



SCHOOL FINANCE 2.0

FLEXIBLE FINANCING FOR A VIRTUAL WORLD

Justin Bathon

University of Kentucky

Bruce D. Baker

Rutgers University

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National Education Policy Center

School of Education, University of Colorado Boulder
Boulder, CO 80309-0249
Telephone: (802) 383-0058
Email: NEPC@colorado.edu
<http://nepc.colorado.edu>

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SCHOOL FINANCE 2.0: FLEXIBLE FINANCING FOR A VIRTUAL WORLD

Justin Bathon, University of Kentucky
Bruce D. Baker, Rutgers University

Introduction

This brief offers model legislation to govern the financing of publicly funded Online Education and Virtual Schooling (OE/VS). It is grounded in the principles set forth in the accompanying policy brief, *Financing Online Education and Virtual Schooling: A Guide for Policymakers and Advocates*.

Figure B-1 provides a frame for regulatory and financing issues. Children enrolled in brick-and-mortar schools (either local district or charter schools) may take one or a full complement

of core academic program requirements from an online provider. Regardless, the enrolling brick-and-mortar institutions should be fairly funded through local, state, and federal

sources, given the student populations they serve. Of course,

we understand that this is often not the case, because several states continue to maintain vastly inequitable school finance systems. States should not alter their funding rates for a district or charter school that provides OE/VS alternatives, however; under our framework, the cost of providing OE/VS alternatives is limited to the maximum cost of

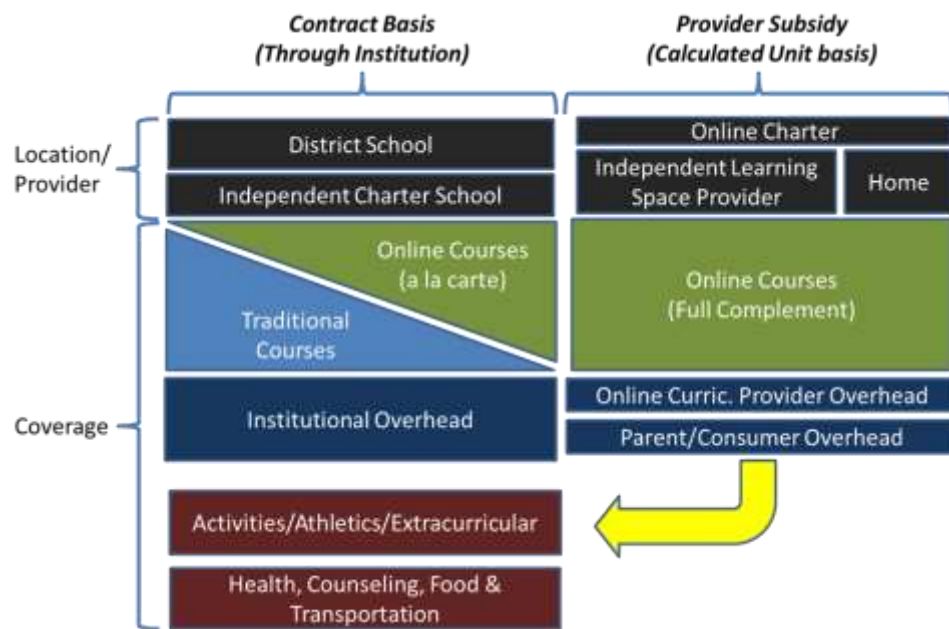


Figure B-1. Framing Regulatory and Finance Issues for Online Education

providing the same services via traditional methods. In effect, we suggest that contractual agreements with online providers are similar to other forms of outsourcing. However, these contractual agreements should be informed by instructional cost averages for each course as well as by brick-and-mortar averages for facilities and administrative costs. Equally important, the contracts should also be informed by the costs of remaining district services such as special education, athletics, other extra-curricular activities, and any other services still provided by the district. The host district should retain some per-student funding to cover its own internal costs.

It is important to understand that while local public school districts have outsourced food services, transportation, and even management for decades, these contractual agreements have not been benign and likely require significant regulation. For example, the 1990s saw the first experiences with large scale private management of public schools when Education Management Organizations (EMOs), including Education Alternatives Incorporated (EAI) and Edison Schools, entered the marketplace. Few now recall the existence of EAI, largely because the contracts negotiated by the company with public districts in Baltimore and Hartford Connecticut were so fraught with problems that the contracts ultimately collapsed, as did the publicly traded for-profit company. But the EAI experience taught a number of important but often overlooked lessons, summarized in detailed accounts of the debacle by Baker, Richards, & Cilo (1996) and Richards, Shore, & Sawicky (1996).¹

In an arrangement much like state virtual school subsidies in Pennsylvania, EAI had succeeded in convincing the city of Baltimore that a fair contract price would be the district's average per-pupil spending. EAI was granted this level of funding in its initial contract to manage eight elementary schools and one middle school. But Baker, Richards, & Cilo explain that:

- The cost of educating elementary and middle school students in Baltimore is significantly less than the average cost of education for all students in Baltimore.
- The method used for determining “fair contract value” for the EAI allowance was not necessarily appropriate.
- The Baltimore City Public Schools could have achieved substantial savings over the term of the EAI contract had they utilized alternative methods of calculating per-pupil allowance.
- The performance comparisons between EAI schools and the selected comparison schools may have been invalidated because of spending inequities.²

We point out this difficult history not to slight online learning or the corporations presently involved; quite the opposite. Because key elements of the financial model were never adequately understood, analyzed, or subsidized, the model was built on an economic house of cards destined to collapse amongst a bevy of scathing headlines. The EAI contract with Baltimore City schools violated two of the basic tenets we lay out above for contractual agreements with online providers: 1) that the contract price should be tied to

the price of providing a specific scope of services (in this case, the same grade level); 2) that there must be attempts to gather evidence that the quality of outcomes achieved is comparable. These are basic guidelines for ensuring the most efficient use of the school dollar. While virtual charter schooling and private supplemental online education may be newer than private management or outsourcing of food service or transportation, the same principles apply to negotiating a fair contract price. Such fair contract prices are essential to the sustainability and scalability of private involvement models in public education. While outsourcing is not new, some headlines already show that unfortunate history may be repeating itself, as in one headline from Colorado: “Online schools take tax money but fail students.”³ To achieve different results and build more trust in the private system, options must be financed differently than earlier lump sum public payments. Such a different approach must start with clear legislative guidance and deep governmental analysis of actual costs and subsequent subsidy rates, all of which we provide for in the model legislation proposed below.

Subsidy rates must be reasonable for the actual underlying units of OE/VS coursework, and finding a reasonable rate will require the development of new financing formulas. Those formulas may either be fully subsidized by state source revenues, or may require that a fixed subsidy combining local, state, and federal revenues be passed along by districts. That latter seems more reasonable because many students enrolled in online programs may still take advantage of extracurricular or special education services provided by host districts. For the time being, we suggest that the most logical near-term approach is first, to define the pass-through subsidy rate for each individual course using the analytic framework provided in the previous section, and then to use those rates to calculate either the overall state revenue subsidy or the appropriate contractual rate for each course unit at the local level. However the financing is bureaucratically structured, it will be immensely better informed if it is based on specific costs for courses, which then can serve as a more accurate basis for facilities and administrative costs.

Thus, we recommend that State Education Agencies mine student course-taking data and district annual financial reports to construct unit-cost estimates by course. SEAs should engage qualified Technical Review Panels to ensure that their analyses and resulting cost estimates are accurate and sufficiently precise. In addition, states may require the host district to subsidize the online provider at rates partially based on end of year cumulative student course completions. The state may also assume responsibility for providing startup funds, as well as grants for additional research and development. Arguably, the state should further assume responsibility for evaluating providers and then producing and disseminating assessment information, including quality control data, lists of approved online providers, and course unit cost tables.

In cases where comprehensive virtual alternatives are provided but there is insufficient data to reliably estimate specific unit costs, it may be reasonable to apply the top-down approach of stripping out brick-and-mortar costs from per-pupil funding (as illustrated in the companion brief’s sub-section, “Top Down: By Process of Exclusion”), as an intermediate step. It is certainly not logical to continue the subsidy of a more limited scope of services at the same rate, as in the Pennsylvania model. It is especially unreasonable to

maintain this approach while also making few or no attempts to measure or regulate the relative quality of outcomes achieved. At the very least, states may use district financial data and personnel data systems to pin down grade-level general education expenditures excluding services not available from the online providers.

Model Legislation

To implement our recommendations, we provide this model legislation for consideration. The core assumptions of this statutory model are provided in Section 101 below (Legislative Findings and Declarations); implementation is then detailed in the following statutory language. The model is meant to serve as a starting point for a broader discussion of appropriate financial compensation for online education; our intent is to help move the debate beyond mere theoretical policy discussions to implementation of new financing models as well as new statutes and regulations.

The model legislation provided below is not meant to be an all-encompassing policy on online education or virtual schooling. We do, however, encourage readers to consider the model legislation provided below as a complement to the model legislation provided in a previous National Education Policy Center legislative brief on virtual school and online education accountability systems.⁴ Both reports seek to help build more robust systems for the long term. Taken together, they represent a significant deepening of the regulatory conversation for online education. Both this model legislation and the earlier guidance, however, must be customized to be applicable to specific state contexts and existing statutory frameworks.

The following model legislation primarily offers new approaches, although some concepts, such as full compensation only on successful completion of the full credit,⁵ have already been adopted in some states. While the many existing funding models we reviewed in formulating this report provided useful starting points, we believe the following model legislation significantly extends the previous work, particularly in aligning funding with actual delivered instruction.

1 **A BILL FOR AN ACT**

2 **An Act Providing Clarity and Ensuring Appropriate Funding for**
3 **Online and Virtual School Options for Students in Public**
4 **Elementary and Secondary Education Schools**

5 **Table of Contents**

6 Sec. 101 - Legislative Findings and Declarations
7 Sec. 201 - Definitions
8 Sec. 301 - Instructional Cost of Courses—Limitation and Expenditure Cap
9 Sec. 302 - Determination of Instructional Costs
10 Sec. 303 - Publishing of Instructional Costs
11 Sec. 304 - Publication of Existing Supplemental Online Education Contracts
12 Sec. 305 - Competitive Bidding of Online Education Contracts
13 Sec. 401 - LEA Compensation for Supplemental Online Education
14 Sec. 402 - Full Reimbursement Upon Completion
15 Sec. 403 - Facilities and Administrative Costs
16 Sec. 404 - Grants for Supplemental Online Education Providers
17 Sec. 405 - Grants for Public Supplemental Online Education Providers
18 Sec. 501 - Instructional Cost Funding for Fully Online Charter Schools
19 Sec. 502 - Funding Distribution for Fully Online Charter Schools
20 Sec. 503 - Facilities and Administration Costs for Fully Online Charter Schools
21 Sec. 504 - Grants for Fully Online Charter Schools
22 Sec. 505 - Compensation of Local Education Authority for Full Time Online
23 Student Services
24 Sec. 601 - Determination of Effectiveness
25 Sec. 602 - Department of Education Data Collection
26 Sec. 603 - Technical Advisory Panel
27 Sec. 604 - Independent Financial Audits
28 Sec. 605 - Implications of Determination of Effectiveness and Financial Audits

1 AN ACT
2 PROVIDING CLARITY AND ENSURING APPROPRIATE FUNDING
3 FOR ONLINE AND VIRTUAL SCHOOL OPTIONS FOR STUDENTS
4 IN PUBLIC ELEMENTARY AND SECONDARY EDUCATION SCHOOLS

5 *Be it enacted by the Legislature of the State of ABC that Title XXX is*
6 *amended to include a new Article 123, which reads as follows:*

7 **ARTICLE 123**

8 **PROVIDING CLARITY AND ENSURING APPROPRIATE FUNDING**
9 **FOR ONLINE AND VIRTUAL SCHOOL OPTIONS FOR STUDENTS**

10 **Sec. 101. Legislative Findings and Declarations**

11 The Legislature hereby finds, determines, and declares that:

- 12 a) Online learning represents an approach to teaching and learning that is
13 appropriate for today's students and can provide learning options that are
14 otherwise unavailable through traditional school district structures.
- 15 b) Funding for online education options can be made more efficient by
16 independently determining the instructional costs of courses provided to
17 students.
- 18 c) Funding for online education should be provided only for the courses
19 delivered.
- 20 d) Full funding for online education should be provided only for successful
21 completion of the course.
- 22 e) It is appropriate to provide a percentage of overall instructional spending to
23 online education providers for facilities and administrative costs.
- 24 f) Costs for provider start up and new program development are best
25 accomplished through the usage of grants provided through the Department
26 of Education.
- 27 g) Public institutions providing online courses for students can be more
28 responsive to public needs unlikely to be met by private providers and thus
29 are entitled to additional grant funding.
- 30 h) Funding for supplemental online education, provided either by a public or
31 private entity, shall be compensated primarily upon only the instructional

1 costs of the course paid for by the local school district to which the child is
2 assigned.

3 i) Funding for supplemental online education is best determined at the local
4 level through negotiated contracts with approved supplemental online
5 education providers after consultation with a state-determined instructional
6 cost rate determined for each type of course.

7 j) Facilities and Administration costs for supplemental online education
8 providers shall be determined and negotiated independent of instructional
9 costs and shall not exceed State Department of Education determined
10 maximum rates.

11 k) Funding for full-time online charter schools, as distinct from supplemental
12 online education, is better determined by instructional costs rather than
13 traditional per-pupil enrollment used in public school districts.

14 l) Local school districts in which a full-time online student would be otherwise
15 assigned are entitled to compensation for the services provided.

16 m) Costs for student services provided by a full-time online charter school
17 beyond instructional costs shall be independently valued and provided by
18 the Department of Education.

19 n) Facilities and administration costs for the full-time online charter school
20 shall be determined and negotiated independent of instructional costs and
21 shall not exceed State Department of Education determined maximum rates.

22 o) To ensure accuracy in instructional costs determination, the Department of
23 Education shall annually determine and publish a table of instructional costs
24 based on the findings of an independent analysis of existing instructional
25 costs in schools.

26 p) To ensure validity and reliability of instructional expenditures, it is
27 appropriate to review the expenditures and instructional results of online
28 supplemental education providers.

29 q) To ensure validity and reliability of instructional expenditures, it is
30 appropriate to review the expenditures and instructional results of full-time
31 online education providers.

32 **Sec. 201. Definitions**

33 For purposes of this Act, unless the context otherwise requires, the below terms
34 are defined as follows.

- 1 a) “Facilities and Administrative Costs” means the costs necessary to support
2 the organization not directly related to instruction, but necessary to support
3 the educational mission of the organization. Facilities and administrative
4 costs may include administrative staff, professional development for staff,
5 Internet access and network infrastructure, office space, technology support,
6 marketing, or other related cost.
- 7 b) “Instructional Cost” means the direct costs of course instruction.
8 Instructional costs may include the cost of instructional and support staff,
9 textbooks, instructional materials, instructional supplies, and equipment
10 necessary to deliver instruction. Instructional costs may also include
11 instructional supports required as part of an Individualized Education Plan
12 as provided in **[CITE Special Education Statute]**. Instructional costs
13 shall not include facilities and administrative costs, defined in this section.
- 14 c) “Supplemental Online Education Provider” means a public organization, a
15 private non-profit organization, or private for-profit organization that is
16 approved⁶ to offer supplemental courses to elementary through secondary
17 students. Supplemental online education provider shall be defined as
18 including the State Virtual School created in **[CITE Virtual School Law,**
19 **if applicable]**.
- 20 d) “Grading Period” means the time between the initiation of a credit bearing
21 course and the submission of the final grade for the credit bearing course.
22 This period may exist independent of traditional yearly, semester, or quarter
23 grading periods utilized in local education agencies.
- 24 e) “Fully Online Charter School” means a charter school where ninety percent or
25 more of all instruction is offered online to students not present at the charter
26 school facility.
- 27 f) “Successful Student Course Completion” means the receipt of a passing final
28 grade at the completion of a course. The student shall be deemed to have
29 passed the course if the course does not have to be remediated, the credit
30 counts toward student graduation, and the student qualifies for the next
31 course in the series, as applicable.

32 **Sec. 301. Instructional Cost of Courses: Limitation and Expenditure**
33 **Cap**

34 Any subsidy provided to a supplemental online education provider or fully
35 online charter school shall be based solely on the actual instructional cost of
36 delivery of the course. Instructional costs, as provided in Section 302 of this Act,
37 for courses actually delivered shall serve as the basis for Facilities and
38 Administration costs, as provided in Section 403 and Section 503 of this Act.
39 The instructional subsidy provided to the supplemental online education

1 provider or the fully online charter school, through both local and state funding
2 sources, respectively, shall not exceed the state average instructional cost by a
3 Local Education Agency for a comparable course.

4 **Sec. 302. Determination of Instructional Costs**

5 The State Department of Education shall determine the average statewide
6 instructional costs for each course in elementary through secondary education
7 offered in local education agencies in the state. The instructional costs shall only
8 include expenditures directly related to the instruction of students and shall not
9 include Facilities and Administration costs as defined in Section 201 of this Act.

10 a) The instructional costs at the high school level shall be determined
11 independently for:

- 12 1) each unit of language arts;
- 13 2) each unit of mathematics;
- 14 3) each unit of science;
- 15 4) each unit of social studies;
- 16 5) each unit of world languages;
- 17 6) each unit of technology;
- 18 7) other common courses including, but not limited to, health, physical
19 education, art, music, accounting, and personal finance; and,
- 20 8) an average for all other courses not specifically investigated.

21 b) The instructional costs at the middle school level shall be determined
22 independently for:

- 23 1) each unit of language arts;
- 24 2) each unit of mathematics;
- 25 3) each unit of science;
- 26 4) each unit of social studies;
- 27 5) each unit of world languages;
- 28 6) other common courses including, but not limited to, technology,
29 health, physical education, art, music, accounting, and personal
30 finance; and,
- 31 7) an average for all other courses not specifically investigated.

32 c) The instructional costs at the elementary school level shall be determined
33 independently for:

- 1) a kindergarten course;
 - 2) a first grade course;
 - 3) a second grade course;
 - 4) a third grade course;
 - 5) a fourth grade course;
 - 6) a fifth grade course;
 - 7) a reading recovery course;
 - 8) an art course;
 - 9) a world language course; and,
 - 10) an average for all other courses not specifically investigated.
- d) The State Department of Education shall investigate and holistically determine the average instructional cost for:
- 1) all high school courses;
 - 2) all middle school courses; and,
 - 3) all elementary school courses.
- e) The State Department of Education shall investigate and holistically determine the average instructional cost for all courses in elementary through high school.

19 **Sec. 303. Publishing of Instructional Costs**

20 The State Department of Education shall yearly publish a table of actual
21 instructional costs for each grade level and each subject area specific course as
22 provided in subsection 302 of this Act. The table of instructional costs shall be
23 published by August 1. The table of instructional costs shall be distributed to all
24 Local Education Agencies and approved supplemental online education
25 providers in the state. A copy of the table of instructional costs shall be made
26 available electronically for public consumption.

27 **Sec. 304. Publication of Existing Supplemental Online Education** 28 **Contracts**

29 Local education agencies shall annually submit all contracts for the provision of
30 online supplemental education courses to the State Department of Education.
31 The State Department of Education shall specify the line items required to be
32 included in the reporting of contracts to the Department. The State Department
33 of Education shall compile these contracts into a database and electronically

1 publish the database in an open and accessible format. The State Department of
2 Education shall annually notify districts of the existence and updates to the
3 database.

4 **Sec. 305. Competitive Bidding of Online Education Contracts**

5 Local education agencies shall competitively bid contracts for supplemental
6 online education services as provided in *[CITE Competitive Bidding*
7 *Statute]*.

8 **Sec. 401. LEA Compensation for Supplemental Online Education**

9 Local education agencies shall compensate approved supplemental online
10 education providers, both public and private as defined in Section 201 of this
11 Act, for the instructional cost of courses taken by students in the district. Local
12 education agencies may negotiate contracts for the instructional costs of
13 supplemental online education courses. Local education agencies shall consider
14 the state table of instructional costs annually published by the Department of
15 Education under Section 303 of this Act and in no event shall the costs of the
16 supplemental online education course exceed the state average for a comparable
17 onsite course provided a local education agency as provided in Section 301 of
18 this Act.⁷ Local education agencies may also consult the database of previous
19 supplemental online education contracts provided in Section 304 of this Act.

20 **Sec. 402. Full Reimbursement Upon Completion**

21 Local education agencies shall provide approved supplemental online education
22 providers twenty-five percent of agreed instructional costs upon a local student
23 enrollment with the supplemental online education provider. The remaining
24 seventy-five percent of instructional costs shall be provided upon a local
25 education agency determination of successful student course completion, as
26 defined in Section 201 of this Act, and awarding of course credit for the online
27 course.

28 **Sec. 403. Facilities and Administrative Costs**

29 Local education agencies may provide facilities and administrative costs to
30 approved supplemental online education providers as negotiated by local school
31 boards. The facilities and administrative costs shall not exceed thirty percent⁸ of
32 the agreed upon instructional costs for each course or combination of courses.

1 **Sec. 404. Grants for Supplemental Online Education Providers**

2 An annual appropriation of **[Enter AMOUNT]** shall be provided to the
3 Department of Education for the purpose of distribution, based on a competitive
4 application process, to private or public supplemental online education
5 providers to enable creation of programmatic course options or further existing
6 programmatic options. The Department of Education may award these
7 competitive grants for a period not to exceed three years for creation of new
8 programmatic course options and not to exceed two years for furthering existing
9 programmatic options. The Department of Education shall establish a process
10 for submission of applications, review of applications by a panel of state experts,
11 and evaluation of grantee expenditures.

12 **Sec. 405. Grants for Public Supplemental Online Education Providers**

13 An annual appropriation of **[Enter AMOUNT]** shall be provided to the
14 Department of Education for the purpose of distribution, based on based on a
15 competitive application process, to public supplemental online education
16 providers to enable creation of programmatic course options or further existing
17 programmatic options in areas of high need as determined by the Department of
18 Education. The Department of Education may award these competitive grants
19 for a period not to exceed three years for creation of new programmatic course
20 options and not to exceed two years for furthering existing programmatic
21 options. The Department of Education shall establish a process for submission
22 of applications, review of applications by a panel of state experts, and evaluation
23 of grantee expenditures.

24 **Sec. 501. Instructional Cost Funding for Fully Online Charter Schools**

25 Charter schools authorized under **[CITE Charter School Act]** that operate as
26 fully online charter schools, as defined in Section 201 of this Act, shall be
27 funded for the instructional costs, as defined in Section 201 of this Act, of the
28 students enrolled in courses offered by the charter school.

29 **Sec. 502. Funding Distribution for Fully Online Charter Schools**

30 Each authorized online charter school shall submit student course enrollment
31 information at the beginning of each grading period, as defined in Section 201 of
32 this Act, and at the completion of the course after submission of the final grade.
33 Upon certification of enrollment by the State Department of Education, the
34 State Department of Education shall allocate the applicable instructional cost
35 determined by comparable courses in Section 302 of this Act. The fully online
36 charter school shall receive twenty-five percent of the allocation upon a showing
37 of initial enrollment in the course. The fully online charter school shall receive

1 the remaining seventy-five percent of the allocation upon a showing of
2 successful student course completion, as defined in Section 201 of this Act.

3 **Sec. 503. Facilities and Administration Costs for Fully Online Charter**
4 **Schools**

5 The Department of Education shall provide facilities and administrative costs to
6 approved fully online charter schools. The facilities and administrative costs
7 shall not exceed thirty percent of the total instructional costs for each course or
8 combination of courses offered by the fully online charter school. The facilities
9 and administration costs shall be calculated biannually for the enrollments
10 completed during the previous calculation window and reimbursed to the fully
11 online charter school.

12 **Sec. 504. Grants for Fully Online Charter Schools**

13 An annual appropriation of *[ENTER Amount]* shall be provided to the
14 Department of Education for the purpose of distribution, based on a competitive
15 application process, to approved fully online charter school providers to enable
16 creation of programmatic course options or further existing programmatic
17 options. The Department of Education may award these competitive grants for a
18 period not to exceed three years for creation of new programmatic course
19 options and not to exceed two years for furthering existing programmatic
20 options. The Department of Education shall establish a process for submission
21 of applications, review of applications by a panel of state experts, and evaluation
22 of grantee expenditures.

23 **Sec. 505. Compensation of Local Education Authority for Full Time**
24 **Online Student Services**

25 A local education authority that provides services to full time online students
26 shall be compensated for the services provided. The State Department of
27 Education shall establish procedures for Local Education Agencies to submit
28 requests for compensation for services provided to students. The amount of
29 compensation provided to Local Education Agency shall be determined by the
30 State Department of Education through the annual publication of
31 extracurricular and instructional service rates, as part of their determination of
32 instruction costs in Section 202 and 203. Such rates of compensation shall
33 include student activities, student athletic programs, counseling services, food
34 services, nursing or other health services, and transportation.

1 **Sec. 601. Determination of Effectiveness**

2 The Department of Education shall annually assess the scope and quality of
3 instruction provided by supplemental online education providers and fully
4 online charter schools as comparable to similar courses serving similar student
5 populations provided by local education agencies.

6 **Sec. 602. Department of Education Data Collection**

7 The Department of Education shall collect, at minimum, the following data from
8 each supplemental online education provider and fully online charter school:

- 9 a) student enrollment in course categories;
- 10 b) student end-of-course or other assessments as provided in [CITE course-
11 based student assessment system here];
- 12 c) course syllabi for each course;
- 13 d) qualifications of the instructor;
- 14 e) sample student work product completed in fulfillment of course
15 requirements;
- 16 f) sample teacher feedback on student work product; and,
- 17 g) other data as advised by the Technical Advisory Panel provided in Section
18 603 of this Act.

19 **Sec. 603. Technical Advisory Panel**

20 a) The Department of Education shall form a technical advisory panel to advise
21 the Department of Education in the data collection process and conduct of
22 an independent analysis of the data. For each supplemental online education
23 provider and fully online charter school the analysis of the data shall
24 determine:

- 25 1) the scope of the instructional services provided by the supplemental
26 online education provider or fully online charter school as
27 comparable to the average scope of similar instructional services
28 provided by a local education agency; and
- 29 2) the quality of the instructional services provided by the supplemental
30 online education provider or fully online charter school as
31 comparable to the average quality of similar instructional services
32 provided by a local education agency.

33 b) The Technical Advisory Panel shall include at least:

- 1) three experienced teachers representing diverse course content areas from local education agencies;
 - 2) two experienced school administrators from local education agencies;
 - 3) one experienced teacher representing a supplemental online education provider;
 - 4) one experienced teacher representing a fully online charter school;
 - 5) one experienced supplemental online education provider or fully online charter school administrator; and
 - 6) one experienced educational evaluator.
- c) The technical advisory panel shall annually publish a report noting all specific deficiencies of comparability by supplemental online education providers and fully online charter schools.

Sec. 604. Independent Financial Audits⁹

Each Supplemental Online Education Provider and each Fully Online Charter School operating in the state shall submit an independent audit to the State Department of Education.

a) The audits shall:

- 1) be conducted annually for the first 3 years of operation within the State;
- 2) be conducted thereafter every two years, beginning with the fifth year of operation within the State;
- 3) be conducted by an independent certified public accountant in accordance with the rules adopted by the Office of the State Auditor; and
- 4) shall not be administered by any audit provider who has a conflict of interest.

b) The audit shall include, but not be limited to:

- 1) a detailed account of all revenue and expenses deemed instructional;
- 2) a detailed account of all revenue and expenses deemed non-instructional and listed a facilities and administrative costs as determined in Section 201 of this Act;
- 3) detailed information on all courses provided in the period under review, including:
 - A) the teacher of record;

- 1 B) the number of students enrolled;
- 2 C) the average daily attendance of each course, as measured by
- 3 student participation in the instructional program;
- 4 D) how the school is measuring and keeping accurate records of
- 5 average daily attendance;
- 6 E) the income generated by each course;
- 7 F) any fees associated with the course, including the amount of fees
- 8 collected.
- 9 4) any other information on the financial health and welfare commonly
- 10 reported in accordance with the rules adopted by the Office of the
- 11 State Auditor.

12 **Sec. 605. Implications of Determination of Effectiveness and**

13 **Financial Audits**

14 The Department of Education shall consider the results of the Determination of

15 Effectiveness provided in Section 601 of this Act and the financial audit

16 provided in Section 604 of this Act in decisions on continuing accreditation of

17 supplemental online education providers under [CITE Supplemental Online

18 Education Approval Statute] or fully online charter schools [CITE Charter

19 School Authorization Statute]. Serious discrepancies in instruction provided in

20 comparable classes or serious discrepancies in the financial audit shall result in

21 a loss of accreditation.

Notes and References

1 Richards, C. E., Baker, B. D., & Cilo, M. (1996). Is privatization more efficient? The case of Education Alternatives in Baltimore. In C.E. Richards, R. Shore, and M. Sawicky, (eds.), *Risky Business: The Private Management of Public Schools*. Washington, DC: Economic Policy Institute.

2 Richards, C. E., Baker, B. D., & Cilo, M. (1996). Is privatization more efficient? The case of Education Alternatives in Baltimore. In C.E. Richards, R. Shore, and M. Sawicky, (eds.), *Risky Business: The Private Management of Public Schools*. Washington, DC: Economic Policy Institute, 25.

3 Davis, M.R. (2009, June 17). Simulated vs. hands-on lab experiments. *Education Week Digital Directions* 2 (4), 32-33. Retrieved October 2, 2013, from <http://www.edweek.org/dd/articles/2009/06/17/04simulated.ho2.html/>.

4 Bathon, J. (2011, Oct.). *Model legislation related to online learning opportunities for students in public elementary and secondary education schools*. Boulder, CO: National Education Policy Center; published with Glass, G. V & Welner, K. G. (2011, Oct.). *Online K-12 schooling in the U.S.: Uncertain private ventures in need of public regulation*. Boulder, CO: National Education Policy Center. Retrieved October 2, 2013, from <http://nepc.colorado.edu/publication/online-k-12-schooling/>.

5 Fla Stat. § 1101.61 (2013).

6 For legislative guidance on approval of supplemental online education providers see Section 202 *et seq.* of :

Bathon, J. (2011, Oct.). *Model legislation related to online learning opportunities for students in public elementary and secondary education schools*. Boulder, CO: National Education Policy Center; published with Glass, G. V & Welner, K. G. (2011, Oct.). *Online K-12 schooling in the U.S.: Uncertain private ventures in need of public regulation*. Boulder, CO: National Education Policy Center. Retrieved October 2, 2013, from <http://nepc.colorado.edu/publication/online-k-12-schooling/>.

7 This serves as the hard cap on local contracts and provides a level of public assurance in local contracts with private, for-profit education providers.

8 Each state may determine the exact limitation on facilities and administrative costs. At this writing, some states have already established facilities and administrative expense caps on state contracts. Examining the Florida Virtual School Annual Report for 2011, one finds that instructional related costs, including instructional technology and teacher professional development, accounted for \$91,073,356 of \$121,960,567 total expenses of providing core virtual instruction in Florida, for a remaining F&A percentage of 25.3 percent.

Florida Virtual School (2012). *Annual Financial Report for the Fiscal Year Ended June 30, 2011*. Orlando, FL: Author. Retrieved October 13, 2013, from <http://www.flvs.net/areas/aboutus/Documents/Financials/FY2011%20FLVS%20Final%20-%20Financial%20Statements.pdf/>.

9 This model legislation is based on earlier model legislation in an earlier NEPC brief:

Bathon, J. (2011, Oct.). *Model legislation related to online learning opportunities for students in public elementary and secondary education schools*. Boulder, CO: National Education Policy Center. Retrieved October 2, 2013, from <http://nepc.colorado.edu/publication/online-k-12-schooling/>.