365 be made electronically or by such other means as directed by the
366 State Fire Marshal.

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367 8. Upon the request of a participating private school
368 authorized to administer statewide assessments, provide at no
369 cost to the school the statewide assessments administered under
370 s. 1008.22 and any related materials for administering the
371 assessments. Students at a private school may be assessed using
372 the statewide assessments if the addition of those students and
373 the school does not cause the state to exceed its contractual
374 caps for the number of students tested and the number of testing
375 sites. The state shall provide the same materials and support to
376 a private school that it provides to a public school. A private
377 school that chooses to administer statewide assessments under s.
378 1008.22 shall follow the requirements set forth in ss. 1008.22
379 and 1008.24, rules adopted by the State Board of Education to
380 implement those sections, and district-level testing policies
381 established by the district school board.

382 (b) The department may conduct site visits to any private
383 school participating in a scholarship program pursuant to this
384 chapter that has received a complaint about a violation of state
385 law or state board rule pursuant to subparagraph (a)3. or has
386 received a notice of noncompliance or a notice of proposed
387 action within the previous 2 years.

388 (c) Annually, by December 15, the department shall report
389 to the Governor, the President of the Senate, and the Speaker of
390 the House of Representatives its actions in implementing
391 accountability in the scholarship programs under this section,

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392 any substantiated allegations or violations of law or rule by an
393 eligible private school under this section, and the corrective
394 action taken.

395 (3) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.-

396 The Commissioner of Education:

397 (a) Shall deny, suspend, or revoke a private school's
398 participation in a scholarship program if it is determined that
399 the private school has failed to comply with this section or
400 exhibits a previous pattern of failure to comply. However, if
401 the noncompliance is correctable within a reasonable amount of
402 time, not to exceed 45 days, and if the health, safety, or
403 welfare of the students is not threatened, the commissioner may
404 issue a notice of noncompliance which provides the private
405 school with a timeframe within which to provide evidence of
406 compliance before taking action to suspend or revoke the private
407 school's participation in the scholarship program.

408 (b) May deny, suspend, or revoke a private school's
409 participation in a scholarship program if the commissioner
410 determines that an owner or operator of the private school is
411 operating or has operated an educational institution in this
412 state or in another state or jurisdiction in a manner contrary
413 to the health, safety, or welfare of the public or if the owner
414 or operator has exhibited a previous pattern of failure to
415 comply with this section or specific requirements identified
416 within respective scholarship program laws. For purposes of this

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417 subsection, the term "owner or operator" has the same meaning as
418 provided in paragraph (1) (p).

419 (c)1. In making such a determination, may consider factors
420 that include, but are not limited to, acts or omissions by an
421 owner or operator which led to a previous denial, suspension, or
422 revocation of participation in a state or federal education
423 scholarship program; an owner's or operator's failure to
424 reimburse the department or scholarship-funding organization for
425 scholarship funds improperly received or retained by a school;
426 the imposition of a prior criminal sanction related to an
427 owner's or operator's management or operation of an educational
428 institution; the imposition of a civil fine or administrative
429 fine, license revocation or suspension, or program eligibility
430 suspension, termination, or revocation related to an owner's or
431 operator's management or operation of an educational
432 institution; or other types of criminal proceedings in which an
433 owner or operator was found guilty of, regardless of
434 adjudication, or entered a plea of nolo contendere or guilty to,
435 any offense involving fraud, deceit, dishonesty, or moral
436 turpitude.

437 2. The commissioner's determination is subject to the
438 following:

439 a. If the commissioner intends to deny, suspend, or revoke
440 a private school's participation in the scholarship program, the
441 department shall notify the private school of such proposed



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442 action in writing by certified mail and regular mail to the
443 private school's address of record with the department. The
444 notification shall include the reasons for the proposed action
445 and notice of the timelines and procedures set forth in this
446 paragraph.

447 b. The private school that is adversely affected by the
448 proposed action shall have 15 days after receipt of the notice
449 of proposed action to file with the department's agency clerk a
450 request for a proceeding pursuant to ss. 120.569 and 120.57. If
451 the private school is entitled to a hearing under s. 120.57(1),
452 the department shall forward the request to the Division of
453 Administrative Hearings.

454 c. Upon receipt of a request referred pursuant to this
455 subparagraph, the director of the Division of Administrative
456 Hearings shall expedite the hearing and assign an administrative
457 law judge who shall commence a hearing within 30 days after the
458 receipt of the formal written request by the division and enter
459 a recommended order within 30 days after the hearing or within
460 30 days after receipt of the hearing transcript, whichever is
461 later. Each party shall be allowed 10 days in which to submit
462 written exceptions to the recommended order. A final order shall
463 be entered by the agency within 30 days after the entry of a
464 recommended order. The provisions of this sub-subparagraph may
465 be waived upon stipulation by all parties.

466 (d) May immediately suspend payment of scholarship funds



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467 if it is determined that there is probable cause to believe that
468 there is:

469 1. An imminent threat to the health, safety, or welfare of
470 the students;

471 2. A previous pattern of failure to comply with this
472 section; or

473 3. Fraudulent activity on the part of the private school.
474 Notwithstanding s. 1002.22, in incidents of alleged fraudulent
475 activity pursuant to this section, the department's Office of
476 Inspector General is authorized to release personally
477 identifiable records or reports of students to the following
478 persons or organizations:

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

483 b. A person or entity authorized by a court of competent
484 jurisdiction in compliance with an order of that court or the
485 attorney of record pursuant to a lawfully issued subpoena,
486 consistent with the Family Educational Rights and Privacy Act,
487 20 U.S.C. s. 1232g.

488 c. Any person, entity, or authority issuing a subpoena for
489 law enforcement purposes when the court or other issuing agency
490 has ordered that the existence or the contents of the subpoena
491 or the information furnished in response to the subpoena not be

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Amendment No. 2

492 disclosed, consistent with the Family Educational Rights and
493 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

494
495 The commissioner's order suspending payment pursuant to this
496 paragraph may be appealed pursuant to the same procedures and
497 timelines as the notice of proposed action set forth in
498 subparagraph (c)2.

499 (4)(6) The inclusion of eligible private schools within
500 options available to Florida public school students does not
501 expand the regulatory authority of the state, its officers, or
502 any school district to impose any additional regulation of
503 private schools beyond those reasonably necessary to enforce
504 requirements expressly set forth in this section.

505 (5)(7) The State Board of Education shall adopt rules
506 pursuant to ss. 120.536(1) and 120.54 to administer this
507 section, including rules to establish a deadline for private
508 school applications for participation and timelines for the
509 department to conduct site visits.

510
511
512 -----
513 **T I T L E A M E N D M E N T**

514 Remove lines 18-70 and insert:
515 program requirements; providing parent and student
516 responsibilities for initial and continued participation in the



Amendment No. 2

517 program; providing nonprofit scholarship-funding organization
518 obligations; providing for the calculation of the scholarship
519 amount; providing the scholarship amount for students
520 transferred to certain public schools; requiring verification of
521 specified information before a scholarship may be disbursed;
522 providing requirements for the scholarship payments; providing
523 funds for administrative expenses for certain nonprofit
524 scholarship-funding organizations; providing requirements for
525 administrative expenses; prohibiting a nonprofit scholarship-
526 funding organization from charging an application fee; providing
527 Auditor General obligations; providing requirements for
528 elections to contribute to the program; requiring the Department
529 of Revenue to adopt forms to administer the program; providing
530 reporting requirements for nonprofit scholarship-funding
531 organizations relating to contributions; providing requirements
532 for certain agents of the Department of Revenue and motor
533 vehicle dealers; providing penalties; providing for the
534 restitution of specified funds under certain circumstances;
535 providing the state is not liable for the award or use of
536 program funds; prohibiting additional regulations for private
537 schools participating in the program beyond those necessary to
538 enforce program requirements; requiring the State Board of
539 Education to adopt rules to administer the program; creating s.
540 212.1832, F.S.; authorizing certain persons to elect to direct
541 certain state sales and use tax revenue to be transferred to a

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Amendment No. 2

542 nonprofit scholarship-funding organizations for the Hope
543 Scholarship Program; providing requirements for motor vehicle
544 dealers; requiring the Department of Revenue to disregard
545 certain tax credits for specified purposes; amending s. 213.053,
546 F.S.; requiring the Department of Revenue to share specified
547 information with eligible nonprofit scholarship-funding
548 organizations; providing that certain requirements apply to such
549 organizations; authorizing the Department of Revenue to adopt
550 emergency rules for specified purposes; providing a contingent
551 appropriation; amending s. 1002.421, F.S.; providing private
552 school requirements for participation in educational scholarship
553 programs; providing background screening requirements and
554 procedures for owners of private schools; providing that a
555 private school is ineligible to participate in an educational
556 scholarship program under certain circumstances; providing
557 department obligations relating to educational scholarship
558 programs; providing commissioner authority and responsibilities
559 for educational scholarship programs; authorizing the
560 commissioner to deny, suspend, or revoke a private school's
561 participation in an educational scholarship program; providing
562 an effective date.



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Donalds offered the following:

3

4 **Amendment**

5 Remove lines 178-421 and insert:

6 (b)1. Annually administer or make provision for students
 7 participating in the program in grades 3 through 10 to take one
 8 of the nationally norm-referenced tests identified by the
 9 department or the statewide assessments pursuant to s. 1008.22.
 10 Students with disabilities for whom standardized testing is not
 11 appropriate are exempt from this requirement. A participating
 12 private school shall report a student's scores to his or her
 13 parent.

14 2. Administer the statewide assessments pursuant to s.
 15 1008.22 if a private school chooses to offer the statewide
 16 assessments. A participating private school may choose to offer



Amendment No. 3

17 and administer the statewide assessments to all students who
18 attend the private school in grades 3 through 10 and must submit
19 a request in writing to the department by March 1 of each year
20 in order to administer the statewide assessments in the
21 subsequent school year.

22
23 If a private school fails to meet the requirements of this
24 subsection, or s. 1002.421 the commissioner may determine that
25 the private school is ineligible to participate in the program.

26 (8) DEPARTMENT OF EDUCATION OBLIGATIONS.—The department
27 shall:

28 (a) Cross-check the list of participating scholarship
29 students with the public school enrollment lists to avoid
30 duplication.

31 (b) Maintain a list of nationally norm-referenced tests
32 identified for purposes of satisfying the testing requirement in
33 paragraph (10)(f). The tests must meet industry standards of
34 quality in accordance with State Board of Education rule.

35 (c) Require quarterly reports by an eligible nonprofit
36 scholarship-funding organization regarding the number of
37 students participating in the program, the private schools in
38 which the students are enrolled, and other information deemed
39 necessary by the department.

40 (d) Contract with an independent entity to provide an
41 annual evaluation of the program by:

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Amendment No. 3

42 1. Reviewing the school climate and code of student
43 conduct of each public school from which 10 or more students
44 transferred to another public school or private school using the
45 Hope scholarship to determine areas in the school or school
46 district procedures involving reporting, investigating, and
47 communicating a parent's and student's rights that are in need
48 of improvement. At a minimum, the review must include:

49 a. An assessment of the investigation time and quality of
50 the response of the school and the school district.

51 b. An assessment of the effectiveness of communication
52 procedures with the students involved in an incident, the
53 students' parents, and the school and school district personnel;

54 c. An analysis of school incident and discipline data;

55 d. The challenges and obstacles relating to implementing
56 recommendations from the review.

57 2. Reviewing the school climate and code of student
58 conduct of each public school to which a student transferred if
59 the student was from a school identified in subparagraph 1. in
60 order to identify best practices and make recommendations to a
61 public school at which the incidents occurred.

62 3. Reviewing the performance of participating students
63 enrolled in a private school in which at least 51 percent of the
64 total enrolled students in the prior school year participated in
65 the program and in which there are at least 10 participating
66 students who have scores for tests administered.



Amendment No. 3

67 4. Surveying the parents of participating students to
68 determine academic, safety, and school climate satisfaction and
69 to identify any challenges to or obstacles in addressing the
70 incident or relating to the use of the scholarship.



Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee

2 Representative Donalds offered the following:

3

4 **Amendment**

5 Remove line 588 and insert:

6 during the preceding reporting period. The dealer or agent shall

7 also

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 515 Offenses Against Student Safety
SPONSOR(S): Criminal Justice Subcommittee; White; Mariano and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 736

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Painter	Sumner
2) Education Committee		Brink	Hassell
3) Judiciary Committee			

SUMMARY ANALYSIS

CS/HB 515 addresses two areas of concern related to the safety of students in K-12 schools.

Sexual Conduct by Authority Figures

Currently, there is no prohibition in Florida on employees and volunteers at K-12 schools engaging in consensual romantic relationships with students eighteen years of age or older.

CS/HB 515 makes it a second-degree felony for an authority figure to solicit or engage in sexual conduct, a relationship of a romantic nature, or lewd conduct with a student enrolled at a school, regardless of the student's age. The bill defines:

- "Authority figure" as a person 18 years of age or older who is employed by, volunteering at, or under contract with a school, including school resource officers.
- "School" as a private school, a voluntary prekindergarten education program, early learning program, a public school, the Florida School for the Deaf and the Blind, and the Florida Virtual School. Facilities dedicated exclusively to adult education, such as colleges and universities, are not included.

Trespass on School Grounds

A person commits a second degree misdemeanor trespass of a structure or conveyance if the person willfully enters or remains in the structure or conveyance and refuses to leave when asked. A school bus is considered a conveyance under Florida law. In order to arrest someone for trespass of a structure or conveyance, the crime needs to take place in the presence of a law enforcement officer. If this does not occur, the officer must obtain a warrant before arresting the individual.

If a person trespasses on school grounds, specific statute allows an officer to arrest an individual suspected of the offense, after the offense has been committed and without a warrant, if the officer has probable cause to believe the individual committed the crime.

CS/HB 515 amends the definition of school in the trespass on school grounds statute to include school bus. This amendment allows law enforcement to arrest someone for trespassing on a school bus, after the commission of the crime and without a warrant, if the officer had probable cause to believe the person committed the offense.

The bill has an indeterminate fiscal impact on state government due to the criminalization of a new offense.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sexual Conduct by Authority Figures with Adult Students

Offenses against Sexual Conduct with Minors

There is no prohibition against consensual sexual conduct between a school authority figure and an adult student. However, there are several statutes in Florida law that prohibit adults from engaging or attempting to engage in sexual or lewd conduct with a minor, defined as person under the age of 18 years.¹ Offenses include:

- A third degree felony to use a computer online service, internet service, or any other device capable of electronic data storage, such as a cell phone, to seduce, solicit, lure, or entice, or attempt to do these things, with someone believed to be a minor.²
- A third degree felony for any person to transmit material harmful to a minor.³ "Material harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:⁴
 - Predominately appeals to a prurient, shameful, or morbid interest;
 - Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
 - Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.
- A second degree felony for a person to travel any distance for the purpose of engaging in any illegal act or otherwise engage in other unlawful sexual conduct with a child, or with another person believed by the person to be a child.⁵
- A felony for an adult to commit any lewd or lascivious battery, molestation, conduct, or exhibition upon a child.⁶

Reclassification of Sexual Offenses Committed by an Authority Figure on a Minor

Section 943.0435(1)(h)1, F.S., includes the following offenses involving minor victims:

- Kidnapping of child under age 13.⁷
- False imprisonment of child under age 13.⁸
- A person over 18 who intentionally lures or entices or attempts to lure or entice a child under the age of 12 into a structure, dwelling, or conveyance for other than lawful purposes.⁹
- Human trafficking of minors.¹⁰
- Sexual battery of a minor.¹¹
- Unlawful sexual activity with a minor.¹²

¹ s. 847.001(8), F.S.

² s. 847.0135(3), F.S.

³ s. 847.0138(2)-(3), F.S.

⁴ s. 847.001(6), F.S.

⁵ s. 847.0135(4), F.S.

⁶ s. 800.04, F.S.

⁷ s. 787.01, F.S.

⁸ s. 787.02, F.S.

⁹ Section 785.025(2)(c), F.S., where the victim is a minor.

¹⁰ s. 787.06(3)(b), (d), (f), or (g), F.S.

¹¹ s. 794.011, F.S.

- Lewd or indecent exposure involving a minor.¹³
- Video voyeurism involving a minor.¹⁴
- Sexual performance by a child.¹⁵
- Distributing harmful material to a minor.¹⁶
- Possession or transmission of child pornography.¹⁷

Florida law enhances any felony offense under s. 943.0435(1)(h)1., F.S., if it is committed by an authority figure of a school upon a student.¹⁸ An authority figure is a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.¹⁹ A student is a person younger than 18 years of age who is enrolled at a school.²⁰ The offense is reclassified as follows:

- A felony of the third-degree²¹ is reclassified to a second-degree felony.
- A felony of the second-degree²² is reclassified to a first-degree felony.
- A felony of the first-degree²³ is reclassified to a life felony.²⁴

Teacher-Adult Student Relationship Laws in Other States

Other states have enacted similar legislature to prohibit teachers from having relationships with adult students.

In Connecticut, it is sexual assault in the second degree when a school employee engages in sexual intercourse with a student enrolled in the school, regardless of that student's age.²⁵

North Carolina categorizes criminal offense level based on the age difference between the school personnel and the adult student.²⁶ If the defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, or other school personnel, is at least four years older than the student and engages in vaginal intercourse or a sexual act with the student, the defendant is guilty of a class G²⁷ felony. If the defendant is less than four years older than the student, then the defendant is guilty of a lesser degree class I²⁸ felony.²⁹

Georgia makes it sexual assault punishable by up to twenty-five years in prison if a teacher, principal, assistant principal, or other administrator of any school who has supervisory or disciplinary authority over a student engages in sexual contact with the student and knew or should have known the student

¹² s. 794.05, F.S.

¹³ s. 800.04, F.S.

¹⁴ s. 810.145(8), F.S.

¹⁵ s. 827.071, F.S.

¹⁶ s. 847.0133, F.S.

¹⁷ s. 847.0135, F.S.

¹⁸ s. 775.0862, F.S.

¹⁹ s. 775.0862(a), F.S.

²⁰ s. 775.0862(c), F.S.

²¹ A third-degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. SS. 775.082(3)(e) and 775.083(1)(c), F.S.

²² A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. SS. 775.082(3)(d) and 775.083(1)(b), F.S.

²³ A first-degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. SS. 775.082(3)(b)1 and 775.083(1)(b), F.S.

²⁴ A life felony is punishable by up to a term of imprisonment for life and a \$15,000 fine. SS. 775.082(3)(a)3 and 775.083(1)(a), F.S.

²⁵ CONN. GEN. STAT. § 53a-71.

²⁶ N.C. GEN. STAT. ANN. § 14-27.7.

²⁷ Class G felonies are considered mid-level felonies in North Carolina and punishable by potential prison time. *See North Carolina Structured Sentencing*, available at: http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/ssstrainingmanual_09.pdf (last visited January 22, 2018).

²⁸ Class I felonies are considered low-level felonies in North Carolina and punishable by probation. *Supra*, FN 27.

²⁹ *Id.*

was enrolled at the same school.³⁰ This is regardless of age.³¹ Such conduct is not prohibited if the student is married to the other individual.³²

In *Paschal v. State*, a teacher was convicted of sexual assault for having a sexual relationship with an eighteen-year-old student.³³ Paschal appealed his conviction, arguing that the statute violated his fundamental privacy right to engage in private, consensual, noncommercial acts of sexual intimacy with an adult. The Arkansas Supreme Court agreed, and held that because the two were adults engaged in a consensual sexual relationship, the statute unconstitutionally infringed on a fundamental right. In reaching this decision, the state Supreme Court stated that the statute³⁴ was not the least restrictive method available to carry out a state's legitimate interest and therefore it was unconstitutional.³⁵ Following the Arkansas Supreme Court Decision, the statute was amended to make it a second degree sexual assault for person in a K-12 public or private school, who is a teacher, principal, athletic coach, or counselor, in a position of trust or authority to use his or her position of trust or authority over a student enrolled in the school and less than twenty-one years of age to engage in sexual contact with that student.³⁶

Recent Events Involving Teacher and Adult Student Relationships in Florida

In Summer 2017, in Pasco County, a former school resource officer was fired for misconduct involving several female high school students.³⁷ An investigation revealed that Officer Milton Arroyo, 50, shared his personal phone number and social media account with female students.³⁸ He specifically targeted students 18 years of age or older and asked one female student to send a picture of her bra and another if she'd like to see a picture of his genitals.³⁹ An investigation found that Arroyo used law enforcement databases to look up information on the students, their parents and staff at the school.⁴⁰ Milton Arroyo joined the Pasco Sheriff's Office in January 2015 after 21 years as a law enforcement officer in New York.⁴¹ The Pasco County Sheriff's Office could not charge Arroyo with any criminal offense for sexual misconduct. However, he was charged with offenses against computer networks and systems for his unauthorized use of a law enforcement database.⁴²

Trespass

Trespass of a Structure of Conveyance

Trespass of a structure or conveyance is a second degree misdemeanor⁴³ and occurs when an individual willfully enters or remains in any structure⁴⁴ or conveyance,⁴⁵ without being authorized, licensed, or invited, or, having been authorized, licensed, or invited, is warned by the owner or lessee of

³⁰ GA. CODE ANN. § 16-6-5.1.

³¹ *Id.*

³² *Id.*

³³ *Paschal v. State*, 388 S.W. 3d 429 (2012 Ark. 127).

³⁴ ARK. CODE ANN. § 5-14-125(a)(6).

³⁵ *Id.*

³⁶ GA. CODE ANN. § 16-6-5.1.

³⁷ WFLA Web Staff, *Former Pasco Co. school resource officer fired for misconduct*, WFLA News Channel 8 (July 8, 2017), available at: <http://wfla.com/2017/07/07/former-school-resource-officer-fired-in-pasco-co/> (last visited January 24, 2018).

³⁸ *Id.*

³⁹ Chris Bowling, *Pasco school resource officer fired for inappropriate messages*, Tampa Bay Times (July 7, 2017), available at: <http://www.tampabay.com/news/publicsafety/crime/pasco-school-resource-officer-fired-for-inappropriate-messages/2329730> (last visited January 24, 2018).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² WFLA Web Staff, *Former Pasco Co. school resource officer fired for misconduct*, WFLA News Channel 8 (July 8, 2017), available at <http://wfla.com/2017/07/07/former-school-resource-officer-fired-in-pasco-co/>.

⁴³ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. ss. 775.082 and 775.083, F.S.

⁴⁴ s. 810.011(1), F.S., defines "structure" as a building of any kind.

⁴⁵ s. 810.011(3), F.S., defines "conveyance" as any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car.

the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.⁴⁶ A conveyance includes a motor vehicle.⁴⁷

In order to arrest someone for misdemeanor trespass of a structure or conveyance, without a warrant, the crime must be committed in the presence of a law enforcement officer.⁴⁸ If a law enforcement officer does not witness the crime, then in order to arrest the offender after the commission of the crime, the law enforcement officer needs an arrest warrant. A judge may issue an arrest warrant if, upon examination of the complaint and proof submitted, he or she is satisfied that probable cause exists that the crime was committed within the judge's jurisdiction.⁴⁹ Probable cause is defined to exist when the totality of facts and circumstances within one's knowledge would cause a reasonable person to believe that an offense has been or is being committed.⁵⁰

Trespass on School Property

Section 810.097, F.S., makes it a second degree misdemeanor for any person to enter or remain upon the campus or school facility if the person does not have legitimate business on the campus or any other authorization to be there, or is a student currently under suspension or expulsion. It is a first degree misdemeanor if a person enters or remains on campus or at a school facility after the principal of the school, or designee, has directed the person to leave or not enter the campus or school facility.⁵¹ School means the grounds or any facility of any public or nonpublic kindergarten, elementary school, middle school, junior high school, or secondary school.⁵²

The statute allows a chief administrative officer of the school, or employee thereof, to take a person into custody if he or she has probable cause to believe that person is trespassing on school grounds.⁵³ If a trespasser is taken into custody, a law enforcement officer must immediately be called to the scene.⁵⁴

Unlike trespass of a structure or conveyance, an officer may arrest a person for trespassing on school grounds, without a warrant and after the commission of the offense, if the officer has probable cause to believe that person committed the offense.⁵⁵

Effect of Proposed Changes

Sexual Conduct by Authority Figures with Adult Students

The bill prohibits an authority figure from soliciting or engaging in sexual conduct, a relationship of a romantic nature, or lewd conduct with a student, regardless of the student's age and whether or not the behavior was consensual. In addition, the bill does not require that the authority figure use his or her position of authority over the student in order to procure the sexual conduct. It is enough that the person is an authority figure and engages in such conduct with a student to violate the prohibition.

An authority figure is defined as a person 18 years of age or older who is employed by, volunteering at, or under contract with a school, including school resource officers. School is given the same meaning as provided in s. 1003.01, F.S., and includes a public school, a private school, a voluntary prekindergarten education program, early learning programs, the Florida School for the Deaf and Blind,

⁴⁶ s. 810.08, F.S.

⁴⁷ s. 810.011(3), F.S.

⁴⁸ s. 901.15(1), F.S.

⁴⁹ s. 901.02(1), F.S.

⁵⁰ *State v. Betz*, 815 So. 2d 627 (Fla. 2002); *see also Freeman v. State*, 909 So. 2d 965 (Fla. 3d DCA 2005).

⁵¹ s. 810.097(2), F.S.

⁵² s. 810.097(5), F.S.

⁵³ s. 810.097(3), F.S.

⁵⁴ *Id.*

⁵⁵ s. 810.097(4), F.S.

and the Florida Virtual School. The term school does not include a facility dedicated exclusively to adult education, such as a college or university.

The bill does not define the term "sexual conduct," or "lewd conduct." However, other statutes and case law do define these terms. Section 847.001(16), F.S., defines "sexual conduct"⁵⁶ to mean:

- Actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse;
- Actual lewd exhibition of the genitals;
- Actual physical contact with a person's clothed or unclothed genitals, public area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or
- Any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

The term "lewdness" is defined in case law as:

- The equivalent of both licentiousness⁵⁷ and lasciviousness.⁵⁸
- Wicked, lustful, unchaste, licentious, or sensual design by the perpetrator of an act condemned by law as lewd.⁵⁹

Therefore, although the statute fails to include definitions for these terms, the terms have been established elsewhere in Florida statute and case law.

Trespass on School Property

The bill amends 810.097, F.S., to include school bus in the definition of school under trespass on school grounds. The amendment will allow a chief administrative officer of a school, or an employee designated to maintain order on the campus, to detain someone until law enforcement arrives if they have probable cause to believe the person is trespassing or has trespassed on a school bus. It also allows a law enforcement officer to arrest someone for trespassing on a school bus, after the commission of the offense and without a warrant, if the officer has probable cause to believe the suspected person committed the crime.

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

B. SECTION DIRECTORY:

Section 1: Creates s. 800.101, F.S., relating to offenses against students by authority figures.

Section 2: Amends s. 810.097, F.S., relating to trespass upon grounds or facilities of a school; penalties; arrest.

Section 3: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁵⁶ A mother's breastfeeding of her baby does not constitute "sexual conduct." See s. 847.001, F.S.

⁵⁷ *Holton v. State*, 28 Fla. 303 (1891).

⁵⁸ *McGuire v. State*, 489 So. 2d 729 (Fla. 1986).

⁵⁹ *Chesebrough v. State*, 255 So. 2d 675 (Fla. 1971).

2. Expenditures:

The bill has an indeterminate fiscal impact on state government due to the criminalization of new offenses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill appears to be exempt from the requirements of article VII, section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2018, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment added school buses to the definition of school as used in trespass on school grounds. The amendment changed the title from an act related to offenses against students by authority figures to an act related to offenses against student safety.

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

1 A bill to be entitled
 2 An act relating to offenses against student safety;
 3 creating s. 800.101, F.S.; providing definitions;
 4 prohibiting certain conduct with students by authority
 5 figures; providing penalties; providing exceptions;
 6 amending s. 810.097, F.S.; adding school bus to the
 7 definition of the term "school" for purposes of
 8 trespass upon grounds or facilities of a school;
 9 providing an effective date.

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

12
 13 Section 1. Section 800.101, Florida Statutes, is created
 14 to read:

15 800.101 Offenses against students by authority figures.-

16 (1) As used in this section, the term:

17 (a) "Authority figure" means a person 18 years of age or
 18 older who is employed by, volunteering at, or under contract
 19 with a school, including school resource officers as provided in
 20 s. 1006.12.

21 (b) "School" has the same meaning as provided in s.
 22 1003.01 and includes a private school as defined in s. 1002.01,
 23 a voluntary prekindergarten education program as described in s.
 24 1002.53(3), early learning programs, a public school as
 25 described in s. 402.3025(1), the Florida School for the Deaf and

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

26 the Blind, and the Florida Virtual School established under s.
 27 1002.37. The term does not include a facility dedicated
 28 exclusively to the education of adults.

29 (c) "Student" means a person who is enrolled at a school.

30 (2) An authority figure shall not solicit or engage in:

31 (a) Sexual conduct;

32 (b) A relationship of a romantic nature; or

33 (c) Lewd conduct

34
 35 with a student.

36 (3) A person who violates this section commits a felony of
 37 the second degree, punishable as provided in s. 775.082, s.
 38 775.083, or s. 775.084.

39 (4) This section does not apply to conduct constituting an
 40 offense that is subject to reclassification under s. 775.0862.

41 Section 2. Subsection (5) of section 810.097, Florida
 42 Statutes, is amended to read:

43 810.097 Trespass upon grounds or facilities of a school;
 44 penalties; arrest.-

45 (5) As used in this section, the term "school" means the
 46 grounds or any facility, including school buses, of any
 47 kindergarten, elementary school, middle school, junior high
 48 school, or secondary school, whether public or nonpublic.

49 Section 3. This act shall take effect October 1, 2018.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Mariano offered the following:

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Amendment

Remove lines 21-29 and insert:

(b) "School" has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), early learning programs, a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. 1002.37, and, with respect to a student participating in a dual enrollment program under s. 1007.271, the postsecondary institution in which the student is enrolled. The term does not include a facility dedicated exclusively to the education of adults.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 515 (2018)

Amendment No. 1

17 (c) "Student" means a person who is enrolled at a school
18 or participating in a dual enrollment program under s. 1007.271.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 731 Home Education

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

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 732

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

SUMMARY ANALYSIS

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

The bill:

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

See fiscal comments.

The bill is effective on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Home Education Programs

Present Situation

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

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

Parents of home education students are also required to maintain a portfolio of a student's records and educational materials for two years which must be available for inspection.³

Effect of Proposed Changes

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

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

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

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

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

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

² Section 1002.41(1)(a), F.S.

³ Section 1002.41(b), F.S.

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

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

School Attendance

Present Situation

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

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

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

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

Effect of Proposed Changes

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

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

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

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

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

⁵ Section 1003.26, F.S.

⁶ Section 1003.26(2), F.S.

⁷ Section 1003.21(1)(a), F.S.

⁸ Section 1003.21(4), F.S.

Court Procedure and Penalties

Present Situation

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

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

Effect of Proposed Changes

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

Interscholastic Athletic Participation

Present Situation

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

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

Effect of Proposed Changes

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

Dual Enrollment Program

Present Situation

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

⁹ Section 984.03(27)(a), F.S.

¹⁰ Section 1003.27(2)(a), F.S.

¹¹ Section 1003.27(2)(b), F.S.

¹² Section 1006.15(3)(c), F.S.

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

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

¹⁵ Section 1007.271(1), F.S.

enrollment course, the student simultaneously receives high school and college, university or career certificate credit.¹⁶

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

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

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

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

Effect of Proposed Changes

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

B. SECTION DIRECTORY:

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

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

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

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

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

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

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

¹⁷ Section 1007.271(3), F.S.

¹⁸ Section 1007.271(13), F.S.

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

²⁰ Section 1007.271(13)(b), F.S.

²¹ *Id.*

Section 7. Amends s. 1002.385, F.S., relating to the Gardiner Scholarship Program.

Section 8. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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

The bill analysis is drafted to the committee substitute as passed by the PreK-12 Innovation Subcommittee.

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

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

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

51
 52 Section 1. Subsections (1) and (2) of section 1002.41,
 53 Florida Statutes, are amended, and subsections (11), (12), and
 54 (13) are added to that section, to read:

55 1002.41 Home education programs.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

169 1003.21 School attendance.—

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

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

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

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

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

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

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

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

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

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

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

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

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

240 (1) CONTACT, REFER, AND ENFORCE.—

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

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

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

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

280 (2) GIVE WRITTEN NOTICE.—

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

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

301 Statutes, is amended to read:

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

306 (2) NONENROLLMENT AND NONATTENDANCE CASES.—

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

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

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

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

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

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

351 activities; regulation.-

352 (3)

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

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

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

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

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

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

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

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

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

401 1007.271 Dual enrollment programs.—

402 (13)

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

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

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

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

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

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

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

435 1002.385 The Gardiner Scholarship.-

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

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

443
 444 A provider of any services receiving payments pursuant to this
 445 subsection may not share, refund, or rebate any moneys from the
 446 Gardiner Scholarship with the parent or participating student in
 447 any manner. A parent, student, or provider of any services may
 448 not bill an insurance company, Medicaid, or any other agency for
 449 the same services that are paid for using Gardiner Scholarship
 450 funds.

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

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

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

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

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

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

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

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

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

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

487
488 A parent who fails to comply with this subsection forfeits the
489 Gardiner Scholarship.

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



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Sullivan offered the following:

3
 4 **Amendment (with directory and title amendments)**

5 Between lines 401 and 402, insert:

6 (3) Student eligibility requirements for initial
 7 enrollment in college credit dual enrollment courses must
 8 include a 3.0 unweighted high school grade point average and the
 9 minimum score on a common placement test adopted by the State
 10 Board of Education which indicates that the student is ready for
 11 college-level coursework. Student eligibility requirements for
 12 continued enrollment in college credit dual enrollment courses
 13 must include the maintenance of a 3.0 unweighted high school
 14 grade point average and the minimum postsecondary grade point
 15 average established by the postsecondary institution. Regardless
 16 of meeting student eligibility requirements for continued



Amendment No. 1

17 enrollment, a student may lose the opportunity to participate in
18 a dual enrollment course if the student is disruptive to the
19 learning process such that the progress of other students or the
20 efficient administration of the course is hindered. Student
21 eligibility requirements for initial and continued enrollment in
22 career certificate dual enrollment courses must include a 2.0
23 unweighted high school grade point average. Exceptions to the
24 required grade point averages may be granted on an individual
25 student basis if the educational entities agree and the terms of
26 the agreement are contained within the dual enrollment
27 articulation agreement established pursuant to subsection (21).
28 Florida College System institution boards of trustees may
29 establish additional initial student eligibility requirements,
30 which shall be included in the dual enrollment articulation
31 agreement, to ensure student readiness for postsecondary
32 instruction. Additional requirements included in the agreement
33 may not arbitrarily prohibit students who have demonstrated the
34 ability to master advanced courses from participating in dual
35 enrollment courses or limit the number of dual enrollment
36 courses in which a student may enroll based solely upon
37 enrollment by the student at an independent postsecondary
38 institution.

41 D I R E C T O R Y A M E N D M E N T



Amendment No. 1

42 Remove line 399 and insert:

43 Section 6. Subsection (3) and paragraph (b) of subsection (13)
44 of section

45

46

47

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

48 Remove line 41 and insert:

49 activities; amending s. 1007.271, F.S.; prohibiting limitations
50 on course enrollment; prohibiting

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 839 The Display of the State Motto
SPONSOR(S): Daniels; Ponder and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1158

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	10 Y, 0 N	McAlarney	Healy
2) Education Committee		McAlarney	Hassell

SUMMARY ANALYSIS

The bill requires each district school board to adopt rules that require all schools and all buildings used by the school board to display in a conspicuous place the state motto, *In God We Trust*.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The national motto of the United States was declared by Congress to be *In God We Trust*.¹ *In God We Trust* was designated as the official motto of the State of Florida² in 2006.³ The phrase, *In God We Trust*, was adopted by the Florida legislature as part of the State Seal in 1868.⁴

Federal courts have found the use of *In God We Trust* as the national motto constitutional, and that the national motto, and its use on coinage and currency, has nothing to do with the establishment of religion. Its use is of patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.⁵

Effect of Proposed Changes

The bill requires each district school board to adopt rules that require all schools and all buildings used by the school board to display in a conspicuous place the state motto, *In God We Trust*.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.44, F.S., requiring each district school board to adopt rules that require all schools and all buildings used by the school board to display in a conspicuous place the state motto, *In God We Trust*.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

¹ 36 U.S.C. § 186

² Section 15.0301, F.S.

³ Florida Department of State, Florida Facts, Florida State Symbols, State Motto, <http://dos.myflorida.com/florida-facts/florida-state-symbols/state-motto/> (last visited Jan. 23, 2018).

⁴ Florida Department of State, Florida Facts, Florida State Symbols, State Motto, <http://dos.myflorida.com/florida-facts/florida-state-symbols/state-motto/> (last visited Jan. 23, 2018).

⁵ *Aronow v. United States*, 432 F. 2d 242 (1970); *Zorach v. Clauson*, 343 US 306; *O'Hair v. Blumenthal*, 462 F.Supp. 19 (1978); *Newdow v. Peterson*, 753 F. 3d 105 (2014).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

District school boards would be fiscally impacted the cost of printing the motto.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Requires each district school board to adopt rules regarding the display of the state motto.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
An act relating to the display of the state motto;
amending s. 1003.44, F.S.; requiring each district
school board to adopt rules for the display of the
official state motto in specified places; providing an
effective date.

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

Section 1. Subsection (4) is added to section 1003.44,
Florida Statutes, to read:

1003.44 Patriotic programs; rules.—

(4) Each district school board shall adopt rules to
require, in all of the schools of the district and in each
building used by the district school board, the display of the
state motto, "In God We Trust," designated under s. 15.0301, in
a conspicuous place.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 887 Reading Instruction

SPONSOR(S): Harrell

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N	Brink	DavisGreene
2) PreK-12 Appropriations Subcommittee	10 Y, 0 N	Seifert	Potvin
3) Education Committee		Brink	Hassell

SUMMARY ANALYSIS

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

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

The bill does not appear to have a fiscal impact.

The bill takes effect on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Educator Certification Coverage Areas and Endorsements

Present Situation

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

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

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

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

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

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

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

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

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

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

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

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

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

Effect of Proposed Changes

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

Research-Based Reading Allocation

Present Situation

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

⁵ Rule 6A-4.0291, F.A.C.

⁶ Rule 6A-4.0292, F.A.C.

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

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

⁹ See s. 6, ch. 2017-234, L.O.F.

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

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

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

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

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

Effect of Proposed Changes

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

Professional Development

Present Situation

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

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

¹¹ Section 1011.62(9)(d)1., F.S.

¹² *Id.*

¹³ *Id.*

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

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

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

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

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

Effect of Proposed Changes

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

B. SECTION DIRECTORY:

Section 1. Amends s. 1011.62, F.S.; requiring K-12 comprehensive reading plans to provide for intensive reading interventions that are delivered by teachers who meet certain criteria beginning with a specified school year; providing requirements for such interventions.

Section 2. Amends s. 1012.586, F.S.; requiring the Department of Education to consider the award of endorsements for a teaching certificate to individuals who hold specified certifications or who complete specified programs that meet certain criteria in a specified review.

Section 3. Amends s. 1012.98, F.S.; requiring school districts to provide access to training sufficient to earn an endorsement in reading.

Section 4. Provides an effective date of July 1, 2018.

¹⁶ Section 1012.98(1), F.S.

¹⁷ Section 1012.98(4)(b), F.S.

¹⁸ Section 1012.98(4)(b)11., F.S.

¹⁹ *Id.*

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

122 1012.98 School Community Professional Development Act.—

123 (4) The Department of Education, school districts,
 124 schools, Florida College System institutions, and state
 125 universities share the responsibilities described in this

126 section. These responsibilities include the following:

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

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

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

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

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

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

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

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

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

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

201 evaluation of local professional development programs.

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

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

211 10. For middle grades, emphasize:

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

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

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

221

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

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

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HJR 1031 Limitation of Terms of Office for Members of a District School Board
SPONSOR(S): Public Integrity & Ethics Committee; PreK-12 Quality Subcommittee; Fischer and Raburn
TIED BILLS: None **IDEN./SIM. BILLS:** SJR 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	12 Y, 2 N, As CS	Brink	DavisGreene
2) Public Integrity & Ethics Committee	17 Y, 1 N, As CS	Poreda	Kiner
3) Education Committee		Brink	Hassell

SUMMARY ANALYSIS

District school board members are elected constitutional officials of Florida who serve four-year terms without limit. Term limits on other elected officials, including Florida representatives; Florida senators; the Florida lieutenant governor; Florida Cabinet members, including the Governor; U.S. representatives from Florida; and U.S. senators from Florida, were amended into the Florida Constitution by way of a citizens' initiative in 1992. Such officials are ineligible to appear on a ballot for reelection if, by the end of the current term of office, the person will have served for (or, but for resignation, would have served) in that office for eight consecutive years.

The House joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the general election in November 2018, prohibits a district school board member from appearing on a ballot for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years. This provision is similar to the term limits for elected state and federal officials added to the Florida Constitution in 1992.

The proposed limitation would only apply to terms of office that begin after November 6, 2018.

A joint resolution proposing an amendment to the State Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

Present Situation

Florida's Constitution provides that each county school district must be governed by a school board composed of no fewer than five members elected to staggered, four-year terms, as provided by law.¹ Each district school board must operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.²

Florida's Constitution establishes term limits for the following elected officials:³

- Florida representatives;
- Florida senators;
- Florida Lieutenant governor;
- Florida Cabinet members;
- U.S. representatives from Florida; and
- U.S. senators from Florida.

Terms limits for federal elected officials were held to be unconstitutional, and thus unenforceable, by the U.S. Supreme Court in 1995.⁴

Specifically, the Constitution states that none of these officials may appear on a ballot for reelection if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.⁵ These term limits became effective in 1992 and were prospective, so that officials reelected to a consecutive term in 1992 could serve another consecutive eight-years before reaching the term limit.⁶

There are no term limits for district school board members; however, term limits have been applied to county commissioners by charter counties.⁷

Effect of Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the general election in November 2018, prohibits a district school board member from appearing on a ballot for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years.

The resolution also provides that school board members' current terms will not count toward the proposed limitation. Terms that begin on November 6, 2018, or after will count against the proposed limitation. This is consistent with the 1992 Constitutional Amendment that enacted the term limits to Florida Cabinet members, the Lieutenant governor, State Representatives and State Senators.

¹ Art. IX, s. 4(a), Fla. Const.

² See art. IX, s. 4(b), Fla. Const.

³ Art. VI, s. 4(b), Fla. Const.

⁴ *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995). See also *Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999) (holding that term limits imposed on elected state officials were severable from provisions imposing the limits on federal offices).

⁵ See *id.*

⁶ See Florida Department of State, Proposed Constitutional Amendment #9 (1992), available at <http://dos.elections.myflorida.com/initiatives/fulltext/pdf/1066-1.pdf>.

⁷ See *Telli v. Broward County*, 94 So.3d 504 (Fla. 2012) (holding that an amendment to the Broward County charter limiting commissioners to no more than three consecutive four-year terms was constitutional).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

However, based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be less than \$50,000. This would likely be paid from non-recurring General Revenue funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the PreK-12 Quality Subcommittee adopted a strike all amendment and reported the joint resolution favorably as a committee substitute. The strike all amendment differs from the resolution as originally filed by:

- specifying that a school board member is ineligible for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years (this is the same term limit for elected state officials that was added to the Florida Constitution in 1992); and
- providing that service as a school board member after 2013 counts towards the eight-year limit.

On January 24, 2018, the Public Integrity & Ethics Committee adopted an amendment and reported the joint resolution favorably as a committee substitute. The amendment provides that only terms of office that begin on or after November 6, 2018, count toward the limitation in the resolution. The amendment also provides a schedule amendment to enact this intent of the resolution.

The analysis is drafted to reflect the joint resolution, as amended.

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article IX and the creation of a new section in Article XII of the State Constitution to limit the terms of office for a member of a district school board; providing applicability; providing an effective date.

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

That the following amendment to Section 4 of Article IX and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards.-

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately

51 LIMITATION ON TERMS OF OFFICE FOR MEMBERS OF A DISTRICT
52 SCHOOL BOARD.—Proposing an amendment to the State Constitution
53 to limit terms for school board members by prohibiting incumbent
54 members who have held the office for the preceding eight years
55 from appearing on a ballot for reelection to that office and to
56 provide that the amendment only applies to terms of office
57 beginning on or after November 6, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1201 Education for Prisoners
SPONSOR(S): Ahern and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	8 Y, 0 N	Jones	Sumner
2) Education Committee		Bishop	Hassell
3) Judiciary Committee			

SUMMARY ANALYSIS

Florida law provides for the funding of postsecondary workforce education programs, which are programs that provide the competencies beyond a high school diploma that are needed for specific occupations. The programs are administered by school districts and Florida College System institutions. They include adult general education programs designed to improve the employability skills of the state's workforce, career certificate programs, applied technology diploma programs, continuing workforce education courses, degree career education programs, and apprenticeship and preapprenticeship programs. State funds allocated for postsecondary workforce programs are explicitly prohibited from being used to educate state or federal inmates.

HB 1201 allows postsecondary workforce program funds to be used for the education of state inmates who have two years or less remaining on their sentences. It also authorizes the Department of Corrections (DOC) to contract with a district school board, the Florida Virtual School, or a charter school to provide educational, career, or vocational training to inmates through DOC's Correctional Education Program.

The bill further provides that each county may contract with a district school board, the Florida Virtual School, or a charter school to provide certain education services for inmates in county detention facilities.

The bill may have an indeterminate positive fiscal impact on counties.

The effective date of the bill is July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Postsecondary Workforce Education Programs

Postsecondary workforce education programs are courses and programs administered by school districts and Florida College System institutions which are designed to provide education for occupations that require skills beyond a high school diploma but do not require a four-year degree.¹ They include adult general education programs designed to improve the employability skills of the state's workforce, career certificate programs, applied technology diploma programs, continuing workforce education courses, degree career education programs, and apprenticeship and preapprenticeship programs.² Any school district or Florida College System institution may conduct a workforce education program, in which case it may receive funds through the General Appropriations Act.³ If a school district or college receives workforce education funds, it must use those funds to benefit the workforce education programs it provides.⁴

Education for Inmates

The Correctional Education Program is a statutorily created program for educating prisoners and is administered by the Department of Corrections (DOC).⁵ The program is charged with developing guidelines for collecting education-related information on each inmate, monitoring and assessing all inmate education program services, approving educational programs, contracting with school districts and colleges, and developing goals for the program, among other responsibilities.⁶ DOC is vested with the authority and responsibility to manage and operate the Correctional Education Program as provided by law.⁷

Since 2011, state funds allocated for postsecondary workforce programs are explicitly prohibited from being used to educate state or federal inmates.⁸

Effect of Proposed Changes

HB 1201 removes the outright prohibition on using postsecondary workforce program funds to educate prisoners. The bill permits postsecondary workforce program funds to be used for the education of state inmates who have two years or less remaining on their sentences. The prohibition against using postsecondary workforce program funds to educate state inmates with more than two years remaining on their sentences and federal inmates remains in law.

The bill authorizes DOC to contract with a district school board, the Florida Virtual School, or a charter school authorized under s. 1002.33, F.S., to provide education services in the Correctional Education Program. Such services may include educational, career, or vocational training authorized by DOC.

Lastly, the bill also authorizes a county to contract with a district school board, the Florida Virtual School, or a charter school authorized under s. 1002.33, F.S., to provide education services for inmates

¹ S. 1003.01(4)(c), F.S.; OPPAGA Report No. 01-56 (Nov. 2001) at ii.

² S. 1011.80(1), F.S.

³ S. 1011.80(2), (6)(a), F.S.

⁴ S. 1011.80(7)(a), F.S.

⁵ S. 944.801(1), F.S.

⁶ S. 944.801, F.S.

⁷ S. 944.801(2), F.S.

⁸ S. 1011.80(7)(b), F.S.; Ch. 2011-63, s. 35, Laws of Fla.; see also 2011 SB 2150 Final Bill Analysis at 12-13.

at county detention facilities. Such services may include educational, career, or vocational training authorized by the county sheriff or chief correctional officer.

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

B. SECTION DIRECTORY:

Section 1: Amends s. 944.801, F.S., relating to education for state prisoners.

Section 2: Amends s. 951.176, F.S., relating to provision of education programs for youth.

Section 3: Amends s. 1011.80, F.S., relating to funds for operation of workforce education programs.

Section 4: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in greater numbers of state prisoners being better educated upon release, which could have an indeterminate positive impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled

2 An act relating to education for prisoners; amending
 3 s. 944.801, F.S.; authorizing the Department of
 4 Corrections to contract with certain entities to
 5 provide education services for the Correctional
 6 Education Program; amending s. 951.176, F.S.;
 7 authorizing each county to contract with certain
 8 entities to provide education services for county
 9 inmates; amending s. 1011.80, F.S.; authorizing the
 10 use of state funds for the operation of postsecondary
 11 workforce programs for the education of certain state
 12 inmates; providing an effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsections (4) and (5) of section 944.801,
 17 Florida Statutes, are renumbered as subsections (5) and (6),
 18 respectively, and a new subsection (4) is added to that section,
 19 to read:

20 944.801 Education for state prisoners.—

21 (4) The department may contract with a district school
 22 board, the Florida Virtual School, or a charter school
 23 authorized to operate under s. 1002.33 to provide education
 24 services in the Correctional Education Program. The education
 25 services may include any educational, career, or vocational

26 training that is authorized by the department.

27 Section 2. Section 951.176, Florida Statutes, is amended
 28 to read:

29 951.176 Provision of education ~~programs for youth.~~

30 (1) Each county may contract with a district school board,
 31 the Florida Virtual School, or a charter school authorized to
 32 operate under s. 1002.33 to provide education services for
 33 inmates at county detention facilities. The education services
 34 may include any educational, career, or vocational training that
 35 is authorized by the sheriff or chief correctional officer, or
 36 his or her designee.

37 (2) Minors who have not graduated from high school and
 38 eligible students with disabilities under the age of 22 who have
 39 not graduated with a standard diploma or its equivalent who are
 40 detained in a county or municipal detention facility as defined
 41 in s. 951.23 shall be offered educational services by the local
 42 school district in which the facility is located. These
 43 educational services shall be based upon the estimated length of
 44 time the youth will be in the facility and the youth's current
 45 level of functioning. School district superintendents or their
 46 designees shall be notified by the county sheriff or chief
 47 correctional officer, or his or her designee, upon the
 48 assignment of a youth under the age of 21 to the facility. A
 49 cooperative agreement with the local school district and
 50 applicable law enforcement units shall be developed to address

51 the notification requirement and the provision of educational
52 services to these youth.

53 Section 3. Paragraph (b) of subsection (7) of section
54 1011.80, Florida Statutes, is amended to read:

55 1011.80 Funds for operation of workforce education
56 programs.—

57 (7)

58 (b) State funds provided for the operation of
59 postsecondary workforce programs may not be expended for the
60 education of state inmates with more than 24 months of time
61 remaining to serve on their sentence or federal inmates.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1279 School District Accountability

SPONSOR(S): PreK-12 Appropriations Subcommittee; PreK-12 Quality Subcommittee; Sullivan and others

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1804

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N, As CS	Dehmer	DavisGreene
2) PreK-12 Appropriations Subcommittee	11 Y, 0 N, As CS	Seifert	Potvin
3) Education Committee		Dehmer	Hassell

SUMMARY ANALYSIS

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

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

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

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

The bill also:

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

Contingent upon CS/HB 7055 or similar legislation adopted at the 2018 Regular Session of the Legislature failing to become law, for the 2018-2019 fiscal year, the sum of \$850,000 in nonrecurring funds from the General Revenue Fund is appropriated to the Department of Education to implement the provisions of this act.

This bill takes effect July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

FISCAL ACCOUNTABILITY

Auditor General

Present Situation

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

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

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

The AG must annually compile and transmit a summary of significant findings and financial trends to the Senate President, the Speaker of the House of Representatives, and the Legislative Auditing

¹ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 1, available at https://flauditor.gov/pages/pdf_files/2018-030.pdf. Section 11.45(2), F.S. and s. 218.39(1), F.S.

² Section 218.39(1), F.S.

³ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 1, available at https://flauditor.gov/pages/pdf_files/2018-030.pdf. Section 11.45(1)(c), F.S.

⁴ *Id.* Section 11.45(2)(f), F.S.

⁵ *Id.* Section 11.45(1)(g), F.S.

⁶ *Id.* at 2.

Committee (LAC).⁷ If an audit contains any significant findings, district school boards, must conduct an audit overview during a public meeting.⁸

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

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

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

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

Effect of Proposed Changes

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

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

Inspector General

Present Situation

Each state agency is required to have an Inspector General (IG),¹⁴ including the Department of Education (DOE), to provide a central point for the coordination of activities that promote accountability,

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

⁸ Section 1010.30(2), F.S.

⁹ Section 11.45(2)(j), F.S.

¹⁰ Section 11.45(7)(j)1., F.S.

¹¹ *Id.*

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

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

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

integrity, and efficiency in government.¹⁵ The Office of the Chief Inspector General (CIG) is within the Executive Office of the Governor. The CIG monitors the activities of the agency inspectors general under the Governor's jurisdiction, including the DOE's IG.

The IG:

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

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

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

Effect of Proposed Change

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

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

¹⁵ Section 20.005(2), F.S.

¹⁶ Section 20.055(2)(a)-(j), F.S.

¹⁷ Section 20.055(3)(a), F.S.

¹⁸ *Id.*

¹⁹ Section 1001.20(4)(e), F.S.

Internal Auditor

Present Situation

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

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

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

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

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

Effect of Proposed Changes

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

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

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

²⁰ Gibson Consulting Group, *Phase II: Operational Efficiency Audit – Comprehensive Report for Hillsborough County Public Schools*, available at http://www.sdhc.k12.fl.us/docs/00/00/17/86/HCPStGibsonPhaseIIFinal_Report.pdf.

²¹ Section 1001.42(12)(l), F.S.

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

²³ Joint Legislative Auditing Committee, *Meeting Packet, February 10, 2014*, at 110 and 114, available at <http://www.leg.state.fl.us/Data/Committees/Joint/JCLA/Meetingpackets/021014.pdf>.

²⁴ Section 11.47(3), F.S. Any person who willfully fails or refuses to furnish or produce any book, record, paper, document, data, or sufficient information necessary to a proper audit or examination which the Auditor General or the Office of Program Policy Analysis and Government Accountability is by law authorized to perform is guilty of a misdemeanor of the first degree. Section 11.47(4), F.S.

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

Cost Accounting and Reporting

Present Situation

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

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

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

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

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

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

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

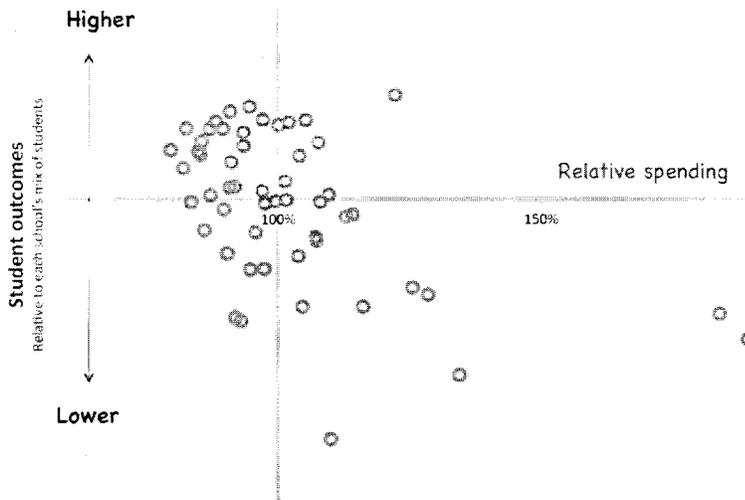
²⁵ Florida Department of Education, *Bureau of School Business Services, Office of Funding and Financial Reporting, Financial Profiles of Florida School Districts, 2015-16 Financial Data Statistical Report, June 2017*, at 15, available at <http://www.fldoe.org/core/fileparse.php/7507/urlt/2015-2016-Profiles.pdf>. *Id.*

²⁶ Section 1010.20(1) and (2), F.S.

²⁷ Section 1010.20(1)-(3), F.S.

²⁸ 20 U.S.C. s. 6311(h)(1)(C)(x).

Relative Spending vs Relative Student Outcomes



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

Effect of Proposed Changes

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

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

FISCAL TRANSPARENCY

Budget Transparency

Present Situation

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

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

³⁰ Section 1011.035(1), F.S.

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

Effect of Proposed Changes

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

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

General Funds Guidelines

Present Situation

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

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

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

Effect of Proposed Changes

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

³¹ Section 1011.035(2), F.S.

³² Section 1011.051, F.S.

³³ Section 1011.051(1), F.S.

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

³⁵ State of Florida Auditor General, *Summary of Significant Findings and Financial Trends Identified in District School Board Audit Reports for the Fiscal Year Ended June 30, 2016*, at 11, available at https://flauditor.gov/pages/pdf_files/2018-030.pdf.

Financial Emergency

Present Situation

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

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

Effect of Proposed Changes

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

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

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

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

District School Board Budget Transparency

Present Situation

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

³⁶ Section 218.503(1) and (3), F.S.

³⁷ Section 218.503(3), F.S.

³⁸ Section 1011.01(3)(a), F.S.

³⁹ Section 1011.02(4), F.S.

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

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

Effect of Proposed Changes

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

The Department of Education Reporting Requirements

Present Situation

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

Effect of Proposed Changes

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

OTHER FISCAL ISSUES

Lobbying

Present Situation

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

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

⁴¹ Section 1011.06(2), F.S.

⁴² Section 1011.035(3), F.S.

⁴³ Section 1011.64(1)-(4), F.S.

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

⁴⁵ Section 112.313(14), F.S.

Effect of Proposed Changes

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

District School Board Member Salary

Present Situation

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

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

Effect of Proposed Changes

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

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

⁴⁶ Section 1001.395, F.S.

⁴⁷ Florida Department of Education, Florida District Staff Salaries of Selected Positions, 2016-17, available at <http://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/staff.stml>.

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

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District School Board Member Travel Expenses

Present Situation

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

Effect of Proposed Changes

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

Financial Disclosure Fines

Present Situation

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

Effect of Proposed Changes

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

School District Personnel Policies

Present Situation

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

Effect of Proposed Change

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

⁴⁸ Section 1001.39, F.S.

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

⁵⁰ Section 112.31455(1)-(4), F.S.

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

Standards of Ethical Conduct

Present Situation

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

Effect of Proposed Change

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

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

B. SECTION DIRECTORY:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 16. Amends s. 1011.10, F.S., relating to penalties for district school board members.

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

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

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

Section 20. Provides \$850,000 in nonrecurring funds from the General Revenue Fund to implement the provisions of the bill

Section 21. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides an appropriation of \$850,000 in nonrecurring funds from the General Revenue fund to (a) develop and maintain the web-based fiscal transparency tool and (b) contract for the completion of a forensic audit.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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

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

On January 30, 2018, the PreK-12 Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- provides \$850,000 in nonrecurring funds from the General Revenue Fund to implement the provisions of the bill.

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

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

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

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

73
 74 Be It Enacted by the Legislature of the State of Florida:
 75

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

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

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

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

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

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

101 Statutes, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

151 Section 4. Paragraph (e) of subsection (4) of section
 152 1001.20, Florida Statutes, is amended to read:

153 1001.20 Department under direction of state board.—

154 (4) The Department of Education shall establish the
 155 following offices within the Office of the Commissioner of
 156 Education which shall coordinate their activities with all other
 157 divisions and offices:

158 (e) Office of Inspector General.—Organized using existing
 159 resources and funds and responsible for promoting
 160 accountability, efficiency, and effectiveness and detecting
 161 fraud and abuse within school districts, the Florida School for
 162 the Deaf and the Blind, and Florida College System institutions
 163 in Florida. If the Commissioner of Education determines that a
 164 district school board, the Board of Trustees for the Florida
 165 School for the Deaf and the Blind, or a Florida College System
 166 institution board of trustees is unwilling or unable to address
 167 substantiated allegations made by any person relating to waste,
 168 fraud, or financial mismanagement within the school district,
 169 the Florida School for the Deaf and the Blind, or the Florida
 170 College System institution, the office shall conduct,
 171 coordinate, or request investigations into such substantiated
 172 allegations. The office shall investigate allegations or reports
 173 of possible fraud or abuse against a district school board made
 174 by any member of the Cabinet; the presiding officer of either
 175 house of the Legislature; a chair of a substantive or

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

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

183 1001.39 District school board members; travel expenses.-

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

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

200 1001.395 District school board members; compensation.-

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

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

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

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

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

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

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

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

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

268 (b) Annual budget.—

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

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

276 including all supporting and background information.

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

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

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

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

292 c. The efficiency of operations.

293 d. The reliability of financial records and reports.

294 e. The safeguarding of assets.

295 f. Financial solvency.

296 g. Projected revenues and expenditures.

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

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

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

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

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

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

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

315 (2) COST REPORTING.—

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

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

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

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

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

328 (c) The department shall:

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

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

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

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

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

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

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

365 1010.30 Audits required.—

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

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

375 1011.01 Budget system established.—

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

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

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

388 ~~(2) The advertisement of a district that has been required~~
 389 ~~by the Legislature to increase classroom expenditures pursuant~~
 390 ~~to s. 1011.64 must include the following statement:~~
 391 ~~"This proposed budget reflects an increase in classroom~~
 392 ~~expenditures as a percent of total current operating~~
 393 ~~expenditures of XX percent over the (previous fiscal year)~~
 394 ~~fiscal year. This increase in classroom expenditures is required~~
 395 ~~by the Legislature because the district has performed below the~~
 396 ~~required performance standard on XX of XX student performance~~
 397 ~~standards for the (previous school year) school year. In order~~
 398 ~~to achieve the legislatively required level of classroom~~
 399 ~~expenditures as a percentage of total operating expenditures,~~
 400 ~~the proposed budget includes an increase in overall classroom~~

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

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

409 1011.035 School district fiscal budget transparency.-

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

416 (a) Summary financial efficiency data.

417 (b) Fiscal trend information for the previous 3 years on:

418 1. The ratio of full-time equivalent students to full-time
 419 equivalent instructional personnel.

420 2. The ratio of full-time equivalent students to full-time
 421 equivalent administrative personnel.

422 3. The total operating expenditures per full-time
 423 equivalent student.

424 4. The total instructional expenditures per full-time
 425 equivalent student.

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

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

430

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

434 (4) The website should contain links to:

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

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

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

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

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

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

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

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

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

490 1011.06 Expenditures.—

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

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

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

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

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

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

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

526 1011.10 Penalty.-
 527 (3) If any of the conditions identified in s. 218.503(1)
 528 exist within a school district, the salary of each district
 529 school board member and district superintendent, calculated
 530 pursuant to ss. 1001.395 and 1001.47, shall be withheld until
 531 the conditions are corrected.

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

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

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

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

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

547 1012.23 School district personnel policies.—

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

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

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

560 1002.395 Florida Tax Credit Scholarship Program.—

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

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

566 Section 21. Contingent upon CS/HB 7055 or similar
 567 legislation in the 2018 Regular Session of the Legislature or an
 568 extension thereof failing to become law, for the 2018-2019
 569 fiscal year, the sum of \$850,000 in nonrecurring funds from the
 570 General Revenue Fund is appropriated to the Department of
 571 Education to implement the provisions of this act.

572 Section 22. This act shall take effect July 1, 2018.



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1279 (2018)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Sullivan offered the following:

3
4 **Amendment (with title amendment)**

5 Remove line 188 and insert:

6 ~~(2)~~ any travel outside the district that exceeds \$500 requires
 7 prior approval by

8
9 -----

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

11 Remove lines 15-16 and insert:

12 amending s. 1001.39, F.S.; requiring certain district school
 13 board member travel outside of the school district



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Sullivan offered the following:

Amendment

Remove lines 413-439 and insert:

understandable to the public and includes:

7 (a) Graphical representations, for each public school
 8 within the district and for the school district, of the
 9 following:

10 1. Summary financial efficiency data.

11 2. Fiscal trend information for the previous 3 years on:

12 a. The ratio of full-time equivalent students to full-time
 13 equivalent instructional personnel.

14 b. The ratio of full-time equivalent students to full-time
 15 equivalent administrative personnel.

16 c. The total operating expenditures per full-time



Amendment No. 2

17 equivalent student.

18 d. The total instructional expenditures per full-time
19 equivalent student.

20 e. The general administrative expenditures as a percentage
21 of the total budget.

22 f. The rate of change in the general fund's ending fund
23 balance which is not classified as restricted.

24 (b) A link to the web-based fiscal transparency tool
25 developed by the department pursuant to s. 1010.20 to enable
26 taxpayers to evaluate the financial efficiency of the school
27 district and compare the financial efficiency of the school
28 district with other similarly situated school districts.

29



Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Sullivan offered the following:

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Amendment (with title amendment)

Remove line 531 and insert:

the conditions are corrected. This subsection does not apply to
a district school board member or district superintendent
elected or appointed within 1 year of the identification of the
conditions in s. 218.503(1) if the individual did not
participate in the approval or preparation of the final school
district budget adopted prior to the identification of such
conditions.

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

Remove line 60 and insert:

791019 - h1279-line 531.docx

Published On: 2/6/2018 6:22:53 PM



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1279 (2018)

Amendment No. 3

17 certain district school board member and school district

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1391 Sexual Offenses Against Students

SPONSOR(S): Education Committee

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1318

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

SUMMARY ANALYSIS

Florida law contains several provisions designed to protect students, maintain safe and ethical school environments, and hold school officials and employees accountable for misconduct. The proposed committee substitute (PCS) further enhances student safety and increases accountability for school officials and employees by:

- providing that a conviction for offenses against students disqualifies a person from educator certification or employment in a position with a public school or certain private schools that involves direct contact with students;
- providing that an employee's resignation or termination of employment does not affect a school district's responsibility to investigate complaints of misconduct and to report legally sufficient complaints to the Florida Department of Education within 30 days;
- requiring district school board policies to include mandatory reporting of alleged misconduct that involves engaging in sexual, romantic, or lewd conduct with a student or soliciting such conduct and to require district school superintendents to report to law enforcement misconduct by school district personnel that would result in disqualification from certification or employment;
- expanding the reasons a district school board member's or superintendent's salary may be forfeited for 1 year;
- requiring a district school superintendent to notify in writing the parent of a student affected by certain misconduct and requiring the notification to include certain information;
- expanding the authority of the Department of Education (DOE) to deny certification based upon the Education Practices Commission's (EPC) authority to issue disciplinary action against a certified educator;
- authorizing the EPC to impose conditions upon the award of an educator certificate; and
- requiring school districts and certain schools to notify the department when a teacher or administrator resigns before an investigation of misconduct affecting the health, safety, or welfare of a student is concluded and requiring the DOE to place an alert on the person's certificate file indicating that he or she resigned or was terminated before such an investigation was concluded.

The PCS makes it a second-degree felony for an authority figure to solicit or engage in sexual conduct, a relationship of a romantic nature, or lewd conduct with a student enrolled at a school.

The PCS also amends the definition of school in the trespass on school grounds statute to include school bus, allowing law enforcement to arrest someone for trespassing on a school bus, after the commission of the crime and without a warrant, if the officer had probable cause to believe the person committed the offense.

The PCS has an indeterminate fiscal impact on state government due to the criminalization of a new offense.

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

FULL ANALYSIS
I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Sexual Conduct by Authority Figures with Adult Students

Offenses against Sexual Conduct with Minors

There is no prohibition against consensual sexual conduct between a school authority figure and an adult student. However, there are several statutes in Florida law that prohibit adults from engaging or attempting to engage in sexual or lewd conduct with a minor. A "minor" is defined as any person under the age of 18 years.¹ These offenses include:

- It is a third degree felony to use a computer online service, internet service, or any other device capable of electronic data storage, such as a cell phone, to seduce, solicit, lure, or entice, or attempt to do these things, with someone believed to be a minor.²
- It is a third degree felony for any person to transmit material harmful to a minor.³ "Material harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:⁴
 - Predominately appeals to a prurient, shameful, or morbid interest;
 - Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
 - Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.
- It is a second degree felony for a person to travel any distance for the purpose of engaging in any illegal act or otherwise engage in other unlawful sexual conduct with a child, or with another person believed by the person to be a child.⁵
- It is a felony offense for an adult to commit any lewd or lascivious battery, molestation, conduct, or exhibition, upon a child.⁶

Reclassification of Sexual Offenses Committed by an Authority Figure on a Minor

Section 943.0435(1)(h)1, F.S., includes the following offenses involving minor victims:

- Kidnapping of child under age 13.⁷
- False imprisonment of child under age 13.⁸
- A person over 18 who intentionally lures or entices or attempts to lure or entice a child under the age of 12 into a structure, dwelling, or conveyance for other than lawful purposes.⁹
- Human trafficking of minors.¹⁰
- Sexual battery of a minor.¹¹

¹ s. 847.001(8), F.S.

² s. 847.0135(3), F.S.

³ s. 847.0138(2)-(3), F.S.

⁴ s. 847.001(6), F.S.

⁵ s. 847.0135(4), F.S.

⁶ s. 800.04, F.S.

⁷ s. 787.01, F.S.

⁸ s. 787.02, F.S.

⁹ See s. 785.025(2)(c), where the victim is a minor.

¹⁰ s. 787.06(3)(b), (d), (f), or (g), F.S.

¹¹ s. 794.011, F.S.

- Unlawful sexual activity with a minor.¹²
- Lewd or indecent exposure involving a minor.¹³
- Video voyeurism involving a minor.¹⁴
- Sexual performance by a child.¹⁵
- Distributing harmful material to a minor.¹⁶
- Possession or transmission of child pornography.¹⁷

Florida law enhances any felony offense under s. 943.0435(1)(h)1., F.S., if it is committed by an authority figure of a school upon a student.¹⁸ An authority figure is a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.¹⁹ A student is a person younger than 18 years of age who is enrolled at a school.²⁰ The offense is reclassified as follows:

- A felony of the third-degree²¹ is reclassified to a second-degree felony.
- A felony of the second-degree²² is reclassified to a first-degree felony.
- A felony of the first-degree²³ is reclassified to a life felony.²⁴

Teacher-Adult Student Relationship Laws in Other States

Other states have enacted similar legislature to prohibit teachers from having relationships with adult students.

In Connecticut, it is sexual assault in the second degree when a school employee engages in sexual intercourse with a student enrolled in the school, regardless of that student's age.²⁵

North Carolina categorizes the offense level based on the age difference between the school personnel and the adult student.²⁶ If the defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, or other school personnel, is at least four years older than the student and engages in vaginal intercourse or a sexual act with the student, the defendant is guilty of a class G²⁷ felony. If the defendant is less than four years older than the student, then the defendant is guilty of a lesser degree class I²⁸ felony.²⁹

Georgia makes it sexual assault punishable by up to twenty-five years if a teacher, principal, assistant principal, or other administrator of any school who has supervisory or disciplinary authority over a student engages in sexual contact with the student and knew or should have known the student was

¹² s. 794.05, F.S.

¹³ s. 800.04, F.S.

¹⁴ s. 810.145(8), F.S.

¹⁵ s. 827.071, F.S.

¹⁶ s. 847.0133, F.S.

¹⁷ s. 847.0135, F.S.

¹⁸ s. 775.0862, F.S.

¹⁹ s. 775.0862(a), F.S.

²⁰ s. 775.0862(c), F.S.

²¹ A third-degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. ss. 775.082(3)(e) and 775.083(1)(c), F.S.

²² A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. ss. 775.082(3)(d) and 775.083(1)(b), F.S.

²³ A first-degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. ss. 775.082(3)(b)1 and 775.083(1)(b), F.S.

²⁴ A life felony is punishable by up to a term of imprisonment for life and a \$15,000 fine. ss. 775.082(3)(a)3 and 775.083(1)(a), F.S.

²⁵ CONN. GEN. STAT. § 53a-71.

²⁶ N.C. GEN. STAT. ANN. § 14-27.7.

²⁷ Class G felonies are considered mid-level felonies in North Carolina and punishable by potential prison time. *See North Carolina Structured Sentencing*, available at: http://www.nccourts.org/Courts/CRS/Councils/spac/Documents/ssstrainingmanual_09.pdf (last visited January 22, 2018).

²⁸ Class I felonies are considered low-level felonies in North Carolina and punishable by probation. *See North Carolina Structured Sentencing*, *supra* note 27.

²⁹ *Id.*

enrolled at the same school.³⁰ This is regardless of age.³¹ This conduct is not prohibited if the student is married to the other individual.³²

In *Paschal v. State*, a teacher was convicted of sexual assault for having a sexual relationship with an eighteen-year-old student.³³ Paschal appealed his conviction, arguing that the statute violated his fundamental privacy right to engage in private, consensual, noncommercial acts of sexual intimacy with an adult. The Arkansas Supreme Court agreed, and held that because the two were adults engaged in a consensual sexual relationship, the statute unconstitutionally infringed on a fundamental right. In reaching this decision, the state Supreme Court stated that the statute³⁴ was not the least restrictive method available to carry out a state's legitimate interest and therefore it was unconstitutional.³⁵ Following the Arkansas Supreme Court Decision, the statute was amended to make it a second degree sexual assault for person in a K-12 public or private school, who is a teacher, principal, athletic coach, or counselor, in a position of trust or authority to use his or her position of trust or authority over a student enrolled in the school and less than twenty-one years of age to engage in sexual contact with that student.³⁶

Recent Events Involving Teacher and Adult Student Relationships in Florida

In Summer 2017, in Pasco County, a former school resource officer was fired for misconduct involving several high school female students.³⁷ An investigation revealed that Resource Officer Milton Arroyo, 50, shared his personal phone number and social media account with female students.³⁸ He specifically targeted students 18 years of age or older and asked one female student to send a picture of her bra and another if she'd like to see a picture of his genitals.³⁹ Investigations also showed Arroyo used law enforcement databases to look up information on the students, their parents and staff at the school.⁴⁰ Milton Arroyo joined the Pasco Sherriff's Office in January 2015 after 21 years as a law enforcement officer in New York.⁴¹ The Paso County Sherriff's Office could not charge Arroyo with any criminal offense for sexual misconduct. However, he was charged with offenses against computer networks and systems for his unauthorized use of a law enforcement database.⁴²

Trespass

Trespass of a Structure of Conveyance

Trespass of a structure or conveyance is a second degree misdemeanor⁴³ and occurs when an individual willfully enters or remains in any structure⁴⁴ or conveyance,⁴⁵ without being authorized, licensed, or invited, or, having been authorized, licensed, or invited, is warned by the owner or lessee of

³⁰ GA. CODE ANN. § 16-6-5.1.

³¹ *Id.*

³² *Id.*

³³ *Paschal v. State*, 388 S.W. 3d 429 (2012 Ark. 127).

³⁴ ARK. CODE ANN. § 5-14-125(a)(6).

³⁵ *Id.*

³⁶ GA. CODE ANN. § 16-6-5.1.

³⁷ WFLA Web Staff, *Former Pasco Co. school resource officer fired for misconduct*, WFLA News Channel 8 (July 8, 2017), available at: <http://wfla.com/2017/07/07/former-school-resource-officer-fired-in-pasco-co/>.

³⁸ *Id.*

³⁹ Chris Bowling, *Paso school resource officer fired for inappropriate messages*, Tampa Bay Times (July 7, 2017), available at: <http://www.tampabay.com/news/publicsafety/crime/pasco-school-resource-officer-fired-for-inappropriate-messages/2329730>.

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² WFLA Web Staff, *Former Pasco Co. school resource officer fired for misconduct*, WFLA News Channel 8 (July 8, 2017), available at <http://wfla.com/2017/07/07/former-school-resource-officer-fired-in-pasco-co/>.

⁴³ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. ss. 775.082 and 775.083, F.S.

⁴⁴ Section 810.011(1), F.S., defines "structure" as a building of any kind.

⁴⁵ Section 810.011(3), F.S., defines "conveyance" as any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car.

the premises, or by a person authorized by the owner or lessee, to depart and refuses to do so.⁴⁶ A conveyance includes a motor vehicle.⁴⁷

In order to arrest someone for misdemeanor trespass of a structure or conveyance, without a warrant, the crime must be committed in the presence of a law enforcement officer.⁴⁸ If a law enforcement officer does not witness the crime, the officer needs an arrest warrant to arrest the offender after the commission of the crime. A judge may issue an arrest warrant if, upon examination of the complaint and proof submitted, he or she is satisfied that probable cause exists that the crime was committed within the judge's jurisdiction.⁴⁹ Probable cause exists when the totality of facts and circumstances within one's knowledge would cause a reasonable person to believe that an offense has been or is being committed.⁵⁰

Trespass on School Property

Section 810.097, F.S., makes it a second degree misdemeanor for any person to enter or remain upon the campus or school facility if the person does not have legitimate business on the campus or any other authorization to be there, or is a student currently under suspension or expulsion. It is a first degree misdemeanor if a person enters or remains on campus or at a school facility after the principal of the school, or designee, has directed the person to leave or not enter the campus or school facility.⁵¹ School means the grounds or any facility of any public or nonpublic kindergarten, elementary school, middle school, junior high school, or secondary school.⁵²

The statute allows a chief administrative officer of the school, or employee thereof, to take a person into custody if he or she has probable cause to believe that person is trespassing on school grounds.⁵³ If a trespasser is taken into custody, a law enforcement officer must immediately be called to the scene.⁵⁴

Unlike trespass of a structure or conveyance, an officer may arrest a person for trespassing on school grounds, without a warrant and after the commission of the offense, if the officer has probable cause to believe that person committed the offense.⁵⁵

Qualifications for Educator Certification and Employment

General Requirements

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the Florida Department of Education (DOE).⁵⁶ Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.⁵⁷ The purpose of certification is to require school-based

⁴⁶ s. 810.08, F.S.

⁴⁷ s. 810.011(3), F.S.

⁴⁸ s. 901.15(1), F.S.

⁴⁹ s. 901.02(1), F.S.

⁵⁰ *State v. Betz*, 815 So. 2d 627 (Fla. 2002); *see also Freeman v. State*, 909 So. 2d 965 (Fla. 3d DCA 2005).

⁵¹ s. 810.097(2), F.S.

⁵² s. 810.097(5), F.S.

⁵³ s. 810.097(3), F.S.

⁵⁴ *Id.*

⁵⁵ s. 810.097(4), F.S.

⁵⁶ ss. 1012.55(1) and 1002.33(12)(f), F.S.

⁵⁷ ss. 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

personnel to “possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools.”⁵⁸

To be eligible for an educator certificate or appointment in any position in a school district, a person must, among other things, be of good moral character and submit to fingerprinting and background screening and not have a criminal history that requires the applicant’s disqualification from certification or employment.⁵⁹

Instructional personnel and noninstructional personnel who are hired or contracted to fill positions that require direct contact with students must undergo background screening, as applicable.⁶⁰ To be employed in an instructional capacity, the person must be 18 years or older and hold a certificate or license issued by the SBE or the Department of Children and Families, except in specific circumstances.⁶¹

Disqualifying Offenses

Under the law, a person is ineligible for educator certification, and employment as an instructional personnel or school administrator with direct student contact in a public school or a private school that accepts McKay or Florida Tax Credit scholarship students, if he or she is convicted of a number of specified criminal offenses.⁶² The specified criminal offenses under s. 1012.315, F.S. are as follows:

- Sexual misconduct with certain developmentally disabled clients, mental health patients, forensic clients, or sexual misconduct in juvenile justice programs.
- Abuse, neglect, or exploitation of aged persons or disabled adults.
- Murder.
- Manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
- Aggravated assault.
- Aggravated battery.
- Battery on a detention or commitment facility staff member or a juvenile probation officer.
- Kidnapping.
- False imprisonment.
- Luring or enticing a child.
- Leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody or dependency proceedings.
- Exhibiting firearms or weapons at a school-sponsored event, on school property, or within 1,000 feet of school.
- Possessing an electric weapon or device, destructive device, or other weapon at a school-sponsored event or on school property.
- Sexual battery.
- Sexual activity with or solicitation of a child by a person in familial or custodial authority.
- Unlawful sexual activity with certain minors.
- Female genital mutilations.
- Prostitution.
- Lewdness and indecent exposure.
- Arson.
- Voyeurism.
- Coordinating the commission of theft in excess of \$3,000.

⁵⁸ s. 1012.54, F.S.; *see* rule 6A-4.001(1), F.A.C.

⁵⁹ s. 1012.56(2)(a)-(f), F.S.

⁶⁰ s. 1012.32(2)(a), F.S.

⁶¹ s. 1012.32(1), F.S.

⁶² ss. 1001.42(7), 1012.315(1)-(2), and 1012.32(1), F.S.

- Theft from persons 65 years or older.
- Dealing in stolen property.
- Robbery.
- Robbery by sudden snatching.
- Carjacking.
- Home-invasion robbery.
- Fraudulent sale of controlled substance.
- Abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
- Incest.
- Child abuse, aggravated child abuse, or neglect of a child.
- Contributing to the delinquency or dependency of a child.
- Sexual performance by a child.
- Resisting arrest with violence.
- Obscenity.
- Causing, encouraging, soliciting, or recruiting another to join a criminal street gang.
- Any drug abuse charges under ch. 893, F.S., if offense was a second degree felony or higher.
- Introduction, removal, or possession of contraband at a correctional facility or juvenile detention facility or commitment program.
- Misdemeanor battery if the victim of the offense was a minor.

Any person who is found ineligible for employment or otherwise found through background screening to have been convicted of any crime involving moral turpitude⁶³ may not be employed, engaged to provide services, or serve in any position that requires direct contact with students.⁶⁴

Education Practices Commission

The State Board of Education (SBE) has adopted in rule standards for educator conduct referred to as the Principles of Professional Conduct for the Education Profession.⁶⁵ The Education Practices Commission (EPC) is established in Florida law to interpret and apply the principles.⁶⁶ At least once each year, the EPC must report to and meet with the SBE.⁶⁷ The EPC is authorized to revoke or suspend an educator certificate or take other appropriate action as provided in law.⁶⁸

Specifically, the EPC may revoke or suspend an educator's certificate if a person, among other things:⁶⁹

- has been guilty of gross immorality or an act involving moral turpitude as defined by SBE rule;
- has been convicted or found guilty of, or entered a plea of guilty to, regardless of adjudication of guilt, a misdemeanor, felony, or any other criminal charge, other than a minor traffic violation; or
- has been disqualified from educator certification based on a conviction for certain criminal offenses.

Currently, the EPC has final order authority to impose one or more of the following penalties against an educator certificate:

- Denial of an application, including prohibiting reapplication for a period of up to ten years or permanently.

⁶³ Rule 6A-5.056(7), F.A.C., provides a list of offenses that are considered crimes involving moral turpitude, including the offenses listed in s. 1012.315, F.S.

⁶⁴ s. 1012.32(2), F.S.

⁶⁵ s. 1012.795(1)(j), F.S.; rule 6A-10.081, F.A.C.

⁶⁶ s. 1012.79(7)(a), F.S.

⁶⁷ s. 1012.79(7)(c), F.S.

⁶⁸ s. 1012.79(7)(b), F.S.

⁶⁹ s. 1012.795(1), F.S.

- Revocation or suspension of a certificate.
- Imposition of an administrative fine not to exceed \$2,000 for each count or separate offense
- Probation.
- Restriction of the authorized scope of practice.
- Written reprimand.
- Referral to the recovery network program.⁷⁰

The law provides that the DOE may deny certification if the department possesses satisfactory evidence that an applicant has committed an act or acts, or that a situation exists, for which the EPC would be authorized to revoke a teaching certificate.⁷¹ The decision of the DOE is subject to review by the EPC upon the filing of a written request from the applicant within 20 days after receipt of notice of denial.⁷²

Investigations of Alleged Misconduct

The DOE must expeditiously investigate any filed complaint or otherwise called to its attention which, if legally sufficient,⁷³ contains grounds for the revocation or suspension of a certificate or any other appropriate penalty.⁷⁴ Legally sufficient complaints of misconduct that affect the health, safety, or welfare of a student must be given priority over other pending complaints.⁷⁵ The DOE's Office of Professional Practice Services administers the state grievance process, investigates alleged misconduct by certified educators, and pursues disciplinary actions against the certificates of educators who are found to have committed acts of misconduct.⁷⁶

The law requires each school district to file with the DOE all legally sufficient complaints within 30 days after the date on which the subject matter comes to the attention of the school district.⁷⁷ The report must include all information relating to the complaint known to the school district. Each district school board must adopt policies and procedures for reporting legally sufficient complaints of misconduct to the DOE.⁷⁸

Complaints and materials relating to a school district's investigation of a complaint are confidential and exempt from public records laws until the conclusion of the preliminary investigation or until the investigation is considered inactive.⁷⁹ A preliminary investigation is active so long as it is continuing with a reasonable, good faith, anticipation that an administrative finding will be made in the foreseeable future. An investigation is presumed to be inactive if no finding relating to probable cause is made within 60 days after the complaint is made.⁸⁰

⁷⁰ See s. 1012.798, F.S.

⁷¹ s. 1012.56(12)(a), F.S.

⁷² s. 1012.56(12)(b), F.S.

⁷³ A complaint is legally sufficient if it contains "ultimate facts that show a violation has occurred" as provided in law and state board rule. s. 1012.796(1)(d), F.S.

⁷⁴ s. 1012.796(1)(a), F.S.

⁷⁵ s. 1012.796(1)(b), F.S.

⁷⁶ Florida Department of Education, *Professional Practices*, <http://www.fldoe.org/teaching/professional-practices/> (last visited Jan. 23, 2018).

⁷⁷ s. 1012.796(1)(d), F.S.

⁷⁸ *Id.*

⁷⁹ s. 1012.31(3)(a)1., F.S.

⁸⁰ *Id.*

Standards of Ethical Conduct for Instructional Personnel and School Administrators

Florida law requires each district school board to adopt policies establishing standards of ethical conduct for instructional personnel and school administrators.⁸¹ Among other things, the policies must establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health safety, or welfare of a student.⁸²

A school board member who knowingly fails to adopt policies that require instructional personnel and school administrators to report alleged misconduct by other instructional personnel and school administrators or that require the investigation of all reports of alleged misconduct that affect the health, safety, or welfare of a student forfeits his or her salary for 1 year.⁸³ Additionally, a district school superintendent who knowingly fails to investigate any allegation of misconduct by instructional personnel or school administrators that affects the health safety, or welfare of a student or who knowingly fails to report the misconduct to the DOE forfeits his or her salary for 1 year.⁸⁴

Effect of Proposed Changes

Sexual Conduct by Authority Figures with Adult Students

The proposed committee substitute (PCS) prohibits an authority figure from soliciting or engaging in sexual conduct, a relationship of a romantic nature, or lewd conduct with a student. The PCS criminalizes this conduct between an authority figure and a student, regardless of the student's age and regardless of whether or not the behavior was consensual. In addition, the PCS does not require that the authority figure use his or her position of authority over the student in order to procure the sexual conduct. It is enough that the person is an authority figure and engages in such conduct with a student to violate the prohibition of this bill.

An authority figure is defined as a person 18 years of age or older who is employed by, volunteering at, or under contract with a school, including school resource officers. School is given the same meaning as provided in s. 1003.01, F.S. and includes a private school, a voluntary prekindergarten education program, an early learning program, a public school as described in s. 402.3025(1), F.S., the Florida School for the Deaf and Blind, and the Florida Virtual School. The term school does not include a facility dedicated exclusively to adult education.

The PCS does not define the terms, "sexual conduct,"⁸⁵ and "lewd conduct." However, other statutes and case law do define these terms.⁸⁶

⁸¹ s. 1001.42(6), F.S. The terms "instructional personnel" and "school administrators" are defined under s. 1012.01(2) and (3)(c), F.S. See also s. 1012.796(1)(d), F.S. (requiring school district policies to include standards of ethical conduct for instructional personnel and school administrators).

⁸² *Id.*

⁸³ s. 1001.42(7)(b), F.S.

⁸⁴ s. 1001.51(12), F.S.

⁸⁵ A mother's breastfeeding of her baby does not constitute "sexual conduct." See s. 847.001, F.S.

⁸⁶ Section 847.001(16), F.S., defines "sexual conduct" to mean actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, public area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. The term "lewdness" is defined in case law as: the equivalent of both licentiousness (*Holton v. State*, 28 Fla. 303 (1891)) and lasciviousness (*McGuire v. State*, 489 So. 2d 729 (Fla. 1986)); and wicked, lustful, unchaste, licentious, or sensual design by the perpetrator of an act condemned by law as lewd (*Chesebrough v. State*, 255 So. 2d 675 (Fla. 1971)).

Trespass on School Property

The PCS amends 810.097, F.S., to include school bus in the definition of school under trespass on school grounds. This change will allow a chief administrative officer of a school, or an employee designated to maintain order on the campus, to detain someone until law enforcement arrives if they have probable cause to believe the person is trespassing or has trespassed on a school bus. It also allows a law enforcement officer to arrest someone for trespassing on a school bus, after the commission of the offense and without a warrant, if the officer has probable cause to believe the suspected person committed the crime.

Disqualifications from Employment, Duty to Report, and Disciplinary Authority

The PCS revises the list of disqualifying criminal offenses to include the newly created prohibition on authority figures engaging or soliciting in sexual, romantic, or lewd conduct with a student. The PCS specifies that any person is ineligible for educator certification or employment in any position that requires direct contact with students if he or she has been convicted of a disqualifying offense. The current prohibition expressly applies to instructional personnel and school administrators.

The PCS specifies that the act of having a romantic relationship with or soliciting or engaging in sexual contact with a student or minor is an act involving moral turpitude for purposes of certified educator discipline and expressly includes such behavior within the jurisdiction of the EPC to suspend or revoke an educator certificate.

With respect to the requirement that district school board policies establish the duty to report misconduct affecting the health, safety, or welfare of a student, the PCS specifies that such misconduct includes engaging in or soliciting sexual, romantic, or lewd conduct with a student. Further, district school board policy must require the district school superintendent to report to law enforcement any misconduct by school district personnel that would result in disqualification from educator certification or employment.

The PCS provides that a school board member who knowingly fails to adopt a policy requiring the district school superintendent to report disqualifying misconduct forfeits his or her salary for 1 year. A district superintendent who fails to report disqualifying conduct to law enforcement also forfeits his or her salary for 1 year.

With respect to investigations of complaints of misconduct by a school district, the PCS provides that the exemption from public records laws for active investigations does not absolve a school district from its duty to provide any legally sufficient complaint to the DOE within 30 days, regardless of the status of the complaint. Further, the PCS specifies that a school district must file a legally sufficient complaint with the DOE within 30 days regardless of whether the subject of the complaint is still an employee of the school district.

The PCS requires that the resignation or termination of a public school employee before an investigation of misconduct by the employee affecting the health, safety, or welfare of a student is concluded must be clearly indicated in the employee's personnel file.

The PCS also requires school districts, charter schools, and private schools participating in a state scholarship program to notify the department immediately when a teacher or administrator resigns before an investigation of misconduct affecting the health, safety, or welfare of a student is concluded. The DOE must then place an alert on the person's certificate file indicating that he or she resigned or was terminated before such an investigation was concluded.

The PCS bases the DOE's authority to deny a certification application on the EPC's authority to discipline, rather than to revoke, a certificate. The PCS also clarifies that the EPC may discipline an educator certificate if the certificateholder has had disciplinary action taken against any professional

license either in Florida or in another state. The licensing or certifying authority's acceptance of a relinquishment, stipulation, consent order, or other settlement offered in response to or in anticipation of the filing of charges against the licensee or certificateholder must be construed as action against the license or certificate.

The PCS expands the EPC's disciplinary authority to include violations of test security and having adjudication withheld for a misdemeanor, felony, or other criminal charge. The PCS also clarifies that the EPC may deny the award of a certificate, bar an applicant from reapplying for a certificate, or allow the award of a certificate with one or more of the following conditions:

- Probation for a period of time
- Restriction on the scope of practice
- Issuance of a letter of reprimand
- Referral to the recovery network program provided in s. 1012.798 under such terms and conditions as the commission may specify
- Imposition of an administrative fine not to exceed \$2,000 for each count or separate offense

The PCS requires persons placed on probation to notify the DOE upon any separation from employment as opposed to only upon termination.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 800.101, F.S., relating to offenses against students by authority figures.
- Section 2:** Amends s. 810.097, F.S., relating to trespass upon grounds or facilities of a school; penalties; arrest.
- Section 3:** Amends s. 1001.42, F.S., relating to powers and duties of district school boards.
- Section 4:** Amends s. 1001.51, F.S., relating to duties and responsibilities of district school superintendent.
- Section 5:** Amends s. 1012.27, F.S., relating to public school personnel; powers and duties of district school superintendent
- Section 6:** Amends s. 1012.31, F.S., relating to personnel files.
- Section 7:** Amends s. 1012.315, F.S., relating to disqualification from employment.
- Section 8:** Amends s. 1012.56, F.S., relating to educator certification requirements
- Section 9:** Amends s. 1012.795, F.S., relating to education practices commission; authority to discipline.
- Section 10:** Amends s. 1012.796, F.S., relating to complaints against teachers and administrators; procedure; penalties.
- Section 11:** Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate fiscal impact on state government due to the criminalization of new offenses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to student safety; creating s.
3 800.101, F.S.; providing definitions; prohibiting
4 certain conduct with students by authority figures;
5 providing penalties; providing exceptions; amending s.
6 810.097, F.S.; revising the term "school" to include
7 school buses; amending s. 1001.42, F.S.; revising the
8 requirements for school district policies relating to
9 standards of ethical conduct; requiring the district
10 school superintendent to report certain misconduct to
11 law enforcement agencies; amending s. 1001.51, F.S.;
12 providing for the forfeiture of a district school
13 superintendent's salary for a specified period for
14 failure to report certain misconduct to law
15 enforcement agencies; amending s. 1012.27, F.S.;
16 requiring the district school superintendent to notify
17 certain parents of specified information relating
18 allegations of misconduct by instructional personnel
19 or school administrators; making technical changes;
20 amending s. 1012.31, F.S.; requiring the resignation
21 or termination of specified employees before an
22 investigation of certain misconduct is concluded to be
23 indicated in a personnel file; specifying that legally
24 sufficient complaints of certain misconduct must be
25 reported to the Department of Education; amending s.

26 1012.315, F.S.; providing that certain provisions
 27 requiring the disqualification of persons convicted of
 28 certain offenses apply to all persons who are required
 29 to have contact with students; providing an additional
 30 offense that disqualifies such persons from
 31 employment; amending s. 1012.56, F.S.; authorizing the
 32 Department of Education to deny applicants for
 33 certification if the applicant could be disciplined by
 34 the Education Practices Commission; authorizing the
 35 commission to take specified actions for such
 36 applicants; amending s. 1012.795, F.S.; authorizing
 37 the commission to take certain actions against persons
 38 who meet specified criteria; amending s. 1012.796,
 39 F.S.; requiring a school district to file certain
 40 complaints with the Department of Education even if
 41 the subject of the complaint is no longer employed by
 42 the district; requiring certain information be
 43 included on an educator's certificate file; requiring
 44 certified educators who are placed on probation to
 45 immediately notify a specified office upon separation
 46 from, rather than termination of, employment;
 47 providing an effective date.

48
 49 Be It Enacted by the Legislature of the State of Florida:
 50

51 Section 1. Section 800.101, Florida Statutes, is created
 52 to read:

53 800.101 Offenses against students by authority figures.-

54 (1) As used in this section, the term:

55 (a) "Authority figure" means a person 18 years of age or
 56 older who is employed by, volunteering at, or under contract
 57 with a school, including school resource officers as provided in
 58 s. 1006.12.

59 (b) "School" has the same meaning as provided in s.
 60 1003.01 and includes a private school as defined in s. 1002.01,
 61 a voluntary prekindergarten education program as described in s.
 62 1002.53(3), early learning programs, a public school as
 63 described in s. 402.3025(1), the Florida School for the Deaf and
 64 the Blind, and the Florida Virtual School established under s.
 65 1002.37. The term does not include a facility dedicated
 66 exclusively to the education of adults.

67 (c) "Student" means a person who is enrolled at a school.

68 (2) An authority figure shall not solicit or engage in:

69 (a) Sexual conduct;

70 (b) A relationship of a romantic nature; or

71 (c) Lewd conduct with a student.

72 (3) A person who violates this section commits a felony of
 73 the second degree, punishable as provided in s. 775.082, s.
 74 775.083, or s. 775.084.

75 (4) This section does not apply to conduct constituting an

76 offense that is subject to reclassification under s. 775.0862.

77 Section 2. Subsection (5) of section 810.097, Florida
78 Statutes, is amended to read:

79 810.097 Trespass upon grounds or facilities of a school;
80 penalties; arrest.-

81 (5) As used in this section, the term "school" means the
82 grounds or any facility, including school buses, of any
83 kindergarten, elementary school, middle school, junior high
84 school, or secondary school, whether public or nonpublic.

85 Section 3. Subsection (6) and paragraph (b) of subsection
86 (7) of section 1001.42, Florida Statutes, are amended to read:

87 1001.42 Powers and duties of district school board.-The
88 district school board, acting as a board, shall exercise all
89 powers and perform all duties listed below:

90 (6) STANDARDS OF ETHICAL CONDUCT FOR INSTRUCTIONAL
91 PERSONNEL AND SCHOOL ADMINISTRATORS.-Adopt policies establishing
92 standards of ethical conduct for instructional personnel and
93 school administrators. The policies must require all
94 instructional personnel and school administrators, as defined in
95 s. 1012.01, to complete training on the standards; establish the
96 duty of instructional personnel and school administrators to
97 report, and procedures for reporting, alleged misconduct by
98 other instructional personnel and school administrators which
99 affects the health, safety, or welfare of a student, including
100 misconduct that involves engaging in sexual, romantic, or lewd

101 conduct with a student or soliciting such conduct; require the
 102 district school superintendent to report to law enforcement
 103 misconduct by instructional personnel or school administrators
 104 that would result in disqualification from educator
 105 certification or employment as provided in s. 1012.315; and
 106 include an explanation of the liability protections provided
 107 under ss. 39.203 and 768.095. A district school board, or any of
 108 its employees, may not enter into a confidentiality agreement
 109 regarding terminated or dismissed instructional personnel or
 110 school administrators, or personnel or administrators who resign
 111 in lieu of termination, based in whole or in part on misconduct
 112 that affects the health, safety, or welfare of a student, and
 113 may not provide instructional personnel or school administrators
 114 with employment references or discuss the personnel's or
 115 administrators' performance with prospective employers in
 116 another educational setting, without disclosing the personnel's
 117 or administrators' misconduct. Any part of an agreement or
 118 contract that has the purpose or effect of concealing misconduct
 119 by instructional personnel or school administrators which
 120 affects the health, safety, or welfare of a student is void, is
 121 contrary to public policy, and may not be enforced.

122 (7) DISQUALIFICATION FROM EMPLOYMENT.—Disqualify
 123 instructional personnel and school administrators, as defined in
 124 s. 1012.01, from employment in any position that requires direct
 125 contact with students if the personnel or administrators are

126 ineligible for such employment under s. 1012.315. An elected or
 127 appointed school board official forfeits his or her salary for 1
 128 year if:

129 (b) The school board official knowingly fails to adopt
 130 policies that require instructional personnel and school
 131 administrators to report alleged misconduct by other
 132 instructional personnel and school administrators; require the
 133 district school superintendent to report misconduct by
 134 instructional personnel or school administrators that would
 135 result in disqualification from educator certification or
 136 employment as provided in s. 1012.315 to the law enforcement
 137 agencies with jurisdiction over the conduct;~~7~~ ~~or that~~ require
 138 the investigation of all reports of alleged misconduct by
 139 instructional personnel and school administrators, if the
 140 misconduct affects the health, safety, or welfare of a student.

141 Section 4. Subsection (12) of section 1001.51, Florida
 142 Statutes, is amended to read:

143 1001.51 Duties and responsibilities of district school
 144 superintendent.—The district school superintendent shall
 145 exercise all powers and perform all duties listed below and
 146 elsewhere in the law, provided that, in so doing, he or she
 147 shall advise and counsel with the district school board. The
 148 district school superintendent shall perform all tasks necessary
 149 to make sound recommendations, nominations, proposals, and
 150 reports required by law to be acted upon by the district school

151 board. All such recommendations, nominations, proposals, and
 152 reports by the district school superintendent shall be either
 153 recorded in the minutes or shall be made in writing, noted in
 154 the minutes, and filed in the public records of the district
 155 school board. It shall be presumed that, in the absence of the
 156 record required in this section, the recommendations,
 157 nominations, and proposals required of the district school
 158 superintendent were not contrary to the action taken by the
 159 district school board in such matters.

160 (12) RECORDS AND REPORTS.—Recommend such records as should
 161 be kept in addition to those prescribed by rules of the State
 162 Board of Education; prepare forms for keeping such records as
 163 are approved by the district school board; ensure that such
 164 records are properly kept; and make all reports that are needed
 165 or required, as follows:

166 (a) Forms, blanks, and reports.—Require that all employees
 167 accurately keep all records and promptly make in proper form all
 168 reports required by the education code or by rules of the State
 169 Board of Education; recommend the keeping of such additional
 170 records and the making of such additional reports as may be
 171 deemed necessary to provide data essential for the operation of
 172 the school system; and prepare such forms and blanks as may be
 173 required and ensure that these records and reports are properly
 174 prepared.

175 (b) Reports to the department.—Prepare, for the approval

176 of the district school board, all reports required by law or
 177 rules of the State Board of Education to be made to the
 178 department and transmit promptly all such reports, when
 179 approved, to the department, as required by law. If any reports
 180 are not transmitted at the time and in the manner prescribed by
 181 law or by State Board of Education rules, the salary of the
 182 district school superintendent must be withheld until the report
 183 has been properly submitted. Unless otherwise provided by rules
 184 of the State Board of Education, the annual report on attendance
 185 and personnel is due on or before July 1, and the annual school
 186 budget and the report on finance are due on the date prescribed
 187 by the commissioner.

188
 189 Any district school superintendent who knowingly signs and
 190 transmits to any state official a report that the superintendent
 191 knows to be false or incorrect; who knowingly fails to
 192 investigate any allegation of misconduct by instructional
 193 personnel or school administrators, as defined in s. 1012.01,
 194 which affects the health, safety, or welfare of a student; ~~or~~
 195 who knowingly fails to report the alleged misconduct to the
 196 department as required in s. 1012.796; or who knowingly fails to
 197 report misconduct to the law enforcement agencies with
 198 jurisdiction over the conduct pursuant to district school board
 199 policy under s. 1001.42(6), forfeits his or her salary for 1
 200 year following the date of such act or failure to act.

201 Section 5. Subsections (5) and (6) of section 1012.27,
 202 Florida Statutes, are amended to read:

203 1012.27 Public school personnel; powers and duties of
 204 district school superintendent.—The district school
 205 superintendent is responsible for directing the work of the
 206 personnel, subject to the requirements of this chapter, and in
 207 addition the district school superintendent shall perform the
 208 following:

209 (5) SUSPENSION AND DISMISSAL; NOTIFICATION.—

210 (a) Suspend members of the instructional staff and other
 211 school employees during emergencies for a period extending to
 212 and including the day of the next regular or special meeting of
 213 the district school board and notify the district school board
 214 immediately of such suspension. When authorized to do so, serve
 215 notice on the suspended member of the instructional staff of
 216 charges made against him or her and of the date of hearing.
 217 Recommend employees for dismissal under the terms prescribed
 218 herein.

219 (b) Notify the parent of a student who was subjected to or
 220 affected by misconduct identified under s. 1001.42(6) within 30
 221 days after the date on which the school district learns of the
 222 misconduct. The notification must inform the parent of:

223 1. The alleged misconduct, including which allegations
 224 have been substantiated, if any.

225 2. Whether the district reported the misconduct to the

226 department, if required by s. 1012.796(1)(d).

227 3. The sanctions imposed by the school district against
 228 the employee, if any.

229 4. The support the school district will make available to
 230 the student in response to the misconduct.

231 (6) EMPLOYMENT HISTORY CHECKS.—Before employing a person
 232 ~~instructional personnel and school administrators, as defined in~~
 233 ~~s. 1012.01,~~ in any position that requires direct contact with
 234 students, conduct employment history checks of each of the
 235 person's personnel's or administrators' previous employers,
 236 screen instructional the personnel and school ~~or~~ administrators,
 237 as defined in s. 1012.01, through use of the educator screening
 238 tools described in s. 1001.10(5), and document the findings. If
 239 unable to contact a previous employer, the district school
 240 superintendent shall document efforts to contact the employer.

241 Section 6. Paragraph (a) of subsection (2) and paragraph
 242 (a) of subsection (3) of section 1012.31, Florida Statutes, are
 243 amended to read:

244 1012.31 Personnel files.—Public school system employee
 245 personnel files shall be maintained according to the following
 246 provisions:

247 (2)(a) Materials relating to work performance, discipline,
 248 suspension, or dismissal must be reduced to writing and signed
 249 by a person competent to know the facts or make the judgment.
 250 The resignation or termination of an employee before an

251 investigation of alleged misconduct by the employee affecting
 252 the health, safety, or welfare of a student is concluded must be
 253 clearly indicated in the employee's personnel file.

254 (3) (a) Public school system employee personnel files are
 255 subject to the provisions of s. 119.07(1), except as follows:

256 1. Any complaint and any material relating to the
 257 investigation of a complaint against an employee shall be
 258 confidential and exempt from the provisions of s. 119.07(1)
 259 until the conclusion of the preliminary investigation or until
 260 such time as the preliminary investigation ceases to be active.
 261 If the preliminary investigation is concluded with the finding
 262 that there is no probable cause to proceed further and with no
 263 disciplinary action taken or charges filed, a statement to that
 264 effect signed by the responsible investigating official shall be
 265 attached to the complaint, and the complaint and all such
 266 materials shall be open thereafter to inspection pursuant to s.
 267 119.07(1). If the preliminary investigation is concluded with
 268 the finding that there is probable cause to proceed further or
 269 with disciplinary action taken or charges filed, the complaint
 270 and all such materials shall be open thereafter to inspection
 271 pursuant to s. 119.07(1). If the preliminary investigation
 272 ceases to be active, the complaint and all such materials shall
 273 be open thereafter to inspection pursuant to s. 119.07(1). For
 274 the purpose of this subsection, a preliminary investigation
 275 shall be considered active as long as it is continuing with a

276 reasonable, good faith anticipation that an administrative
 277 finding will be made in the foreseeable future. An investigation
 278 shall be presumed to be inactive if no finding relating to
 279 probable cause is made within 60 days after the complaint is
 280 made. This subparagraph does not absolve the school district of
 281 its duty to provide any legally sufficient complaint to the
 282 department within 30 days after the date on which the subject
 283 matter of the complaint comes to the attention of the school
 284 district pursuant to s. 1012.796(1)(d)1., regardless of the
 285 status of the complaint.

286 2. An employee evaluation prepared pursuant to s. 1012.33,
 287 s. 1012.34, or s. 1012.56 or rules adopted by the State Board of
 288 Education or district school board under the authority of those
 289 sections shall be confidential and exempt from the provisions of
 290 s. 119.07(1) until the end of the school year immediately
 291 following the school year in which the evaluation was made. No
 292 evaluation prepared before July 1, 1983, shall be made public
 293 pursuant to this section.

294 3. No material derogatory to an employee shall be open to
 295 inspection until 10 days after the employee has been notified
 296 pursuant to paragraph (2)(c).

297 4. The payroll deduction records of an employee shall be
 298 confidential and exempt from the provisions of s. 119.07(1).

299 5. Employee medical records, including psychiatric and
 300 psychological records, shall be confidential and exempt from the

301 provisions of s. 119.07(1); however, at any hearing relative to
 302 the competency or performance of an employee, the administrative
 303 law judge, hearing officer, or panel shall have access to such
 304 records.

305 Section 7. Section 1012.315, Florida Statutes, is amended
 306 to read:

307 1012.315 Disqualification from employment.—A person is
 308 ineligible for educator certification or, ~~and instructional~~
 309 ~~personnel and school administrators, as defined in s. 1012.01,~~
 310 ~~are ineligible for~~ employment in any position that requires
 311 direct contact with students in a district school system,
 312 charter school, or private school that accepts scholarship
 313 students under s. 1002.39 or s. 1002.395~~7~~, if the person~~7~~
 314 ~~instructional personnel, or school administrator~~ has been
 315 convicted of:

316 (1) Any felony offense prohibited under any of the
 317 following statutes:

318 (a) Section 393.135, relating to sexual misconduct with
 319 certain developmentally disabled clients and reporting of such
 320 sexual misconduct.

321 (b) Section 394.4593, relating to sexual misconduct with
 322 certain mental health patients and reporting of such sexual
 323 misconduct.

324 (c) Section 415.111, relating to adult abuse, neglect, or
 325 exploitation of aged persons or disabled adults.

- 326 (d) Section 782.04, relating to murder.
- 327 (e) Section 782.07, relating to manslaughter, aggravated
- 328 manslaughter of an elderly person or disabled adult, aggravated
- 329 manslaughter of a child, or aggravated manslaughter of an
- 330 officer, a firefighter, an emergency medical technician, or a
- 331 paramedic.
- 332 (f) Section 784.021, relating to aggravated assault.
- 333 (g) Section 784.045, relating to aggravated battery.
- 334 (h) Section 784.075, relating to battery on a detention or
- 335 commitment facility staff member or a juvenile probation
- 336 officer.
- 337 (i) Section 787.01, relating to kidnapping.
- 338 (j) Section 787.02, relating to false imprisonment.
- 339 (k) Section 787.025, relating to luring or enticing a
- 340 child.
- 341 (l) Section 787.04(2), relating to leading, taking,
- 342 enticing, or removing a minor beyond the state limits, or
- 343 concealing the location of a minor, with criminal intent pending
- 344 custody proceedings.
- 345 (m) Section 787.04(3), relating to leading, taking,
- 346 enticing, or removing a minor beyond the state limits, or
- 347 concealing the location of a minor, with criminal intent pending
- 348 dependency proceedings or proceedings concerning alleged abuse
- 349 or neglect of a minor.
- 350 (n) Section 790.115(1), relating to exhibiting firearms or

351 weapons at a school-sponsored event, on school property, or
 352 within 1,000 feet of a school.

353 (o) Section 790.115(2)(b), relating to possessing an
 354 electric weapon or device, destructive device, or other weapon
 355 at a school-sponsored event or on school property.

356 (p) Section 794.011, relating to sexual battery.

357 (q) Former s. 794.041, relating to sexual activity with or
 358 solicitation of a child by a person in familial or custodial
 359 authority.

360 (r) Section 794.05, relating to unlawful sexual activity
 361 with certain minors.

362 (s) Section 794.08, relating to female genital mutilation.

363 (t) Chapter 796, relating to prostitution.

364 (u) Chapter 800, relating to lewdness and indecent
 365 exposure.

366 (v) Section 800.101, relating to offenses against students
 367 by authority figures.

368 (w)~~(v)~~ Section 806.01, relating to arson.

369 (x)~~(w)~~ Section 810.14, relating to voyeurism.

370 (y)~~(x)~~ Section 810.145, relating to video voyeurism.

371 (z)~~(y)~~ Section 812.014(6), relating to coordinating the
 372 commission of theft in excess of \$3,000.

373 (aa)~~(z)~~ Section 812.0145, relating to theft from persons
 374 65 years of age or older.

375 (bb)~~(aa)~~ Section 812.019, relating to dealing in stolen

376 property.

377 (cc)~~(bb)~~ Section 812.13, relating to robbery.

378 (dd)~~(ee)~~ Section 812.131, relating to robbery by sudden

379 snatching.

380 (ee)~~(dd)~~ Section 812.133, relating to carjacking.

381 (ff)~~(ee)~~ Section 812.135, relating to home-invasion

382 robbery.

383 (gg)~~(ff)~~ Section 817.563, relating to fraudulent sale of

384 controlled substances.

385 (hh)~~(gg)~~ Section 825.102, relating to abuse, aggravated

386 abuse, or neglect of an elderly person or disabled adult.

387 (ii)~~(hh)~~ Section 825.103, relating to exploitation of an

388 elderly person or disabled adult.

389 (jj)~~(ii)~~ Section 825.1025, relating to lewd or lascivious

390 offenses committed upon or in the presence of an elderly person

391 or disabled person.

392 (kk)~~(jj)~~ Section 826.04, relating to incest.

393 (ll)~~(kk)~~ Section 827.03, relating to child abuse,

394 aggravated child abuse, or neglect of a child.

395 (mm)~~(ll)~~ Section 827.04, relating to contributing to the

396 delinquency or dependency of a child.

397 (nn)~~(mm)~~ Section 827.071, relating to sexual performance

398 by a child.

399 (oo)~~(nn)~~ Section 843.01, relating to resisting arrest with

400 violence.

401 (pp)~~(oo)~~ Chapter 847, relating to obscenity.

402 (qq)~~(pp)~~ Section 874.05, relating to causing, encouraging,
403 soliciting, or recruiting another to join a criminal street
404 gang.

405 (rr)~~(qq)~~ Chapter 893, relating to drug abuse prevention
406 and control, if the offense was a felony of the second degree or
407 greater severity.

408 (ss)~~(rr)~~ Section 916.1075, relating to sexual misconduct
409 with certain forensic clients and reporting of such sexual
410 misconduct.

411 (tt)~~(ss)~~ Section 944.47, relating to introduction,
412 removal, or possession of contraband at a correctional facility.

413 (uu)~~(tt)~~ Section 985.701, relating to sexual misconduct in
414 juvenile justice programs.

415 (vv)~~(uu)~~ Section 985.711, relating to introduction,
416 removal, or possession of contraband at a juvenile detention
417 facility or commitment program.

418 (2) Any misdemeanor offense prohibited under any of the
419 following statutes:

420 (a) Section 784.03, relating to battery, if the victim of
421 the offense was a minor.

422 (b) Section 787.025, relating to luring or enticing a
423 child.

424 (3) Any criminal act committed in another state or under
425 federal law which, if committed in this state, constitutes an

426 offense prohibited under any statute listed in subsection (1) or
 427 subsection (2).

428 (4) Any delinquent act committed in this state or any
 429 delinquent or criminal act committed in another state or under
 430 federal law which, if committed in this state, qualifies an
 431 individual for inclusion on the Registered Juvenile Sex Offender
 432 List under s. 943.0435(1)(h)1.d.

433 Section 8. Paragraphs (a) and (b) of subsection (12) of
 434 section 1012.56, Florida Statutes, are amended to read:

435 1012.56 Educator certification requirements.—

436 (12) DENIAL OF CERTIFICATE.—

437 (a) The Department of Education may deny an applicant a
 438 certificate if the department possesses evidence satisfactory to
 439 it that the applicant has committed an act or acts, or that a
 440 situation exists, for which the Education Practices Commission
 441 would be authorized to discipline a certified educator ~~revoke a~~
 442 ~~teaching certificate.~~

443 (b) The decision of the department is subject to review by
 444 the Education Practices Commission upon the filing of a written
 445 request from the applicant within 20 days after receipt of the
 446 notice of denial. Upon review, the commission may deny the award
 447 of a certificate, bar an applicant from reapplying for a
 448 certificate, or allow the award of a certificate with one or
 449 more of the following conditions:

450 1. Probation for a period of time.

- 451 2. Restriction on the scope of practice.
- 452 3. Issuance of a letter of reprimand.
- 453 4. Referral to the recovery network program provided in s.
 454 1012.798 under such terms and conditions as the commission may
 455 specify.
- 456 5. Imposition of an administrative fine not to exceed
 457 \$2,000 for each count or separate offense.

458 Section 9. Subsections (1) and (5) of section 1012.795,
 459 Florida Statutes, are amended to read:

460 1012.795 Education Practices Commission; authority to
 461 discipline.—

462 (1) The Education Practices Commission may suspend the
 463 educator certificate of any instructional personnel or school
 464 administrator, ~~person~~ as defined in s. 1012.01(2) or (3), for up
 465 to 5 years, thereby denying that person the right to teach or
 466 otherwise be employed by a district school board or public
 467 school in any capacity requiring direct contact with students
 468 for that period of time, after which the person holder may
 469 return to teaching as provided in subsection (4); may revoke the
 470 educator certificate of any person, thereby denying that person
 471 the right to teach or otherwise be employed by a district school
 472 board or public school in any capacity requiring direct contact
 473 with students for up to 10 years, with reinstatement subject to
 474 ~~the provisions of~~ subsection (4); may permanently revoke
 475 ~~permanently~~ the educator certificate of any person thereby

476 denying that person the right to teach or otherwise be employed
 477 by a district school board or public school in any capacity
 478 requiring direct contact with students; may suspend a person's
 479 ~~the~~ educator certificate, upon an order of the court or notice
 480 by the Department of Revenue relating to the payment of child
 481 support; or may impose any other penalty provided by law, if the
 482 person:

483 (a) Obtained or attempted to obtain an educator
 484 certificate by fraudulent means.

485 (b) Knowingly failed to report actual or suspected child
 486 abuse as required in s. 1006.061 or report alleged misconduct by
 487 instructional personnel or school administrators which affects
 488 the health, safety, or welfare of a student as required in s.
 489 1012.796.

490 (c) Has proved to be incompetent to teach or to perform
 491 duties as an employee of the public school system or to teach in
 492 or to operate a private school.

493 (d) Has been guilty of gross immorality or an act
 494 involving moral turpitude as defined by rule of the State Board
 495 of Education, including engaging in sexual, romantic, or lewd
 496 conduct with a student or minor or soliciting such conduct.

497 (e) Has had an educator certificate or other professional
 498 license sanctioned by this or any other ~~revocation, suspension,~~
 499 ~~or surrender in another state~~ or has had the authority to
 500 practice the regulated profession revoked, suspended, or

501 otherwise acted against, including a denial of certification or
 502 licensure, by the licensing or certifying authority of any
 503 jurisdiction, including its agencies and subdivisions. The
 504 licensing or certifying authority's acceptance of a
 505 relinquishment, stipulation, consent order, or other settlement
 506 offered in response to or in anticipation of the filing of
 507 charges against the licensee or certificateholder shall be
 508 construed as action against the license or certificate.

509 (f) Has been convicted or found guilty of, has had
 510 adjudication withheld for, or has pled entered a plea of guilty
 511 or nolo contendere to, regardless of adjudication of guilt, a
 512 misdemeanor, felony, or any other criminal charge, other than a
 513 minor traffic violation.

514 (g) Upon investigation, has been found guilty of personal
 515 conduct that seriously reduces that person's effectiveness as an
 516 employee of the district school board.

517 (h) Has breached a contract, as provided in s. 1012.33(2)
 518 or s. 1012.335.

519 (i) Has been the subject of a court order or notice by the
 520 Department of Revenue pursuant to s. 409.2598 directing the
 521 Education Practices Commission to suspend the certificate as a
 522 result of noncompliance with a child support order, a subpoena,
 523 an order to show cause, or a written agreement with the
 524 Department of Revenue.

525 (j) Has violated the Principles of Professional Conduct

526 for the Education Profession prescribed by State Board of
 527 Education rules.

528 (k) Has otherwise violated the provisions of law, the
 529 penalty for which is the revocation of the educator certificate.

530 (l) Has violated any order of the Education Practices
 531 Commission.

532 (m) Has been the subject of a court order or plea
 533 agreement in any jurisdiction which requires the
 534 certificateholder to surrender or otherwise relinquish his or
 535 her educator's certificate. A surrender or relinquishment shall
 536 be for permanent revocation of the certificate. A person may not
 537 surrender or otherwise relinquish his or her certificate prior
 538 to a finding of probable cause by the commissioner as provided
 539 in s. 1012.796.

540 (n) Has been disqualified from educator certification
 541 under s. 1012.315.

542 (o) Has committed a third recruiting offense as determined
 543 by the Florida High School Athletic Association (FHSAA) pursuant
 544 to s. 1006.20(2)(b).

545 (p) Has violated test security as provided in s. 1008.24.

546 (5) Each district school superintendent and the governing
 547 authority of each university lab school, state-supported school,
 548 private school, and the FHSAA shall report to the department the
 549 name of any person certified pursuant to this chapter ~~or~~
 550 ~~employed and qualified pursuant to s. 1012.39:~~

551 (a) Who has been convicted or found guilty of, who has had
 552 adjudication withheld for, or who has pled guilty or nolo
 553 contendere to, a misdemeanor, felony, or any other criminal
 554 charge, other than a minor traffic infraction;

555 (b) Who that official has reason to believe has committed
 556 or is found to have committed any act which would be a ground
 557 for revocation or suspension under subsection (1); or

558 (c) Who has been dismissed or severed from employment
 559 because of conduct involving any immoral, unnatural, or
 560 lascivious act.

561 Section 10. Paragraphs (d) and (e) of subsection (1) and
 562 paragraphs (a) and (d) of subsection (7) of section 1012.796,
 563 Florida Statutes, are amended to read:

564 1012.796 Complaints against teachers and administrators;
 565 procedure; penalties.—

566 (1)

567 (d)1. Each school district shall file in writing with the
 568 department all legally sufficient complaints within 30 days
 569 after the date on which subject matter of the complaint comes to
 570 the attention of the school district, regardless of whether the
 571 subject of the complaint is still an employee of the school
 572 district. A complaint is legally sufficient if it contains
 573 ultimate facts that show a violation has occurred as provided in
 574 s. 1012.795 and defined by rule of the State Board of Education.
 575 The school district shall include all information relating to

576 the complaint which is known to the school district at the time
577 of filing.

578 2. A school district shall immediately notify the
579 department if the subject of a legally sufficient complaint of
580 misconduct affecting the health, safety, or welfare of a student
581 resigns or is terminated before the conclusion of the school
582 district's investigation. Upon receipt of the notification, the
583 department shall place an alert on the person's certification
584 file indicating that he or she resigned or was terminated before
585 an investigation involving allegations of misconduct affecting
586 the health, safety, or welfare of a student was concluded. In
587 such circumstances, the database may not include specific
588 information relating to the alleged misconduct until permitted
589 by s. 1012.796(4).

590 3. Each district school board shall develop and adopt
591 policies and procedures to comply with this reporting
592 requirement. School board policies and procedures must include
593 standards for screening, hiring, and terminating instructional
594 personnel and school administrators, as defined in s. 1012.01;
595 standards of ethical conduct for instructional personnel and
596 school administrators; the duties of instructional personnel and
597 school administrators for upholding the standards; detailed
598 procedures for reporting alleged misconduct by instructional
599 personnel and school administrators which affects the health,
600 safety, or welfare of a student; requirements for the

601 reassignment of instructional personnel or school administrators
 602 pending the outcome of a misconduct investigation; and penalties
 603 for failing to comply with s. 1001.51 or s. 1012.795. The
 604 district school board policies and procedures shall include
 605 appropriate penalties for all personnel of the district school
 606 board for nonreporting and procedures for promptly informing the
 607 district school superintendent of each legally sufficient
 608 complaint. The district school superintendent is charged with
 609 knowledge of these policies and procedures and is accountable
 610 for the training of all instructional personnel and school
 611 administrators of the school district on the standards of
 612 ethical conduct, policies, and procedures.

613 4. If the district school superintendent has knowledge of
 614 a legally sufficient complaint and does not report the
 615 complaint, or fails to enforce the policies and procedures of
 616 the district school board, and fails to comply with the
 617 requirements of this subsection, in addition to other actions
 618 against certificateholders authorized by law, the district
 619 school superintendent is subject to penalties as specified in s.
 620 1001.51(12).

621 5. If the superintendent determines that misconduct by
 622 instructional personnel or school administrators who hold an
 623 educator certificate affects the health, safety, or welfare of a
 624 student and the misconduct warrants termination, the
 625 instructional personnel or school administrators may resign or

626 be terminated, and the superintendent must report the misconduct
 627 to the department in the format prescribed by the department.
 628 The department shall maintain each report of misconduct as a
 629 public record in the instructional personnel's or school
 630 administrators' certification files. This paragraph does not
 631 limit or restrict the power and duty of the department to
 632 investigate complaints, regardless of the school district's
 633 untimely filing, or failure to file, complaints and followup
 634 reports.

635 (e) If allegations arise against an employee who is
 636 certified under s. 1012.56 and employed in an educator-
 637 certificated position in any public school, charter school or
 638 governing board thereof, or private school that accepts
 639 scholarship students under s. 1002.39 or s. 1002.395, the school
 640 shall file in writing with the department a legally sufficient
 641 complaint within 30 days after the date on which the subject
 642 matter of the complaint came to the attention of the school,
 643 regardless of whether the subject of the allegations is still an
 644 employee of the school. A complaint is legally sufficient if it
 645 contains ultimate facts that show a violation has occurred as
 646 provided in s. 1012.795 and defined by rule of the State Board
 647 of Education. The school shall include all known information
 648 relating to the complaint with the filing of the complaint. This
 649 paragraph does not limit or restrict the power and duty of the
 650 department to investigate complaints, regardless of the school's

651 untimely filing, or failure to file, complaints and followup
 652 reports. A school under this paragraph shall immediately notify
 653 the department if the subject of a legally sufficient complaint
 654 of misconduct affecting the health, safety, or welfare of a
 655 student resigns or is terminated before the conclusion of the
 656 school district's investigation. Upon receipt of the
 657 notification, the department shall place an alert on the
 658 person's certification file indicating that he or she resigned
 659 or was terminated before an investigation involving allegations
 660 of misconduct affecting the health, safety, or welfare of a
 661 student was concluded. In such circumstances, the database may
 662 not include specific information relating to the alleged
 663 misconduct until permitted by s. 1012.796(4).

664 (7) A panel of the commission shall enter a final order
 665 either dismissing the complaint or imposing one or more of the
 666 following penalties:

667 (a) Denial of an application for a teaching certificate or
 668 for an administrative or supervisory endorsement on a teaching
 669 certificate. The denial may provide that the applicant may not
 670 reapply for certification, and that the department may refuse to
 671 consider that applicant's application, for a specified period of
 672 time or permanently.

673 (d) Placement of the teacher, administrator, or supervisor
 674 on probation for a period of time and subject to such conditions
 675 as the commission may specify, including requiring the certified

676 teacher, administrator, or supervisor to complete additional
 677 appropriate college courses or work with another certified
 678 educator, with the administrative costs of monitoring the
 679 probation assessed to the educator placed on probation. An
 680 educator who has been placed on probation shall, at a minimum:

681 1. Immediately notify the investigative office in the
 682 Department of Education upon employment or separation from
 683 ~~termination of employment in the state~~ in any public or private
 684 position requiring a Florida educator's certificate.

685 2. Have his or her immediate supervisor submit annual
 686 performance reports to the investigative office in the
 687 Department of Education.

688 3. Pay to the commission within the first 6 months of each
 689 probation year the administrative costs of monitoring probation
 690 assessed to the educator.

691 4. Violate no law and fully comply with all district
 692 school board policies, school rules, and State Board of
 693 Education rules.

694 5. Satisfactorily perform his or her assigned duties in a
 695 competent, professional manner.

696 6. Bear all costs of complying with the terms of a final
 697 order entered by the commission.

698
 699 The penalties imposed under this subsection are in addition to,
 700 and not in lieu of, the penalties required for a third

PCS for HB 1391

ORIGINAL

2018

701 recruiting offense pursuant to s. 1006.20(2)(b).

702 Section 11. This act shall take effect July 1, 2018.