

Task Force on Education and Workforce Development

Spring Task Force Summit

Pittsburgh, PA

May 6, 2016

Education and Workforce Task Force
Spring Task Force Summit | Pittsburgh, Pennsylvania
Friday May 6, 2016
2:30 - 5:30 PM

Call to Order

Welcome
New Member Introductions
Approval of Minutes from States and Nation Policy Summit 2015
Subcommittee Report

Presentations and Model Policy

Model Policy Consideration: Amendments to Great Schools Tax Credit Program Act

Presentation: Principles of Charter Policy: What Works

Speakers: Center for Education Reform, Alliance for Public Charter Schools, Pittsburgh Charter Operator [invited]

Model Policy Consideration: Sunsetting Policies

Founding Principles Act
Great Teachers and Leaders Act
A-Plus Literacy Act
The Open Enrollment Act
Indiana Education Reform Package

Presentation: Education Savings Accounts Presentation

Speakers: Starlee Coleman (Goldwater Institute), Inez Feltscher (ALEC)

For the Good of the Order

Adjournment

Education and Workforce Task Force
Higher Education Subcommittee
Spring Task Force Summit | Pittsburgh, Pennsylvania
Friday May 6, 2016
9:30 - 10:30 AM *[time TBD]*

9:30 AM **Call to Order**

Welcome
Chair and Subcommittee Introductions

Presentations and Model Policy

9:35 AM

Presentation: Campus Freedom and State Legislative Policy
Speakers: Joe Cohn (FIRE), Representative Kim Coleman (Utah), Representative Anthony Kern (Arizona)

10:15 AM

Model Policy Discussion: Resolution Regarding Academic Freedom on Campus
Task Force input on future model policy resolution

10:30 AM

Adjournment

NEW MODEL POLICY

THE GREAT SCHOOLS TAX CREDIT PROGRAM ACT (SCHOLARSHIP TAX CREDITS)

Summary

The Great Schools Tax Credit Program authorizes a tax credit for individual and corporate contributions to organizations that provide educational scholarships to eligible students so they can attend qualifying public or private schools of their parents' choice.

Model Policy

Section 1. {Title} The Great Schools Tax Credit Program Act

Section 2. {Definitions}

(A) "Program" means the Great Schools Tax Credit Program.

(B) "Eligible student" means a student who:

(1)(i) is a member of a household whose total annual income the year before he or she receives an educational scholarship under this program does not exceed an amount equal to 2 times the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years of ageⁱ; (ii) was eligible to attend a public school in the preceding semester or is starting school in [state] for the first timeⁱⁱ; (iii) resides in [state] while receiving an educational scholarship or,

(2)(i) is a sibling of a student already enrolled in the program (ii) resides in [state] while receiving an educational scholarship.

(C) "Low-income eligible student" means a student who qualifies for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.ⁱⁱⁱ

(D) "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the child.

(E) "Department" means the state Department of Revenue.

(F) "Qualifying school" means either a public school outside of the resident school district, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program's requirements.^{iv}

(G) "Educational scholarships" means grants to students to cover all or part of the tuition and fees at either a qualifying private school or a qualifying public school, including transportation to a public school outside of a student's resident school district.

(H) "Scholarship Granting Organization" means an organization that complies with the requirements of the state's school scholarship tax credit program and provides or is approved to provide educational scholarships to students attending qualifying schools of their parents' choice.

(I) “Test” means either the state achievement test or nationally norm-referenced test chosen by the participating school.

Section 3. {Basic Elements of the Great Schools Tax Credit Program}

(A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a scholarship granting organization.

(B) The tax credit may be claimed by an individual or a married couple filing jointly or corporate taxpayer in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to ~~50~~ 100 percent of the taxpayer’s tax liability.^v

~~(C) The tax credit may be claimed by a corporate taxpayer in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 50 100 percent of the taxpayer’s tax liability.~~

(D) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit under this program for three years.^{vi}

Section 4. {Responsibilities of Scholarship Granting Organizations}^{vii}

(A) Administrative Accountability Standards. All scholarship granting organizations shall:

(1) notify the Department of their intent to provide educational scholarships to students attending qualifying schools;

(2) demonstrate to the Department that they have been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;

(3) distribute periodic scholarship payments as checks made out to a student’s parent or guardian and mailed to the qualifying school where the student is enrolled. The parent or guardian must endorse the check before it can be deposited;

(4) provide a Department-approved receipt to taxpayers for contributions made to the organization;

(5) ensure that at least 90 percent of their revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;

(6) spend each year a portion of their expenditures on scholarships for low-income eligible students equal to the percentage of low-income eligible students in the county where the scholarship granting organization expends the majority of its scholarships;^{viii}

(7) ensure that at least X percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year;^{ix}

(8) not grant multiyear scholarships to participating students in one approval process;

(9) carry forward no more than 25 percent of their revenue from donations from the state fiscal year in which they were received to the following state fiscal year;

(10) cooperate with the Department to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual(s) that might reasonably pose a risk to the appropriate use of contributed funds;^x

(11) ensure that scholarships are portable during the school year and can be used at any qualifying school, or qualifying school within the scholarship granting organization's network of schools if the student received a scholarship from a scholarship granting organization with a network of schools, that accepts the eligible student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship amount may be prorated.

(11) publicly report to the Department by June 1 of each year the following information prepared by a certified public accountant regarding their grants in the previous calendar year:

(a) the name and address of the student support organization;

(b) the total number and total dollar amount of contributions received during the previous calendar year; and

(c) the total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year to students qualifying for the federal free and reduced-price lunch program,^{xi} and the percentage of first-time recipients of educational scholarships who were enrolled in a public school during the previous year.

(12) ensure scholarships are not provided for students to attend a school with paid staff or board members, or relatives thereof, in common with the scholarship granting organization.

(B) Financial Accountability Standards.^{xii}

(1) All scholarship granting organizations shall demonstrate their financial accountability by:

(a) annually submitting to the Department a financial information report for the organization that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant; and

(b) If a scholarship granting organization provides equal to or more than \$500,000 in scholarships to eligible students through this program, it shall^{xiii}:

(+) provide to the Department of Revenue a report on the results of an annual financial audit of the organization or its relevant accounts and records pertaining to tax-credit eligible donations conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules promulgated by the Department of Revenue. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. Audit reports must be provided to the Department of Revenue within 180

days after completion of the scholarship granting organization's fiscal year. The Department of Revenue shall review all audit reports submitted pursuant to this paragraph. The Department of Revenue shall request any significant items that were omitted in violation of a rule adopted by the Department of Revenue. The items must be provided within 45 days after the date of the request.

(2) All participating private schools shall demonstrate financial viability, if they are to receive donations of \$50,000 or more during the school year, by:

(a) filing with the scholarship granting organization prior to the start of the school year a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) filing with the scholarship granting organization prior to the start of the school year financial information that demonstrates the financial viability of the participating school.

Section 5. {Program Oversight of Participating Schools}

(A) Each scholarship granting organization shall collect written verification from participating, private schools that accept its scholarship students that those schools:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;^{xiv} and

(4) conduct criminal background checks on employees and then:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.^{xv}

(B) Academic Accountability Standards. There must be sufficient information about the academic impact scholarship tax credits have on participating students in order to allow parents and taxpayers to measure the achievements of the program, and therefore:

(1) each scholarship granting organization shall ensure that participating schools that accept its scholarship shall:^{xvi}

(a) annually administer either the state achievement tests or nationally norm-referenced tests that measure learning gains in math and language arts, and provide for value-added assessment, to all participating students in grades that require testing under the state's accountability testing laws for public schools;

(b) allow costs of the testing requirements to be covered by the scholarships distributed by the scholarship granting organizations;

(c) provide the parents of each student who was tested with a copy of the results of the tests on an annual basis, beginning with the first year of testing;

(d) provide the test results to the Department or an organization chosen by the state^{xvii} on an annual basis, beginning with the first year of testing;

(e) report student information that would allow state to aggregate data by grade level, gender, family income level, and race;

(f) for secondary schools, provide rates of high school graduation for participating students to the Department or an organization chosen by the state in a manner consistent with nationally recognized standards; and

(g) provide to the Department or an organization chosen by the state the results from an annual parental satisfaction survey, including information about the number of years that the parent's child has participated in the scholarship program. The annual satisfaction survey shall ask parents of scholarship students to express:

(1) Their satisfaction with their child's academic achievement, including academic achievement at the school their child attended through the scholarship program versus academic achievement at the school previously attended, if applicable;

(2) Their satisfaction with school safety at the school their child attends, including school safety at the school their child attended through the scholarship program versus safety at the school previously attended, if applicable;

(3) Whether their child would have been able to attend their school of choice without the scholarship; and

(4) Their opinions on other topics, items, or issues that the department finds would elicit information about the effectiveness of the scholarship program.^{xviii}

(2) the Department or an organization chosen by the state shall:

(a) ensure compliance with all student privacy laws;

(b) collect all test results; and

(c) provide the test results and associated learning gains to the public via a state Web site after the third year of test and test-related data collection.^{xix} The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race.^{xx}

Section 6. {Responsibilities of the Department of Revenue }

(A) The Department shall adopt rules and procedures consistent with this act as necessary to implement the program.

(B) The Department shall provide a standardized format for a receipt to be issued by a scholarship granting organization to a taxpayer to indicate the value of a contribution received. The Department shall require a taxpayer to provide a copy of this receipt when claiming the Great Schools Tax Credit.

(C) The Department shall provide a standardized format for a scholarship granting organizations to report the information in Section 4(A)(10) above.

(D) The Department shall have the authority to conduct either a financial review or audit of a scholarship granting organization if possessing evidence of fraud.

(E) The Department may bar a scholarship granting organization from participating in the program if the Department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements in Section 4 or Section 5.

(F) If the Department decides to bar a scholarship granting organization from the program, it shall notify affected scholarship students and their parents of this decision as quickly as possible.

(G) The Department shall allow a taxpayer to divert a prorated amount of state income tax withholdings to a scholarship granting organization of the taxpayer's choice up to the maximum credit allowed by law, including carry-over credits. The Department shall have the authority to develop a procedure to facilitate this process.^{xxi}

Section 7. {Responsibilities of Qualifying Schools }

(A) All qualified schools shall be required to operate in [state].

(B) All qualifying schools shall comply with all state laws that apply to private schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a private school.

Section 8. {Effective Date} The Great Schools Tax Credit may be first claimed in the next calendar year.

Endnotes

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice tax credit legislation. In general, legislators and the public seek greater state regulation of programs directly funded by the government than of tax credit programs under the belief that tax credits are private funds kept by taxpayers rather than public funds expended by governments. However, insufficient accountability regulation can produce situations that undermine public and legislative support for the program. In recognition of this potential, we have chosen to recommend the establishment and state regulation of scholarship granting organizations rather than heavy government regulation of private contributions and private schools.

¹ The definition for an eligible student is limited to those children in a household whose annual income does not exceed an amount equal to 2 times the income standard used to qualify for the federal free and reduced-price lunch program (FRL). The authors chose this standard for several reasons: 1) the FRL program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income families cannot afford the choice of a private school. Experience suggests that most parents' ability to choose a private school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen a multiple of 2 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle-class families face in paying for private schools.

¹ The definition for an eligible student in this model legislation includes students presently enrolled in a private school. Drafted this way, the tax credit will necessarily reward many families who are already financing their child's education at a non-resident public school or a private school. For this reason some states with a scholarship tax credit program have chosen to place a cap on the total dollar amount eligible for the tax credit. If legislators decide to include a statewide tax credit cap in the legislation, the authors strongly recommend that language should be added to automatically allow the cap to increase by twenty-five (25) percent in any year after ninety (90) percent of the cap was reached in the previous year.

Alternatively, legislators wishing to draft a bill with a more modest fiscal impact may want to limit eligibility to students who attended a public school in the last year or are starting school in their state for the first time. In this case, there may actually be a savings for state taxpayers since a scholarship covering private school costs in many cases will be less than the cost of state support provided to students attending a public school.

¹ This model legislation creates an additional class of eligible students who are from low-income families. Scholarship granting organizations are required to make sure that an appropriate proportion of their scholarship assistance reaches the poorest families in the state (see Section 4 (A)(6)). This ensures that assistance reaches the families who are least able to afford the school of their choice.

¹ This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

~~¹ The bill limits the tax credit an individual, married couple, or corporation can claim to 50 percent of their tax liability. While most states have chosen to implement a dollar cap on the tax credit available to each entity, this methodology is more equitable since it adjusts the cap to treat all taxpayers proportionately the same. The authors chose 50 percent because, in general, states spend about one-half of their income tax receipts on education. Allowing taxpayers to claim a tax credit for more than 50 percent of their liability opens the program up to charges that money is being diverted from non-education programs to support private schools. However, it can be easier to raise donations for scholarships when the percentage of a donor's tax liability eligible for a credit is higher, up to 100 percent. States like Florida, Arizona (Corporate), and Georgia allow donors to receive a credit for 100 percent of their tax liability. The bill allows an individual, married couple, or corporation to claim a tax credit up to 100 percent of their tax liability, as is the practice in most states with tax-credit scholarship laws. A few states limit the amount of credits taxpayers can claim up to a certain percentage of their tax liability, but such restrictions make it harder for scholarship organizations to raise funds. This conflicts with the goal of the law which is to maximize the amount of scholarships available for students to attend the schools of their family's choice.~~

Depending on the state, additional corporate revenue streams from which a credit may be claimed for a contribution made to a scholarship granting organization may be listed in legislation. For example, states may have the following tax revenue streams from which to draw: insurance premium tax, alcohol beverage excise tax, direct pay sales and use tax, and oil and gas severance tax liability.

¹ The bill allows a taxpayer to carry forward any unused tax credits for up to three years. Individual incomes and corporate profits are often quite volatile. As a result, taxpayers may not have a liability against which to claim a credit in certain years. Yet the need for scholarship assistance by a student is likely to be relatively constant. Therefore, it is important to allow taxpayers to carry forward unused tax credits into other tax years to ensure that taxpayers have an incentive to continue to contribute to scholarship granting organizations even in years in which the taxpayer has no tax liability. The number does not have to be three years, but should match the existing state standard for tax deduction and carry forwards.

¹ The model legislation requires the establishment of scholarship granting organizations to protect scholarship recipients, frustrate attempts at fraud, and measure the impact of the program without heavy government regulation of private contributions and private schools. We prefer rigorous self-regulation by taxpayers and independent regulation of private school participation by SGO's in lieu of intrusive government regulation.

¹ The goal of this legislation is to provide every parent with the opportunity to send their child to the school that best meets their child's needs regardless of their family's income. The need for scholarship assistance is obviously greatest among low-income families. This requirement ensures that a proportionate amount of the scholarship assistance is given to the families financially least able to send their child to the school of their choice.

¹ The goal of the program is to expand the number of families who can afford to send their children to the school of their choice. Therefore, legislators may wish to require that a certain percentage of the scholarship assistance go to children who were not already in private schools. This will also hold down the costs of the program and increase the efficiency of the financial incentive for expanding choice. This requirement will be particularly important in states that choose to place a total dollar cap on the tax credit program since a limited amount of tax credits could be claimed for scholarship assistance to students previously attending private schools.

¹ The purpose of the criminal background checks is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The legislation gives the scholarship granting organizations the responsibility to do background checks, which gives them the power to exclude potential risks from the organization and alleviates liability issues for their employment decisions.

¹ Collecting information regarding how many scholarship students qualify for free and reduced-price lunch will give policymakers a sense of the students that are being served by scholarship tax credit programs. These income guidelines are broadly known and already used in private schools.

¹ The purpose of the financial information report and the demonstration of financial viability is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The model legislation provides for two methods for participating schools to demonstrate financial viability to ensure that scholarship funds are secure. The first method employs a market-based means of demonstrating viability. Companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed to the scholarship granting organization. They will therefore conduct the checks necessary to protect their financial interest as well as the financial interests of the contributors and recipients. Surety bonds can be expensive or invasive for some institutions so the legislation allows these schools to demonstrate by some other means that they have the financial wherewithal to fulfill their scholarship obligations. This might include things like personal guarantees, reserve accounts, or escrow accounts. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for these private organizations.

¹ Alternatively, policy makers may want to follow the federal regulations for the national school lunch program and use a \$750,000 threshold. Under the rules of the Office of Management and Budget (OMB) Circular A-133, certain organizations which receive \$750,000 or more in federal financial assistance from a single program must complete a program-specific audit (unless the particular federal program's laws or regulations require a financial statement audit).

¹ Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability).

¹ This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear

authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks, the power to exclude potential risks from the school, and the liability for their employment decisions.

¹ The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program and participating schools. Therefore, all participating schools should be required to annually administer either the state achievement tests or nationally norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the nationally norm-referenced test. Many private schools would simply refuse to participate in the program if they were forced to administer the state tests, because it implies that they are no longer independent of the state. The reason many opponents to school choice promote state testing of private schools is, in fact, because they want to discourage school participation and quietly destroy the program.

Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state or an organization chosen by the state, as described in Endnote ~~1716~~, in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program. The number and scope of the tests should be carefully limited to ensure that there is sufficient information to demonstrate the achievements of the program without being so exhaustive or prescriptive as to end up dictating the curriculum at participating schools. If legislators would like an extensive longitudinal study, refer to Endnote ~~2018~~ and its suggested language to create such a review

¹. If legislators are concerned about the hostility the program would face from the existing state revenue department, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this program allows for the flexibility to implement market-based models of academic accountability. In these cases, test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to which they may send their children.

¹ If legislators are concerned that parents of participating students may not feel comfortable honestly answering a survey administered by a SGO through which their child receives a scholarship, they can

require that the Department or an organization chosen by the state administer the parental satisfaction survey instead.

¹ The purpose of administering tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice programs. Policymakers must consider the goal of releasing the academic data in order to choose the most effective reporting process. For instance, if the goal is to see how the program is affecting participating students' learning gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating school outputs as a tool to help parents choose the best school, scores should be released by participating school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the greater its obligations for transparency and accountability.

¹ Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 5(B). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate not only whether students who participate in the program are better off but also, more importantly, whether the competition from private schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

¹ The legislation allows the Department to establish a mechanism that facilitates regular contributions from a taxpayer's income tax withholdings to a scholarship granting organization in anticipation of the taxpayer claiming a tax credit. This would likely encourage greater contributions to scholarship support organizations.

Section X. {Evaluation of the Great Schools Tax Credit Program}

(A) The Legislative Service Agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

(1) the level of participating students' satisfaction with the program;

(2) the level of parental satisfaction with the program;

(3) the fiscal impact to the state and resident school districts of the program;

(4) the resulting competition from private schools on the resident school districts, public school students, and quality of life in a community;

(5) the impact of the program on public and private school capacity, availability and quality; and

(6) participating students' academic performance and graduation rates in comparison to students who applied for a scholarship under this program but did not receive one because of random selection.

(7) college attendance and college graduation for participating students in a manner consistent with nationally recognized standards.

(C) The researchers who conduct the study shall:

(1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;

(2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender and race and ethnicity; and

(3) provide the legislature with a final copy of the evaluation of the program.

(D) The relevant public and private participating schools shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The Legislative Service Agency may accept grants to assist in funding this study.

(F) The study shall cover a period of 13 years. The legislature may require periodic reports from the researchers. After publishing their results, the researchers shall make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232 g).

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.

POLICIES FOR SUNSET REVIEW

FOUNDING PRINCIPLES ACT

Founding Principles Act

Summary

The Founding Principles Act would require during the high school years the teaching of a semester-long course on the philosophical understandings and the founders' principles, which are the foundation of our form of government for a free people, as incorporated in the Declaration of Independence, the United States Constitution, and the Federalist Papers.

Model Policy

Section 1. {Title.} Founding Principles Act.

Section 2. {Findings.} The legislature finds and declares:

Whereas, the adoption of the Declaration of Independence in 1776 and the signing of the United States Constitution in 1787 were seminal events in the history of the United States, the Declaration of Independence providing the philosophical foundation on which the nation rests, and the Constitution of the United States providing its structure of government; and

Whereas, the Federalist Papers embody the most eloquent and forceful argument made in support of the adoption of our republican form of government; and

Whereas, these documents, along with the writings of the Founders, stand as the foundation of our form of democracy, providing at the same time the touchstone of our national identity and the vehicle for orderly growth and change; and

Whereas, these Founding Documents established a set of principles, known as the Founders' Principles, which are the heart and soul of a government for a free society; and

Whereas, these principles enabled a group of 13 colonies to become the greatest and most powerful nation on earth in a relatively short period of time; and

Whereas, most Americans do not know about nor understand the timely and timeless importance of these principles to our form of government and to their current lives; and

Whereas, the survival of the republic requires that our nation's children, the future guardians of its heritage and participants in its governance, have a clear understanding of these principles and the importance of their preservation.

Now therefore, the State enacts the following:

Section 3. {Main provisions.}

(A) Local boards of education shall require during the high school years the teaching of a semester course on:

(1) the philosophical foundations of our form of government, and

(2) the principles underlying the Declaration of Independence, the United States Constitution, the Federalist Papers, and the writings of the Founders, which are the principles of government for a free people and are known as the "Founders' Principles."

(B) Local boards of education shall include among the requirements for graduation from high school a passing grade in a semester course on the principles underlying the Declaration of Independence, the United States Constitution, and the Federalist Papers.

(C) The State Board of Education shall require that any curriculum-based tests administered statewide beginning with [insert appropriate dates] academic year include questions related to the principles underlying the Declaration of Independence, the United States Constitution, and the most important arguments of the Federalist Papers.

(D) The State Department of Public Instruction [or other appropriate department] and the local boards of education, as appropriate, shall provide curriculum content for the semester course and teacher training to ensure that the intent and provisions of this subsection are carried out.

(E) The Department of Public Instruction [or other appropriate department] shall submit a biennial report to the General Assembly covering:

(1) the implementation of this subsection; and

(2) the statewide student results from the State curriculum-based tests administered in accordance with subdivision 3 of this subsection.

Section 4. {Severability clause.}

Section 5. {Repealer clause.}

Section 6. {Effective date.}

Approved by the ALEC Legislative Board of Directors on June 3, 2010.

GREAT TEACHERS AND LEADERS ACT

Great Teachers and Leaders Act

Summary

The Great Teachers and Leaders Act reforms the practice of tenure, known as nonprobationary status in some states. Teachers can earn tenure after 3 years of sufficient student academic growth; tenure is revocable following 2 consecutive years of insufficient growth. The council for educator effectiveness will define teacher effectiveness and come up with parameters for an evaluation system that requires 50 percent of a teacher's evaluation to be based on student achievement using multiple measures. The Act requires principals to be evaluated annually with 50 percent of the evaluation based on student achievement and their ability to develop teachers in their buildings and increase their effectiveness. The Act eliminates the practice of forced teacher placement (slotting teachers in schools without their or the principal's consent) and replaces it with mutual consent hiring using the Chicago model (principals and teachers must agree to teacher placements and teachers who are not selected serve as substitutes for a year and, if not selected in the subsequent hiring cycle, are put on unpaid leave). The Act allows school districts to make reduction in force decisions based on teacher performance rather than on seniority.

Model Policy

Section 1. {Legislative declaration.}

(A) The Legislature hereby declares that:

(1) A system to evaluate the effectiveness of licensed personnel is crucial to improving the quality of education in this state and declares that such a system shall be applicable to all licensed personnel in the school districts and boards of cooperative services throughout the state; and

(2) The purposes of the evaluation shall be to:

(a) Serve as a basis for the improvement of instruction;

- (b) Enhance the implementation of programs of curriculum;
- (c) Serve as a measurement of the professional growth and development of licensed personnel;
- (d) Evaluate the level of performance based on the effectiveness of licensed personnel; and
- (e) Provide a basis for making decisions in the area of hiring, compensation, promotion, assignment, professional development, earning and retaining nonprobationary status, dismissal, and nonrenewal of contract.

(B) The Legislature further declares that a professionally sound and credible system to evaluate the effectiveness of licensed personnel shall be designed with the involvement of licensed personnel and citizens of the school district or board of cooperative services.

(C) The Legislature further declares that the involvement and support of parents of children in public schools, acting as partners with teachers and public school administrators, are key to the educational progress of their children.

Section 2. {Definitions.} As used in this article, unless the context otherwise requires:

(A) “Council” means the state council for educator effectiveness, as defined in Section 4(B)(2). The council shall elect its chair. No more than eight members shall belong to any one political party.

(B) “Department” means the state department of education or other appropriate agency.

(C) “Performance Standards” means the levels of effectiveness established by rule of the state board pursuant to Section (4)(B)(10).

(D) “Principal” means a person who is employed as the Chief Executive Officer or an Assistant Chief Executive Officer of a school in the state and who administers, directs, or supervises the education program in the school.

(E) “Quality Standards” means the elements and criteria established to measure effectiveness as established by rule of the state board pursuant to Section (4)(B)(10).

(F) “Principal Development Plan” means a written agreement developed by a principal and district administration that outlines the steps to be taken to improve the principal’s effectiveness. The Principal Development Plan shall include professional development opportunities.

(G) “Teacher Development Plan” means a written agreement mutually developed by a teacher and his or her principal that outlines the steps to be taken to improve the teacher’s effectiveness. The Teacher Development Plan may include but need not be limited to consideration of induction and mentorship programs, use of highly effective teachers as instructional leaders or coaches, and appropriate professional development activities.

(H) “Teacher” means a person who holds an alternative, initial, or professional teacher license issued pursuant to the provisions of [insert appropriate reference] and who is employed by a school district or a charter school in the state to instruct, direct, or supervise an education program.

(I) “Probationary teacher” means a teacher who has not completed three consecutive years of demonstrated effectiveness or a nonprobationary teacher who has had two consecutive years of demonstrated ineffectiveness, as defined by rule adopted by the Legislature pursuant to Section 4.

Section 3. {State board – powers and duties – rules.}

(A) The state board shall:

(1) Pursuant to Section 4, work with the council to promulgate rules concerning the planning, development, implementation, and assessment of a system to evaluate the effectiveness of licensed personnel;

(2) Review school district and board of cooperative services processes and procedures for licensed personnel performance evaluation systems to assure that such systems are professionally sound; will result in a fair, adequate, and credible evaluation; and will satisfy quality standards in a manner that is appropriate to the size, demographics, and location of the school district or board of cooperative services, and that is consistent with the purposes of this article; and

(3)

(a) On or before September 1, 2011, the state board shall promulgate rules with regard to the issues specified in Subsection (K) of Section 4 using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to one or more of the issues specified in Subsection (K) of Section 4, the state board, on or before September 1, 2011, shall promulgate rules concerning any issues in Subsection (K) of Section 4, that the council did not address. In promulgating rules pursuant to this Paragraph (3), the state board shall conform to the timeline set forth in Section 4.

(b) On or before February 15, 2012, the Legislature shall review the rules promulgated pursuant to Subparagraph (a) of this Paragraph (3), in a bill that is separate from the annual rule review bill introduced; except that the Legislature reserves the right to repeal individual rules in the rules promulgated by the state board. If one or more rules are not approved by the Legislature pursuant to this subparagraph (II), the state board shall promulgate emergency rules on such issue or issues and resubmit to the Legislature on or before May 1, 2012. The Legislature shall review the emergency rules promulgated according to the process outlined in this Subparagraph (b).

Section 4. {State council for educator effectiveness – legislative declaration – membership – duties – recommendations – rules.}

(A) The Legislature hereby finds and declares that:

(1) The Legislature finds and declares that it is in the best interests of the people of the state of [state] to codify in statute a council for educator effectiveness because of the significant statutory duties and responsibilities that the Legislature is assigning to said council.

(2) The council is charged with, among other duties, considering options and providing recommendations concerning educator effectiveness and developing recommendations for definitions of principal and teacher effectiveness.

(B)

(1) There is hereby created the state council for educator effectiveness, referred to in this article as the “Council”.

(2) The members of the council for educator effectiveness, shall serve on the council. As appointed by the governor, and shall include:

- (a) The Commissioner of Education, or his or her designee;
 - (b) The Executive Director of the Department of Higher Education, or his or her designee;
 - (c) Four teachers, selected with the advice of state associations that represent educators;
 - (d) Two public school administrators and one local school district superintendent, each selected with the advice of a state association that represents school executives;
 - (e) Two members of local school boards, selected with the advice of a state association that represents school boards;
 - (f) One charter school administrator or teacher, selected with the advice of a state advocacy group for charter schools;
 - (g) One parent of a public school student, selected with the advice of a state parent and teachers association;
 - (h) A current student or recent graduate of a [state] public school, selected with the advice of a statewide student coalition; and
 - (i) One at-large member with expertise in education policy.
- (3) The purpose of the council shall be to ensure educator effectiveness, and shall be to consider options and make recommendations to the state board and the Legislature that seek to ensure that all licensed personnel are:
- (a) Evaluated using multiple fair, transparent, timely, rigorous, and valid methods, at least fifty percent of which evaluation is determined by the academic growth of their students;
 - (b) Afforded a meaningful opportunity to improve their effectiveness; and
 - (c) Provided that means to share effective practices with other educators throughout the state.
- (C) The council shall have the following duties:

(1) On or before March 1, 2011, to provide the state board with recommendations that will ensure that every teacher is evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this Paragraph (1) shall require that at least fifty percent of the evaluation is determined by the academic growth of the teacher's students and that each teacher is provided with an opportunity to improve his or her effectiveness through a teacher development plan that links his or her evaluation and performance standards to professional development opportunities. The quality standards for teachers shall include measures of student longitudinal academic growth and may include interim assessment results or evidence of student work, provided that all are rigorous and comparable across classrooms and aligned with state model content standards and performance standards developed pursuant to article 7 of title 22. For the purposes of quality standards. Expectations of student academic growth shall take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student. The quality standards for teachers shall be clear and relevant to the teacher's roles and responsibilities and shall have the goal of improving student academic growth. The council shall include in its recommendations a definition of effectiveness and its relation to quality standards. The definition of effectiveness shall include, but need not be limited to, criteria that will be used to differentiate between performance standards. The defined performance standards shall include, but need not be limited to, "highly effective", "effective", and "ineffective". The council shall consider whether additional performance standards should be established.

(2) On or before March 1, 2011, to provide the state board with recommendations that will ensure that every principal is evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations pursuant to this Paragraph (2) shall require that every principal is provided with a principal development plan. On making its recommendations, the council shall recognize not all teachers and principals require the same amount of supervision and evaluation. As part of its recommendations to the state board, the council shall develop a process to enable a local school district to differentiate teacher and principal evaluations as part of its performance evaluation system.

(3) On or before March 1, 2011, to provide the state board with recommendations concerning the implementation and testing of the new performance evaluation system that is based on quality standards and with recommendation for the subsequent statewide implementation of the new performance evaluation system. The recommendation made pursuant to this Paragraph (3) shall conform to the timeline set forth in Subsection (C) of this Section (4).

(4) On or before March 1, 2011, to make recommendations to the state board concerning the involvement and support of parents of children in public school, to the effect that parents should act as partners with teachers and public school administrators;

(5) On or before March 1, 2011, to provide the state board with recommendations that will ensure development of a set of guidelines for establishing performance standards for each category of licensed personnel to be evaluated pursuant to this article. The guidelines shall outline criteria to be applied in assigning educators to appropriate performance standards, which shall include measures of student longitudinal academic growth.

(6) On or before March 1, 2011, to develop and recommend to the state board statewide definitions of principal effectiveness and teacher effectiveness, each of which shall be centered on an educators demonstrated ability to achieve and sustain adequate student growth and shall include a set of professional skills and competencies related to improved student outcomes;

(7) On or before March 1, 2011, to develop and recommend to the state board guidelines for adequate implementation of a high-quality educator evaluation system that shall address, at a minimum, the following issues:

(a) Ongoing training on the use of the system that is sufficient to ensure that all evaluators and educators have a full understanding of the evaluation system and its implementation. The training may include such activities as conducting joint training sessions for evaluators and educators.

(b) Evaluation results that are normed to ensure consistency and fairness;

(c) Evaluation rubrics and tools that are deemed fair, transparent, rigorous, and valid;

(d) Evaluations that are conducted using sufficient time and frequency, at least annually, to gather sufficient data upon which to base the ratings contained in and evaluation;

(e) Provision of adequate training and collaborative time to ensure that educators fully understand and have the resources to respond to student academic growth data;

(f) Student data that is monitored at least annually to ensure the correlation between student academic growth and outcomes with educator effectiveness ratings; and

(g) A process by which a nonprobationary teacher may appeal his or her second consecutive performance rating ineffective and submit such process by the first day of convening of the Legislature to the education committees of the house of representatives and the senate, or any successor committees

(8) On or before March 1, 2011, to adopt and recommend to the state board a rubric for identifying multiple additional quality standards, in addition to student academic growth, that are rigorous, transparent, and valid, and fair;

(9) On or before March 1, 2011, to make recommendations to the state board for policy changes, and as appropriate, that will support local school districts use of evaluation data for decisions in areas such as compensation, promotion, retention, removal, and professional development.

(10) On or before March 1, 2011, to make recommendations to the state board for policy changes, and as appropriate, that will ensure that the standards and criteria applicable to teacher and principal licensure and the accreditation of preparation programs are directly aligned with and support the preparation and licensure of effective educators;

(11) On or before July 1, 2013 and July 1 each year thereafter during the implementation of the performance evaluation system, the department shall report to the council the results of the implementation and testing of the performance evaluation system. Based on the results of the reports, the council may make additional recommendations to be incorporated in the following stage of implementation.

(12) The council shall develop an implementation plan for its recommendations and will identify tasks and the associated costs at the state and district levels. The recommendations shall include an implementation cost analysis, including assessment changes, assessment pilot study, staff training, research, data review, and any other tasks included in the councils' recommendation. It is incumbent on the council to consult with the department and expert practitioners familiar with school finance and to report by March 11, 2011, on the costs to implement the council's recommendations.

(D) The recommendations made by the council to the state board pursuant to this section shall reflect a consensus vote. For any issue that the council was unable to reach a consensus, the council shall provide to the state board the reasons it was unable to reach a consensus.

(E) The council's recommendations shall consist, at a minimum, of recommendations that are applicable to school principals and teachers.

(F) The council's recommendations may include changes to existing statutes or rules, if appropriate, as well as recommendations for local implementation.

(G) In making its recommendations, the council shall include the effect of district – and school – level conditions, as measured by the nine performance standards set forth in the comprehensive appraisal for the district improvement rubric and biannual teaching, empowering, leading, and learning initiative survey of school working conditions, as well as any additional methods of assessing such conditions identified by the council as valid, transparent, and reliable.

(H) the council may establish working groups, task forces, or other structures from within its membership or outside its membership as needed to address specific issues or to assist in its work.

(I) All recommendations made by the council pursuant to this section shall reflect a consensus of its members.

(J) Unless otherwise provided for, the department shall provide the council with the support, information, data, analytical information, and administrative support necessary to do its work.

(K)

(1) On or before September 11, 2011, the state board shall promulgate rules with regard to the issues specified in Paragraphs (1) to (10) of Subsection (C) of this Section 4, using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to the issues specified in Paragraphs (1) to (10) of Subsection (C) of this Section 4, the state board shall on or before September 11, 2011, promulgate rules concerning any issues in said paragraphs (a) to (h) that the council did not address. In promulgating rules pursuant to this Subsection (K), the state board shall conform to the following timeline:

(a) Beginning with the 2011-2012 school year, the department shall work with school districts and boards of cooperative services to assist with the development of performance evaluation systems that are based on quality standards.

(b) On or before January 15, 2012, the state board shall provide to the Legislature the rules promulgated pursuant to this Subsection (K). On or before February 15, 2012, the Legislature shall review and approve such rules as provided for in Paragraph (a) of this Subsection (K).

(c) Beginning with the 2012-2013 school year, if the Legislature approves the rules promulgated pursuant to this Subsection (K), the new performance evaluation system that is based on quality standards shall be implemented and tested as recommended by the council pursuant to Paragraph (3) of Subsection (C) of this Section 4.

(d)

(i) Beginning with the 2013-2014 school year, if the Legislature approves the rules promulgated pursuant to this Subsection (K), and based on the results of the first level of implementation in the 2012-2013 school year, the new performance evaluation system that is based on quality standards shall be implemented statewide in a manner as recommended by the council pursuant to Paragraph (3) of Subsection (C) of this Section 4.

(ii) During the 2013-2014 school year, teachers shall be evaluated based on quality standards. Demonstrated effectiveness or ineffectiveness shall begin to be considered in the acquisition of probationary or nonprobationary status.

(e)

(i) Beginning with the 2014-2015 school year, if the Legislature approves the rules promulgated pursuant to this Subsection (K), and based on the results of the first and second levels of implementation in the 2012-2013 and 2013-2014 school years, the new performance evaluation system that is based on quality standards shall be finalized on a statewide basis.

(ii) During the 2014-2015 school year, teachers shall continue to be evaluated based on quality standards. Demonstrated effectiveness or ineffectiveness shall be considered in the acquisition or loss of probationary or nonprobationary status.

(2) On or before February 15, 2012, the Legislature shall review the rules promulgated pursuant to the Paragraph (1) of this Subsection (K) in a bill that is separate from the annual rule review bill; except that the Legislature reserves the right to repeal individual rules contained in the rules promulgated by the state board. If one or more rules is not approved by the Legislature pursuant to this Paragraph (2), the

state board shall promulgate emergency rules on such issue or issues and resubmit to the Legislature on or before May 1, 2012. the Legislature shall review the emergency rules promulgated according to the process outlined in this Paragraph (2).

(L) On or before November 1, 2011, the department shall create and make available school districts and boards of cooperative services a resource bank that identified assessments, processes, tools, and policies that a school district or board of cooperative services may use to develop an evaluation system that addresses the provisions of this section. The department shall include resources that are appropriate to school districts and boards of cooperative services of different sizes, demographics, and location. The department shall update the resource bank at least annually to reflect new research and ongoing experience in [state].

(M) The department shall not be obligated to implement the provisions of this section until sufficient funds have been received and credited to the great teachers and leaders fund, created in Section 5. The department is hereby authorized to hire any employees necessary to carry out the provisions of this section. .Any new position created pursuant to this section shall be subject to the availability of funding and shall be eliminated at such time as moneys are no longer available in the great teachers and leaders fund. All position descriptions and notice to hire for positions created pursuant to this section shall clearly state that such position is subject to available funding.

Section 5. {Great teachers and leaders fund – created – gifts, grants, and donations.}

(A) The department is authorized to seek, accept, and expend federal grants for the implementation of Section 4; except that the department may not accept a gift grant, or donation except from federal moneys that is subject to conditions that are inconsistent with this or any law of the state. The department shall transmit all federal moneys received to the state treasurer, who shall credit the same to the great teachers and leaders fund, which fund is hereby created and referred to in this section as the “fund”. Moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with implementing Section 4.

(B) Any moneys in the fund not expended for the purposes of Section 4 may be invested by the state treasurer, as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of the fiscal year shall remain in the fund and shall not be credited or transferred to the general or another fun.

(C) For fiscal years 2010-2011 and 2011-2012, if two hundred fifty thousand dollars is not credited to the fund through federal grants on or before September 30, 2010, the commissioner shall notify the state treasurer of the difference. As provided for in Section 12, upon receipt of such notice, the state treasurer shall transfer to the fund the amount of the difference out of the contingency reserve fund, created pursuant to Section 12 for the implementation of Section 4. If there is an insufficient amount in the contingency reserve fund, the state treasurer shall transfer to the fund any remaining amount of the difference from the state education fund for the implementation of Section 4.

(D) Nothing in this section shall be interpreted or require the department to solicit gifts, grants, or donation for the fund.

Section 6. {Local boards of education – duties – performance evaluation system.}

(A) All school districts and boards of cooperative services that employ licensed personnel shall adopt a written system to evaluate the employment performance of school district and board of cooperative services licensed personnel, including all teachers, principals, and administrators, with the exception of licensed personnel employed by a board of cooperative services for a period of six weeks or less. In developing the licensed personnel performance evaluation system and any amendments thereto, the local board and board of cooperative services shall consult with administrators, principals, and teachers employed within the district or participating districts in a board of cooperative services, parents, and the school district licensed personnel performance evaluation council or the board of cooperative services personnel performance evaluation council. The performance evaluation system shall address all the performance standards established by rule of the state board and adopted by the Legislature pursuant to Section 4, and shall contain, but need not be limited to, the following information:

(1) The frequency and duration of the evaluations, which shall be on a regular basis and of such frequency and duration as to ensure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn. At a minimum, the performance evaluation system shall ensure that:

(a) Probationary teachers receive at least two documented observations and one evaluation that results in a written evaluation report pursuant to Subsection (3) of this section each academic year. Probationary teachers shall receive the written evaluation report at least two weeks before the last class day of the school year.

(b) Nonprobationary teachers receive at least one observation each year and one evaluation that results in a written evaluation report pursuant to subsection (3) of this section every three years; except that, beginning with the 2012-13 academic year, nonprobationary teachers shall receive a written evaluation report pursuant to subsection (3) of this section each academic year according to the performance standards established by rule of the state board and adopted by the Legislature pursuant to Section 4. Nonprobationary teachers shall receive the written evaluation report at least two weeks before the last class day of the school year.

(c) Principals shall receive one evaluation that results in a written evaluation report each academic year and according to the performance standards established by rule of the state board and adopted by the Legislature pursuant to Section 4.

(2) The purposes of the evaluation, which shall include but need not be limited to:

(a)

(i) Measuring the level of performance of all licensed personnel within the school district or employed by a board of cooperative services. This Sub-subparagraph (i) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(ii) Measuring the level of effectiveness of all licensed personnel within the school district. This sub-subparagraph (ii) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(3)

(a) The standards set by the local board for satisfactory performance for licensed personnel and the criteria to be used to determine whether the performance of each licensed person meets such standards and other criteria for evaluation for each licensed personnel position evaluated. One of the standards for measuring teacher

performance shall be directly related to classroom instruction and shall include multiple measures of student performance. The performance evaluation system shall also ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation. This Subparagraph (a) is repealed at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(b) The standards set by the local board for effective performance for licensed personnel and the criteria to be used to determine whether the performance of each licensed person meets such standards and other criteria for evaluation for each licensed personnel position evaluated. One of the standards for measuring teacher effectiveness shall be directly related to classroom instruction and shall require that at least fifty percent of the evaluation determined by the academic growth of the teacher's students. The district accountability committee shall provide input and recommendations concerning the assessment tools used to measure student academic growth as it relates to teacher evaluations. The standards shall include multiple measures of student performance in conjunction with student growth expectations. For the purposes of measuring effectiveness, expectations of student academic growth shall take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student. The performance evaluation system shall also ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation. This Subparagraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(B)

(1) The council shall actively participate with the local board or board of cooperative services in developing written standards for evaluation that clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each

licensed person meets such standards pursuant to Paragraph (3) of Subsection (A) of this Section 6. This Paragraph (1) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(2) The council shall actively participate with the local board in developing written standards for evaluation that clearly specify performance standards and the quality standards and the criteria to be used to determine whether the performance of each licensed person meets such standards pursuant to Paragraph (3) of Subsection (A) of this Section 6. This Paragraph (2) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(C) Each principal or administrator who is responsible for evaluating licensed personnel shall keep records and documentation for each evaluation conducted. Each principal and administrator who is responsible for evaluating licensed personnel shall be evaluated as to how well he or she complies with this section and with the school district's evaluation system.

(D)

(1) A teacher or principal whose performance is deemed to be unsatisfactory pursuant to Paragraph (3) of Subsection (A) of this Section 6 shall be given notice of deficiencies. A remediation plan to correct the deficiencies shall be developed by the district or the board of cooperative services and the teacher or principal and shall include professional development opportunities that are intended to help the teacher or principal achieve an effective rating in his or her performance evaluation. The teacher or principal shall be given a reasonable period of time to remediate the deficiencies and shall receive a statement of the resources and assistance available for the purposes of correcting the performance or the deficiencies. This Paragraph (1) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has

been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(2)

(a) A teacher or principal whose performance is deemed to be ineffective pursuant to Paragraph (3) of subsection (A) of this Section 6 shall receive written notice that his or her performance evaluation shows a rating of ineffective, a copy of the documentation relied upon in measuring his or her performance, and identification of deficiencies.

(b) Each school district shall ensure that a nonprobationary teacher who objects to a rating of ineffectiveness has an opportunity to appeal that rating, in accordance with a fair and transparent process developed, where applicable, through collective bargaining. At minimum, the appeal process provided shall allow a nonprobationary teacher to appeal the rating of ineffectiveness to the superintendent or his or her designee of the school district and shall place the burden upon the nonprobationary teacher to demonstrate that rating of effectiveness was appropriate. If there is no collective bargaining agreement in place, following the ruling of the superintendent or his or her designee, the appealing teacher may request a review by a mutually agreed-upon third party. The decision of the third party shall review whether the decision was arbitrary or capricious and shall be binding on both parties. The cost of any such review shall be borne equally by both parties. Where a collective bargaining agreement is in place, either party may choose to opt into this process. The superintendent's designee shall not be the principal who conducted the evaluation. For a nonprobationary teacher, a remediation plan to correct the deficiencies shall be developed by the district or the board of cooperative services and shall include professional development opportunities that are intended to help the nonprobationary teacher to achieve an effective rating in his or her next performance evaluation. The nonprobationary teacher shall be given a reasonable period of time to remediate the deficiencies and shall receive a statement of the resources and assistance available for the purpose of improving effectiveness.

(c) This paragraph (c) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to the section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(d) Subparagraph (b) of this Paragraph (2) is repealed, effective February 15, 2013.

(E)

(1) No person shall be responsible for the evaluation of licensed personnel unless the person has a principal or administrator license issued pursuant to [insert appropriate reference] or is a designee of a person with a principal or administrator license and has received education and training in evaluation skills approved by the department of education that will enable him or her to make fair, professional, and credible evaluations of the personnel whom he or she is responsible for evaluating. No person shall be issued a principal or administrator license or have a principal or administrator license renewed unless the state board determines that such person has received education and training approved by the department of education.

(F)

(1) Any person whose performance evaluation includes a remediation plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the person is performing satisfactorily, no further action shall be taken concerning the original performance evaluation. If the evaluation shows the person is still not performing satisfactorily, the evaluator shall either make additional recommendations for improvement or may recommend the dismissal of the person, which dismissal shall be in accordance with the provisions of [insert appropriate reference] if the person is a teacher. This paragraph (1) is repealed, effective at such time as the performance evaluation system based on quality standards established pursuant to the section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(2) Any person whose performance evaluation includes remediation plan shall be given an opportunity to improve his or her effectiveness through the implementation of the plan. If the next performance evaluation shows that the person is performing effectively, no further action shall be taken concerning the original performance evaluation. If the evaluation shows the person is still not performing effectively, he or she shall receive written notice that his or her performance evaluation shows a rating of ineffective, a copy of the documentation relied upon in measuring the person's performance, and identification of deficiencies. Each school district shall ensure that a nonprobationary teacher who objects to a rating of ineffectiveness has an opportunity

to appeal that rating, in accordance with a fair and transparent process developed, where applicable, through collective bargaining. At minimum, the appeal process provided shall allow a nonprobationary teacher to appeal the rating of ineffectiveness to the superintendent of the school district and shall place the burden upon the nonprobationary teacher to demonstrate that a rating of effectiveness was appropriate. The appeal process shall take no longer than ninety days, and the nonprobationary teacher shall not be subjected to a possible loss of nonprobationary status until after a final determination regarding the rating of ineffectiveness is made. For a person who receives a performance rating of ineffective, the evaluator shall either make additional recommendations for improvement or may recommend the dismissal of the person, which dismissal shall be in accordance with the provisions of article 63 of this title if the person is a teacher. This Paragraph (2) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to the section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(G) Every principal shall be evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this Subsection (G) shall require that at least fifty percent of the evaluation is determined by the academic growth of the students enrolled in the principal's school. For principals, the quality standards shall include but need not be limited to:

(1) The number and percentage of licensed personnel in the principal's school who are rated as effective or highly effective; and

(2) The number and percentage of licensed personnel in the principal's school who are rated as ineffective but are improving in effectiveness.

(H) On or before August 1, 2014 each local board of education shall develop, in collaboration with a local teachers association or, if none exists, with teachers from the district, an incentive system, the purpose of which shall be to encourage effective teachers in high-performing schools to move to jobs in schools that have low performance ratings.

Section 7. {School district accountability committees – powers and duties.}

(A) Each school district accountability committee shall have the following powers and duties:

(1) To provide input and recommendations on an advisory basis to principals concerning the development and use of assessment tools used for the purpose of measuring and evaluating student academic growth as it relates to teacher evaluations.

(2) The school accountability committee for the principal's school shall provide input and recommendations to the district accountability committee and the district administration concerning the principal's evaluation.

Section 8. {School accountability committee – powers and duties – meetings.}

(A) Each school accountability committee shall have the following powers and duties:

(1) To provide input and recommendations on an advisory basis to district accountability committees and district administration concerning:

(a) Principal development plans for their principal pursuant to Section 6; and

(b) Principal evaluations conducted pursuant to Section 6.

Section 9. {Employment contracts – contracts to be in writing – duration – damage provision.}

(A)

(1)

(a) The Legislature finds that, for the fair evaluation of a principal based on the demonstrated effectiveness of his or her teachers, the principal needs the ability to select teachers who have demonstrated effectiveness and have demonstrated qualifications and teaching experience that support the instructional practices of his or her school. Therefore, each employment contract executed pursuant to this section shall contain a provision stating that a teacher may be assigned to a particular school only with the consent of the hiring principal and with input from at least two teachers at the school to represent them in the hiring process, and after a review of the teacher's demonstrated effectiveness and qualifications, which review demonstrates

that the teacher's qualification and teaching experience support the instructional practices of his or her school.

(b)

(i) Any active nonprobationary teacher who, during the prior school year, was deemed satisfactory, or was deemed effective in a district that has implemented a multi-tiered evaluation system and has identified ratings equivalent to effective, and has not secured a position through school-based hiring shall be a member of a priority hiring pool, which priority pool shall ensure the nonprobationary teacher a first opportunity to interview for available positions for which he or she is qualified in a school district.

(ii) When a determination is made that a nonprobationary teacher's services are no longer required for the reasons set forth in Subparagraph (g) of this Paragraph (1), the nonprobationary teacher shall be notified of his or her removal from the school. In making decisions pursuant to this Paragraph (1), a school district shall work with its local teachers association to develop policies for the local school board to adopt. If no teacher association exists in the school district, the school district shall create an eight person committee consisting of four school district members and four teachers, which committee shall develop such policies. Upon notice to the nonprobationary teacher, the department of human resources for the school district shall immediately provide the nonprobationary teacher with a list of all vacant positions for which he or she is qualified, as well as a list of vacancies in any area identified by the school district to be an area of critical need. An application for vacancy shall be made to the principal of a listed school, with a copy of the application provided by the nonprobationary teacher to the school district. When a principal recommends appointment of a probationary teacher applicant to a vacant position, the nonprobationary teacher shall be transferred to that position.

(iii) This Subparagraph (b) is revealed, effective at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(c)

(i) Any active nonprobationary teacher who was deemed effective during the prior school year and has not secured mutual consent placement shall be a member of a priority hiring pool, which priority hiring pool shall ensure the nonprobationary teacher a first opportunity to interview for a reasonable number of available positions for which he or she is qualified in the school district.

(ii) When a determination is made that a nonprobationary teacher's services are no longer required for the reasons set forth in Subparagraph (g) of this Paragraph (1), the nonprobationary teacher shall be notified of his or her removal from the school. In making decisions pursuant to this Paragraph (1), a school district shall work with its local teachers association to develop policies for the local school board to adopt. If no teacher association exists in the school district, the school district shall create an eight person committee consisting of four school district members and four teachers, which committee shall develop such policies. Upon notice to the nonprobationary teacher, the school district shall immediately provide the nonprobationary teacher with a list of all vacant positions for which he or she is qualified, as well as a list of vacancies in any area identified by the school district to be an area of critical need. An application for a vacancy shall be made to the principal of a listed school, with a copy of the application provided by the nonprobationary teacher to the school district. When a principal recommends appointment of a nonprobationary teacher applicant to a vacant position, the nonprobationary teacher shall be transferred to that position.

(iii) This Subparagraph (c) shall take effect at such a time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to Section 4 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014 and each July 1 thereafter until statewide implementation occurs.

(d) If a nonprobationary teacher is unable to secure a mutual consent assignment at a school of the school district after twelve months or two hiring cycles, whichever period is longer, the school district shall place the teacher on unpaid leave until such a time as the teacher is able to secure an assignment. If the teacher secures an assignment at a school of the school district while placed on unpaid leave, the school district shall reinstate the teacher's salary and benefits at the level they would have been if the teacher had not been placed in unpaid leave.

(e) Nothing in this section shall limit the ability of a school district to place a teacher in a twelve-month or other limited-term assignments, including, but not limited to, a teaching assignment, substitute assignment, or instructional support role during the

period in which the teacher is attempting to secure an assignment through school-based hiring. Such an assignment shall not constitute an assignment through school-based hiring and shall not be deemed to interrupt the period in which the teacher is required to secure an assignment through school-based hiring before the district shall place the teacher on unpaid leave.

(f) The provisions of this Paragraph (1) may be waived in whole or in part for a renewable four-year period by the state board of education, provided that the local school board applying for the waiver, in conjunction with the superintendent and teachers association in a district that has an operating master employment contract, if applicable, demonstrates that the waiver is in the best interest of students enrolled in the school district, supports the equitable distribution of effective teachers, and will not result in placement other than by mutual consent of the teacher in a school district or public school that is required to implement a priority improvement plan or turnaround plan. Notwithstanding the provisions of this Paragraph (1), a waiver shall not be granted for a request that extends the time for securing an assignment through school-based hiring for more than two years.

(g) This Paragraph (1) shall apply to any teacher who is displaced as a result of drop in enrollment; turnaround; phase-out; reduction in program; or reduction in building, including closure, consolidation, or reconstitution.

(B) A teacher may be suspended temporarily during the contractual period until the date of dismissal as ordered by the board or may have his or her employment contract cancelled during the contractual period when there is a justifiable decrease in the number of teaching positions. The manner in which employment contracts will be cancelled when there is a justifiable decrease in the number of teaching positions shall be included in any contract between the board of education of the school district and school district employees or in an established policy of the board, which contract or policy shall include the criteria described in Section 6 as significant factors in determining which employment contracts to cancel as a result of the decrease in teaching positions. Effective February 15, 2012, the contract or policy shall include consideration of probationary and nonprobationary status and the number of years a teacher has been teaching in the school district; except that these criteria may be considered only after the consideration of the criteria described in Section 6 and only if the contract or policy is in the best interest of the students enrolled in the school district.

Section 10. {Probationary teachers – renewal and nonrenewal of employment contract.}

(A)

(1) Except as provided for in Paragraph (2) of this Subsection (A), the provisions of this section shall apply only to probationary teachers and shall no longer apply when the teacher has been reemployed for the fourth year. This Paragraph (1) is repealed, effective July 1, 2014.

(2) For any school district that has implemented the performance evaluation system based on quality standards pursuant to Section 6 and the rules adopted by the state board pursuant to Section 4, the provisions of this section shall apply only to probationary teachers and shall no longer apply when the teacher has been granted nonprobationary status as a result of three consecutive years demonstrated effectiveness, as determined through his or her performance evaluations and continuous employment.

(B)

(1) The three consecutive school years of demonstrated effectiveness and continuous employment required for the probationary period shall not be deemed to be interrupted by the temporary illness of a probationary teacher. A leave of absence approved by the board of a school district or a military leave of absence shall not be considered to be an interruption of the consecutive years of demonstrated effectiveness and continuous employment required for the probationary period, but the time of such leaves of absence shall not be included in computing the required probationary period.

(2) The three consecutive school years of demonstrated effectiveness and continuous employment required for the probationary period shall not be deemed to be interrupted by the acceptance by a probationary teacher of the position of chief administrative officer in said school district, but the period of time during which such teacher serves in such capacity shall not be included in computing said probationary period.

(C)

(1) Beginning with the 2010-2011 school year, an employing school district may opt to renew the teacher's contract on either a probationary or a nonprobationary status or to not renew the contract of a probationary teacher who has completed his or her third year of employment. This Paragraph (1) shall be repealed after the performance

evaluation system based on quality standards has been implemented pursuant to Section 4.

(2) A probationary teacher who is deemed to be performing satisfactorily in any of school years 2010-2011, 2011-2012, and 2012-2013 shall be deemed to have performed effectively during the same school year or year. Beginning with the 2013-2014 school year, all teachers shall be evaluated in accordance with the new performance evaluation system that is based on measures of effectiveness; however, a school district may extend the probationary status of a teacher who has three consecutive satisfactory ratings as of July 1, 2013, by no more than one year.

Section 11. {Nonprobationary portability.}

Beginning with the 2014-2015 school year, a nonprobationary teacher, except for a nonprobationary teacher who has had two consecutive performance evaluations with an ineffective rating, who is employed by a school district and is subsequently hired by a different school district may provide to the hiring school district evidence of his or her student academic growth data and performance evaluations for the prior two years for the purposes of retaining nonprobationary status. If, upon providing such data, the nonprobationary teacher can show two consecutive performance evaluations with effectiveness ratings in good standing, he or she shall be granted nonprobationary status in the hiring school district.

Section 12. {Contingency reserve – capital construction expenditures reserve – fund – lottery proceeds contingency reserve}

(A)

(1) As provided for in Subsection (3) of Section 5 and upon receipt of notice from the commissioner, for fiscal years 2010-2011 and 2011-2012, the state treasurer shall deduct an amount not to exceed two hundred fifty thousand dollars from the contingency reserve fund and transfer such amount to the great teachers and leaders fund, created in Section 5.

Section 13. {Transfer – compensation.}

Nothing in this section shall be construed as requiring a receiving school to involuntarily accept the transfer of a teacher. All transfers to position at other school of the school district shall require the consent of the receiving school.

Section 14. {Safety clause.}

The Legislature hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved by the ALEC Legislative Board of Directors, September 19, 2010.

THE A-PLUS LITERACY ACT

The A-Plus Literacy Act

Summary

The A-Plus Literacy Act is inspired by a comprehensive set of K–12 reforms implemented by Florida lawmakers in 1999, and supplemented over the next decade. As a result of these reforms, Florida’s scores on the highly respected National Assessment of Educational Progress (NAEP) have soared for all major student subgroups. All 50 states began taking the NAEP exams in 2003, and since that point, Florida students have made the most gains. In 2009, Florida’s Hispanic students outscored or tied 31 statewide averages on 4th-grade reading, and their African-American students outscored or tied eight statewide averages.

This bill is written as an omnibus education reform act. Some may find it most useful to introduce as an omnibus bill, but others may prefer to introduce separate measures depending upon legislative dynamics. Regardless of the number of bills introduced, it is suggested that lawmakers pursue the full package of reforms. High quality research evaluations have found significant gains associated with several different reform elements, but working in concert, these elements can radically improve academic achievement for all students.

Note that this omnibus bill completely incorporates three existing ALEC model bills: the *Alternative Teacher Certification Act*, the *Great Schools Tax Credit Program Act*, and the *Special Needs Scholarship Program Act*. The omnibus bill also includes additional background and drafting notes for all of the chapters.

Chapters of the A-Plus Literacy Act

- (1) School and District Report Cards and Grades.
- (2) School Recognition Program to financially reward schools for good/improving Report Card grades.
- (3) Opportunity Scholarships to provide alternatives for students in schools with poor Report Card grades.
- (4) Scholarships for Children with Disabilities. (*ALEC Model Bill: Special Needs Scholarship Program Act*)
- (5) Tax credit scholarships for low-income students. (*ALEC Model Bill: Great Schools Tax Credit Program Act*)
- (6) Alternative Teacher Certification. (*ALEC Model Bill: Alternative Teacher Certification Act*)
- (7) Student Promotion to a Higher Grade.
- (8) School and Teacher bonuses for student Advanced Placement success.

Chapter 1. School and District Report Cards and Grades

Section 1. {Title} A-Plus Accountability and Transparency Program Act

Section 2. {Definitions}

(A) “Department” — The state Department of Public Instruction or an organization chosen by the state.

(B) “School and District Report Cards” — The Department shall prepare annual reports of the results of the statewide assessment program to describe student achievement in the state, each district, and each district and charter school. The Department shall prescribe the design and content of these reports, which must include, without limitation, descriptions of the performance of all schools participating in the assessment program and all of their major student populations as determined by the Department. These reports must also include the median scores of all eligible students who scored at or in the lowest 25th percentile of the state in the previous school year; provided, however, that the provisions of Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g pertaining to student records and any similar state legislation apply to this section.

(C) “School Grades” — The annual report shall identify schools as having one of the following grades:

- (1) “A,” schools making excellent progress.
- (2) “B,” schools making above average progress.
- (3) “C,” schools making satisfactory progress.
- (4) “D,” schools making less than satisfactory progress.
- (5) “F,” schools failing to make adequate progress.

(D) Each school designated with a grade of “A,” making excellent progress, or having improved at least two grade levels, shall have greater authority over the allocation of the school’s total budget, state categorical funds, any lottery funds, grants, and local funds, as specified in (State Board of Education or Department) rule. The rule must provide that the increased budget authority shall remain in effect until the school’s grade declines.

(E) Designation of School Grades

(1) Each school that has students who are tested and included in the school grading system shall receive a school grade, except as follows:

(a) A school shall not receive a school grade if the number of its students tested and included in the school grading system is less than the minimum sample size necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under 20 U.S.C. s. 1232g and similar state privacy laws.

(2) The Department can develop an alternate rating system for alternative schools.

(F) A school's grade shall be based on a combination of:

(1) Student achievement scores on the state annual accountability assessment for all students.

(2) Student learning gains for all students as measured by the state annual accountability assessments.

(3) Student learning gains of the lowest 25th percentile of students in the school in reading and mathematics on the state annual accountability assessment.

(4) The Department shall assign school grades based one half on overall student achievement, one quarter on the learning gains of all students, and one quarter on the learning gains of the lowest 25th percentile of students in the school.

(G) Student assessment data used in determining school grades shall include:

(1) The aggregate scores of all eligible students enrolled in the school who have been assessed on the state annual accountability assessment.

(2) The learning gain scores of all eligible students enrolled in the school who has been assessed on the state annual accountability assessment and who has scored at or in the lowest 25th percentile of students in the school in reading and mathematics.

(3) The learning gain scores of all eligible students.

(4) The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for

expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice.

(H) “School Improvement Ratings” — The Department shall develop school awards for schools that improve at least one grade level or maintain an A school grade.

(I) “School Report Cards” — The Department of Education shall annually develop, in collaboration with the school districts, a school report card to be delivered to parents throughout each school district. The report card shall include the school’s grade, information regarding school improvement, an explanation of school performance as evaluated by the federal No Child Left Behind Act of 2001, and indicators of return on investment. The department on its website shall publish each school’s report card annually, and the school district shall provide the school report card to each parent.

(J) “Performance Based Funding” — The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided for annually in the General Appropriations Act.

(K) “District Grades” — The annual report shall include a district grade, which follows the same method used for calculating a school grade except at the district level (e.g., in the district for the full academic year, the lowest 25 percent of the students for learning gains, the achievement and learning gains of all students in the district.

(L) “Increasing Standards” — In any year in which 80 percent or more of the statewide aggregate of elementary, middle and/or high schools earn a grade of A or B, the Department shall raise the number of points required to earn a school grade for that level of school by 5 percent statewide.

Chapter 2. School Recognition Program

Section 1. {Findings and Intent} The Legislature finds that there is a need for a performance incentive program for outstanding faculty and staff in highly productive schools. The Legislature further finds that performance-based incentives are commonplace in the private sector and should be infused into the public sector as a reward for productivity.

Section 2. {Basic Elements of the School Recognition Program}

(A) The School Recognition Program is created to provide financial awards to public schools that:

(1) Sustain high performance by earning a school grade of “A,” making excellent progress; or

(2) Demonstrate exemplary performance by improving at least one letter grade or by improving more than one letter grade and sustaining the improvement the following school year.

(3) All public schools, including charter schools, that earn a school grade are eligible to participate in the program.

(4) All selected schools shall receive financial awards depending on the availability of funds appropriated and the number and size of schools selected to receive an award. Funds must be distributed to the school’s fiscal agent and placed in the school’s account and must be used for purposes listed in Section 3 as determined jointly by the school’s staff. If school staff cannot reach agreement by November 1, the awards will be distributed by the school principal pursuant to subsection (B).

(B) School recognition awards must be used for the following:

(1) Nonrecurring bonuses to the faculty and staff;

(2) Nonrecurring expenditures for educational equipment or materials to assist in maintaining and improving student performance; or

(3) Temporary personnel for the school to assist in maintaining and improving student performance.

(4) Notwithstanding statutory provisions to the contrary, incentive awards are not subject to collective bargaining.

Chapter 3. Opportunity Scholarship Program.

Section 1. {Findings and Intent} The Legislature finds that the state should not compel students, against the wishes of the student’s parent, to attend a school found by the state to be failing for 2 years in a 4-year period. The state shall make available opportunity scholarships in order to give parents the opportunity for their children to

attend a public school that is performing satisfactorily or to attend an eligible private school. Eligibility of a private school shall include the control and accountability requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose.

(A) Opportunity Scholarship Eligibility — A public school student’s parent may request and receive from the Department an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

(1) The student has spent the prior school year in attendance at a public or charter school graded “F” and that has had 2 school years in a 4-year period of such low performance, and the student’s attendance occurred during a school year in which such designation was in effect;

(2) The student has been in attendance elsewhere in the public school system and lives within the attendance zone of such a school for the next school year; or

(3) The student is entering kindergarten or first grade and lives within the attendance zone of such a school for the next school year.

(4) The parent has obtained acceptance for admission of the student to a private school eligible for the program, and has notified the Department of Education and the school district of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

(B) The provisions of this section shall not apply to a student enrolled in a school operating for providing educational services to youth in Department of Juvenile Justice commitment programs.

(C) For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the until the student graduates. However, at any time upon reasonable notice to the Department of Education and the school district, the student’s parent may remove the student from the private school and place the student in a public school.

Section 2. School District Obligations.

(A) A school district shall, for each student enrolled in or assigned to a school that has been graded “F” for 2 school years in a 4-year period:

(1) Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this act.

(2) Offer that student’s parent an opportunity to enroll the student in the public school within the district that has been designated by the as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category “C.” The parent is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The school districts must provide a parent with information on all options. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(3) The parent of a student enrolled in or assigned to a school that has been designated performance grade category “F” for 2 school years in a 4-year period transfer to a higher performing school in an adjacent district, subject to the availability of space. That school district shall accept the student and report the student for purposes of the district’s funding.

(B) Opportunity Scholarship students attending district schools shall take accountability exams in the district to which they have transferred.

(C) Transportation costs to a higher performing public school shall be the responsibility of the school district from which the student originated. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose. Transportation to private schools shall be the responsibility of parents.

Section 3. {Private School Eligibility} To be eligible to participate in the Opportunity Scholarship Program, a private school must be a private school operating in <state X>, may be sectarian or nonsectarian, and must:

(A) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured. In addition, the owner or owners must have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a

statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department.

(B) Notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the Opportunity Scholarship Program.

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

(D) Meet state and local health and safety laws and codes.

(E) Accept scholarship students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(F) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(G) Comply with all state statutes relating to private schools.

(H) Accept as full tuition and fees the amount provided by the state for each student.

(I) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

Section 4. {Obligations of Program Participants}

(A) Any student participating in the Opportunity Scholarship Program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(B) The parent of each student participating in the Opportunity Scholarship Program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

Section 5. {Opportunity Scholarship Funding and Payment}

(A) The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equivalent to the total state and local funding for the child including all applicable funding weights, or the or the amount of the private school's cost of educating the child, whichever is less. Fees eligible for reimbursement from the scholarship shall include textbook fees, lab fees, and other fees related to instruction, including transportation.

(1) Following annual notification on July 1 of the number of participants, the Department of Education shall transfer from each school district's appropriated funds the calculated amount and authorized categorical accounts to a separate account for the Opportunity Scholarship Program for quarterly disbursement to the parents of participating students.

(2) Upon proper documentation reviewed and approved by the Department of Education, the state shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The Department of Education shall make initial payment after verification of admission acceptance, and shall make subsequent payments upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school.

(B) No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

Chapter 4: Special Needs Scholarship Program Act

Note: This chapter precisely mirrors the *Special Needs Scholarship Program Act* adopted as amended by the Education Task Force July 16, 2009 and approved by the ALEC Board of Directors August 2009.

Section 1. {Title}

The Special Needs Scholarship Program

Section 2. {Definitions}

(A) “Program” means the Special Needs Scholarship Program created in this subchapter.

(B) “Eligible Student” means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time with an Individualized Education Plan, including but not limited to students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, autistic, or hospitalized or homebound because of illness or disability.¹

(C) “Parent” includes a guardian, custodian, or other person with authority to act on behalf of the child.

(D) “Resident school district” means the public school district in which the student resides.

(E) “Department” means the state Department of Public Instruction or an organization chosen by the state.²

(F) “Participating school” means either a public school outside of the resident school district, a school run by another public entity, or any private school that provides education to elementary and/or secondary students that has notified the Department of its intention to participate in the program and comply with the program’s requirements.³

Section 3. {Basic Elements of the Special Needs Scholarship Program}

(A) Any parent of an eligible student shall qualify for a scholarship from the state for their child to enroll in and attend a participating, private school if:

(1) The student with special needs has had an Individualized Education Plan written in accordance with the rules of the Department;

(2) the student has been accepted for admission at a participating school; and

(3) the parent has requested a scholarship from the state before the deadline established by the Department.⁴

(B) The Department shall inform the resident school district that a student with special needs has requested a special needs scholarship. The resident school district shall provide, within three business days, the Department with a copy of the student's most current Individualized Education Plan.

(C) Upon receipt of the eligible student's request for a scholarship, the Department shall review the Individualized Education Plan drafted by the student's public school to determine the amount of the scholarship. The Department shall provide the student's parent with a timely written explanation of its determination for the amount of the scholarship.

(D) The maximum scholarship granted to an eligible student shall be an amount equivalent to the cost of the educational program that would have been provided for the student in the resident school district. Although the scholarship amount is a function of a student's Individualized Education Plan, the participating school is not required to abide by the Individualized Education Plan. The parent and the participating school will mutually determine the best services and educational plan for the student.⁵

(E) The amount of the Special Needs Scholarship shall be the lesser of the amount calculated in Section 3(C) and (D) or the amount of the participating school's estimated costs for serving the student. The costs of any assessment by the participating school of the student's special needs may be included in the scholarship amount.

(F) A participating students shall be counted in the enrollment of his or her resident school district. The funds needed to provide a scholarship shall be subtracted from the state school aid payable to the student's resident school district.⁶

(G) The Special Needs Scholarship shall remain in force until the student returns to a public school or graduates from high school or reaches his or her 21st birthday, whichever comes first.

(H) At any time, the student's parent may remove the student from the participating school and place the student in another participating school or in a public school.

(I) A participating school may not refund, rebate, or share a student's scholarship with a parent or the student in any manner. A student's scholarship may only be used for educational purposes.⁷

Section 4. {Responsibilities of Resident School Districts}

(A) A resident school district shall annually notify the parents of a student with special needs of the Special Needs Scholarship Program and offer that student's parent an opportunity to enroll the student in a participating school of their choice.

(B) The resident school district shall provide a participating school that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g).

(C) The resident school district shall provide transportation for an eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

(D) The public school district in which the eligible student participating in this program resides shall count the pupil in its enrollment for state aid purposes.

(E) If the parent of an eligible student participating in this program requests that the student take the statewide assessments, the resident school district shall provide locations and times for the student to take all statewide assessments if they are not offered at the student's participating school.⁸

Section 5. {Responsibilities of the Department of Public Instruction}

(A) The Department shall adopt rules and procedures regarding:

(1) the eligibility and participation of private schools, including timelines that will maximize student and public and private school participation;

(2) the calculation and distribution of scholarships to eligible students and participating schools;⁹ and

(3) the application and approval procedures for eligible students and participating schools.

(B) No liability shall arise on the part of the Department or the state based on the award or use of a Special Needs Scholarship.

(C) The Department may bar a school from participation in the program if the Department establishes that the participating school has:¹⁰

(1) intentionally and substantially misrepresented information required under Section 6;

(2) routinely failed to comply with the accountability standards established in Section 6;

(3) failed to comply with Section 3(I); or

(4) failed to refund to the state any scholarship overpayments in a timely manner.

(D) If the Department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible. Participating students attending a school barred by the Department shall retain scholarship program eligibility to attend another participating school.

Section 6. {Accountability Standards for Participating Schools}

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating, private schools shall:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹¹ and

(4) conduct criminal background checks on employees. The participating school then shall:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.¹²

(B) Financial Accountability Standards. To ensure that public funds are spent appropriately, all participating, private schools shall:

(1) Demonstrate their financial accountability by:

(a) annually submitting to the Department a financial information report for the school that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant;¹³ and

(b) Having an auditor certify the report is free of material misstatements and fairly represents the costs per pupil. The auditor's report shall be limited in scope to those records that are necessary for the Department to make payments to participating schools on behalf of parents for Special Needs Scholarships.

(2) Demonstrate their financial viability by showing they can repay any funds that might be owed the state, if they are to receive \$50,000 or more during the school year, by:¹⁴

(a) filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the Special Needs Scholarships expected to be paid during the school year to students admitted to the participating school; or

(b) filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the Special Needs Scholarships expected to be paid during the school year to students admitted to the participating school.

(C) Academic Accountability Standards. To ensure that schools provide academic accountability to parents of the students in the program, all participating schools shall regularly report to the parent on the student's progress and ensure that the person providing special education or related services holds the appropriate license issued by the Department.¹⁵

(D) Participating School Autonomy. A participating, private school is autonomous and not an agent of the state or federal government and therefore:

(1) the Department or any other state agency may not in any way regulate the educational program of a participating, private school that accepts a Special Needs Scholarship;

(2) the creation of the Special Needs Scholarship Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements of the program; and

(3) participating, private schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 7. {Responsibilities of Scholarship Students and Parents}

(A) It shall be the responsibility of a parent to select their child's school, apply for admission, and apply for a Special Needs Scholarship.

(B) Any student participating in the program must comply fully with a participating school's written code of conduct and shall remain in attendance throughout the school year, unless excused by the school for illness or other good cause. However, a parent may transfer an eligible student to a public school or another participating school at any time. The scholarship amount shall be prorated between participating schools according to the period of attendance at each school.

(C) A parent's decision for their student to participate in the program constitutes a private placement for purposes of the Individuals with Disabilities Education Act.

Section 8. {Evaluation of the Special Needs Scholarship Program}¹⁶

(A) The legislative service agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

(1) the level of participating students' satisfaction with the program;

(2) the level of parental satisfaction with the program;

(3) the percentage of participating students who were victimized¹⁷ because of their special needs status at their resident school district compared with the percentage so victimized at their participating school;

(4) the percentage of participating students who exhibited behavioral problems at their resident school district compared with the percentage exhibiting behavioral problems at their participating school;

(5) the class size experienced by participating students at their resident school district and at their participating school; and

(6) the fiscal impact to the state and resident school districts of the program.

(C) The researchers who conduct the study shall:

(1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;

(2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender, and race and ethnicity; and

(3) provide the legislature with a final copy of the evaluation of the program.

(D) The relevant public and private participating schools from which students transfer to participate in the program shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The legislative service agency may accept grants to assist in funding this study.

(F) The legislature may require periodic reports from the researchers. The researchers must make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232g).

Section 9. {Effective Date} The Special Needs Scholarship Program will be in effect beginning with the fall semester of the next school year.

Chapter 5: The Great Schools Tax Credit Program Act

Note: This chapter mirrors the *Great Schools Tax Credit Program Act*, adopted by the Education Task Force on December 4, 2004 amended on July 16, 2009, and approved by the ALEC Board of Directors on August 27, 2009, with one minor revision in Section 4(A)(6) – see drafting notes for details.

Section 1. {Title}

The Great Schools Tax Credit Program Act

Section 2. {Definitions}

(A) “Program” means the Great Schools Tax Credit Program.

(B) “Eligible student” means a student who:

(1) is a member of a household whose total annual income the year before he or she receives an educational scholarship under this program does not exceed the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years of age;¹

(2) was eligible to attend a public school in the preceding semester or is starting school in [state] for the first time;²

(3) Resides in [state] while receiving an educational scholarship.

(C) “Low-income student” means a student who qualifies for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.³

(D) “Parent” includes a guardian, custodian, or other person with authority to act on behalf of the child.

(E) “Department” means the state Department of Revenue.

(F) “Qualifying school” means either a public school outside of the resident school district, or any private school that provides education to elementary and/or secondary

students and has notified the Department of its intention to participate in the program and comply with the program's requirements.⁴

(G) "Educational scholarships" means grants to students to cover all or part of the tuition and fees at either a qualifying private school or a qualifying public school, including transportation to a public school outside of a student's resident school district.

(H) "Scholarship Granting Organization" means an organization that complies with the requirements of the state's school scholarship tax credit program and provides or is approved to provide educational scholarships to students attending qualifying schools of their parents' choice.

(I) "Test" means either the state achievement test or nationally recognized norm-referenced test chosen by the participating school.

Section 3. {Basic Elements of the Great Schools Tax Credit Program}

(A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a scholarship granting organization.

(B) The tax credit may be claimed by an individual taxpayer or a married couple filing jointly in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 50 percent of the taxpayer's tax liability.⁵

(C) The tax credit may be claimed by a corporate taxpayer in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 50 percent of the taxpayer's tax liability.⁵

(D) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit under this program for three years.⁶

Section 4. {Responsibilities of Scholarship Granting Organizations}⁷

(A) Administrative Accountability Standards. All scholarship-granting organizations shall:

- (1) notify the Department of their intent to provide educational scholarships to students attending qualifying schools;
- (2) demonstrate to the Department that they have been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;
- (3) distribute periodic scholarship payments as checks made out to a student's parent or guardian and mailed to the qualifying school where the student is enrolled. The parent or guardian must endorse the check before it can be deposited;
- (4) provide a Department-approved receipt to taxpayers for contributions made to the organization;
- (5) ensure that at least 90 percent of their revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;
- (6) ensures that the maximum scholarship shall be no more than 80% of the total average local and state aid provided for children in district schools.²⁰
- (7) ensure that at least X percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year;⁹
- (8) cooperate with the Department to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual(s) that might reasonably pose a risk to the appropriate use of contributed funds;¹⁰
- (9) ensure that scholarships are portable during the school year and can be used at any qualifying school that accepts the eligible student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship amount may be prorated.
- (10) publicly report to the Department by June 1 of each year the following information prepared by a certified public accountant regarding their grants in the previous calendar year:
 - (a) the name and address of the student support organization;

(b) the total number and total dollar amount of contributions received during the previous calendar year; and

(c) the total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year to students qualifying for the federal free and reduced-price lunch program,¹¹ and the percentage of first-time recipients of educational scholarships who were enrolled in a public school during the previous year.

(11) ensure scholarships are not provided for students to attend a school with paid staff or board members, or relatives thereof, in common with the scholarship granting organization.

(B) Financial Accountability Standards.¹²

(1) All scholarship-granting organizations shall demonstrate their financial accountability by:

(a) annually submitting to the Department a financial information report for the organization that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant; and

(b) having the auditor certify that the report is free of material misstatements.

(2) All participating private schools shall demonstrate financial viability, if they are to receive donations of \$50,000 or more during the school year, by:

(a) filing with the scholarship granting organization prior to the start of the school year a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) filing with the scholarship granting organization prior to the start of the school year financial information that demonstrates the financial viability of the participating school.

Section 5. {Program Oversight of Participating Schools}

(A) Each scholarship granting organization shall collect written verification from participating, private schools that accept its scholarship students that those schools:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹³ and

(4) conduct criminal background checks on employees and then:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.¹⁴

(B) Academic Accountability Standards. There must be sufficient information about the academic impact scholarship tax credits have on participating students in order to allow parents and taxpayers to measure the achievements of the program, and therefore:

(1) each scholarship granting organization shall ensure that participating schools that accept its scholarship shall:¹⁵

(a) annually administer either the state achievement tests or nationally recognized norm-referenced tests that measure learning gains in math and language arts to all participating students in grades that require testing under the state's accountability testing laws for public schools;

(b) allow costs of the testing requirements to be covered by the scholarships distributed by the scholarship granting organizations;

(c) provide the parents of each student who was tested with a copy of the results of the tests on an annual basis, beginning with the first year of testing;

(d) provide the test results to the Department or an organization chosen by the state¹⁶ on an annual basis, beginning with the first year of testing;

(e) report student information that would allow state to aggregate data by grade level, gender, family income level, and race; and

(f) provide graduation rates of participating students to the Department or an organization chosen by the state in a manner consistent with nationally recognized standards.

(2) the Department or an organization chosen by the state shall:

(a) ensure compliance with all student privacy laws;

(b) collect all test results; and

(c) provide the test results and associated learning gains to the public via a state website after the third year of test and test-related data collection.¹⁷ The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race.¹⁸

Section 6. {Responsibilities of the Department of Revenue}

(A) The Department shall adopt rules and procedures consistent with this act as necessary to implement the program.

(B) The Department shall provide a standardized format for a receipt to be issued by a scholarship granting organization to a taxpayer to indicate the value of a contribution received. The Department shall require a taxpayer to provide a copy of this receipt when claiming the Great Schools Tax Credit.

(C) The Department shall provide a standardized format for a scholarship granting organizations to report the information in Section 4(A)(10) above.

(D) The Department shall have the authority to conduct either a financial review or audit of a scholarship granting organization if possessing evidence of fraud.

(E) The Department may bar a scholarship granting organization from participating in the program if the Department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements in Section 4 or Section 5.

(F) If the Department decides to bar a scholarship granting organization from the program, it shall notify affected scholarship students and their parents of this decision as quickly as possible.

(G) The Department shall allow a taxpayer to divert a prorated amount of state income tax withholdings to a scholarship granting organization of the taxpayer's choice up to the maximum credit allowed by law, including carry-over credits. The Department shall have the authority to develop a procedure to facilitate this process.¹⁹

Section 7. {Responsibilities of Qualifying Schools}

(A) All qualified schools shall be required to operate in [state].

(B) All qualifying schools shall comply with all state laws that apply to private schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a private school.

Section 8. {Effective Date} The Great Schools Tax Credit may be first claimed in the next calendar year.

Chapter 6: The Alternative Teacher Certification Act

Note: This chapter precisely mirrors the Alternative Certification Act. The ALEC Education Task Force adopted this model bill at the States and Nation Policy Summit December, 2005, and the ALEC Board of Directors approved it in January, 2006.

Section 1. {Short Title} This act may be cited as the Alternative Teacher Certification Act.

Section 2. Be it enacted by the legislature that the Education Code, relating to the authority of the state to certify persons to teach who are not graduates of teacher education programs, is amended by adding [section] to read as follows:

(A) Certificates of license to teach in the public schools of the state shall be granted as follows:

(1) By the state board, under rules and regulations prescribed by it,

(a) Upon the basis of college credit;

(b) Upon the basis of examination;

(2) By the state board, under rules and regulations prescribed by the state board, to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting

association. Such certificate shall be limited to the major area of postgraduate study of the holder;

(3) By the state board, under rules and regulations prescribed by it, on the basis of a national level or regional certification which has been validated in the individual's endorsement area and earned by passing a national or regional examination designed to assess the individual's skills in the area in which the individual seeks certification.

(4) By the state board, upon an appropriate background check, to any person who possesses a valid teaching certificate from another state or certification as contemplated under subdivision three (3); provided that the certificate holder shall annually complete the state board's requirements for such level of certification.

(B) The board shall issue a master teacher certificate in the appropriate area of endorsement to an applicant who meets the requirements for education and experience as set forth in [section] and demonstrates quality teaching. Any teacher who holds national level certification shall be deemed to have satisfied the requirements for master teachers.

(C) Upon completion of a comprehensive mentoring program and satisfactory principal recommendations during the initial year of teaching, the individual may progress to the next level of certification.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}

Chapter 7: Student Promotion to a Higher Grade

Section 1. {Title} The Reading is Fundamental Literacy Program

Section 2. {Intent} It is the intent of the Legislature that each student's progression to be determined, in part, upon proficiency in reading; that district school board policies facilitate such proficiency; and that each student and his or her parent be informed of that student's academic progress.

(A) “Reading Deficiency and Parental Notification” — It is the ultimate goal of the Legislature that every student read at or above grade level. Any student who exhibits a substantial deficiency in reading, based upon locally determined or statewide assessments conducted in kindergarten, grade 1, grade 2, or grade 3, or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency.

(B) Each student’s reading proficiency must be reassessed by locally determined assessments or through teacher observations at the beginning of the grade following the intensive reading instruction. The student must continue to be provided with intensive reading instruction until the reading deficiency is remedied.

(C) Beginning with the 20XX-20XY school year, if the student’s reading deficiency, as identified in paragraph (a), is not remedied by the end of grade 3, as demonstrated by scoring at Level 2 or higher on the state annual accountability assessment in reading for grade 3, the student must be retained.

(D) The parent of any student who exhibits a substantial deficiency in reading must be notified in writing of the following:

(1) That his or her child has been identified as having a substantial deficiency in reading.

(2) A description of the current services that are provided to the child.

(3) A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.

(4) That if the child’s reading deficiency is not remediated by the end of grade 3, the child will not be promoted to grade 4 unless he or she meeting a good cause exemption.

(5) Strategies for parents to use in helping their child succeed in reading proficiency.

(6) That while the state annual accountability assessment is the initial determinate, it is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available.

(7) The district's specific criteria and policies for midyear promotion. Midyear promotion means promotion of a student at any time during the year of retention once the student has demonstrated ability to read at grade level.

(E) Elimination of social promotion — No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.

(F) Good Cause Exemptions — The district school board may only promote students not meeting the academic requirements for good cause. Good cause exemptions shall be limited to the following:

(1) Limited English proficient students who have had less than 2 years of instruction in an English Language Learner program.

(2) Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with state law.

(3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.

(4) Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level.

(5) Students with disabilities who participate in the state accountability examination and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive remediation in reading for more than 2 years but still demonstrates a deficiency in reading and was previously retained in kindergarten, grade 1, grade 2, or grade 3.

(6) Students who have received intensive remediation in reading for two or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.

(7) Requests for good cause exemptions – Requests to exempt students from academic requirements for promotion to the next grade shall be made consistent with the following:

(a) Documentation shall be submitted from the student's teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student's record. In order to minimize paperwork requirements, such documentation shall consist only of the existing progress monitoring plan, individual educational plan, if applicable, report card, or student portfolio.

(b) The school principal shall review and discuss such recommendation with the teacher and make the determination as to whether the student should be promoted. If the school principal determines that the student should be promoted, the school principal shall make such recommendation in writing to the district school superintendent. The district school superintendent shall accept or reject the school principal's recommendation in writing.

(G) Successful progression for retained readers — Students retained must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district's summer reading camp, and appropriate teaching methodologies necessary to assist those students in becoming successful readers, able to read at or above grade level, and ready for promotion to the next grade.

(1) Beginning with the 20XX-20XX school year, each school district shall:

(a) Conduct a review of student progress monitoring plans for all students who did not score above Level 1 on the reading portion of state exam and did not meet the criteria for one of the good cause exemptions. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each such student.

(b) Provide students who are not promoted with intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction and other strategies prescribed by the school district, which may include, but are not limited to:

(i) Small group instruction.

(ii) Reduced teacher-student ratios.

(iii) More frequent progress monitoring.

(iv) Tutoring or mentoring.

(v) Transition classes containing 3rd and 4th grade students.

(vi) Extended school day, week, or year.

(vii) Summer reading camps.

(c) Provide written notification to the parent of any student who is retained that his or her child has not met the proficiency level required for promotion and the reasons the child is not eligible for a good cause exemption. The notification must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency.

(d) Implement a policy for the midyear promotion of any student retained who can demonstrate that he or she is a successful and independent reader, reading at or above grade level, and ready to be promoted to grade 4. Tools that school districts may use in reevaluating any student retained may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Students promoted during the school year after November 1 must demonstrate proficiency above that required to score at Level 2 on the grade 3 state accountability exam, as determined by the State Board of Education. The State Board of Education shall adopt standards that provide a reasonable expectation that the student's progress is sufficient to master appropriate 4th grade level reading skills.

(2) Provide students who are retained with a high-performing teacher as determined by student performance data and above-satisfactory performance appraisals.

(3) In addition to required reading enhancement and acceleration strategies, provide parents of students to be retained with at least one of the following instructional options:

(a) Supplemental tutoring in scientifically research-based reading services in addition to the regular reading block, including tutoring before and/or after school.

(b) A “Read at Home” plan outlined in a parental contract, including participation in “Families Building Better Readers Workshops” and regular parent-guided home reading.

(c) A mentor or tutor with specialized reading training.

(4) Establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of grade 3 students and to offer intensive accelerated reading instruction to grade 3 students who failed to meet standards for promotion to grade 4 and to each K-3 student who is assessed as exhibiting a reading deficiency. The READ Initiative shall:

(a) Be provided to all K-3 students at risk of retention as identified by the statewide assessment system used in Reading First schools. The assessment must measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(b) Be provided during regular school hours in addition to the regular reading instruction.

(c) Provide a state-identified reading curriculum that, at a minimum, the following specifications:

(i) Assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level.

(ii) Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(iii) Provides scientifically based and reliable assessment.

(iv) Provides initial and ongoing analysis of each student’s reading progress.

(v) Is implemented during regular school hours.

(vi) Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

(vii) Establish at each school, where applicable, an Intensive Acceleration Class for retained grade 3 students who subsequently score at Level 1 on the reading portion of the state accountability exam. The focus of the Intensive Acceleration Class shall be to increase a child's reading level at least two grade levels in 1 school year. The Intensive Acceleration Class shall:

(a) Be provided to any student in grade 3 who scores at Level 1 on the reading portion of the state accountability exam and who was retained in grade 3 the prior year because of scoring at Level 1 on the reading portion of the state accountability exam.

(b) Have a reduced teacher-student ratio.

(c) Provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 state standards in other core subject areas.

(d) Use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year.

(e) Provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

(f) Include weekly progress monitoring measures to ensure progress is being made.

(g) Report to the Department of Education, in the manner described by the department, the progress of students in the class at the end of the first semester.

(viii) Report to the State Board of Education, as requested, on the specific intensive reading interventions and supports implemented at the school district level. The Commissioner of Education shall annually prescribe the required components of requested reports.

(ix) Provide a student who has been retained in grade 3 and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. Such setting shall specifically be designed to produce learning gains sufficient to meet

grade 4 performance standards while continuing to remediate the areas of reading deficiency.

(H) Annual report — In addition to the above requirements, each district school board must annually report to the parent of each student the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The district school board must report to the parent the student's results on each annual state accountability assessment. The evaluation of each student's progress must be based upon the student's classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting must be provided to the parent in writing in a format adopted by the district school board.

(1) Each district school board must annually publish in the local newspaper, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

(a) The provisions of this section relating to public school student progression and the district school board's policies and procedures on student retention and promotion.

(b) By grade, the number and percentage of all students in grades 3 through 10 performing at Levels 1 and 2 on the reading portion of the annual state accountability assessment.

(c) By grade, the number and percentage of all students retained in grades 3 through 10.

(d) Information on the total number and percentage of students who were promoted for good cause, by each category of good cause as specified above.

(e) Any revisions to the district school board's policy on student retention and promotion from the prior year.

(2) The Department of Education shall establish a uniform format for school districts to report the information required. The format shall be developed with input from district school boards and shall be provided not later than 90 days prior to the annual due date. The department shall annually compile the information required along with state-level summary information, and report such information to the public, Governor, the President of the Senate, and the Speaker of the House of Representatives.

(I) State Board Authority and Responsibilities:

(1) The State Board of Education shall have authority to enforce this chapter.

(2) The department shall provide technical assistance as needed to aid district school boards in administering this section.

Chapter 8. School and Teacher Bonuses for Advanced Placement Exam Success

Section 1. {Title} The AP Success Bonus Plan

Section 2. Calculation of additional full-time equivalent membership based on College Board advanced placement scores of students.

(A) A value of 0.X full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year.

(1) Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds.

(B) Teacher Bonuses. The school district shall distribute to each classroom teacher who provided advanced placement instruction:

(1) A bonus in the amount of \$50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

(2) An additional bonus of \$500 to each Advanced Placement teacher in a school designated with a grade of “D” or “F” who has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

(3) Bonuses awarded to a teacher according to this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(C) Annual Appropriation — The additional full-time equivalent membership authorized under this paragraph may not exceed 0.X per student. Unless a different amount is specified in the General Appropriations Act, the appropriation for this calculation is limited to \$XX million annually. If the appropriation is insufficient to fully fund the total calculation, the appropriation shall be prorated.

Background and Drafting Notes

Context and Overview

In passing their comprehensive, linked reforms beginning in 1999, Florida lawmakers embraced a comprehensive, multifaceted approach to improving academic achievement focused on early childhood literacy as the gateway to learning.

The central Florida reform involved increasing transparency: assigning all schools and districts a letter grade of A, B, C, D, or F. The other reform elements combined to spur improvement as well. Parental choice programs for children attending failing schools, low-income students and children with disabilities gave potential exit power for the least advantaged children. A strong charter school law and virtual education statutes provide universally available options. Florida embraced far-reaching alternative teacher certification paths to improve teacher quality, and curtailed the social promotion of children.

Florida lawmakers have continued to update their reforms over time. Those interested in the latest policy innovations in Florida can contact the Foundation for Excellence in Education. The Foundation can assist with technical issues, provide sample rules created by the Florida State Board of Education and other assistance.

Chapter 1. School and District Report Cards and Grades

Florida's School Report Card system assigns all schools and districts a letter grade based upon an elegant but powerful formula grading schools one half on overall scores, one quarter on the gains of all students, one quarter on the gains of the bottom quarter of students.

People instantly and intuitively understand letter grades, and this system served as the lynchpin for the reforms by increasing community support and interest in improving schools.

Chapter 2. School Recognition Program

The Florida school grading system created both incentives for improvement (cash bonuses for schools) and the chance for parents to remove their children from failing schools (Opportunity Scholarships).

In the current economic climate, it may prove challenging for states to provide additional funding for school improvement. Furthermore, many legislators may justifiably believe that their states already provide too much funding to district schools already.

If however your state can successfully establish a rigorous A-F grading system, at that point you may want to condition a large portion of any future funding increases through the recognition program. Rather than sending more money into the system for largely the same results, as has been common, school districts can earn additional funding.

Chapter 3. Opportunity Scholarship Program.

This chapter reflects the Florida policy, but could potentially be improved upon. For example, a two out of any four year period for receiving a grade of “F” could be raised to a higher standard, such as students who attend a school receiving a single grade of F.

Chapter 4: Special Needs Scholarships

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice legislation.

Please note: Most states that have passed a special needs scholarship program have chosen to name the program after a child with special needs or an advocate for such children.

1. The definition for an eligible student in this model legislation includes all special needs students living in the state and initially enrolled in a public school regardless of their household income. Because the scholarship amount is based upon the cost of the Individualized Education Plan developed at the resident public school, the authors

chose not to make students presently attending private schools eligible for the program. As a result, there may be a savings for the taxpayers when eligibility is so limited because a scholarship covering private school costs will often be less than the costs of state and local support provided to special needs students attending a public school. Given the likely savings, legislators could extend scholarships to some special needs students already attending private schools without increasing state spending. States may also want to consider whether or not to include gifted students in the program.

2. This bill designates the Department of Public Instruction as the agency regulating the Special Needs Scholarship Program. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Alternatively, legislators may choose to create a new small agency to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

3. This model legislation allows students with special needs to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's special needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has some form of public school choice for students with special needs, then this legislation should be made compatible with the existing program. In fact, if a state already has a broad array of school choice options available to parents of special needs children, then a state may be able to add an option for just private schools without encountering constitutional questions.

4. This model legislation empowers parents solely to determine whether their child's needs are being met by his or her existing public school and whether their child should be transferred to another public or private school. The authors believe deeply that this determination should reside with the parents and not the Department, the school district, or some panel of educators. These government agencies have a financial stake in the decision and will be reluctant to approve the transfer of a student with special needs to another public or private school. By placing the determination in the hands of the parent, this approach ensures that the person making the decision is

the one with the greatest interest in the child's progress, avoids expensive and unproductive legal battles, and forces the resident public schools to meet the needs of these children or lose them to another public or private school.

5. This model legislation bases the scholarship amount on the amount that would have been spent on the student under their Individualized Education Plan at the resident school district. It is important that the new public or private school selected by the parents not be required to follow the Individualized Education Plan crafted at the resident public school since that school disappointed the parent. The new school should be free to craft a better plan to meet the student's special needs, even though the scholarship amount will be based upon the old plan.

6. Optimally, a scholarship should equal the federal, state, and local dollars that would have been available for the child at his or her resident public school. Unfortunately, tapping federal dollars will bring some unwanted federal regulations to choice schools. As a result, few private schools would be willing to participate in the program. Similarly, legislators should be aware that using local dollars may violate the state constitution in some places (such as Colorado) and may be politically unviable in other states. Therefore, this legislation draws the funds for scholarships solely from state funds and then subtracts the costs from the state aid paid to the resident school district that has not met the student's needs. This will have the helpful side effect of reducing the financial incentive for resident school districts to over-identify or overspend on special students with special needs.

7. This model legislation is silent about whether schools can charge students with special needs tuition and fees in excess of the scholarship amount. Allowing this would encourage greater participation by schools where costs exceed the scholarship amount. Some also believe direct payments from parents would encourage stronger ownership and involvement in their children's education. However, legislators may wish to place a cap on the tuition and fees that a poor student might be charged to ensure that all families can afford to participate in the program. Regardless, legislators should make sure that the amount of the scholarship plus the tuition and fees charged to the student do not exceed the school's costs for educating a student. Any payments above cost to a religious private school would be considered an impermissible subsidy of religion.

8. The model legislation allows parents to request that their child be given the statewide assessments so that they can mark their child's progress. The legislation does not require testing of students with special needs.

9. It is important that the Department calculate the scholarship in strict accordance with the definitions in the legislation. If the Department cannot be trusted to do this objectively, a more detailed description for determining the size of the scholarship should be written into the law.

10. The legislature may wish to develop an appeals process for schools that have been barred from the program for violations of Section 5(C).

11. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If you choose to include language banning discrimination in hiring based on race, color, national origin, or disability, take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

12. The model legislation provides schools with the tools they need to ensure that students will be safe. The schools are required to conduct criminal background checks on existing and potential employees, and then they are given the flexibility to determine from this information whether the employee might pose a risk to students. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks and the power to exclude potential risks from the school.

13. The purpose of the financial information report is to make sure that the Department can ascertain the costs of educating a student at the school and to ensure public funds are used appropriately. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for many private schools.

14. The model legislation provides for two methods for schools to demonstrate financial viability to ensure that public funds are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds

that might be owed the state. They will therefore conduct the checks necessary to protect their financial interest as well as the taxpayers' financial interests. Surety bonds can be expensive (one to three percent of the amount covered) or invasive for some institutions so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the state. This might include things like personal guarantees, reserve accounts, or escrow accounts.

15. The model legislation does not require that students with special needs take standardized assessments because of the special educational challenges these students face. Instead, the legislation requires the school to regularly report to the parents on the student's progress and it gives the parents the option of having their children take the statewide assessments given to other students.

16. It is crucial that the legislature give this study oversight responsibility to a trusted objective nonpartisan source like a legislative service agency. Unfortunately, a 13-year longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants and another trusted agency will have to be selected. It will be tempting for legislators to further define the details of the study but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

17. Victimization includes but is not limited to being bullied, teased, or threatened with violence.

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exercised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.

Chapter 5: The Great Schools Tax Credit Program

The Florida legislature created the Step Up for Students Tax Credit against the Corporate Income tax with an initial statewide cap of \$50 million. In subsequent years, lawmakers increased the cap on the credit several times, until in 2010 they

created a provision to increase the cap and increase the cap by twenty percent automatically when reached the previous year.

Florida is one of the seven states not utilizing a personal income tax. This limited Florida choice advocates to a corporate income tax. Given this is an exception rather than a rule, and it is highly desirable to create a personal donation credit if possible, this chapter uses ALEC's Great Schools Tax Credit Program Act as a baseline. This act contains other advantages over the Florida legislation as well, such as completely lacking a cap.

The present chapter amends the Great Schools Tax Credit Program in two ways to make it more precisely mimic the Florida Step Up for Students Program. First, the chapter introduces a means test at Free and Reduced lunch eligibility. Bill sponsors should carefully consider the advantages and disadvantages of such a means test, as discussed in a drafting note below.

Second, the Florida Step Up for Students Program included a maximum scholarship amount. Independent analysis of the Step Up for Students program concluded that it saves the state of Florida hundreds of millions of dollars in addition to providing parental choice. A limitation on the size of the tax credit scholarship may be useful in avoiding ambiguity in the fiscal note process and justifies avoiding a cap.

Following are Drafting Notes to facilitate tailoring this bill for your state.

1. The definition for an eligible student is limited to those children in a household whose annual income does not exceed an amount equal to 2.5 times the income standard used to qualify for the federal free and reduced-price lunch program (FRL). The authors chose this standard for several reasons: 1) the FRL program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income families cannot afford the choice of a private school. Experience suggests that most parents' ability to choose a private school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen a multiple of 2.5 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle-class families face in paying for private schools.

2. The definition for an eligible student in this model legislation includes students presently enrolled in a private school. Drafted this way, the tax credit will necessarily reward many families who are already financing their child's education at a non-resident public school or a private school. For this reason some states with a scholarship tax credit program have chosen to place a cap on the total dollar amount of scholarships eligible for the tax credit. Alternatively, legislators wishing to draft a bill with a more modest fiscal impact may want to limit eligibility to students who attended a public school in the last year or are starting school in their state for the first time. In this case, there may actually be a savings for state taxpayers since a scholarship covering private school costs in many cases will be less than the cost of state support provided to students attending a public school.

3. This model legislation creates an additional class of eligible students who are from low-income families. Scholarship granting organizations are required to make sure that an appropriate proportion of their scholarship assistance reaches the poorest families in the state (see Section 4 (A)(6)). This ensures that assistance reaches the families who are least able to afford the school of their choice.

4. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

5. The bill limits the tax credit an individual, married couple, or corporation can claim to 50 percent of their tax liability. While most states have chosen to implement a dollar cap on the tax credit available to each entity, this methodology is more equitable since it adjusts the cap to treat all taxpayers proportionately the same. The authors chose 50 percent because, in general, states spend about one-half of their income tax receipts on education. Allowing taxpayers to claim a tax credit for more

than 50 percent of their liability opens the program up to charges that money is being diverted from non-education programs to support private schools.

6. The bill allows a taxpayer to carry forward any unused tax credits for up to three years. Individual incomes and corporate profits are often quite volatile. As a result, taxpayers may not have a liability against which to claim a credit in certain years. Yet the need for scholarship assistance by a student is likely to be relatively constant. Therefore, it is important to allow taxpayers to carry forward unused tax credits into other tax years to ensure that taxpayers have an incentive to continue to contribute to scholarship granting organizations even in years in which the taxpayer has no tax liability.

7. The model legislation requires the establishment of scholarship granting organizations to protect scholarship recipients, frustrate attempts at fraud, and measure the impact of the program without heavy government regulation of private contributions and private schools. We prefer rigorous self-regulation by taxpayers and independent regulation of private school participation by SGO's in lieu of intrusive government regulation.

8. The goal of this legislation is to provide every parent with the opportunity to send their child to the school that best meets their child's needs regardless of their family's income. The need for scholarship assistance is obviously greatest among low-income families. This requirement ensures that a proportionate amount of the scholarship assistance is given to the families financially least able to send their child to the school of their choice.

9. The goal of the program is to expand the number of families who can afford to send their children to the school of their choice. Therefore, legislators may wish to require that a certain percentage of the scholarship assistance go to children who were not already in private schools. This will also hold down the costs of the program and increase the efficiency of the financial incentive for expanding choice. This requirement will be particularly important in states that choose to place a total dollar cap on the tax credit program since a limited amount of tax credits could be claimed for scholarship assistance to students previously attending private schools.

10. The purpose of the criminal background checks is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The legislation gives the scholarship granting organizations the responsibility to do background checks, which gives them the power to exclude potential risks from the organization and alleviates liability issues for their employment decisions.

11. Collecting information regarding how many scholarship students qualify for free and reduced-price lunch will give policymakers a sense of the students that are being served by scholarship tax credit programs. These income guidelines are broadly known and already used in private schools.

12. The purpose of the financial information report and the demonstration of financial viability is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The model legislation provides for two methods for participating schools to demonstrate financial viability to ensure that scholarship funds are secure. The first method employs a market-based means of demonstrating viability. Companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed to the scholarship granting organization. They will therefore conduct the checks necessary to protect their financial interest as well as the financial interests of the contributors and recipients. Surety bonds can be expensive or invasive for some institutions so the legislation allows these schools to demonstrate by some other means that they have the financial wherewithal to fulfill their scholarship obligations. This might include things like personal guarantees, reserve accounts, or escrow accounts. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for these private organizations.

13. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability).

14. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks, the power to exclude potential risks from the school, and the liability for their employment decisions.

15. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the

program and participating schools. Therefore, all participating schools should be required to annually administer either the state achievement tests or nationally recognized norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the nationally recognized test. Many private schools would simply refuse to participate in the program if they were forced to administer the state tests, because it implies that they are no longer independent of the state. The reason many opponents to school choice promote state testing of private schools is, in fact, because they want to discourage school participation and quietly destroy the program.

Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state or an organization chosen by the state, as described in Endnote 16, in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program. The number and scope of the tests should be carefully limited to ensure that there is sufficient information to demonstrate the achievements of the program without being so exhaustive or prescriptive as to end up dictating the curriculum at participating schools. If legislators would like an extensive longitudinal study, refer to Endnote 18 and its suggested language to create such a review.

16. If legislators are concerned about the hostility the program would face from the existing state revenue department, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this program allows for the flexibility to implement market-based models of academic accountability. In these cases, test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to which they may send their children.

17. The purpose of administering tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in public schools and

are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice programs. Policymakers must consider the goal of releasing the academic data in order to choose the most effective reporting process. For instance, if the goal is to see how the program is affecting participating students' learning gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating school outputs as a tool to help parents choose the best school, scores should be released by participating school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the greater its obligations for transparency and accountability.

18. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 5(B). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate not only whether students who participate in the program are better off but also, more importantly, whether the competition from private schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

19. The legislation allows the Department to establish a mechanism that facilitates regular contributions from a taxpayer's income tax withholdings to a scholarship granting organization in anticipation of the taxpayer claiming a tax credit. This would likely encourage greater contributions to scholarship support organizations.

20. Following is the original language from Section 4(A)(6):

6) spend each year a portion of their expenditures on scholarships for low-income eligible students equal to the percentage of low-income eligible students in the county where the scholarship granting organization expends the majority of its scholarships;

Chapter 6: The Alternative Teacher Certification Act

Teacher quality is crucial to the improvement of instruction and student performance. However, certification requirements that correspond to state-approved education programs in most states prevent many individuals from entering the teaching profession. To obtain an education degree, students must often complete requirements in educational methods, theory, and style rather than in-depth study in a chosen subject area. Comprehensive alternative certification programs improve teacher quality by opening up the profession to well-educated, qualified, and mature individuals. States should enact alternative teacher certification programs to prepare persons with subject area expertise and life experience to become teachers through a demonstration of competency and a comprehensive mentoring program.

Chapter 7: Student Promotion to a Higher Grade

In 2003, Florida lawmakers took action to curtail the social promotion of children failing to demonstrate basic literacy skill by the end of the 3rd Grade. Specifically, lawmakers required parental notification when children fail to display age appropriate literacy skills and required interventions. When children repeatedly display low levels of literacy skills on examinations, Florida law makes the default for the child to repeat the 3rd grade, absent some good cause exceptions.

The Manhattan Institute conducted a high-quality statistical evaluation of Florida's retention policy, which compared retained students both to students scoring just above the retention threshold, and separately, to those students advancing with an exemption. In both cases, the retained students made greater gains than the two comparison groups after one year, and the gains increased after two years. The bottom line conclusion: retained students learned acquired the literacy skills needed to academically advance, while the comparison groups did not.[1] While retention is a difficult policy, it is important to remember that it is the exempted students, not the retained students, who ultimately suffer.

New York City Chancellor Joel Klein passed a retention policy informed by the Florida reform, which also received a positive evaluation from the RAND Corporation.[1]

Florida's retention policy encouraged a greater focus on early literacy development and early intervention. Since the advent of the policy, both the number of students scoring low enough to be subject to the policy, and the number of students retained, has declined by 40 percent.[1] An ounce of prevention is worth a pound of cure.

Chapter 8. School and Teacher Bonuses for Advanced Placement Exam Success

Florida created a bonus program for schools and teachers as an incentive to get students to pass one or more Advanced Placement Exams. The state created a funding weight increase per student passing one or more Advanced Placement tests with a score high enough to receive college credit. In Florida, the base funding amount equaled \$700 per student passing an AP exam. The state directed funds through the formula and the law required a minimum of 80% of those funds go directly to the schools, rather than to the district.

In addition, the program provides an additional increase in funding for students earning AP credit at a school graded D or F, and specifies that the teacher shall earn a bonus of \$50 up to a maximum of \$2,000 out of the \$700. In the last decade, the number of African Americans and Hispanics passing AP exams in Florida has tripled. Florida has the highest Hispanic AP passing rate in the nation.

Compensation for AP exam success can serve as a paradigm shift by inviting schools to *earn* additional funds, rather than simply receive them.

The model bill leaves funding weight amounts as "X" in order to allow sponsors to vary the amounts based upon individual state circumstances. Note also that Florida provides similar funding for International Baccalaureate programs under the same program. Lawmakers can consider whether they wish to include IB or other internationally benchmarked programs as a part of a system of school bonuses.

Approved by the ALEC Board of Directors, January 7, 2011.

THE OPEN ENROLLMENT ACT

The Open Enrollment Act

Summary

The Open Enrollment Act stipulates that a student may attend any public school or program in the state. The legislation allows the parents of the student to apply for attendance in any nonresident school, either within or outside the district of residence. The nonresident school would advise the parent within a reasonable time if the application was accepted. No school district can be obligated to change existing school structures or program guidelines. No school can reject an application except for lack of space, existing eligibility criteria, desegregation plan requirements, expulsion record or late enrollment.

Provisions are made for transportation within the nonresident district and, under some circumstances, within the resident district. School districts shall be required to post selected information on their websites concerning schools and the open enrollment process to facilitate informed decisions by parents. Except under certain conditions, students accepted through the open enrollment process are entitled to remain enrolled in the school of choice through the entire school year.

Model Legislation

Section 1. {Purpose.} The Purpose of this Act is to improve educational achievement and to enhance the opportunity for parental choice in education by providing additional options to pupils in the state to enroll in public schools and educational programs throughout the state without regard to pupil residence.

Section 2. {Establishment.} The state educational agency shall establish an enrollment options program to enable pupils residing in the state to attend any public school or program within the district of residence, or any school or program in a nonresident district within the state without requiring nonresident pupils to pay tuition.[i]

Section 3. {Application procedures.}

(A) The parent or legal guardian of a pupil wishing to attend a nonresident school or program, either within or outside the district of residence, shall submit an application to the nonresident school of choice.[ii]

(B) The parent or legal guardian shall submit the application for a particular school year at a time set and on a form provided by the state educational agency.[iii]

(C) Upon agreement of the resident and nonresident districts, the deadlines in Subsection (B) may be waived.[iv]

Section 4. {Desegregation plan(s).} A school district that has a desegregation plan approved by the State educational agency, by a court, or by the United States Department of Education, Office of Civil Rights, may, in accordance with regulations of the state educational agency, limit the number of pupils who transfer into (or out of) the district under this Act if necessary to ensure compliance with the plan.

Section 5. {Basis for decision.}

(A) In implementing the provisions of this Act, no school district shall be required to:

(1) Make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school; or

(2) Establish and offer any particular program in a school if such program is not currently offered in such school; or

(3) Alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance; or

(4) Enroll any student pursuant to this article in any program or school after [annual enrollment count date].[v]

(B) Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools only for any of the following reasons:

(1) Lack of space or capacity within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.

(2) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or does not offer a particular program requested.

(3) The pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.

(4) A desegregation plan is in effect for the school district, and such denial is necessary in order to enable compliance with such desegregation plan.

(5) The student has been expelled, or is in the process of being expelled, for the reasons specified in [STATUTE CITE][vi]

Section 6. {Notification.} In implementing the provisions of this Act, a school district shall adopt a policy requiring notification of accepted applicants within a reasonable amount of time of the application being submitted.

Section 7. {Interdistrict transportation.} If requested by the parent of a pupil participating in the program under this Act, the nonresident district shall provide transportation within that district. The parent shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the receiving district.

Section 8. {Graduation.} A district serving a nonresident pupil under this Act shall accept credits toward graduation that were awarded to that pupil by another district and shall graduate a nonresident pupil if the pupil meets the nonresident district's own graduation requirements.

Section 9. {Information.} In order to enable a parent to make an informed decision about enrollment options under this Act, each school district that operates a website shall make open enrollment information as easily available to parents as possible by including the following information on the school district's website:

(A) One or more web pages that summarize school district open enrollment policies and procedures for interdistrict and intradistrict open enrollment into district schools;

(B) Information concerning enrollment into district's charter and magnet schools, if different than district schools;

(C) Information concerning the eligibility of a student to participate in school activities if the student has transferred from one school to another school, either within the school district or within another school district;[vii]

(D) Information concerning the open enrollment application process, including how and where to obtain an application and when and how notification of acceptance occurs;

(E) Information concerning the student selection process;

(F) Information concerning open enrollment timelines, including how long an enrollment shall remain valid;

(G) Contact information for one or more individuals employed by the school district who are responsible for answering questions from parents concerning the open enrollment process; and

(H) A tab or link on the home page of the school district website that links viewers to open enrollment information, is clearly labeled with language that includes the words "open enrollment" or "school choice," and is available at all times of the year.

Section 10. {Continuing enrollment.}

(A) Except as otherwise provided in subsection (B) of this section, any pupil who enrolls in a nonresident school or program pursuant to this article may remain enrolled in that school or program through the end of the school year.

(B) This section shall not apply if:

(1) The nonresident pupil is expelled pursuant to statute from the school or program;

(2) The nonresident pupil is excluded from the school or program for any of the reasons described in paragraphs (1) to (4) of subsection (A) of Section 5.

Section 11. {Definitions.} As used in this Act:

(A) The term “school” means a school that is operated or authorized by a public school district or other recognized educational agency, and that provides elementary or secondary education in accordance with state law.

(B) “Parent” means the natural or adoptive parent or legal guardian of a dependent child.

Section 12. {Severability clause.}

Section 13. {Repealer clause.}

Section 14. {Effective date.}

Endnotes:

[i] States with stronger “local control” may designate the authority to a school district or local education agency.

[ii] Preferably, the application should be made at the school level to give students and parents greater access to their preferred educational option. In some states, however, this process may function better at the district level.

[iii] See Note 2. Alternate language may grant the authority to establish the deadline and form to “the resident or nonresident district of choice.” But creating a single standard time frame at the state level makes navigating open enrollment simpler for parents.

[iv] See Note 4. If this authority is granted at the state level rather than the school level, subsection 3 should be eliminated to prevent the sending district from exercising undue power to prevent the free exercise of choice.

[v] States that provide funding based on average daily attendance or membership may choose a date or eliminate this point under Subsection A.

[vi] Place to cite existing statutes that define causes for expulsion based on ongoing habitually disruptive behavior, various criminal offenses or other activities deemed

harmful to the welfare of other students or the effective implementation of the education program.

[vii] In some states, open enrollment without a bona fide family move affects a student's ability to participate in interscholastic athletics and other competitive activities.

Approved by the ALEC Board of Directors, January 7, 2011.

INDIANA EDUCATION REFORM PACKAGE

Indiana Education Reform Package

Summary

The Indiana Education Reform Package is inspired by their comprehensive set of K–12 education reforms adopted by the Indiana Legislature in the spring of 2011 and signed by Governor Mitch Daniels. The components in this Act have created the nation’s largest school voucher program, among other reforms.

This bill is written as an omnibus education reform act. Some may find it most useful to introduce as an omnibus bill, while others may prefer to introduce separate measures depending upon legislative dynamics, as well as the current policies in each state.

This act incorporates several of the key reforms the Indiana Legislature passed, some of which are similar to existing ALEC model legislation, including Charter Schools Act, School Scholarships Act, and Early Graduation Scholarship Act.

Chapters of the Indiana Education Reform Package

- (1) Charter Schools Act
- (2) School Scholarships Act
- (3) Teacher Evaluations and Licensing Act
- (4) Teacher Collective Bargaining Act
- (5) Turnaround Academies Act
- (6) Early Graduation Scholarship Act

(7) Textbooks and Other Curricular Material Act

Chapter 1. Charter Schools Act

Section 1. {Title} This Act may be referred to as the “Charter Schools Act.”

Section 2. {Definitions}

(A) “Virtual charter school” means any charter school, including a conversion charter school, that provides for the delivery of more than fifty percent (50%) of instruction to students through:

- (1) virtual distance learning;
- (2) online technologies; or
- (3) computer based instruction.

(B) “Charter board” refers to the [State] charter school board established under Section 3.

(C) “Fund”, for purposes of Section 19, refers to the charter school facilities assistance fund.

(D) “Program”, for purposes of Section 19, refers to the charter school facilities assistance program under Section 19.

(E) “Sponsor” means, for a charter school, one (1) of the following:

- (1) A governing body.
- (2) A state educational institution that offers a four (4) year baccalaureate degree.
- (3) The executive of a consolidated city.
- (4) The charter board.

(5) A nonprofit college or university that provides a four (4) year educational program for which it awards a baccalaureate or more advanced degree

Section 3. {State Charter School Board}

(A) The State charter school board is established for the purpose of sponsoring charter schools throughout [State].

(B) The charter board is a statewide charter school sponsor composed of the following seven (7) members appointed to four (4) year terms:

(1) Two (2) members, who may not be members of the same political party, appointed by the governor.

(2) One member who has previous experience with or on behalf of charter schools appointed by the state superintendent.

(3) Four (4) members, who may not be legislators, appointed as follows:

(a) One (1) member appointed by the president pro tempore of the senate.

(b) One (1) member appointed by the minority leader of the senate.

(c) One (1) member appointed by the speaker of the house of representatives.

(d) One (1) member appointed by the minority leader of the house of representatives.

(C) The governor shall appoint the chairperson of the charter board.

(D) A majority of the members appointed to the charter board constitutes a quorum. The affirmative votes of a majority of the voting members appointed to the charter board are required for the charter board to take action.

(E) Each member of the charter board who is not a state employee is entitled to the minimum salary per diem. The member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the [State] department of administration and approved by the budget agency.

(F) Not later than December 31, 2011, the charter board, with assistance from the department, shall:

(1) establish a process to:

(a) review a proposal to establish a charter school under Section 5;

(b) make a decision on the proposal as required under [insert appropriate statute]; and

(c) monitor charter schools sponsored by the charter board; and

(2) publish guidelines concerning the review process described in subdivision (1);

(G) The department shall provide staff to carry out the duties of the charter board under this chapter until the time when the charter board begins receiving administrative fees pursuant to Section 13(E). At that time, the charter board may hire staff to carry out the duties of the charter board under this chapter.

(H) Funding for the charter board consists of administrative fees collected under Section 13.

Section 4. Monitoring and Accountability of Sponsors

(A) The department shall establish a charter school page on the department's Internet web site that includes information on the following:

(1) All approved sponsors, including the sponsors' processes for the following:

(a) Monitoring approved schools at regular intervals.

(b) Establishing minimum standards for renewing a charter or not renewing a charter.

(c) Processes and standards for school closure, including the transfer of academic records to other schools and postsecondary educational institutions.

(2) All pending applications for a charter.

(3) All approved applications for a charter.

(4) All rejected applications for a charter.

(5) Annual performance data that includes the same demographic and performance data required from school corporations.

(B) The minimum standards for renewal and the standards to avoid closure imposed by sponsors on the charter school in the charter school agreement must include a requirement that the charter school not fall within the application of a Turnaround Academy.

(C) After giving at least thirty (30) days notice, the state board may require a sponsor to appear at a hearing conducted by the state board if the sponsor has renewed a charter or failed to close a charter school that does not meet the minimum standards in the charter agreement, as posed on the department's Internet web site.

(D) After the hearing, the state board may implement one (1) or more of the following actions unless the state board finds sufficient justification for the charter school's performance under the state school accountability system:

(1) Transfer the sponsorship of the charter school identified in subsection (a) to the charter board.

(2) Order the closure of the charter school identified in subsection (a) on the date set by the state board.

(3) Order the reduction of any administrative fee collected under Section 13 that is applicable to the charter school identified in subsection (A) to an amount not greater than fifty percent (50%) of the amount allowed under Section 13.

(E) In determining whether to impose consequences under subsection (B), the state board must consider the following:

(1) Enrollment of students with special challenges such as drug or alcohol addiction, prior withdrawal from school, prior incarceration, or other special circumstances.

(2) High mobility of the student population resulting from the specific purpose of the charter school.

(3) Annual improvement in the performance of students enrolled in the charter school, compared with the performance of students enrolled in the charter school in the immediately preceding school year.

(F) If the state board has closed or transferred sponsorship of at least twenty-five percent (25%) of the charter schools chartered by one (1) sponsor under section 3 of this chapter, the sponsor's authority to sponsor new charter schools may be suspended by the state board until the state board approves the sponsor to sponsor new charter schools. A determination under this section to suspend a sponsor's authority to sponsor new charter schools must identify the deficiencies that, if corrected, will result in the approval of the sponsor to sponsor new charter schools.

Section 5. {Proposal to establish charter school; required contents}

(A) An organizer may submit to the sponsor a proposal to establish a charter school.

(B) A proposal must contain at least the following information:

(1) Identification of the organizer.

(2) A description of the organizer's organizational structure and governance plan.

(3) The following information for the proposed charter school:

(a) Name.

(b) Purposes.

(c) Governance structure.

(d) Management structure.

(e) Educational mission goals.

(f) Curriculum and instructional methods.

(g) Methods of pupil assessment.

(h) Admission policy and criteria, subject to Section 9.

- (i) School calendar.
- (j) Age or grade range of students to be enrolled.
- (k) A description of staff responsibilities.
- (l) A description of the physical plant.
- (m) Budget and financial plans.
- (n) Personnel plan, including methods for selection, retention, and compensation of employees.
- (o) Transportation plan.
- (p) Discipline program.
- (q) Plan for compliance with any applicable desegregation order.
- (r) The date when the charter school is expected to:
 - (i) begin school operations; and
 - (ii) have students attending the charter school.
- (s) The arrangement for providing teachers and other staff with health insurance, retirement benefits, liability insurance, and other benefits.
- (t) Any other applications submitted to a sponsor in the previous five (5) years.
- (4) The manner in which the sponsor must conduct an annual audit of the program operations of the charter school.
- (C) This Section does not waive, limit, or modify the provisions of:
 - (1) a collective bargaining agreement in a charter school where the teachers have chosen to organize under [insert appropriate code]; or

(2) an existing collective bargaining agreement for noncertificated employees (as defined in [insert appropriate code]).

Section 6. {Public hearing by sponsor}

(A) This section applies to a sponsor that is not the executive of a consolidated city.

(B) Before issuing a charter, the sponsor must conduct a public hearing concerning the establishment of the proposed charter school. At the public hearing, the governing body of the school corporation in which the proposed charter school will be located must be given an opportunity to comment on the effect of the proposed charter school on the school corporation, including any foreseen negative impacts on the school corporation.

Section 7. {Department notification; annual report}

(A) A sponsor must notify the department of the following:

(1) Receipt of a proposal.

(2) Acceptance of a proposal.

(3) Rejection of a proposal, including the reasons for the rejection.

(4) The length of time for which a charter is granted.

(5) School goals, educational program design, and an education management organization operating a school, if applicable.

(6) The name and address of the education management organization, and the name of the chief operating officer of the education management organization, if applicable.

(B) The department shall annually do the following:

(1) Compile the information received under subsection (a) into a report.

(2) Submit the report in an electronic format to the legislative council.

Section 8. {Charter requirements }

(A) A charter must meet the following requirements:

(1) Be a written instrument.

(2) Be executed by a sponsor and an organizer.

(3) Confer certain rights, franchises, privileges, and obligations on a charter school.

(4) Confirm the status of a charter school as a public school.

(5) Be granted for:

(a) not less than three (3) years; and

(b) a fixed number of years agreed to by the sponsor and the organizer.

(6) Provide for the following:

(a) A review by the sponsor of the charter school's performance, including the progress of the charter school in achieving the academic goals set forth in the charter, at least one (1) time in each five (5) year period while the charter is in effect.

(b) Renewal, if the sponsor and the organizer agree to renew the charter.

(7) Specify the grounds for the sponsor to:

(a) revoke the charter before the end of the term for which the charter is granted; or

(b) not renew a charter.

(8) Set forth the methods by which the charter school will be held accountable for achieving the educational mission and goals of the charter school, including the following:

(a) Evidence of improvement in:

(i) assessment measures, including the ISTEP and end of course assessments;

(ii) attendance rates;

(iii) graduation rates (if appropriate);

(iv) increased numbers of Core 40 diplomas and other college and career ready indicators including advanced placement participation and passage, dual credit participation and passage, and International Baccalaureate participation and passage (if appropriate);

(v) increased numbers of academic honors and technical honors diplomas (if appropriate);

(vi) student academic growth;

(vii) financial performance and stability; and

(viii) governing board performance and stewardship, including compliance with applicable laws, rules and regulations, and charter terms.

(b) Evidence of progress toward reaching the educational goals set by the organizer.

(9) Describe the method to be used to monitor the charter school's:

(a) compliance with applicable law; and

(b) performance in meeting targeted educational performance.

(10) Specify that the sponsor and the organizer may amend the charter during the term of the charter by mutual consent and describe the process for amending the charter.

(11) Describe specific operating requirements, including all the matters set forth in the application for the charter.

(12) Specify a date when the charter school will:

(a) begin school operations; and

(b) have students attending the charter school.

(13) Specify that records of a charter school relating to the school's operation and charter are subject to inspection and copying to the same extent that records of a public school are subject to inspection and copying.

(14) Specify that records provided by the charter school to the department or sponsor that relate to compliance by the organizer with the terms of the charter or applicable state or federal laws are subject to inspection and copying.

(B) A charter school shall set annual performance targets in conjunction with the charter school's sponsor. The annual performance targets shall be designed to help each school meet applicable federal, state, and sponsor expectations.

Section 9. {Admission policies}

(A) Except as provided in this chapter, a charter school may not establish admission policies or limit student admissions in any manner in which a public school is not permitted to establish admission policies or limit student admissions.

(B) Notwithstanding Subsection (A), a charter school may operate as a single gender school if approved to do so by the sponsor. A single gender charter school must be open to any student of the gender the school serves who resides in [State].

(C) A charter school, including a conversion charter school, must be open to any student who resides in [State].

Section 10. {Limits on attendance}

(A) Except as provided in Subsections (B), (C), and (D), a charter school must enroll any eligible student who submits a timely application for enrollment.

(B) This subsection applies if the number of applications for a program, class, grade level, or building exceeds the capacity of the program, class, grade level, or building. If a charter school receives a greater number of applications than there are spaces for students, each timely applicant must be given an equal chance of admission. The organizer must determine which of the applicants will be admitted to the charter school or the program, class, grade level, or building by random drawing in a public meeting.

(C) A charter school may limit new admissions to the charter school to:

(1) ensure that a student who attends the charter school during a school year may continue to attend the charter school in subsequent years; and

(2) allow the siblings of a student who attends a charter school to attend the charter school.

(D) This subsection applies to an existing school that converts to a charter school under Section 18. During the school year in which the existing school converts to a charter school, the charter school may limit admission to:

(1) those students who were enrolled in the charter school on the date of the conversion; and

(2) siblings of students described in subdivision (1).

Section 11. {Employees; collective bargaining agreements; accrual of and financial responsibility for benefits}

(A) Individuals who work at a charter school are employees of the charter school or of an entity with which the charter school has contracted to provide services.

(B) Teachers in a conversion charter school may be employees of the charter school or of both the charter school and the school corporation that sponsored the charter school, as determined by the provisions of the charter.

(C) All benefits accrued by teachers as employees of the conversion charter school are the financial responsibility of the conversion charter school.

(D) All benefits accrued by a teacher during the time the teacher was an employee only of the school corporation that sponsored the charter school are the financial responsibility of the school corporation. The school corporation shall pay those benefits directly or reimburse the conversion charter school for the cost of the benefits.

Section 12. {Teachers; licensing requirements}

(A) At least ninety percent (90%) of the individuals who teach full time in a charter school must either:

(1) hold a license to teach in a public school in [State] under Section 21; or

(2) be in the process of obtaining a license to teach in a public school in [State];

unless the charter school requests and the state board approves a waiver for a lower percentage.

(B) An individual who does not qualify under subsection (a) may teach full time in a charter school if the individual meets one of the following criteria:

(1) The individual is in the process of obtaining a license to teach in a charter school in [State] under Section 21.

(2) The individual holds at least a bachelor's degree with a grade point average of at least three (3.0) on a four (4.0) point scale from an accredited postsecondary educational institution in the content or related area in which the individual teaches. Individuals qualifying under subsection (b) may not exceed ten percent (10%) of the full time teaching staff unless the charter school requests and the state board approves a waiver for a higher percentage.

(C) An individual described in Subsection (A)(2) must complete the transition to teaching program not later than three (3) years after beginning to teach at a charter school.

(D) An individual who holds a part-time teaching position in a charter school must hold at least a bachelor's degree with a grade point average of at least three (3.0) on a four (4.0) point scale from an accredited postsecondary educational institution in the content or related area in which the individual teaches.

(E) An individual who provides to students in a charter school a service:

(1) that is not teaching; and

(2) for which a license is required under [State] law; must have the appropriate license to provide the service in [State].

Section 13. {Costs of services provided; administrative fees}

(A) Services that a school corporation provides to a charter school, including transportation, may be provided at not more than one hundred three percent (103%) of the actual cost of the services.

(B) This Subsection applies to a sponsor that is a state educational institution authorized to organize a charter school. In a calendar year, a state educational institution may receive from the organizer of a charter school sponsored by the state educational institution an administrative fee equal to not more than three percent (3%) of the total amount the organizer receives during the calendar year from basic tuition support.

(C) This Subsection applies to the executive of a consolidated city that sponsors a charter school. In a calendar year, the executive may collect from the organizer of a charter school sponsored by the executive an administrative fee equal to not more than three percent (3%) of the total amount the organizer receives during the calendar year for basic tuition support.

(D) This Subsection applies to a sponsor that is a nonprofit college or university that is approved by the state board of education. In a calendar year, a private college or university may collect from the organizer of a charter school sponsored by the private college or university an administrative fee equal to not more than three percent (3%) of the total amount the organizer receives during the calendar year for basic tuition support.

(E) This Subsection applies to the charter board. In a calendar year, the charter school board may collect from the organizer of a charter school sponsored by the charter board an administrative fee equal to not more than three percent (3%) of the total amount the organizer receives during the calendar year for basic tuition support.

(F) A sponsor's administrative fee may not include any costs incurred in delivering services that a charter school may purchase at its discretion from the sponsor. The sponsor shall use its funding provided under this section exclusively for the purpose of fulfilling sponsoring obligations.

(G) Except for oversight services, a charter school may not be required to purchase services from its sponsor as a condition of charter approval or of executing a charter contract, nor may any such condition be implied.

(H) A charter school may choose to purchase services from its sponsor. In that event, the charter school and sponsor shall execute an annual service contract, separate from

the charter contract, stating the parties' mutual agreement concerning the services to be provided by the sponsor and any service fees to be charged to the charter school. A sponsor may not charge more than market rates for services provided to a charter school.

(I) Not later than ninety (90) days after the end of each fiscal year, each sponsor shall provide to each charter school it sponsors an itemized accounting of the actual costs of services purchased by the charter school from the sponsor. Any difference between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party. If either party disputes the itemized accounting, any charges included in the accounting, or charges to either party, either party may request a review by the department. The requesting party shall pay the costs of the review.

Section 14. {Matching funds for federal grants to charter schools}

(A) If the United States Department of Education approves a new competition for states to receive matching funds for charter school facilities, the department shall pursue this federal funding.

(B) To increase the state's opportunity to receive matching funds from the United States Department of Education, the department shall develop a facilities incentive grants program before January 1, 2010.

(C) The department shall use the priority criteria set forth in 21 U.S.C. 7221d(b) and 34 CFR 226.12 through 34 CFR 226.14 to develop the facilities incentive grants program.

Section 15. {Virtual charter schools; funding}

(A) As used in this Section, "virtual charter school" means any charter school, including a conversion charter school, that provides for the delivery of more than fifty percent (50%) of instruction to students through:

- (1) virtual distance learning;
- (2) online technologies; or
- (3) computer based instruction.

(B) Beginning with the 2011-2012 school year, a virtual charter school may apply for sponsorship with any statewide sponsor in accordance with the sponsor's guidelines.

(C) A virtual charter school is entitled to receive funding from the state in an amount equal to the sum of:

(1) the product of:

(a) the number of students included in the virtual charter school's ADM; multiplied by

(b) eighty-five percent (85%) of the school's foundation amount determined under IC 20-43-5-4; plus

(2) the total of any special education grants to which the virtual charter school is entitled.

(a) A virtual charter school is entitled to receive special education grants calculated in the same manner as special education grants are calculated for other school corporations.

(D) The department shall adopt rules to govern the operation of virtual charter schools.

(E) Beginning in 2009, the department shall before December 1 of each year submit an annual report to the budget committee concerning the program under this section.

(F) This subsection does not apply to students who were enrolled in a virtual charter school during the 2010-2011 school year. Each school year, at least sixty percent (60%) of the students who are enrolled in virtual charter schools under this section for the first time must have been included in the state's ADM count for the previous school year.

Section 16. {Annual report to department}

(A) A sponsor that has established a charter school shall submit an annual report to the department for informational and research purposes.

(B) An annual report under this chapter must contain the following information:

(1) Results of all standardized testing, including ISTEP program testing, end of course assessments, and any other assessments used for each sponsored school.

(2) A description of the educational methods and teaching methods employed for each sponsored school.

(3) Attendance rates for each sponsored school.

(4) Graduation rates (if appropriate), including attainment of Core 40 and academic honors diplomas for each sponsored school.

(5) Student enrollment data for each sponsored school, including the following:

(a) The number of students enrolled.

(b) The number of students expelled.

(6) Schools that closed or for which the charter was not renewed, and the reasons for the closure or nonrenewal.

Section 17. {Transfer of students; discrimination prohibited}

(A) A public noncharter school that receives a transfer student from a charter school may not discriminate against the student in any way, including by placing the student:

(1) in an inappropriate age group according to the student's ability;

(2) below the student's abilities; or

(3) in a class where the student has already mastered the subject matter.

(B) If a student who previously was enrolled in a charter school enrolls in another public school, the public noncharter school shall accept all credits earned by the student in courses or instructional programs at the charter school in a uniform and consistent manner, according to the same criteria that are used to accept academic credits from other public schools.

Section 18. {Conditions required for conversion}

(A) This section does not apply to an existing public elementary or secondary school that the governing body of the school corporation in which the school is located has scheduled for closure.

(B) An existing public elementary or secondary school may be converted into a charter school if all of the following conditions apply:

(1) At least fifty-one percent (51%) of the parents of students who attend the school have signed a petition requesting the conversion, which must be completed not later than ninety (90) days after the date of the first signature.

(2) The school has been placed in either of the two (2) lowest categories or designations under IC 20-31-8-3 for two (2) consecutive years.

(3) The governing body votes to convert an existing school within the school corporation.

(C) Notwithstanding subsection (B), if a governing body operates a school that has been placed in either of the two (2) lowest categories or designations of school improvement under [insert appropriate code] for four (4) consecutive years, the governing body may not serve as that charter school's sponsor.

(D) A conversion charter school shall continue to comply with all legal requirements concerning student diversity and treatment of children with special needs and accept all students who attended the school before its conversion and who wish to attend the conversion charter school. If any space remains, any student in [State] may attend the conversion charter school.

Section 19. {Charter School Facilities Assistance Program}

(A) The charter school facilities assistance program is established. The department shall administer the program and fund.

(B) The purpose of the program is to make grants and loans to charter schools for the purpose of:

(1) constructing;

(2) purchasing;

(3) renovating;

(4) maintaining;

(5) paying first semester costs for new; and

(6) reducing common school fund debt for; charter schools.

(C) The fund consists of the following:

(1) Money appropriated or authorized by the general assembly.

(2) The repayment proceeds of loans made to charter schools from the fund.

(3) Any gifts and grants made to the fund or other money required by law to be deposited in the fund.

(4) Any federal grants that are received to capitalize or supplement the fund.

(5) Any earnings on money in the fund.

(D) The expenses of administering the fund shall be paid from money in the fund.

(E) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(F) The fund may be used by the department as a revolving fund for the purposes described in Subsection (B).

(G) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(H) The department may apply to the United States Department of Education for a state charter school facilities incentive program grant authorized under 34 U.S.C. 7221d(b). The department shall use the proceeds of any state charter school facilities incentive program grant awarded to the state for purposes of the program. To the extent permitted by federal law, the proceeds may be used to pay the administrative expenses of the program.

(I) The department may authorize money in the fund to be used for any of the following purposes:

(1) To pay first semester costs for charter schools first opening after June 30, 2011.

(2) To repay advances and loans to charter schools made before June 30, 2011.

(3) To match federal grants described in Section 14.

(4) To loan or grant money from the fund to a charter school to carry out the purposes described in Subsection (B).

(J) The department shall establish written procedures for providing grants or loans from the fund to charter schools. The written procedures must include at least the following:

(1) An application procedure.

(2) A procedure to identify projects that may qualify for a grant or loan.

(3) Criteria for establishing the priority of projects for which grants or loans will be made.

(4) Procedures for selecting projects for which grants or loans will be made.

(K) To apply for a grant or loan from the fund, a charter school must submit an application that contains the information required by the department.

(L) In making its determination to approve or disapprove a grant or loan application, the department may consider the following:

(1) The soundness of the financial business plans of the applicant charter school.

(2) The availability to the charter school of other sources of funding.

(3) The geographic distribution of grants or loans made from the fund.

(4) The impact that grants or loans received under this Section will have on the charter school's receipt of other private and public financing.

(5) Plans for innovatively enhancing or leveraging funds received under this Section, such as loan guarantees or other types of credit enhancements.

(6) The financial needs of the charter school.

(M) The department may make grants or loans under this Section on a per student basis.

(N) The following apply to a loan from the fund to a charter school under this Section:

(1) A loan may not exceed the maximum amount set by the department.

(2) The term of the loan may not exceed fifteen (15) years after the date of the loan.

(3) A charter school may receive multiple loans from the fund as long as the total amount outstanding on all loans granted to the charter school from the fund do not exceed the maximum amount set by the department.

(4) The department shall determine the interest rate and other terms for the loan, subject to the approval of the state board of finance.

(5) A charter school must enter into a loan agreement with the department before receiving a loan from the fund.

(O) A charter school receiving a loan under this Section shall repay the loan from:

(1) the amount of state tuition support that the charter school is eligible to receive; and

(2) to the extent that state tuition support is insufficient to meet the debt service obligations of the charter school, other resources available to the charter school.

(P) The department shall withhold the amount of the balance of the loan due in a year on a loan made under this Section from state tuition support distributions that would otherwise be made in the year to the charter school. To the extent possible, the department shall withhold an equal amount from each installment of state tuition support distributed to the charter school. Withheld amounts reduce the balance of the loan of the charter school. The auditor of state shall transfer withheld amounts to the fund.

Section 20. {Sale of unneeded property; lease or sale to charter school; procedures}

(A) If a governing body of a school corporation determines that any real or personal property:

(1) is no longer needed for school purposes; or

(2) should, in the interests of the school corporation, be exchanged for other property; the governing body may sell or exchange the property.

(B) Money derived from the sale or exchange of property under this section shall be placed in any school fund:

(1) established under applicable law; and

(2) that the governing body considers appropriate.

(C) A governing body may not make a covenant that prohibits the sale of real property to another educational institution.

(D) This subsection does not apply to a school building that on July 1, 2011, is leased or loaned by the school corporation that owns the school building to another entity. A governing body shall make available for lease or purchase to any charter school any school building owned by the school corporation that:

(1) either:

(a) is not used in whole or in part for classroom instruction at the time the charter school seeks to lease the building; or

(b) appears on the list compiled by the department under Subsection (E); and

(2) was previously used for classroom instruction; in order for the charter school to conduct classroom instruction.

(E) Each governing body shall inform the department whenever a school building that was previously used for classroom instruction is closed, unused, or unoccupied. The department shall maintain a list of closed, unused, or unoccupied school buildings and

make the list available on the department's Internet web site. Each school corporation shall provide a list of closed, unused, or unoccupied buildings to the department by the date set by the department. The department must update the list each year before August 31.

(F) A school building that appears for the first time on the department's list under subsection (e) shall be designated as "Unavailable until (a date two (2) years after the school building first appears on the list)" if the governing body of the school corporation that owns the school building indicates the school building may be reclaimed during that period for classroom instruction, which must begin not later than one (1) year after the school building is reclaimed. If the school building remains unused for classroom instruction one (1) year after being reclaimed, the governing body shall place the school building on the department's list. A governing body may reclaim a school building only one (1) time under this subsection.

(G) If a charter school wishes to use a school building on the list created under subsection (e), the charter school shall send a letter of intent to the department. The department shall notify the school corporation of the charter school's intent, and the school corporation that owns the school building shall lease the school building to the charter school for one dollar (\$1) per year for as long as the charter school uses the school building for classroom instruction or for a term at the charter school's discretion, or sell the school building to the charter school for one dollar (\$1). The charter school must begin to use the school building for classroom instruction not later than two (2) years after acquiring the school building. If the school building is not used for classroom instruction within two (2) years after acquiring the school building, the school building shall be placed on the department's list under subsection (e). If during the term of the lease the charter school closes or ceases using the school building for classroom instruction, the school building shall be placed on the department's list under subsection (e).

(H) During the term of a lease under subsection (g), the charter school is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. The school corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school leased the school building.

(I) If a school building appears on the department's list under subsection (e) for at least forty-eight (48) months, the school corporation may sell or otherwise dispose of the school building in any manner the governing body considers appropriate.

Section 21. {Licensing program for charter school teachers}

(A) The department shall establish a program under which an individual who:

(1) wishes to teach in a charter school in [State]; and

(2) holds at least a bachelor's degree with a grade point average of at least 3.0 on a 4.0 point scale from an accredited postsecondary institution in the content or a related area in which the individual wishes to teach; may obtain a license that allows the individual to teach in a charter school. The program must allow the individual to teach in a charter school while the individual is in the process of obtaining the license.

Section 22. {Calculation; basic tuition support}

(A) A school district's basic tuition support for a year is the amount determined under the applicable provision of this section.

(B) This subsection applies to a school corporation that has transition to foundation revenue per adjusted ADM for a year that is not equal to the foundation amount for the year. The school corporation's basic tuition support for a year is equal to the school corporation's transition to foundation revenue for the year.

(C) This subsection applies to a school corporation that has transition to foundation revenue per adjusted ADM for a year that is equal to the foundation amount for the year. The school corporation's basic tuition support for a year is the sum of the following:

(1) The foundation amount for the year multiplied by the school corporation's adjusted ADM.

(2) The amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years.

(D) This subsection applies to students of a virtual charter school who are participating in a program under Section 15. A virtual charter school's basic tuition support for a year for those students is the amount determined under Section 15.

(A) Not later than January 1, 2012, an entity that operated under the virtual charter school pilot program under Section 15 before July 1, 2011, shall transfer its operating authority to the charter school board established by Section 3, as added by this act, unless the virtual charter school obtains another sponsor.

(B) Notwithstanding Section 15, as amended by this act, a virtual charter school chosen by the department of education to operate during the 2010-2011 school year shall continue to operate until the virtual charter school transfers its operating authority to the [State] charter school board or another sponsor.

Chapter 2. School Scholarships Act

Section 1. {Title} This Act may be referred to as the “School Scholarships Act.”

Section 2. {Definitions}

(A) “Dependent child” means an individual who:

(1) is eligible to receive a free elementary or high school education in a [State] school;

(2) qualifies as a dependent (as defined in Section 152 of the Internal Revenue Code) of the taxpayer; and

(3) is the natural or adopted child or the taxpayer or, if custody of the child has been awarded in a court proceeding to someone other than the mother or father, the court appointed guardian or custodian of the child.

If the parents of a child are divorced, the term refers to the parent who is eligible to take the exemption for the child under Section 151 of the Internal Revenue Code.

(B) “Education expenditure” refers to any expenditures made in connection with enrollment, attendance, or participation of the taxpayer’s dependent child in a private elementary or high school education program. The term includes tuition, fees, computer software, textbooks, workbooks, curricula, school supplies (other than personal computers), and other written materials used primarily for academic instruction or for academic tutoring, or both.

(C) “Private elementary or high school education program” means:

(1) home schooling; or

(2) attendance at a private school;

(a) in [State] that satisfies a child’s obligation for compulsory attendance at a school. The term does not include the delivery of instructional service in a home setting to a dependent child who is enrolled in a school or a charter school.

(D) “Scholarship granting organization” refers to an organization that:

(1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and

(2) is organized at least in part to grant school scholarships without limiting the availability of scholarships to students of only one (1) participating school.

(E) “Eligible individual” refers to an individual who:

(1) has legal settlement in [State];

(2) is at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in [insert appropriate code];

(3) either has been or is currently enrolled in an accredited school;

(4) is a member of a household with an annual income of not more than one hundred fifty percent (150%) of the amount required for the individual to qualify for the federal free or reduced price lunch program; and

(5) either:

(a) was enrolled in grade 1 through 12 in a school that did not charge the individual transfer tuition for at least two (2) semesters immediately preceding the first semester for which the individual receives a choice scholarship under Section 4 of this Chapter;
or

(b) received a scholarship from a scholarship granting organization under Section 3 of this Chapter or a choice scholarship under Section 4 of this Chapter in a preceding school year, including a school year that does not immediately precede a school year in which the individual receives a scholarship from a scholarship granting organization Section 3 of this Chapter or a choice scholarship under Section 4 of this Chapter.

(F) “Eligible school” refers to a public or nonpublic elementary school or high school that:

(1) is located in [State];

(2) requires an eligible individual to pay tuition or transfer tuition to attend;

(3) voluntarily agrees to enroll an eligible individual;

(4) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board;

(5) administers the [State] statewide assessment; and

(6) is not a charter school or the school in which an eligible individual has legal settlement.

Section 3. {Scholarship Granting Organization – Contribution Qualification}

(A) A contribution to a scholarship granting organization shall be treated as having been made for use in a school scholarship program if:

(1) the contribution is made directly to a scholarship granting organization; and

(2) either:

(a) not later than the date of the contribution, the taxpayer designates in writing to the scholarship granting organization that the contribution is to be used only for a school scholarship program; or

(b) the scholarship granting organization provides the taxpayer with written confirmation that the contribution will be dedicated solely for use in a school scholarship program.

Section 4. {Tax Deduction}

(A) A taxpayer who makes an unreimbursed education expenditure during the taxpayer's taxable year is entitled to a deduction against the taxpayer's adjusted gross income in the taxable year.

(B) The amount of the deduction is:

(1) one thousand dollars (\$1,000); multiplied by

(2) the number of the taxpayer's dependent children for whom the taxpayer made education expenditures in the taxable year.

(C) A husband and wife are entitled to only one (1) deduction under this Section.

(D) To receive the deduction provided by this Section, a taxpayer must claim the deduction on the taxpayer's annual state tax return or returns in the manner prescribed by the department.

(E) This Section applies to taxable years beginning after December 31, 2010.

Section 5. {Restrictions on certified scholarships}

(A) An agreement entered into under Section 3 of this Chapter must prohibit a scholarship granting organization from distributing school scholarships for use by an eligible student to:

(1) enroll in a school that has:

(a) paid staff or board members; or

(b) relatives of paid staff or board members;

in common with the scholarship granting support organization;

(2) enroll in a school that the scholarship granting organization knows does not qualify as a participating school; or

(3) pay for the cost of education for a public school where the eligible student is entitled to enroll without the payment of tuition.

(B) An agreement entered into under Section 3 of this Chapter must prohibit a scholarship granting organization from limiting the availability of scholarships to students of only one (1) participating school. An agreement entered into under Section 1 of this Chapter before July 1, 2011, must be amended to include the requirement specified in this Subsection.

Section 6. {Choice Scholarship}

(A) It is the intent of the general assembly to honor the autonomy of nonpublic schools that choose to become eligible schools under this Chapter. A nonpublic eligible school is not an agent of the state or federal government, and therefore:

(1) the department or any other state agency may not in any way regulate the educational program of a nonpublic eligible school that accepts a choice scholarship under this Chapter, including the regulation of curriculum content, religious instruction or activities, classroom teaching, teacher and staff hiring requirements, and other activities carried out by the eligible school;

(2) the creation of the choice scholarship program does not expand the regulatory authority of the state, the state's officers, or a school to impose additional regulation of nonpublic schools beyond those necessary to enforce the requirements of the choice scholarship program in place on July 1, 2011; and

(3) a nonpublic eligible school shall be given the freedom to provide for the educational needs of students without governmental control.

Section 7.

(A) Subject to Subsection (B), an eligible individual is entitled to a choice scholarship under this Chapter for each school year beginning after June 30, 2011, that the eligible student enrolls in an eligible school.

(B) The department may not award more than:

(1) seven thousand five hundred (7,500) choice scholarships for the school year beginning July 1, 2011, and ending June 30, 2012; and

(2) fifteen thousand (15,000) choice scholarships for the school year beginning July 1, 2012, and ending June 30, 2013.

The department shall establish the standards used to allocate choice scholarships among eligible students.

Section 8.

(A) An eligible school may not discriminate on the basis of race, color, or national origin.

(B) An eligible school shall abide by the school's written admission policy fairly and without discrimination with regard to students who:

(1) apply for; or

(2) are awarded;

scholarships under this Chapter.

(C) If the number of applicants for enrollment in an eligible school under a choice scholarship exceeds the number of choice scholarships available to the eligible school, the eligible school must draw at random in a public meeting the applications of applicants who are entitled to a choice scholarship from among the applicants who meet the requirements for admission to the eligible school.

(D) The department shall, at a minimum, annually visit each eligible school and charter school to verify that the eligible school or charter school complies with the State provisions, the Constitutions of the state of [State], and the United States.

(E) Each eligible school, public school, and charter school shall grant the department full access to its premises, including access to any points of ingress to and egress from the school's grounds, buildings, and property for observing classroom instruction and reviewing any instructional materials and curriculum.

Section 9.

(A) The maximum amount to which an eligible individual is entitled under this Chapter for a school year is equal to the least of the following:

(1) The sum of the tuition, transfer tuition, and fees required for enrollment or attendance of the eligible student at the eligible school selected by the eligible individual for a school year that the eligible individual (or the parent of the eligible individual) would otherwise be obligated to pay to the eligible school.

(2) An amount equal to:

(a) ninety percent (90%) of the state tuition support amount determined under Section 10 of this Chapter if the eligible individual is a member of a household with an annual income of not more than the amount required for the individual to qualify for the federal free or reduced price lunch program; and

(b) fifty percent (50%) of the state tuition support amount determined under Section 10 of this Chapter if the eligible individual is a member of a household with an annual income of not more than one hundred fifty percent (150%) of the amount required for the individual to qualify for the federal free or reduced price lunch program.

(3) If the eligible individual is enrolled in grade 1 through 8, the maximum choice scholarship that the eligible individual may receive for a school year is four thousand five hundred dollars (\$4,500).

Section 10.

(A) The state tuition support amount to be used in Section 7(A)(2) of this Chapter for an eligible individual is the amount determined under the last STEP of the following formula:

STEP ONE: Determine the school in which the eligible individual has legal settlement.

STEP TWO: Determine the amount of state tuition support that the school identified under STEP ONE is eligible to receive for the calendar year in which the current school year begins.

STEP THREE: Determine the result of:

(1) the STEP TWO amount; divided by

(2) the current ADM, as defined in [insert appropriate code], for the school identified under STEP ONE for the calendar year used in STEP TWO.

Section 11.

(A) If an eligible individual enrolls in an eligible school for less than an entire school year, the choice scholarship provided under this Chapter for that school year shall be reduced on a prorated basis to reflect the shorter school term.

(B) An eligible individual is entitled to only one (1) choice scholarship for each school year. If the eligible individual leaves the eligible school for which the eligible individual was awarded a choice scholarship and enrolls in another eligible school, the eligible individual is responsible for the payment of any tuition required for the remainder of that school year.

Section 12.

The department may prescribe forms and methods for demonstrating eligibility for a choice scholarship under this Chapter.

Section 13.

(A) The department shall enforce the following consequences for an eligible school that is nonpublic:

(1) If the school is placed in either of the lowest two (2) categories or designations [insert appropriate code] for two (2) consecutive years, the department shall suspend choice scholarship payments for one (1) year for new students who would otherwise use a choice scholarship to attend the school.

(2) If the school is placed in either of the lowest two (2) categories or designations [insert appropriate code] for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for two (2) consecutive years.

(3) If the school is placed in the lowest category or designation under [insert appropriate code] for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for three (3) consecutive years.

(4) Students who:

(a) are currently enrolled at a school described in subdivision (1), (2), or (3); and

(b) qualify for a choice scholarship for the upcoming school year;

may continue to receive a choice scholarship at the school.

(B) This Section may not be construed to prevent a student enrolled in a school subject to this Section from applying for a choice scholarship in the future at another participating school.

Section 14.

The department may distribute any part of a choice scholarship to the eligible individual (or the parent of the eligible individual) for the purpose of paying the educational costs described in Section 7(A)(1) of this Chapter. For the distribution to be valid, the distribution must be endorsed by both the eligible individual (or the parent of the eligible individual) and the eligible school providing educational services to the eligible individual.

Section 15.

The amount of a choice scholarship provided to an eligible individual shall not be treated as income or a resource for the purposes of qualifying for any other federal or state grant or program administered by the state or a political subdivision.

Chapter 3. Teacher Evaluations and Licensing Act

Section 1. {Title} This Act may be referred to as the “Teacher Evaluations and Licensing Act.”

Section 2. {Definitions}

(A) “School district”, for purposes of this title, means a public school district established by [State] law.

(B) “Teacher” means a professional person whose position in a school district requires certain educational preparation and licensing and whose primary responsibility is the instruction of students. The term includes the following:

(1) A superintendent.

(2) A principal.

(3) A teacher.

(4) A librarian.

(5) An individual who holds a substitute teacher’s license.

(6) An individual who provides instruction in a joint summer school program

(C) “Evaluator” means an individual who conducts a staff performance evaluation. The term includes a teacher who:

(1) has clearly demonstrated a record of effective teaching over several years;

(2) is approved by the principal as qualified to evaluate under the plan; and

(3) conducts staff performance evaluations as a significant part of teacher’s responsibilities.

(D) “Plan” refers to a staff performance evaluation plan developed under this Chapter.

Section 3. {Superintendent responsibilities}

(A) The superintendent is responsible for selecting and discharging principals, central office administrators, business managers, superintendents of building and grounds, janitors, physicians, dentists, nurses, athletic coaches (whether or not they are otherwise employed by the school district and whether or not they are licensed), and

any other employees necessary to the operation of the school district, subject to the approval of the governing body.

(B) The superintendent and principal are responsible for selecting and discharging teachers, teachers aides, assistant principals, building administrative staff, librarians, and any other employees necessary to the operation of the school, subject to the approval of the governing body.

Section 4.

(A) After June 30, 2011, a teacher who:

(1) serves under contract as a teacher in a public school district;

(2) has not received a rating in an evaluation under Section 14 or receives a rating of ineffective in an evaluation under Section 14;

(3) has not at any time before July 1, 2012, entered into a teaching contract for further service with the school district; and

(4) has not received three (3) ratings in a five (5) year period of effective or highly effective in an evaluation under Section 14;

shall be considered a probationary teacher.

(B) After June 30, 2011, a teacher who receives a rating of:

(1) effective;

(2) highly effective; or

(3) a combination of both subdivisions (1) and (2);

in an evaluation under Section 14 for at least three (3) years in a five (5) year or shorter period becomes a professional teacher by entering into a contract described in Section 3 of this Chapter.

(C) A professional teacher who receives a rating of ineffective in an evaluation under Section 14 shall be considered a probationary teacher but is not subject to the

cancellation of the teacher's contract unless at least one (1) of the following criteria applies:

(1) The teacher receives a rating of ineffective in an evaluation under Section 14 in the year immediately following the teacher's initial rating of ineffective.

(2) The teacher's contract cancellation is due to a justifiable decrease in the number of teaching positions under Section 5(B)(3).

(3) The teacher's contract cancellation is due to conduct set forth in Section 5(B).

Section 5. {Cancellation of Teacher Contracts}

(A) This Chapter applies to a teacher in a school district.

(B) A principal may decline to continue a probationary teacher's contract under Sections 3 through 5 of this Chapter if the probationary teacher:

(1) receives an ineffective designation on a performance evaluation under Section 14;

(2) receives two (2) consecutive improvement necessary ratings on a performance evaluation under Section 14; or

(3) is subject to a justifiable decrease in the number of teaching positions or any reason relevant to the school district's interest.

(C) Except as provided in Subsection (E), a principal may not decline to continue a professional or established teacher's contract unless the teacher is subject to a justifiable decrease in the number of teaching positions.

(D) After June 30, 2012, the cancellation of teacher's contracts due to a justifiable decrease in the number of teaching positions shall be determined on the basis of performance rather than seniority. In cases where teachers are placed in the same performance category, any of the items in Section 13(B) may be considered.

(E) A contract with a teacher may be canceled immediately in the manner set forth in Sections 3 through 5 of this Chapter for any of the following reasons:

(1) Immorality.

(2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules adopted for the governance of the school building or the school district.

(3) Justifiable decrease in the number of teaching positions.

(4) Incompetence, including receiving:

(a) an ineffective designation on two (2) consecutive performance evaluations under Section 14; or

(b) an ineffective designation or improvement necessary rating in three (3) years of any five (5) year period.

(5) Neglect of duty.

(6) A conviction for an offense listed in [insert appropriate code].

(7) Other good or just cause.

Section 6.

(A) Before a teacher is refused continuation of the teacher's contract, the teacher has the following rights:

(1) The principal shall notify the teacher of the principal's preliminary decision. The notification must be:

(a) in writing; and

(b) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.

(2) The notice in Subdivision (1) must include a written statement giving the reasons for the preliminary decision.

(3) Notification due to a reduction in force must be delivered between May 1 and July 1.

(B) For a cancellation of a teacher's contract for a reason other than a reduction in force, the notice required under Subsection (A)(1) must inform the teacher that, not later than five (5) days after the teacher's receipt of the notice, the teacher may request a private conference with the superintendent. The superintendent must set the requested meeting not later than ten (10) days after the request.

(C) At the conference between the superintendent and the teacher, the teacher may be accompanied by a representative.

(D) After the conference between the superintendent and the teacher, the superintendent shall make a written recommendation to the governing body of the school district regarding the cancellation of the teacher's contract.

(E) If the teacher does not request a conference under Subsection (B), the principal's preliminary decision is considered final.

(F) For items listed in Section 5(E)(3), 5(E)(4), or 5(E)(6) of this Chapter, if the teacher files a request with the governing body for an additional private conference not later than five (5) days after the initial private conference with the superintendent, the teacher is entitled to an additional private conference with the governing body before the governing body makes a final decision, which must be in writing, concerning the cancellation of the teacher's contract.

(G) For items listed in Section 5(E)(1), 5(E)(2), 5(E)(5), or 5(E)(7) of this Chapter, if, not later than five (5) days after the initial private conference with the superintendent, the teacher files a request with the governing body for an additional private conference, the teacher is entitled to an additional private conference with the governing body before the governing body makes a final decision. The final decision must be in writing and must be made not more than thirty (30) days after the governing body receives the teacher's request for the additional private conference. At the private conference the governing body shall do the following:

(1) Allow the teacher to present evidence to refute the reason or reasons for contract cancellation and supporting evidence provided by the school district. Any evidence presented at the private conference must have been exchanged by the parties at least seven (7) days before the private conference.

(2) Consider whether a preponderance of the evidence supports the cancellation of the teacher's contract.

Section 7.

(A) At the first public meeting following a private conference with:

(1) the governing body under Section 6(F) of this Chapter; or

(2) the superintendent under Section 6(B) of this Chapter, if no conference with the governing body is requested;

the governing body may cancel a contract with a teacher by a majority vote evidenced by a signed statement in the minutes of the board. The decision of the governing body is final.

Section 8.

Pending a final decision on the cancellation of a teacher's contract, the teacher may be suspended from duty.

Section 9.

The time periods set out in Section 6 of this Chapter shall be extended for a reasonable period:

(1) when a teacher or school official is ill or absent from the school district; or

(2) for other reasonable cause.

Section 10.

(A) A contract entered into by a teacher and a school employer continues in force on the same terms and for the same wages, unless increased under Section 13, for the next school term following the date of the contract's termination unless one (1) of the following occurs:

(1) The school district refuses continuation of the contract under this Chapter.

(2) The teacher delivers in person or by registered or certified mail to the school district the teacher's written resignation.

(3) The contract is replaced by another contract agreed to by the parties.

Section 11.

(A) This Chapter shall be construed to:

(1) limit the provisions of a collective bargaining agreement negotiated under [insert appropriate code]; and

(2) prohibit the negotiation of contracts that violate the requirements of this Chapter.

(B) This Chapter prohibits a school employer and an exclusive representative from collectively bargaining contracts that alter the requirements of this Chapter.

(C) This Chapter shall be construed to prohibit a school employer and an exclusive representative from mutually agreeing to binding arbitration concerning teacher dismissals.

Section 12.

(A) This Section does not apply to an individual who works at a conversion charter school for purposes of the individual's employment with the school district that sponsored the conversion charter school.

(B) A contract entered into after August 15 between a school district and a teacher is void if the teacher, at the time of signing the contract, is bound by a previous contract to teach in a public school. However, another contract may be signed by the teacher that will be effective if the teacher:

(1) furnishes the principal a release by the employer under the previous contract; or

(2) shows proof that thirty (30) days written notice was delivered by the teacher to the first employer.

(C) A principal may request from a teacher, at the time of contracting, a written statement as to whether the teacher has signed another teaching contract. However, the teacher's failure to provide the statement is not a cause for subsequently voiding the contract.

Section 13.

(A) This Subsection takes effect July 1, 2012, or upon the expiration of a contract in existence on July 1, 2011, whichever is earlier, and governs salary increases for a teacher employed by a school district on or after the date this Subsection takes effect. Compensation attributable to additional degrees or graduate credits earned before the effective date of the local salary schedule created under this Chapter shall continue.

(B) Increases or increments in a local salary scale must be based upon a combination of the following factors:

(1) A combination of the following factors taken together may account for not more than thirty-three percent (33%) of the calculation used to determine a teacher's increase or increment:

(a) The number of years of a teacher's experience.

(b) The attainment of either:

(i) additional content area degrees beyond the requirements for employment; or

(ii) additional content area degrees and credit hours beyond the requirements for employment, if required under an agreement bargained under [insert appropriate code].

(2) The results of an evaluation conducted under Section 14.

(3) The assignment of instructional leadership roles, including the responsibility for conducting evaluations under Section 14.

(4) The academic needs of students in the school district.

(C) A teacher rated ineffective or improvement necessary under Section 14 may not receive any raise or increment for the following year if the teacher's employment contract is continued. The amount that would otherwise have been allocated for the salary increase of teachers rated ineffective or improvement necessary shall be allocated for compensation of all teachers rated effective and highly effective based on the criteria in Subsection (B).

(D) A teacher who does not receive a raise or increment under Subsection (C) may file a request with the superintendent or superintendent's designee not later than five (5) days after receiving notice that the teacher received a rating of ineffective. The teacher is entitled to a private conference with the superintendent or superintendent's designee.

(E) Not later than January 31, 2012, the department shall publish a model salary schedule that a school district may adopt.

(F) Each school district shall submit its local salary schedule to the department. The department shall publish the local salary schedules on the department's Internet web site.

(G) The department shall report any noncompliance of this Section to the state board.

(H) The state board shall take appropriate action to ensure compliance with this Section.

(I) This Chapter may not be construed to require or allow a school district to decrease the salary of any teacher below the salary the teacher was earning on or before July 1, 2012, if that decrease would be made solely to conform to the new salary scale.

Section 14. {Staff Performance Evaluations}

(A) Each school district shall develop a plan for annual performance evaluations for each certificated employee. A school district shall implement the plan beginning with the 2012-2013 school year.

(B) Instead of developing its own staff performance evaluation plan under Subsection (A), a school district may adopt a staff performance evaluation plan that meets the requirements set forth in this Chapter or any of the following models:

(1) A plan using master teachers or contracting with an outside vendor to provide master teachers.

(2) The System for Teacher and Student Advancement (TAP).

(3) The Peer Assistance and Review Teacher Evaluation System (PAR).

(C) A plan must include the following components:

(1) Performance evaluations for all certificated employees, conducted at least annually.

(2) Objective measures of student achievement and growth to significantly inform the evaluation. The objective measures must include:

(a) student assessment results from statewide assessments for certificated employees whose responsibilities include instruction in subjects measured in statewide assessments;

(b) methods for assessing student growth for certificated employees who do not teach in areas measured by statewide assessments; and

(c) student assessment results from locally developed assessments and other test measures for certificated employees whose responsibilities may or may not include instruction in subjects and areas measured by statewide assessments.

(3) Rigorous measures of effectiveness, including observations and other performance indicators.

(4) An annual designation of each certificated employee in one (1) of the following rating categories:

(a) Highly effective.

(b) Effective.

(c) Improvement necessary.

(d) Ineffective.

(5) An explanation of the evaluator's recommendations for improvement, and the time in which improvement is expected.

(6) A provision that a teacher who negatively affects student achievement and growth cannot receive a rating of highly effective or effective.

(D) The evaluator shall discuss the evaluation with the certificated employee.

Section 15.

(A) The superintendent or equivalent authority, for a school district that does not have a superintendent, may provide for evaluations to be conducted by an external provider.

(B) An individual may evaluate a certificated employee only if the individual has received training and support in evaluation skills.

Section 16.

(A) A copy of the completed evaluation, including any documentation related to the evaluation, must be provided to a certificated employee not later than seven (7) days after the evaluation is conducted.

(B) If a certificated employee receives a rating of ineffective or improvement necessary, the evaluator and the certificated employee shall develop a remediation plan of not more than ninety (90) school days in length to correct the deficiencies noted in the certificated employee's evaluation. The remediation plan must require the use of the certificated employee's license renewal credits in professional development activities intended to help the certificated employee achieve an effective rating on the next performance evaluation. If the principal did not conduct the performance evaluation, the principal may direct the use of the certificated employee's license renewal credits under this Subsection.

(C) A teacher who receives a rating of ineffective may file a request for a private conference with the superintendent or the superintendent's designee not later than five (5) days after receiving notice that the teacher received a rating of ineffective. The teacher is entitled to a private conference with the superintendent or superintendent's designee.

Section 17.

(A) This Section applies to any teacher instructing students.

(B) A student may not be instructed for two (2) consecutive years by two (2) consecutive teachers, each of whom was rated as ineffective under this Chapter in the

school year immediately before the school year in which the student is placed in the respective teacher's class.

(C) If a teacher did not instruct students in the school year immediately before the school year in which students are placed in the teacher's class, the teacher's rating under this Chapter for the most recent year in which the teacher instructed students, instead of for the school year immediately before the school year in which students are placed in the teacher's class, shall be used in determining whether Subsection (B) applies to the teacher.

(D) If it is not possible for a school district to comply with this Section, the school district must notify the parents of each applicable student indicating the student will be placed in a classroom of a teacher who has been rated ineffective under this Chapter. The parent must be notified before the start of the second consecutive school year.

Section 18.

(A) To implement this Chapter, the state board shall do the following:

(1) Before January 31, 2012, adopt rules that establish:

(a) the criteria that define each of the four categories of teacher ratings under Section 14(B)(3) of this Chapter;

(b) the measures to be used to determine student academic achievement and growth under Section 5(B)(2) of this Chapter;

(c) standards that define actions that constitute a negative impact on student achievement; and

(d) an acceptable standard for training evaluators.

(2) Before January 31, 2012, work with the department to develop a model plan and release it to school districts. Subsequent versions of the model plan that contain substantive changes must be provided to school districts.

(3) Work with the department to ensure the availability of ongoing training on the use of the performance evaluation to ensure that all evaluators and certificated employees have access to information on the plan, the plan's implementation, and this Chapter.

(B) A school district may adopt the model plan without the state board's approval. A school district may modify the model plan or develop the school district's own plan, if the modified or developed plan meets the criteria established under this Chapter. If a school district modifies the model plan or develops its own plan, the department may request that the school district submit the plan to the department to ensure the plan meets the criteria developed under this Chapter. Each school district shall submit its staff performance evaluation plan to the department. The department shall publish the staff performance evaluation plans on the department's Internet website. A school district must submit its staff performance evaluation plan to the department for approval in order to qualify for any grant funding related to this Chapter.

(C) This Subsection applies to a school district that has not adopted a staff performance evaluation plan that complies with this Chapter before July 1, 2011. Before submitting a staff performance evaluation plan to the department under Subsection (B), the governing body shall submit the staff performance evaluation plan to the teachers employed by the school district for a vote. If at least seventy-five percent (75%) of the teachers voting vote in favor of adopting the staff performance evaluation plan, the governing body may submit the staff performance evaluation plan to the department under Subsection (B).

Section 19.

(A) Before August 1 of each year, each school district shall provide the results of the staff performance evaluations, including the number of certificated employees placed in each performance category, to the department. The results provided may not include the names or any other personally identifiable information regarding certificated employees.

(B) Before September 1 of each year, the department shall report the results of staff performance evaluations to the state board, and to the public via the department's Internet web site, for:

- (1) the aggregate of certificated employees of each school and school district; and
- (2) the aggregate of graduates of each teacher preparation program in [State].

Chapter 4. Teacher Collective Bargaining Act

Section 1. {Title} This Act may be referred to as the “Teacher Collective Bargaining Act.”

Section 2. {Definitions}

(A) “Wage and salary increase” means an increase in wages or salaries payable for the same or a similar position after subtracting, for all employees, any of the following received by the individual:

(1) An increase in wages or salary that is paid to an employee as a result of the employee completing licensing requirements.

(2) Health care benefit cost increases for the same or an equivalent plan that are shared by the employee and the employer in the same proportion as health care benefit costs are shared in the previous year.

(B) “Deficit financing” for a budget year means actual expenditures exceeding the employer’s current year actual general fund revenue.

Section 3.

(A) A school district and:

(1) an employee if there is no representative for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(B) A wage payment arrangement under Subsection (A) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

(2) over:

(a) all or part of that school year; or

(b) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(C) A wage payment arrangement under Subsection (A) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(D) Wage payments required under a wage payment arrangement entered into under Subsection (A) are enforceable under [insert appropriate state code].

(E) If an employee leaves employment for any reason, either permanently or temporarily, the amount due to the employee is the total amount of wages earned and unpaid.

(F) Employment with a school district may not be conditioned upon the acceptance of a wage payment arrangement under Subsection (A).

(G) An employee may revoke a wage payment arrangement under Subsection (A) at the beginning of each school year.

(H) A wage payment arrangement under this Chapter may not contain any terms beyond those permitted to be bargained under Section 9.

Section 4.

(A) A contract entered into by a teacher and a school district must:

(1) be in writing;

(2) be signed by both parties; and

(3) contain the:

(a) beginning date of the school term as determined annually by the school district;

(b) number of days in the school term as determined annually by the school district;

(c) total salary to be paid to the teacher during the school year;

(d) number of salary payments to be made to the teacher during the school year; and

(e) the number of hours per day the teacher is expected to work, as discussed pursuant to Section 12.

(B) The contract may provide for the annual determination of the teacher's annual compensation by a local salary schedule, which is part of the contract. The salary schedule may be changed by the school district on or before May 1 of a year, with the changes effective the next school year. A teacher affected by the changes shall be furnished with printed copies of the changed schedule not later than thirty (30) days after the schedule's adoption.

(C) A governing body shall provide the blank contract forms, carefully worded by the state superintendent, and have them signed. The contracts are public records open to inspection by the residents of each school district.

(D) An action may be brought on a contract that conforms with Subsection (A)(1) and Subsection (A)(2).

Section 5.

(A) A temporary teacher's contract shall be used only for employing:

(1) a teacher to serve in the absence of a teacher who has been granted a leave of absence by the school district for:

(a) engaging in defense service or in service auxiliary to defense service;

(b) professional study or advancement;

(c) exchange teaching;

(d) extended disability to which a licensed physician has attested; or

(e) serving in the general assembly; or

(2) a new teacher for a position:

(a) that is funded by a grant outside the school funding formula for which funding is available only for a specified period or purpose; or

(b) vacated by a teacher who is under a regular contract and who temporarily accepts a teacher position that is funded by a grant outside the school funding formula for which funding is available only for a specified period or purpose.

(B) The temporary teacher's contract must contain:

(1) the provisions of the regular teacher's contract except those providing for continued tenure of position;

(2) a blank space for the name of the teacher granted the leave, which may not be used on another temporary teacher's contract for the same leave of absence; and

(3) an expiration date that:

(a) is the date of the return of the teacher on leave; and

(b) is not later than the end of the school year.

(C) If a teacher is employed on the temporary teacher's contract for at least sixty (60) days in a school year, the teacher may, on request, receive the service credit that the teacher would otherwise receive with regard to the [State] state teachers' retirement fund.

Section 6.

(A) This Section does not apply to the bargaining team for the exclusive representative.

(B) The percentage of teacher positions the exclusive representative may appoint to serve on a statutory or locally created district wide committee may not exceed the percentage of teachers in the school district who are members of the exclusive representative. If multiplying the number of teacher positions on the committee by the percentage of teachers in the school district who are members of the exclusive representative does not produce a whole number, the product must be rounded up to the nearest whole number. The percentage of positions applies to the number of teacher positions on a committee and not to the total number of positions on a committee.

(C) The percentage of teacher positions the exclusive representative may appoint to serve on a statutory or locally created school wide committee may not exceed the percentage of teachers in the school who are members of the exclusive representative. If multiplying the number of teacher positions on the committee by the percentage of teachers in the school who are members of the exclusive representative does not produce a whole number, the product must be rounded up to the nearest whole number. The percentage of positions applies to the number of teacher positions on a committee and not to the total number of positions on a committee.

(D) A committee to which this Section applies may not address subjects of bargaining under this article. A school employer's appointment of a teacher to a committee is not an unfair practice as it relates to the appointment of the teacher committee members.

(E) By September 15 of each school year, the local president or other officer or designee of the exclusive representative shall certify by affidavit to the school employer the number of teachers in each school and in the entire school district who are members of the exclusive representative.

Section 7.

(A) Any contract may not include provisions that conflict with:

(1) any right or benefit established by federal or state law;

(2) school employee rights set forth in [insert appropriate statute];

(3) school employer rights set forth in [insert appropriate statute];

(4) restructuring options available to a school employer under federal or state statutes, regulations, or rules because of the failure of the school district or a school to meet federal or state accountability standards;

(5) a school employer's ability to contract, partner, or operate jointly with an educational entity that provides postsecondary credits to students of the school employer or dual credits from the school employer and the educational entity; or

(6) Section 10(A) of this Chapter.

(B) A subject that is set forth in Section 10(A) of this Chapter may not be included in any contract after June 30, 2011.

Section 8.

(A) It is unlawful for a school employer to enter into any agreement that would place the employer in a position of deficit financing due to a reduction in the employer's actual general fund revenue or an increase in the employer's expenditures when the expenditures exceed the employer's current year actual general fund revenue.

(B) A contract that provides for deficit financing is void to that extent, and an individual teacher's contract executed under the contract is void to that extent.

Section 9.

(A) A school employer shall bargain collectively with the exclusive representative on the following:

(1) Salary.

(2) Wages.

(3) Salary- and wage-related fringe benefits, including accident, sickness, health, dental, vision, life, disability, retirement benefits, and paid time off.

(B) Salary and wages include the amounts of pay increases available to employees under the salary scale adopted under [insert appropriate statute], but do not include the teacher evaluation procedures and criteria, or any components of the teacher evaluation plan, rubric, or tool.

Section 10.

(A) For a contract entered into after June 30, 2011, a school employer may not bargain collectively with the exclusive representative on the following:

- (1) The school calendar.
- (2) Teacher dismissal procedures and criteria.
- (3) Restructuring options available to a school employer under federal or state statutes, regulations, or rules because of the failure of the school district or a school to meet federal or state accountability standards.
- (4) The ability of a school employer to contract, partner, or operate jointly with an educational entity that provides postsecondary credits to students of the school employer or dual credits from the school employer and the educational entity.
- (5) Any subject not expressly listed in Section 9 of this Chapter.

(B) A subject set forth in Subsection (A) that may not be bargained collectively may not be included in an agreement entered into under this article.

Section 11.

(A) A school employer may not bargain collectively with the exclusive representative on teacher evaluation procedures and criteria after this Section has been enacted into law.

(B) A contract entered into between a school employer and an exclusive representative after this Section has been enacted into law may not extend past the end of a state budget biennium.

Section 12.

(A) A school employer shall discuss with the exclusive representative of certificated employees the following items:

- (1) Curriculum development and revision.

- (2) Textbook selection.
- (3) Teaching methods.
- (4) Hiring, evaluation, promotion, demotion, transfer, assignment, and retention of certificated employees.
- (5) Student discipline.
- (6) Expulsion or supervision of students.
- (7) Pupil/teacher ratio.
- (8) Class size or budget appropriations.
- (9) Safety issues for students and employees in the workplace, except those items required to be kept confidential by state or federal law.
- (10) Hours.

Section 13.

The obligation to discuss does not require either party to enter into a contract, agree to a proposal, or make a concession related to the items listed in Section 12 of this Chapter. A failure to reach an agreement on a matter of discussion does not allow the use of any part of the impasse procedure under [insert appropriate code].

Section 14.

Formal collective bargaining between a school district and the exclusive representative shall begin before August 1 in the first year of the state budget biennium. Informal negotiations may be held before August 1.

Section 15.

Within thirty (30) days after the date of the first state ADM count date of the school year in the first year of the state budget biennium, the department shall provide the parties with a certification of estimated general fund revenue available for bargaining from the school funding formula. A school employer that has passed a general fund

operating referendum must have that amount certified by the department of local government finance. The school district must obtain the certification before the commencement of bargaining. These certifications must be the basis for determinations throughout impasse proceedings under this Chapter.

Section 16.

(A) At any time after at least sixty (60) days following the beginning of formal bargaining collectively between the parties, an impasse is declared, and the board shall appoint a mediator from the board's staff.

(B) The mediator shall begin mediation with fifteen (15) days after the board receives notice of impasse.

(C) The mediation must consist of not more than three (3) mediation sessions and must result in one (1) of the following:

(1) An agreement between the parties on the items permitted to be bargained under Section 9.

(2) Each party's last best offer, including fiscal rationale, related to items permitted to be bargained under Section 9.

(D) Costs for the mediator shall be borne equally by the parties.

(E) Mediation shall be completed within thirty (30) days.

Section 17.

(A) If an agreement has not been reached on the items permitted to be bargained collectively under Section 9, within fifteen (15) days after mediation under Section 16 has ended, the board shall initiate factfinding.

(B) Factfinding must culminate in the factfinder imposing contract terms on the parties. The factfinder's order must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under Section 9 and must not put the employer in a position of deficit financing. The factfinder's order may not impose terms beyond those proposed by the parties in their last, best offers.

(C) Costs for the factfinder shall be borne equally by the parties.

(D) Factfinding may not last longer than fifteen (15) days.

Section 18.

(A) If an agreement has not been reached on the items to be bargained collectively by November 1, the parties shall continue the status quo, and the school employer may issue tentative individual contracts and prepare its budget on that basis. During this status quo period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

(B) During the bargaining process, the school employer shall continue under the terms of the current contract that is in effect, with no increase or increment in salary, wages, or benefits for any bargaining unit employee until a new contract is executed, unless continuation of the status quo would put the school employer in a position of deficit financing due to a reduction in the employer's actual general fund revenue or an increase in an employer's expenditures when the expenditures exceed the current year actual general fund revenue.

(C) The only parts of the contract that must continue in status quo under this Section are the items contained in the contract and listed in Section 9.

(D) This Section may not be construed as relieving the school employer or the school employee organization from the duty to bargain collectively until a mutual agreement has been reached and a contract entered as called for in this Chapter.

Section 19.

(A) Either party may appeal the decision of the factfinder under Section 18. The appeal must be filed not later than thirty (30) days after receiving the factfinder's decision.

(B) The board's decision must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under Section 9 and must not put the employer in a position of deficit financing. The board's decision may not impose terms beyond those proposed by the parties in their last, best offers.

(C) The board must rule on the appeal within thirty (30) days after receipt of notice of appeal.

Section 20.

(A) It is an unfair practice for a school employer to do any of the following:

(1) Interfere with, restrain, or coerce school employees in the exercise of the rights guaranteed in [insert appropriate code].

(2) Dominate, interfere, or assist in the formation or administration of any school employee organization or contribute financial or other support to the organization. Subject to rules adopted by the governing body, a school employer may permit school employees to confer with the school employer or with any school employee organization during working hours without loss of time or pay.

(3) Encourage or discourage membership in any school employee organization through discrimination in regard to:

(a) hiring;

(b) tenure of employment; or

(c) any term or condition of employment.

(4) Discharge or otherwise discriminate against a school employee because the employee has filed a complaint, affidavit, petition, or any information or testimony under this article.

(5) Refuse to:

(a) bargain collectively; or

(b) discuss;

with an exclusive representative as required by this article.

(6) Fail or refuse to comply with any provision of this article.

(B) If:

(1) a complaint is filed that alleges an unfair practice has occurred with respect to a subject that may be discussed under this article; and

(2) the complaint is found to be frivolous;

the party that filed that complaint is liable for costs and attorney's fees.

Section 21.

The purpose of factfinding is to provide a final solution on the items permitted to be bargained Section 9 whenever the parties are unable by themselves, or through a mediator, to resolve a dispute.

Section 22.

(A) When a factfinder is requested or required, the board shall appoint a factfinder.

(B) The factfinder shall make an investigation and hold hearings as the factfinder considers necessary in connection with a dispute.

(C) The factfinder:

(1) may restrict the factfinder's findings to those issues that the factfinder determines significant;

(2) must restrict the findings to the items listed Section 9; and

(3) may not impose terms beyond those proposed by the parties in their last, best offers.

(D) The factfinder may use evidence furnished to the factfinder by:

(1) the parties;

(2) the board;

(3) the board's staff; or

(4) any other state agency.

(E) The factfinder shall conduct the factfinding hearing in public in a room or facility owned by the county or local unit of government located in the county in which the school employer is located, or if the school employer is located in more than one (1) county, in the county in which the greatest number of students who attend the school employer's schools reside. The public hearing may begin not earlier than October 1 in the first year of the state budget biennium and must be concluded by December 31 of the same year.

(F) The factfinding process may not exceed fifteen (15) days from beginning to end, and not more than two (2) of those days may be used for public testimony, which may be taken at the discretion of the factfinder. During the public hearing, each party shall present fully its last, best offer, including the fiscal rationale for the offer. Only general operating funds and those funds certified by the department of education and the department of local government finance may be considered as a source of the finding for items, unless the school funding formula allows other funds to be used for certain items.

(G) The factfinder shall make a recommendation as to the settlement of the disputes over which the factfinder has jurisdiction.

(H) The factfinder shall:

(1) make the investigation, hearing, and findings as expeditiously

as the circumstances permit; and

(2) deliver the findings to the parties and to the board.

(I) The board, after receiving the findings and recommendations, may make additional findings and recommendations to the parties based on information in:

(1) the report; or

(2) the board's own possession.

The board may not make any recommendations to the parties related to any items not specifically identified in Section 9.

(J) At any time within five (5) days after the findings and recommendations are delivered to the board, the board may make the findings and recommendations of the factfinder and the board's additional findings and recommendations, if any, available to the public through news media and other means the board considers effective.

(K) The board shall make the findings and recommendations described in Subsection (j) available to the public not later than ten (10) days after the findings and recommendations are delivered to the board.

Section 23.

In conducting hearings and investigations, the factfinder shall consider the following factors:

(1) Past memoranda of agreements and contracts between the parties.

(2) Comparisons of wages and hours of the employees involved with wages of other employees working for other public agencies and private concerns doing comparable work, giving consideration to factors peculiar to the school district.

(3) The public interest.

(4) The financial impact on the school district and whether any settlement will cause the school district to engage in deficit financing.

Section 24.

(A) The investigation, hearing, and findings of the factfinder must be:

(1) made as expeditiously as the circumstances allow; and

(2) delivered to the parties and to the board.

(B) The board, after receiving the findings and recommendations under Subsection (A), may make additional findings and recommendations to the parties based upon information in the report or in the board's possession. The board may not make any recommendations to the parties related to any items not specifically identified in Section 9 and may not address items beyond those proposed by the parties in their last, best offers.

(C) The board:

(1) may, at any time within five (5) days; and

(2) shall, within ten (10) days;

after receiving the findings and recommendations delivered under Subsection (A), make the findings and recommendations of the factfinder and the board's additional findings and recommendations, if any, available to the public through the news media and any other means.

Section 25. {Effective Upon Passage}

(A) The current terms of the members of the [State] education employment relations board are terminated effective July 1, [year].

(B) The governor shall appoint the replacement members of the [State] education employment relations board by July 1, [year]. Before appointing the members under this Section, the governor shall obtain recommendations from the speaker of the [State] house of representatives and the president pro tempore of the [State] senate concerning the appointment of members to replace the members described in Subsection (A). However, if either fails to submit recommendations to the governor before July 1, [year], the governor shall make the appointments without recommendation by the speaker or president pro tempore.

(C) The terms of the members appointed under Subsection (B) begin July 1, [year].

Chapter 5. Turnaround Academies Act

Section 1. {Title} This Act may be referred to as the "Turnaround Academies Act."

Section 2. {Definitions}

(A) "Turnaround academy" means a school that is subject to Section 5.

(B) "Special management team" means an entity that manages a turnaround academy.

Section 3. {Classification of turnaround academy}

(A) This section applies if, in the third year after initial placement in the lowest category or designation, a school still remains in the lowest category or designation.

(B) The state board shall establish and assign an expert team to the school. The expert team:

(1) Must include representatives from the community or region that the school serves; and

(2) May include:

(a) school superintendents, members of governing bodies, and teachers from school corporations that are in high categories or designations; and

(b) special consultants or advisers.

(C) The expert team shall:

(1) assist the school in revising the school's plan; and

(2) recommend changes in the school that will promote improvement, including the reallocation of resources or requests for technical assistance.

(D) The governing body of the school corporation in which a school to which this section applies is located may petition the state board to immediately restructure the school by presenting a written plan to the state board setting forth the proposed intervention for the school. If the state board approves the petition and accepts the plan, the school:

(1) operates under the applicable provisions of Section 5; and

(2) is carried forward in the same performance category or designation in which the school is placed at the time the state board accepts the plan.

Section 4. {Establishment as turnaround academy}

(A) This section applies if, in the fifth year after initial placement in the lowest category or designation, a school still remains in the lowest category or designation.

(B) The state board shall do the following:

(1) Hold at least one (1) public hearing in the school corporation where the school is located to consider and hear testimony concerning the following options for school improvement:

(a) Merging the school with a nearby school that is in a higher category.

(b) Assigning a special management team to operate all or part of the school.

(c) The department's recommendations for improving the school.

(d) Other options for school improvement expressed at the public hearing, including closing the school.

(e) Revising the school's plan in any of the following areas:

(i) Changes in school procedures or operations.

(ii) Professional development.

(iii) Intervention for individual teachers or administrators.

(2) If the state board determines that intervention will improve the school, implement at least one (1) of the options listed in subdivision (1).

(C) Unless the school is closed or merged, a school that is subject to improvement under this section becomes a turnaround academy under Section 5.

Section 5. {Turnaround Academies}

(A) Exemption from provisions related to school employers; personnel decisions

(1) None of the following may be considered a school employer with respect to a turnaround academy:

(a) The state.

(b) The state board.

(c) A special management team assigned by the state board under Section 7 to operate a school as a turnaround academy.

(2) A special management team assigned under Section 7 to operate a school as a turnaround academy shall make all personnel decisions in the school. In operating the school as a turnaround academy under this chapter, the special management team is not bound by any collective bargaining contract.

(B) Use of existing buildings; transportation; responsibilities of school district

(1) If the state board assigns a special management team under Section 7 to operate school as a turnaround academy, for as long as the special management team operates the turnaround academy:

(a) The special management team shall continue to use the school building, the accompanying real property, and the building's contents, equipment, and supplies; and

(b) The school corporation shall continue to:

(i) provide transportation for students attending the turnaround academy at the same level of service the school corporation provided before the school became a turnaround academy; and

(ii) maintain and repair the buildings and grounds consistent with the maintenance and repair to the school corporation's other buildings and grounds. The school corporation shall consult with the special management team regarding these matters.

(2) If the special management team contracts with a school corporation for goods or services, the school corporation may not charge the special management team more for the goods or services than the school corporation pays for the goods or services.

(3) The special management team and the school corporation's board shall hold a joint public meeting at least two (2) times each year to discuss issues and progress concerning the turnaround academy.

(C) Allocation of state tuition support and federal funds; eligibility for other funds

(1) Turnaround academies are eligible to receive building and technology loans administered by the state board from the common school fund.

(2) A student who attends a turnaround academy or another school subject to intervention under this chapter remains an eligible pupil of the school corporation where the student has legal settlement.

(3) The state board, based upon recommendations received from the department, shall determine the amounts of state tuition support and federal funds that are necessary to fund options for improvement implemented by the state board under this chapter with respect to each turnaround academy.

(4) The department shall do the following:

(a) Withhold from state tuition support and federal funds otherwise to be distributed to the school corporation of the school operated as a turnaround academy under this chapter the amount determined under subsection (c) for the affected students. The amount withheld under this subdivision may not exceed the total per pupil funding for the affected students.

(b) Enter into any contracts necessary to implement the options for improvement implemented for the school by the state board, including contracts with a special management team assigned under Section 7 to operate the school as a turnaround academy.

(c) Make payments under the contracts entered into under subdivision (2) with funds withheld from the school corporation under subdivision (1).

(D) Eligibility of students to enroll in turnaround academy

(1) Any student who lives in the attendance area served by a school that operated as a turnaround academy under this chapter may attend the turnaround academy. The turnaround academy may not refuse enrollment to a student who lives in the attendance area.

(E) Oversight of special management team by mayor; petition

(1) The executive of a city or county in which one (1) or more turnaround academies are located may petition the state board to oversee the special management team. The petition must include the following:

(a) The names of one (1) or more turnaround academies located within the executive's jurisdiction for which the executive wishes to conduct oversight.

(b) The functions the executive wishes to perform.

(c) Information on how and by whom those functions will be carried out.

(2) The state board may approve or not approve a petition under this section in whole or part.

(F) Rules

(1) The state board may adopt rules to implement this Section.

Chapter 6. Early Graduation Scholarship Act

Section 1. {Title} This Act may be referred to as the "Early Graduation Scholarship Act."

Section 2. {Definitions}

(A) "Publicly supported school" means the following:

(1) a school corporation.

(2) a charter school.

(3) a high school maintained by a state educational institution.

(B) "Commission" refers to the state student assistance commission.

Section 3. {Early Graduation Scholarship Program Establishment}

The early graduation scholarship program is established. The commission shall administer the early graduation scholarship program.

Section 4. {Eligibility}

An individual is eligible for an early graduation scholarship if the individual:

- (1) is a resident of the state, as defined by the commission;
- (2) attended a publicly supported school on a full-time equivalency basis for at least the last two (2) semesters before the individual graduated from high school;
- (3) had legal settlement in [State] for at least the last two (2) semesters before the individual graduated from high school;
- (4) met at least the minimum requirements set by the State Board of Education [or other appropriate State Agency] for granting a high school diploma by the end of grade 11 (including any summer school courses completed before July 1 of a year) and was awarded after December 31, 2010, a high school diploma by the publicly supported school that the individual last attended for course credits earned before the end of grade 11;
- (5) was not enrolled in a publicly supported school for any part of grade 12;
- (6) applies to the commission for an early graduation scholarship in the manner specified by the commission; and
- (7) within five (5) months after graduating from high school, becomes a student in good standing at an approved postsecondary educational institution whose students are eligible to receive a higher education award and is engaged in a program that will lead to an approved postsecondary degree or credential.

Section 5. {Nonstandard Graduation}

Graduation from a nonstandard course and curriculum program or a program for high ability students that has been granted a waiver by the [State] state board of education shall be treated as meeting the minimum requirements set by the [State] board of education for granting a high school diploma.

Section 6. {Reporting Requirements}

(A) A publicly supported school shall submit to the department of education the name of each individual described in Section 4 Paragraphs (1) through (4) of this Chapter.

(B) The department of education shall submit to the commission the information submitted under Subsection (A) and any other supporting information requested by the commission on the schedule and in the form specified by the commission.

Section 7. {Scholarship Payment}

(A) If an applicant becomes a student in good standing at an approved postsecondary institution, the institution shall provide a written notice to the commission.

(B) If the applicant has met the eligibility requirements prescribed in this chapter, the commission shall award the applicant an early graduation scholarship and make the payment directly to the institution. The institution may apply the payment to any outstanding tuition and fees and shall remit the balance of the scholarship to the student.

Section 8. {Scholarship Amount}

The amount of an early graduation scholarship is four thousand dollars (\$4,000).

Section 9. {Financial Resource Exclusion}

The amount of an early graduation scholarship awarded under this chapter shall not be considered as a financial resource in a determination of the amount of any grant or scholarship under this article or, except as required by federal law, the amount of any other grant or scholarship administered by the commission.

Section 10. {Institutional Requirements}

An institution is not required to change its admission standards to accept an individual to whom the commission has issued an early graduation scholarship. The scholarship may not be used for remedial course work at the institution. The institution shall provide facilities and instruction to the applicant on the same terms as to other students.

Section 11. {Funding}

(A) The commission shall notify the department of the amount of early graduation scholarships granted for each state fiscal year. The department shall deduct the scholarship amount presented by the commission from the appropriation for tuition support for that state fiscal year and promptly transfer the amount to the commission.

(B) In the department's biennial budget request, the department shall estimate the number of students that are expected to become eligible for an early graduation scholarship and the estimated total amount needed to provide the scholarships for each state fiscal year for which the department requests an appropriation for tuition support. The department shall include in its request for tuition support an amount sufficient to provide the scholarships. The requested amount may not exceed the amount that would have been included in the department's request for tuition support if the students had not graduated early.

Chapter 7. Textbooks and Other Curricular Material Act

Section. 1. {Title} This Act may be referred to as the "Textbooks and Other Curricular Material Act."

Section 2 {Definitions}

(A) "Textbook" means systematically organized material designed to provide a specific level of instruction in a subject matter category, including:

(1) books;

(2) hardware that will be consumed, accessed, or used by a single student during a semester or school year;

(3) computer software; and

(4) digital content.

(B) "Curricular materials" means:

- (1) textbooks; and
- (2) material used to supplement or replace textbooks, including:
 - (a) books and other printed material;
 - (b) computer software; and
 - (c) digital content.
- (C) “Department” means the State Department of Education.

Section. 3.

(A) The department shall evaluate curricular materials. The evaluation must include an evaluation of:

- (1) the curricular materials’ alignment to the academic standards adopted by the state board; and
- (2) the appropriateness of the reading level of the curricular materials.

(B) The department shall publish a report that describes the method used to conduct the evaluation required under subsection (a) and that contains the results of the evaluation. The report must:

- (1) provide a list of each curricular material evaluated and a summary of the evaluation for each curricular material;
- (2) be updated annually; and
- (3) provide a listing and summary review for the curricular materials that are aligned to the academic standards adopted by the state board for the following subjects for each grade level:
 - (a) English/language arts, including spelling, literature, and handwriting.
 - (b) Reading.

(c) Mathematics.

(d) Science.

(e) Social studies.

(f) Miscellaneous.

(g) World languages.

(C) A governing body and superintendent may use the report under Subsection (B) in complying with local textbook adoption standards.

(D) To be included in the report under Subsection (B), a publisher must provide the department a written exact and standard statewide price for each curricular material.

(E) A publisher may request that an update to the publisher's curricular materials and corresponding prices replace the curricular materials set forth in the report under Subsection (B).

Section. 4.

(A) The state superintendent shall notify the governing bodies of each school corporation, charter school, and accredited nonpublic school immediately of:

(1) the initial publication and annual update on the department's Internet web site of the report described in Section 3(B) of this chapter, including the Internet website address where the report is published; and

(2) updates of the following types of information in the report described in Section 3(B) of this chapter:

(a) The addition of materials.

(b) The removal of materials.

(c) Changes in the per unit price of curricular materials that exceed five percent (5%).

(B) A notification under this section must state that:

(1) the curricular materials included in the report described in Section 3(B) of this chapter are departmental reviews only; and

(2) each governing body has authority to adopt textbooks for a school corporation.

Section. 5.

(A) The superintendent shall establish procedures for textbook adoption. The procedures must include the involvement of teachers and parents on an advisory committee for the preparation of recommendations for textbook adoptions. The majority of the members of the advisory committee must be teachers, and at least forty percent (40%) of the committee must be parents. These recommendations shall be submitted to the superintendent in accordance with the established procedures in the local school corporation.

(B) The governing body, upon receiving these recommendations from the superintendent, shall adopt a textbook for use in teaching each subject in the school corporation.

(C) A special committee of teachers and parents may also be appointed to review books, magazines, and audiovisual material used or proposed for use in the classroom to supplement state adopted textbooks and may make recommendations to the superintendent and the governing body concerning the use of this material.

(D) A textbook selected shall be used for the lesser of:

(1) six (6) years; or

(2) the effective period of the academic standards adopted by the state board to which that textbook is aligned.

(E) A selection may be extended beyond that period for up to six (6) years.

(F) The governing body may, if the governing body considers it appropriate, retain a textbook adopted under this section and authorize the purchase of supplemental materials to ensure continued alignment with academic standards adopted by the state board.

(G) The superintendent, advisory committee, and governing body may consider using the list of curricular materials provided by the department under this Chapter.

(H) Notwithstanding Subsection (G) and this Chapter, the superintendent, advisory committee, and governing body shall adopt reading textbooks from the list of recommended curricular materials provided by the department.

(I) A governing body may not purchase textbooks from a publisher unless the publisher agrees, in accordance with sections 612(a)(23)(A) and 674(3)(4) of the Individuals with Disabilities Education Act 2004 (20 U.S.C. 1400 et seq.), to provide or grant a license to the school corporation to allow for the reproduction of adopted textbooks in:

(1) large type;

(2) Braille;

(3) audio format; and

(4) formats necessary to ensure usability for all students in the school corporation.

Drafting Notes

This Model Bill is based on several bills passed through the Indiana Legislature. It may be beneficial to review the original bills introduced in Indiana for all Chapters of this Model Bill except (3) Teacher Evaluations and Licensing Act and (4) Teacher Collective Bargaining Act, both of which were improved during negotiations. The corresponding bill numbers are:

(1) Charter Schools Act – HB 1002

(2) School Scholarships Act – HB 1003

(3) Teacher Evaluations and Licensing Act – SB 1

(4) Teacher Collective Bargaining Act – SB 575

(5) Turnaround Academies Act – HB 1479

(6) Early Graduation Scholarship Act – SB 497

(7) Textbooks and Other Curricular Material Act – HB 1429

For these bills in earlier forms, go to www.in.gov/legislative

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