# CHAPTER 2012-133

## House Bill No. 5101

An act relating to prekindergarten through grade 12 education funding; amending s. 496.404, F.S.; conforming provisions to changes made by the act; amending s. 1001.25, F.S.; deleting provisions that authorize the Department of Education to provide equipment, funds, and other services to extend and update existing and proposed educational radio systems; amending s. 1001.26, F.S.; deleting provisions that authorize department support and funding for public broadcasting program system educational radio stations; amending s. 1001.42, F.S.; requiring that any contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, entered into by a school district with an officer, agent, employee, or contractor which contains a provision for severance pay include provisions in s. 215.425, F.S., relating to limitations on extra compensation, bonuses, and severance pay; requiring that each district school board enter into an interlocal agreement for the purpose of establishing the School District Consortium; amending s. 1001.50, F.S.; requiring that any employment contract entered into by a district school board with a district school superintendent which contains a provision for severance pay include provisions in s. 215.425, F.S., relating to limitations on extra compensation, bonuses, and severance pay; amending s. 1002.33, F.S.; revising provisions relating to the calculation of the total administrative fee for providing administrative and educational services to charter schools; amending s. 1002.67, F.S.; providing for Voluntary Prekindergarten Education Program assessments; amending s. 1002.69, F.S.; revising provisions for calculating the kindergarten readiness rate and criteria for certain good cause exemptions; conforming cross-references; amending s. 1002.71, F.S.; providing requirements relating to student enrollment reporting and funding under the Voluntary Prekindergarten Education Program; amending s. 1003.01, F.S.; revising the definition of the term "juvenile justice provider"; amending s. 1003.03, F.S.; revising provisions relating to calculations for reducing a school district's class size categorical allocation when class size requirements are not met; revising a compliance plan submission date; amending s. 1003.52, F.S.; revising the funding of juvenile justice education programs; repealing s. 1003.61, F.S., relating to the pilot attendance project; amending s. 1006.40, F.S.; revising provisions relating to the purchase of certain current instructional materials by school districts; amending s. 1011.61, F.S.; revising the definition of the term "full-time equivalent student" for full-time students enrolled in a combination of certain programs; revising provisions relating to the funding of students in kindergarten through grade 12 or exceptional children in a prekindergarten program to conform to changes made by the act; amending s. 1011.62, F.S.; requiring that each school district having low-performing elementary schools use funds from the supplemental academic instruction categorical fund, along with the school district's research-based reading instruction allocation, to provide an additional


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hour of instruction per day for intensive reading instruction; requiring that the department monitor and track the implementation of each school district's comprehensive reading plan and report its findings to the Legislature; revising provisions relating to the total allocation of state funds to each district for current operations; amending s. 1011.71, F.S.; deleting a restriction relating to the amount of capital outlay millage that may be used to fund payments for educational facilities and sites due under certain lease-purchase agreements; amending s. 1013.03, F.S.; authorizing the Commissioner of Education to grant waivers to district school boards from certain requirements relating to the validation of surveys and inventory of data under certain circumstances; amending s. 1013.35, F.S.; requiring that each district school board have a financial management and performance audit conducted of the district's educational planning and construction activities; creating the K-12 Public School Facility Funding Task Force and providing duties; creating the Digital Instructional Materials Work Group and providing duties; requiring that the calculation required in s. 1003.03(4)(a)4., F.S., be an amount equal to 50 percent of the base student allocation adjusted by the district cost differential for a specified fiscal year; specifying the formula to be used for the 2011-2012 fiscal year in calculating the alternate compliance calculation amounts to the class size operating categorical fund, notwithstanding certain other provisions of law; requiring that the Commissioner of Education modify payments to school districts; providing effective dates.

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

Section 1. Subsection (8) of section 496.404, Florida Statutes, is amended to read:

496.404 Definitions.—As used in ss. 496.401-496.424:

(8) "Educational institutions" means those institutions and organizations described in s. 212.08(7)(cc)8.a. The term includes private nonprofit organizations, the purpose of which is to raise funds for schools teaching grades kindergarten through grade 12, colleges, and universities, including any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, any educational television ~~or radio~~ network or system established pursuant to s. 1001.25 or s. 1001.26, and any nonprofit television or radio station that is a part of such network or system and that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term also includes a nonprofit educational cable consortium that holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations that hold a valid consumer certificate of exemption and that are either an educational institution as defined in this subsection or qualified


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as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code.

Section 2. Paragraph (c) of subsection (2) of section 1001.25, Florida Statutes, is amended to read:

1001.25 Educational television.—

(2) POWERS OF DEPARTMENT.—

(c) The department may provide equipment, funds, and other services to extend and update both the existing and the proposed educational television ~~and radio~~ systems of tax-supported and nonprofit, corporate-owned facilities. All stations funded must be qualified by the Corporation for Public Broadcasting. New stations eligible for funding shall provide a first service to an audience that is not currently receiving a broadcast signal or provide a significant new program service as defined by State Board of Education rules. Funds appropriated to the department for educational television ~~and funds appropriated to the department for educational radio~~ may be used by the department for ~~either~~ educational television only ~~or educational radio, or both~~.

Section 3. Paragraphs (a), (d), and (e) of subsection (1) and paragraph (c) of subsection (2) of section 1001.26, Florida Statutes, are amended to read:

1001.26 Public broadcasting program system.—

(1) There is created a public broadcasting program system for the state. The department shall administer this program system pursuant to rules adopted by the State Board of Education. This program system must complement and share resources with the instructional programming service of the Department of Education and educational UHF, VHF, EBS ~~ITFS~~, and FM stations in the state. The program system must include:

(a) Support for existing Corporation for Public Broadcasting qualified program system educational ~~radio and~~ television stations and new stations meeting Corporation for Public Broadcasting qualifications and providing a first service to an audience that does not currently receive a broadcast signal or providing a significant new program service as defined by rule by the State Board of Education.

(d) Establishment and maintenance of a capability for statewide program distribution with facilities and staff, provided such facilities and staff complement and strengthen existing or future educational television ~~and radio~~ stations in accordance with paragraph (a) and s. 1001.25(2)(c).

(e) Provision of both statewide programming funds and station programming support for educational television ~~and educational radio~~ to meet statewide priorities. Priorities for station programming need not be the same as priorities for programming to be used statewide. Station programming may include, but shall not be limited to, citizens' participation programs,


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music and fine arts programs, coverage of public hearings and governmental meetings, equal air time for political candidates, and other public interest programming.

(2)

(c) The department is authorized to provide equipment, funds, and other services to extend and update both the existing and the proposed educational television ~~and radio~~ systems of tax-supported and nonprofit, corporate-owned facilities. All stations funded must be qualified by the Corporation for Public Broadcasting. New stations eligible for funding shall provide a first service to an audience that is not currently receiving a broadcast signal or provide a significant new program service as defined by State Board of Education rules. Funds appropriated to the department for educational television ~~and funds appropriated to the department for educational radio~~ may be used by the department for ~~either~~ educational television only ~~or educational radio, or for both~~.

Section 4. Subsection (24) of section 1001.42, Florida Statutes, is amended, subsection (25) is renumbered as subsection (26), and a new subsection (25) is added to that section, to read:

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

(24) EMPLOYMENT CONTRACTS.—If a school district enters into a contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, with an officer, agent, employee, or contractor which contains a provision for severance pay, the contract or employment agreement must include the provisions of s. 215.425. ~~A district school board may not enter into an employment contract that requires the district to pay from state funds an employee an amount in excess of 1 year of the employee's annual salary for termination, buyout, or any other type of contract settlement. This subsection does not prohibit the payment of earned leave and benefits in accordance with the district's leave and benefits policies which were accrued by the employee before the contract terminates.~~

(25) INTERLOCAL AGREEMENTS.—Each district school board shall enter into an interlocal agreement as provided in s. 163.01 for the purpose of establishing the School District Consortium and maximizing the purchasing power for goods and services. A consortium may be statewide or regional, as appropriate to achieve the lowest cost. This subsection does not prohibit a district school board from utilizing a state contract.

(26)~~(25)~~ ADOPT RULES.—Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 5. Subsection (2) of section 1001.50, Florida Statutes, is amended to read:

1001.50 Superintendents employed under Art. IX of the State Constitution.—

(2) Each ~~The~~ district school board ~~of each of such districts~~ shall enter into an employment contract ~~contracts of employment~~ with the district school superintendent and shall adopt rules relating to his or her appointment; however, if the employment contract contains a provision for severance pay, it must include the provisions required by s. 215.425 ~~the district school board may not enter into an employment contract that requires the district to pay from state funds a superintendent an amount in excess of 1 year of the superintendent's annual salary for termination, buyout, or any other type of contract settlement. This subsection does not prohibit the payment of earned leave and benefits in accordance with the district's leave and benefits policies which were accrued by the superintendent before the contract terminates.~~

Section 6. Paragraph (a) of subsection (20) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(20) SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students, except that when 75 percent or more of the students enrolled in the charter school are exceptional students as defined in s. 1003.01(3), the 5 percent of those available funds shall be calculated based on unweighted full-time equivalent students. However, a sponsor may only


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withhold up to a 5-percent administrative fee for enrollment for up to and including 250 students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2).

3. For high-performing charter schools, as defined in ch. 2011-232, a sponsor may withhold a total administrative fee of up to 2 percent for enrollment up to and including 250 students per school.

4. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:

a. Includes both conversion charter schools and nonconversion charter schools;

b. Has all schools located in the same county;

c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;

d. Has the same governing board; and

e. Does not contract with a for-profit service provider for management of school operations.

5. The difference between the total administrative fee calculation and the amount of the administrative fee withheld pursuant to subparagraph 4. may be used for instructional and administrative purposes as well as for capital outlay purposes specified in s. 1013.62(2).

6. For a high-performing charter school system that also meets the requirements in subparagraph 4., a sponsor may withhold a 2-percent administrative fee for enrollments up to and including 500 students per system.

7. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

8. The sponsor of a virtual charter school may withhold a fee of up to 5 percent. The funds shall be used to cover the cost of services provided under subparagraph 1. and for the school district's local instructional improvement system pursuant to s. 1006.281 or other technological tools that are required to access electronic and digital instructional materials.

Section 7. Paragraphs (a) and (c) of subsection (2) of section 1002.67, Florida Statutes, are amended, subsection (3) is renumbered as subsection (4), and a new subsection (3) is added to that section, to read:


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1002.67 Performance standards; curricula and accountability.—

(2)(a) Each private prekindergarten provider and public school may select or design the curriculum that the provider or school uses to implement the Voluntary Prekindergarten Education Program, except as otherwise required for a provider or school that is placed on probation under paragraph (4)(c) ~~(3)(c)~~.

(c) The department shall review and approve curricula for use by private prekindergarten providers and public schools that are placed on probation under paragraph (4)(c) ~~(3)(c)~~. The department shall maintain a list of the curricula approved under this paragraph. Each approved curriculum must meet the requirements of paragraph (b).

(3)(a) Contingent upon legislative appropriation, each private prekindergarten provider and public school in the Voluntary Prekindergarten Education Program must implement an evidence-based pre- and post-assessment that has been approved by rule of the State Board of Education.

(b) In order to be approved, the assessment must be valid, reliable, developmentally appropriate, and designed to measure student progress on domains which must include, but are not limited to, early literacy, numeracy, and language.

(c) The pre- and post-assessment must be administered by individuals meeting requirements established by rule of the State Board of Education.

Section 8. Subsection (5) and paragraphs (a), (c), (e), and (f) of subsection (7) of section 1002.69, Florida Statutes, are amended to read:

1002.69 Statewide kindergarten screening; kindergarten readiness rates; state-approved prekindergarten enrollment screening; good cause exemption.—

(5) The State Board of Education shall adopt procedures for the department to annually calculate each private prekindergarten provider's and public school's kindergarten readiness rate, which must be expressed as the percentage of the provider's or school's students who are assessed as ready for kindergarten. ~~The kindergarten readiness rates must be based exclusively upon the results of the statewide kindergarten screening for students completing the Voluntary Prekindergarten Education Program, beginning with students completing the program during the 2005-2006 school year who are administered the statewide kindergarten screening during the 2006-2007 school year.~~ The methodology for calculating each provider's kindergarten readiness rate must include student learning gains when available and the percentage of students who meet all state readiness measures. The rates must not include students who are not administered the statewide kindergarten screening. The state board shall determine learning gains using a value-added measure based on growth demonstrated by the


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results of the pre- and post-assessment from at least 2 successive years of administration of the pre- and post-assessment.

(7)(a) Notwithstanding s. 1002.67(4)(c)4. ~~1002.67(3)(c)4.~~, the State Board of Education, upon the request of a private prekindergarten provider or public school that remains on probation for 2 consecutive years or more and subsequently fails to meet the minimum rate adopted under subsection (6) and for good cause shown, may grant to the provider or school an exemption from being determined ineligible to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program. Such exemption is valid for 1 year and, upon the request of the private prekindergarten provider or public school and for good cause shown, may be renewed.

(c) The State Board of Education shall adopt criteria for granting good cause exemptions. Such criteria shall include, but are not limited to:

1. Learning gains of children served in the Voluntary Prekindergarten Education Program by the private prekindergarten provider or public school. ~~A provider seeking a good cause exemption shall have the early learning coalition or a department-approved second party administer the state-approved prekindergarten enrollment screening to each child in the prekindergarten provider's program within the first 30 days of each school year for which a good cause exemption is sought, and the provider shall administer the standardized postassessment approved by the department to measure the student's learning gains for the year or summer, as appropriate. All data must be submitted to the department within 30 days after the administration of each assessment. Each parent who enrolls his or her child in a Voluntary Prekindergarten Education Program offered by a provider seeking a good cause exemption must submit the child for the state-approved prekindergarten enrollment screening.~~

2. Verification that local and state health and safety requirements are met.

(e) A private prekindergarten provider or public school granted a good cause exemption shall continue to implement its improvement plan and continue the corrective actions required under s. 1002.67(4)(c)2. ~~1002.67(3)(c)2.~~, including the use of a curriculum approved by the department, until the provider or school meets the minimum rate adopted under subsection (6).

(f) The State Board of Education shall notify the Office of Early Learning of any good cause exemption granted to a private prekindergarten provider under this subsection. If a good cause exemption is granted to a private prekindergarten provider who remains on probation for 2 consecutive years, the Office of Early Learning shall notify the early learning coalition of the good cause exemption and direct that the coalition, notwithstanding s. 1002.67(4)(c)4. ~~1002.67(3)(c)4.~~, not remove the provider from eligibility to deliver the Voluntary Prekindergarten Education Program or to receive state funds for the program, if the provider meets all other applicable requirements of this part.


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Section 9. Paragraph (c) of subsection (3) of section 1002.71, Florida Statutes, is amended to read:

1002.71 Funding; financial and attendance reporting.—

(3)

(c) The initial allocation shall be based on estimated student enrollment in each coalition service area. The Office of Early Learning shall reallocate funds among the coalitions based on actual full-time equivalent student enrollment in each coalition service area. Each coalition shall report student enrollment pursuant to subsection (2) on a monthly basis. A student enrollment count for the prior fiscal year may not be amended after December 31 of the subsequent fiscal year.

Section 10. Paragraph (b) of subsection (11) of section 1003.01, Florida Statutes, is amended to read:

1003.01 Definitions.—As used in this chapter, the term:

(11)

(b) "Juvenile justice provider" means the Department of Juvenile Justice, the sheriff, or a private, public, or other governmental organization under contract with the Department of Juvenile Justice or the sheriff that provides treatment, care and custody, or educational programs for youth in juvenile justice intervention, detention, or commitment programs.

Section 11. Paragraphs (a) and (e) of subsection (4) of section 1003.03, Florida Statutes, are amended to read:

1003.03 Maximum class size.—

(4) ACCOUNTABILITY.—

(a) If the department determines that the number of students assigned to any individual class exceeds the class size maximum, as required in subsection (1), based upon the October student membership survey, the department shall:

1. Identify, for each grade group, the number of classes in which the number of students exceeds the maximum and the total number of students which exceeds the maximum for all classes.

2. Determine the number of FTE students which exceeds the maximum for each grade group.

3. Multiply the total number of FTE students which exceeds the maximum for each grade group by the district's FTE dollar amount of the class size categorical allocation for that year and calculate the total for all three grade groups.


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4. Multiply the total number of FTE students which exceeds the maximum for all classes by an amount equal to 50 percent of the base student allocation adjusted by the district cost differential for each of the 2010-2011 through 2013-2014 fiscal years ~~year~~ and by an amount equal to the base student allocation adjusted by the district cost differential ~~beginning~~ in the 2014-2015 ~~2011-2012~~ fiscal year and thereafter.

5. Reduce the district's class size categorical allocation by an amount equal to the sum of the calculations in subparagraphs 3. and 4.

(e) Each district that has not complied with the requirements in subsection (1) shall submit to the commissioner by February 1 ~~15~~ a plan certified by the district school board that describes the specific actions the district will take in order to fully comply with the requirements in subsection (1) by October of the following school year. If a district submits the certified plan by the required deadline, the funds remaining after the reallocation calculation in paragraph (d) shall be added back to the district's class size categorical allocation based on each qualifying district's proportion of the total reduction for all qualifying districts for which a reduction was calculated in paragraphs (a)-(c). However, no district shall have an amount added back that is greater than the amount that was reduced.

Section 12. Subsection (12) of section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(12)(a) Funding for eligible students enrolled in juvenile justice education programs shall be provided through the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act. Funding shall include, at a minimum:

1. Weighted program funding or the basic amount for current operation multiplied by the district cost differential as provided in s. 1011.62(1)(r) and (2);

2. The supplemental allocation for juvenile justice education as provided in s. 1011.62(10);

3. A proportionate share of the district's exceptional student education guaranteed allocation, the supplemental academic instruction allocation, and the instructional materials allocation;

4. An amount equivalent to the proportionate share of the state average potential discretionary local effort for operations, which shall be determined as follows:

a. If the district levies the maximum discretionary local effort and the district's discretionary local effort per FTE is less than the state average potential discretionary local effort per FTE, the proportionate share shall


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include both the discretionary local effort and the compression supplement per FTE. If the district's discretionary local effort per FTE is greater than the state average per FTE, the proportionate share shall be equal to the state average; or

b. If the district does not levy the maximum discretionary local effort and the district's actual discretionary local effort per FTE is less than the state average potential discretionary local effort per FTE, the proportionate share shall be equal to the district's actual discretionary local effort per FTE. If the district's actual discretionary local effort per FTE is greater than the state average per FTE, the proportionate share shall be equal to the state average potential local effort per FTE; and

5. A proportionate share of the district's proration to funds available, if necessary. ~~The district school board shall fund the educational program in a Department of Juvenile Justice facility at the same or higher level of funding for equivalent students in the district school system based on the funds generated by state funding through the Florida Education Finance Program for such students. It is the intent of the Legislature that the school district maximize its available local, state, and federal funding to a juvenile justice program.~~

~~(a) Juvenile justice educational programs shall be funded in the appropriate FEFP program based on the educational services needed by the student for Department of Juvenile Justice programs in accordance with s. 1011.62.~~

(b) Juvenile justice educational programs to receive the appropriate FEFP funding for Department of Juvenile Justice programs shall include those operated through a contract with the Department of Juvenile Justice and which are under purview of the Department of Juvenile Justice quality assurance standards for education.

(c) Consistent with the rules of the State Board of Education, district school boards are required to request an alternative FTE survey for Department of Juvenile Justice programs experiencing fluctuations in student enrollment.

(d) FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of Juvenile Justice programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(e) Each juvenile justice education program must receive all federal funds for which the program is eligible.

Section 13. Section 1003.61, Florida Statutes, is repealed.


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Section 14. Subsection (2) of section 1006.40, Florida Statutes, is amended to read:

1006.40 Use of instructional materials allocation; instructional materials, library books, and reference books; repair of books.—

(2) Each district school board must purchase current instructional materials to provide each student with a major tool of instruction in core courses of the subject areas of mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12. Such purchase must be made within the first 2 years after the effective date of the adoption cycle. For the 2012-2013 mathematics adoption, a district using a comprehensive mathematics instructional materials program adopted in the 2009-2010 adoption shall be deemed in compliance with this subsection if it provides each student with such additional state-adopted materials as may be necessary to align the previously adopted comprehensive program to common core standards and the other criteria of the 2012-2013 mathematics adoption.

Section 15. Paragraph (c) of subsection (1) and subsection (4) of section 1011.61, Florida Statutes, are amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A "full-time equivalent student" in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each ~~special~~ program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The sum of the fractions for each program may not exceed the maximum value set forth in subsection (4). ~~The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student's time not spent in such special education programs and shall be recorded as time in the appropriate basic program.~~

(II) A prekindergarten handicapped student shall meet the requirements specified for kindergarten students.


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(III) A full-time equivalent student for students in kindergarten through grade 5 in a virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33 shall consist of a student who has successfully completed a basic program listed in s. 1011.62(1)(c)1.a. or b., and who is promoted to a higher grade level.

(IV) A full-time equivalent student for students in grades 6 through 12 in a virtual instruction program under s. 1002.45(1)(b)1., 2., or 3. or a virtual charter school under s. 1002.33 shall consist of six full credit completions in programs listed in s. 1011.62(1)(c)1.b. or c. and 3. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(V) A Florida Virtual School full-time equivalent student shall consist of six full credit completions or the prescribed level of content that counts toward promotion to the next grade in the programs listed in s. 1011.62(1)(c) 1.a. and b. for kindergarten through grade 8 and the programs listed in s. 1011.62(1)(c)1.c. for grades 9 through 12. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment shall be adjusted after the student completes the end-of-course assessment.

(VI) Each successfully completed full-credit course earned through an online course delivered by a district other than the one in which the student resides shall be calculated as 1/6 FTE.

(VII) Each successfully completed credit earned under the alternative high school course credit requirements authorized in s. 1002.375, which is not reported as a portion of the 900 net hours of instruction pursuant to subparagraph (1)(a)1., shall be calculated as 1/6 FTE.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in juvenile justice education programs and the Florida Virtual School.

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.


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(4) The maximum value for funding a student in kindergarten through grade 12 or in a prekindergarten program for exceptional children as provided in s. 1003.21(1)(e), ~~except for a student as set forth in sub-sub-subparagraph (1)(c)1.b.(I),~~ is one full-time equivalent student membership for a school year or equivalent.

Section 16. Paragraph (f) of subsection (1), paragraph (b) of subsection (6), subsection (9), and paragraph (b) of subsection (13) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(f) Supplemental academic instruction; categorical fund.—

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program.

<u>For the 2012-2013 and 2013-2014 fiscal years, each school district that has one or more of the 100 lowest-performing elementary schools based on the state reading assessment shall use these funds, together with the funds provided in the district's research-based reading instruction allocation and other available funds, to provide an additional hour of instruction beyond the normal school day for each day of the entire school year for intensive reading instruction for the students in each of these schools. This additional hour of instruction must be provided only by teachers or reading specialists who are effective in teaching reading. Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Exceptional student education centers shall not be included in the 100 schools. After this requirement has been met,</u> supplemental instruction strategies may include, but are not limited to: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student


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achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

3. Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 1003.52, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

(6) CATEGORICAL FUNDS.—

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation.

2. Funds for safe schools.

3. Funds for supplemental academic instruction <u>if the required additional hour of instruction beyond the normal school day for each day of the entire school year has been provided for the students in each low-performing elementary school in the district pursuant to paragraph (1)(f)</u>.

4. Funds for research-based reading instruction <u>if the required additional hour of instruction beyond the normal school day for each day of the entire school year has been provided for the students in each low-performing elementary school in the district pursuant to paragraph (9)(a)</u>.

5. Funds for instructional materials if all instructional material purchases necessary to provide updated materials aligned to Next Generation


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Sunshine State Standards and benchmarks and that meet statutory requirements of content and learning have been completed for that fiscal year, but no sooner than March 1. Funds available after March 1 may be used to purchase hardware for student instruction.

(9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

(a) The research-based reading instruction allocation is created to provide comprehensive reading instruction to students in kindergarten through grade 12. For the 2012-2013 and 2013-2014 fiscal years, in each school district that has one or more of the 100 lowest-performing elementary schools based on the state reading assessment, priority shall be given to providing an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year for the students in each school. Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Exceptional student education centers shall not be included in the 100 schools. The intensive reading instruction delivered in this additional hour and for other students shall include: research-based reading instruction that has been proven to accelerate progress of students exhibiting a reading deficiency; differentiated instruction based on student assessment data to meet students' specific reading needs; explicit and systematic reading development in phonemic awareness, phonics, fluency, vocabulary, and comprehension, with more extensive opportunities for guided practice, error correction, and feedback; and the integration of social studies, science, and mathematics-text reading, text discussion, and writing in response to reading. For the 2012-2013 and 2013-2014 fiscal years, a school district may not hire more reading coaches than were hired during the 2011-2012 fiscal year unless all students in kindergarten through grade 5 who demonstrate a reading deficiency, as determined by district and state assessments, including students scoring Level 1 or Level 2 on FCAT Reading, are provided an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year.

(b) Funds for comprehensive, research-based reading instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. Each eligible school district shall receive the same minimum amount as specified in the General Appropriations Act, and any remaining funds shall be distributed to eligible school districts based on each school district's proportionate share of K-12 base funding.

(c) Funds allocated under this subsection must be used to provide a system of comprehensive reading instruction to students enrolled in the K-12 programs, which may include the following:

1. The provision of an additional hour per day of intensive reading instruction to students in the 100 lowest-performing elementary schools by teachers and reading specialists who are effective in teaching reading.


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2. Kindergarten through grade 5 reading intervention teachers to provide intensive intervention during the school day and in the required extra hour for students identified as having a reading deficiency.

3.~~1.~~ The provision of highly qualified reading coaches to specifically support teachers in making instructional decisions based on student data, and improve teacher delivery of effective reading instruction, intervention, and reading in the content areas based on student need.

4.~~2.~~ Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text.

5.~~3.~~ The provision of summer reading camps for all students in kindergarten through grade 2 who demonstrate a reading deficiency as determined by district and state assessments, and students in grades 3 through 5 who score at Level 1 on FCAT Reading.

6.~~4.~~ The provision of supplemental instructional materials that are grounded in scientifically based reading research.

7.~~5.~~ The provision of intensive interventions for ~~middle and high school~~ students in kindergarten through grade 12 who have been identified as having a reading deficiency or who are reading below grade level as determined by the FCAT.

(d) Annually, by a date determined by the Department of Education but before May 1, school districts shall submit a K-12 comprehensive reading plan for the specific use of the research-based reading instruction allocation in the format prescribed by the department for review and approval by the Just Read, Florida! Office created pursuant to s. 1001.215. The plan annually submitted by school districts shall be deemed approved unless the department rejects the plan on or before June 1. If a school district and the Just Read, Florida! Office cannot reach agreement on the contents of the plan, the school district may appeal to the State Board of Education for resolution. School districts shall be allowed reasonable flexibility in designing their plans and shall be encouraged to offer reading intervention ~~remediation~~ through innovative methods, including career academies. The plan format shall be developed with input from school district personnel, including teachers and principals, and shall allow courses in core, career, and alternative programs that deliver intensive reading remediation through integrated curricula, provided that the teacher is deemed highly qualified to teach reading or working toward that status. No later than July 1 annually, the department shall release the school district's allocation of appropriated funds to those districts having approved plans. A school district that spends 100 percent of this allocation on its approved plan shall be deemed to have been in compliance with the plan. The department may withhold funds upon a determination that reading instruction allocation funds are not being used to implement the approved plan. The department shall monitor and track the implementation of each district plan, including conducting site visits and


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collecting specific data on expenditures and reading improvement results. By February 1 of each year, the department shall report its findings to the Legislature.

(13) TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.—The total annual state allocation to each district for current operation for the FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(b) The amount thus obtained shall be the net annual allocation to each school district. However, if it is determined that any school district received an underallocation or overallocation for any prior year because of an arithmetical error, assessment roll change required by final judicial decision, full-time equivalent student membership error, or any allocation error revealed in an audit report, the allocation to that district shall be appropriately adjusted. Beginning with audits for the 2001-2002 fiscal year, if the adjustment is the result of an audit finding in which group 2 FTE are reclassified to the basic program and the district weighted FTE are over the weighted enrollment ceiling for group 2 programs, the adjustment shall not result in a gain of state funds to the district. Beginning with the 2011-2012 fiscal year, if a special program cost factor is less than the basic program cost factor, an audit adjustment may not result in the reclassification of the special program FTE to the basic program FTE. If the Department of Education audit adjustment recommendation is based upon controverted findings of fact, the Commissioner of Education is authorized to establish the amount of the adjustment based on the best interests of the state.

Section 17. Paragraph (e) of subsection (2) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 1.5 mills against the taxable value for school purposes for district schools, including charter schools at the discretion of the school board, to fund:

(e) Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not exceeding, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district school board pursuant to this subsection. ~~For the 2009-2010 fiscal year,~~ The three-fourths limit is waived for lease-purchase agreements entered into before June 30, 2009, by a district school board pursuant to this paragraph.

Section 18. Paragraph (a) of subsection (10) of section 1013.03, Florida Statutes, is amended to read:

1013.03 Functions of the department and the Board of Governors.—The functions of the Department of Education as it pertains to educational


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facilities of school districts and Florida College System institutions and of the Board of Governors as it pertains to educational facilities of state universities shall include, but not be limited to, the following:

(10)(a) Review and validate surveys proposed or amended by the boards and recommend to the Commissioner of Education, or the Chancellor of the State University System, as appropriate, for approval, surveys that meet the requirements of this chapter.

1. The term "validate" as applied to surveys by school districts means to review inventory data as submitted to the department by district school boards; provide for review and inspection, where required, of student stations and aggregate square feet of inventory changed from satisfactory to unsatisfactory or changed from unsatisfactory to satisfactory; compare new school inventory to allocation limits provided by this chapter; review cost projections for conformity with cost limits set by s. 1013.64(6); compare total capital outlay full-time equivalent enrollment projections in the survey with the department's projections; review facilities lists to verify that student station and auxiliary facility space allocations do not exceed the limits provided by this chapter and related rules; review and confirm the application of uniform facility utilization factors, where provided by this chapter or related rules; utilize the documentation of programs offered per site, as submitted by the board, to analyze facility needs; confirm that need projections for career and adult educational programs comply with needs documented by the Department of Education; and confirm the assignment of full-time student stations to all space except auxiliary facilities, which, for purposes of exemption from student station assignment, include the following:

a. Cafeterias.

b. Multipurpose dining areas.

c. Media centers.

d. Auditoriums.

e. Administration.

f. Elementary, middle, and high school resource rooms, up to the number of such rooms recommended for the applicable occupant and space design capacity of the educational plant in the State Requirements for Educational Facilities, beyond which student stations must be assigned.

g. Elementary school skills labs, up to the number of such rooms recommended for the applicable occupant and space design capacity of the educational plant in the State Requirements for Educational Facilities, beyond which student stations must be assigned.

h. Elementary school art and music rooms.


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The Commissioner of Education may grant a waiver from the requirements of this subparagraph if a district school board determines that such waiver will make possible a substantial savings of funds or will be advantageous to the welfare of the educational system. The district school board shall present a full statement to the commissioner which sets forth the facts that warrant the waiver. If the commissioner denies a request for a waiver, the district school board may appeal such decision to the State Board of Education.

2. The term "validate" as applied to surveys by Florida College System institutions and universities means to review and document the approval of each new site and official designation, where applicable; review the inventory database as submitted by each board to the department, including noncareer, and total capital outlay full-time equivalent enrollment projections per site and per college; provide for the review and inspection, where required, of student stations and aggregate square feet of space changed from satisfactory to unsatisfactory; utilize and review the documentation of programs offered per site submitted by the boards as accurate for analysis of space requirements and needs; confirm that needs projected for career and adult educational programs comply with needs documented by the Department of Education; compare new facility inventory to allocations limits as provided in this chapter; review cost projections for conformity with state averages or limits designated by this chapter; compare student enrollment projections in the survey to the department's projections; review facilities lists to verify that area allocations and space factors for generating space needs do not exceed the limits as provided by this chapter and related rules; confirm the application of facility utilization factors as provided by this chapter and related rules; and review, as submitted, documentation of how survey recommendations will implement the detail of current campus master plans and integrate with local comprehensive plans and development regulations.

Section 19. Paragraph (f) of subsection (2) of section 1013.35, Florida Statutes, is amended to read:

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

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

(f) ~~Commencing on October 1, 2002, and~~ Not less than once every 5 years ~~thereafter~~, the district school board shall have ~~contract with a qualified, independent third party to conduct~~ a financial management and performance audit conducted of the educational planning and construction activities of the district. An audit conducted by the Office of Program Policy Analysis and Government Accountability and the Auditor General pursuant to s. 1008.35 satisfies this requirement.

Section 20. (1) For the 2012-2013 fiscal year, there is established the K-12 Public School Facility Funding Task Force. The Department of Education shall provide staff and administrative support to the task force. All


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appointments must be made by July 15, 2012. The task force shall convene no later than July 31, 2012, for the purpose of examining all relevant factors in order to make recommendations to the Legislature for more equitable facility funding for charter schools and schools operated by a school district, including, but not limited to:

(a) Charter school facility funding needs.

(b) Existing funding and revenue sources available for fixed capital outlay needs of charter schools and schools operated by a school district.

(c) Long-term debt for school facilities.

(d) Class size requirements and the impacts of such requirements on facilities funding needs.

(e) District facilities utilization.

(2) The task force shall be composed of the following 11 members:

(a) The Deputy Commissioner of Finance and Operations of the Department of Education or his or her designee, who shall be the chair of the task force.

(b) The following members appointed by the Governor:

1. The parent of a student attending a charter school.

2. The parent of a student attending a school operated by a school district.

(c) The following members appointed by the President of the Senate:

1. The superintendent from a small to medium sized school district based on student population.

2. A member of the district school board from a large sized school district based on student population.

3. A member of the governing board of a charter school that does not operate another charter school and is a member of the Florida Consortium of Public Charter Schools.

4. An operator of a charter school that manages multiple charter schools.

(d) The following members appointed by the Speaker of the House of Representatives:

1. The superintendent from a large sized school district based on student population.


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2. A member of the district school board from a small to medium sized school district based on student population.

3. A member of the governing board of a charter school that operates multiple charter schools and is a member of the Florida Consortium of Public Charter Schools.

4. An operator of a charter school that does not manage more than one charter school.

Except for the Deputy Commissioner of Finance and Operations or his or her designee, no member of the task force may be qualified as a lobbyist under s. 11.045 or s. 112.3215, Florida Statutes.

(3) The Department of Education shall coordinate with the task force to compile the necessary data for the task force to make recommendations.

(4) The task force shall complete its work and submit its recommendations by December 1, 2012, to the chair of the Senate Budget Committee, the chair of the House of Representatives Appropriations Committee, and the Executive Office of the Governor.

(5) The task force is abolished June 30, 2013.

Section 21. (1) The Digital Instructional Materials Work Group is created to plan and monitor the implementation of the transition to digital instructional materials as required in ss. 1006.29(3) and 1006.40(3)(a), Florida Statutes.

(2) The Commissioner of Education, or his or her designee, shall serve as the ex officio, nonvoting executive director of the work group.

(3) The work group shall be comprised of the following: one school district instructional technology expert, one school district instructional content expert with experience in digital learning initiatives, one representative from an institution of postsecondary education, one high school principal with experience in digital learning initiatives, one middle school principal with experience in digital learning initiatives, one business representative, and one parent.

(4) A member may not represent a company that has a business interest in education content or technology.

(5) The chair shall schedule and conduct the first meeting of the work group by October 1, 2012. The work group shall conduct a majority of its meetings virtually.

(6) The work group shall submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and State Board of Education by March 1, 2013. The report shall include an implementation plan for meeting the deadline of transition to digital instructional materials


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as provided in ss. 1006.29(3) and 1006.40(3)(a), Florida Statutes. The plan must specify options for the provision of access devices for students, options for providing content by subject area, provisions for training and professional development for preservice and inservice teachers, and a detailed review of options for funding, including the reprioritization of existing resources and recommendations for new funding.

Section 22. Notwithstanding the amendments made by this act to s. 1003.03(4)(a)4., Florida Statutes, for the 2011-2012 fiscal year, the calculation required by that subparagraph shall be an amount equal to 50 percent of the base student allocation adjusted by the district cost differential. This section shall take effect upon this act becoming a law.

Section 23. Notwithstanding the required review by the Legislative Budget Commission pursuant to s. 1003.03(4)(c), Florida Statutes, and s. 41 of chapter 2011-55, Laws of Florida, for the 2011-2012 fiscal year, the alternate compliance calculation amounts to the class size operating categorical fund authorized by s. 1003.03(4)(c), Florida Statutes, shall be the reduction calculation required by s. 1003.03(4), Florida Statutes. The Commissioner of Education shall modify payments to districts as required by s. 1003.03(4), Florida Statutes, for the 2011-2012 fiscal year. This section shall take effect upon this act becoming a law.

Section 24. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2012.

Approved by the Governor April 20, 2012.

Filed in Office Secretary of State April 20, 2012.


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