

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BUDGET SUBCOMMITTEE ON EDUCATION PRE-K - 12
APPROPRIATIONS

Senator Simmons, Chair
Senator Montford, Vice Chair

MEETING DATE: Wednesday, April 13, 2011

TIME: 9:15 —10:45 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Simmons, Chair; Senator Montford, Vice Chair; Senators Detert, Dockery, Flores, Lynn, Ring, Siplin, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 90 Education Pre-K - 12 / Gaetz	Financial Emergencies; Requires a plan of a county or municipality to improve the efficiency, accountability, and coordination of the delivery of local government services to include a plan for the consolidation of all administrative direction and support services if the county or municipality is subject to review and oversight by the Governor. Authorizes a financial emergency review board for a local government entity or district school board to consult with other governmental entities for the consolidation of all administrative direction and support services, etc.	
		CA 01/11/2011 Fav/2 Amendments ED 02/21/2011 Fav/CS GO 03/23/2011 Favorable BEA 04/13/2011 BC	
2	CS/SB 1254 Education Pre-K - 12 / Wise (Similar H 937, Compare CS/CS/H 1255)	Auditory-oral Education Programs; Cites this act as the "Auditory Oral-Education Act." Revises provisions relating to public school choice options for parents of public school students to include auditory-oral education programs. Provides that a parent of a child who is deaf or hard of hearing may enroll the child in an auditory-oral education program at a school accredited by OPTION Schools, Inc., or at a school in which the supervisor and the majority of faculty are certified as Listening and Spoken Language Specialists by the AG Bell Academy for Listening and Spoken Language, etc.	
		ED 03/17/2011 Fav/CS BEA 04/13/2011 BC RC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Education Pre-K - 12 Appropriations
Wednesday, April 13, 2011, 9:15 —10:45 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 1696 Education Pre-K - 12 / Wise (Compare CS/CS/H 1255, H 1341, H 4217, CS/H 5101, CS/H 7087, S 1678, S 1832, CS/S 1844, S 1950, S 1996, S 2026)	Public School Accountability; Deletes a provision that requires the Florida Virtual School to be administratively housed within the Office of Technology and Information Services within the DOE. Revises the powers and duties of district school boards to require that students be provided with access to Florida Virtual School courses. Prohibits district school board members from accepting gifts from vendors. Revises the general requirements for middle grades promotion. Revises provisions relating to the Florida Career and Professional Education Act, etc. ED 03/30/2011 Fav/CS BEA 04/13/2011 BC RC	

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Education Pre-K-12 Appropriations

BILL: CS/SB 90

INTRODUCER: Education Pre-K - 12 Committee and Senator Gaetz

SUBJECT: Financial Emergencies

DATE: March 15, 2011

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Gizzi	Yeatman	CA	Fav/2 amendments
2. Brown	Matthews	ED	Fav/CS
3. Roberts	Roberts	GO	Favorable
4. Armstrong	Hamon	BEA	Pre-meeting
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

This bill requires counties and municipalities that have adopted local efficiency, accountability and coordination plans to include a structural and services consolidation component in the plan, when those entities are in a state of financial emergency. Required elements of a consolidation plan are provided.

This bill also authorizes financial emergency boards for local governmental entities and district school boards to consult with other governmental entities for the consolidation of all administrative direction and support services when an entity is declared in a state of financial emergency. The bill permits the Governor or Commissioner of Education to require local government entities and district school boards to include a plan for consolidation in the entity's financial emergency plan.

The constitutional ability of the Governor to suspend members of the governing body of a local governmental entity or district school board for a failure to correct a state of financial emergency is clarified.

This bill substantially amends sections 163.07 and 218.503, of the Florida Statutes.

II. Present Situation:

Efficiency and Accountability in Local Government Services

Section 163.07, F.S., outlines a voluntary plan for local governments to use to resolve conflict and increase efficiency regarding the delivery of local government services.¹ Initiation of the plan requires a resolution by majority vote of the governing body(s) of any one of:

- Each of the counties involved;
- The majority of the municipalities within each county; or
- The municipality or combination of municipalities that represent a majority of the municipal population in each county.²

Required elements of the resolution include identification of a commission of representatives from the county, municipality, and any affected special districts whose purpose is to develop the plan; identification of support services; and a proposed timetable.³ The adopted plan must:

- Designate the included area and local government services;
- Describe the existing organization and anticipated reorganization of these services;
- Identify responsible local agencies;
- Designate services that should be delivered regionally or countywide;
- Outline cost reduction and increased provider accountability measures;
- Include a multi-year capital outlay plan for infrastructure;
- Specifically describe any related expansion of municipal boundaries;
- Provide procedures for modifying or terminating the plan;
- Specify modifications to any necessary special acts; and
- Provide an effective date.⁴

Any plan developed must conform to current local government comprehensive plans and be approved by majority vote of the governing body(s):

- In each of the counties involved;
- Of a majority of municipalities in each county; and
- Of the municipality(s) that represent a majority of the municipal population in each county.⁵

Following initial approval, the plan must also be approved by a majority of voters in each county, and a majority of voters of the municipalities that represent a majority of the municipal population of each county, through a countywide referendum.⁶ Plans involving special district mergers or dissolutions, or municipal annexation require additional compliance.⁷

¹ s. 163.07(2), F.S.

² s. 163.07(2), F.S.

³ *Id.*

⁴ s. 163.07(3)(a) – (j), F.S.

⁵ s. 163.07(4) and (5)(a), F.S.

⁶ s. 163.07(5)(b), F.S.

⁷ s. 163.07(6) – (7)

Financial Emergency

Chapter 218, F.S., provides the Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergency Act⁸, to preserve the fiscal solvency of local government entities,⁹ charter schools, and district school boards that are in a state of financial emergency. Under its provisions, a local governmental entity, charter school, charter technical career center, or district school board that meets one of the statutory indicators of financial distress is required to notify the Governor or Commissioner of Education and the Legislative Auditing Committee.¹⁰

Statutory indicators of financial distress include any one of the following conditions based on lack of funds:

- Failure within the same fiscal year in which due, to pay short-term loans, make bond debt service or other long term debt payments when due;
- Failure to pay uncontested claims from creditors within 90 days after presented;
- Failure to transfer on time, employee income withholding taxes or contributions for federal social security or employees' pension, retirement or benefit plans;
- Failure to pay current employee wages and salaries or retirement benefits to former employees for one pay period; and
- Insufficient resources by the local government, charter school, charter technical career center, or district school board, to fund an unreserved or total fund balance or retained earnings deficit, or unrestricted or total net assets deficit.¹¹

Upon notification that one or more of these conditions is met, the Governor or Commissioner of Education, as appropriate, must then determine whether state assistance is needed to resolve or prevent the financial deterioration.¹² If state assistance is needed, then the entity is determined to be in a state of financial emergency.¹³

Once a determination is made, the Governor or Commissioner of Education has the power to implement certain remedial measures to resolve the financial emergency.¹⁴ Pursuant to s. 218.503(3), F.S., the Governor or Commissioner of Education may:

- Require the local governmental entity or district school board's budget to be approved by the Governor or Commissioner of Education, respectively;
- Authorize and provide for repayment of a state loan to the local governmental entity;

⁸ The full title of this act is the "Local Governmental Entity, Charter School, Charter Technical Career Center, and District School Board Financial Emergencies Act".

⁹ s. 218.502, F.S., defines local government entity to mean "a county, municipality, or special district".

¹⁰ s. 218.503(1)-(2), F.S. Note: a charter school must notify the charter school sponsor, the Commissioner of Education, and the Legislative Auditing Committee; a charter technical career center must notify the charter technical career center sponsor, the Commissioner of Education, and the Legislative Auditing Committee; and the district school board shall notify the Commissioner of Education and the Legislative Auditing Committee.

¹¹ s. 218.503(1)(a) –(e), F.S. "... as reported on the balance sheet or statement of net on the general purpose or fund financial statements."

¹² s. 218.503(3), F.S.

¹³ *Id.*

¹⁴ s. 218.503 (3), F.S.

- Prohibit issuance of bonds, notes, certificates of indebtedness, or any other form of debt while in a state of financial emergency;
- Inspect and review the entity's records, information, reports, and assets;
- Consult with local governmental entity and district school board officials and auditors to discuss necessary procedures to bring accounting books, systems, financial procedures and reports into state compliance;
- Provide technical assistance;
- Establish a financial emergency board to oversee local government or district school board activities, appointed by the Governor or State Board of Education as appropriate; and
- Require and approve a plan to be prepared by the local governmental entity or district school board that prescribes necessary actions to adjust the entity's debt.¹⁵

Subsection (5) of s. 218.503, F.S., prohibits a local government entity or district school board from applying for bankruptcy under the Federal Constitution without prior approval from the Governor for local governmental entities or the Commissioner of Education for district school boards.¹⁶

Financial Emergency Board

In assisting a local government entity or district school board declared to be in a state of financial emergency, the Governor, or the Commissioner of Education, may establish a financial emergency board to oversee activities.¹⁷ The Governor or the State Board of Education shall appoint members and select a chair. Once established, the board may:

- Review the entity's records, reports, and assets;
- Consult with local entity officials and auditors and with state officials regarding the necessary steps to bring the entity's accounting books, systems, financial procedures and reports into compliance with state requirements; and
- Review the entity's operations, management, efficiency, productivity, and financing of functions and operations.¹⁸

All recommendations and reports made by the financial emergency board must be provided to the Governor for local governmental entities or to the Commissioner of Education and the State Board of Education for district school boards.¹⁹

Financial Emergency Plan

Upon declaration of a state of financial emergency, the Governor or Commissioner of Education may require the respective local governmental entity or district school board to develop a plan, subject to Governor or Commissioner approval, that prescribes remedial actions to adjust the entity's current financial state.²⁰ The adopted plan must include:

¹⁵ s. 218.503(3)(a)-(h), F.S.

¹⁶ s. 218.503(5), F.S.

¹⁷ s. 218.503 (3)(g)1., F.S.

¹⁸ s. 218.503 (3)(g)1. a.-c., F.S.

¹⁹ s. 218.503 (3)(g)2., F.S.

²⁰ s. 218.503 (3)(h), F.S.

- Provision for full payment of obligations outlined in subsection (1) of s. 218.503, F.S., designated as priority items, which are currently due or will become due;²¹
- Establishment of priority budgeting or zero-based budgeting, to eliminate items that are not affordable; and
- The prohibition of a level of operations which can be sustained only with nonrecurring revenues.²²

District School Boards

Section 1011.051, F.S., requires superintendents to provide written notice to the district school board and the Commissioner of Education (Commissioner) if the unreserved general fund balance in a district's approved operating budget is projected to drop below 3 percent and 2 percent of projected general fund revenues.²³ If it is projected to drop below 2 percent and the Commissioner determines that the district does not have a plan that is reasonably anticipated to avoid a financial emergency as determined pursuant to s. 218.503, F.S., the Commissioner shall appoint a financial emergency board to assist the district.²⁴

The Department of Education reports that the following school districts have either been in a state of financial emergency or are subject to notification requirements:

School District	Date of Notification	Projected Financial Condition Ratio at Time of Notification (FY 2009-10)	Financial Condition Ratio at June 30, 2010
Gadsden	March 15, 2010	1.74%	5.72%
Indian River	August 30, 2010	1.61%	1.53%
Jefferson	April 27, 2010	1.90%	2.84%
Taylor	April 30, 2010	1.79%	6.65%

School District	Date of Notification	Projected Financial Condition Ratio at Time of Notification (FY 2008-09)	Financial Condition Ratio at June 30, 2010
Dade	February 23, 2009	2.25%	3.83%
Gadsden	February 17, 2009	0%	5.72%
Glades	March 5, 2009	.71%	16.91%
Jefferson	March 9, 2009	0%	2.84%
Volusia	March 3, 2009	1.40%	8.75%
Washington	March 10, 2009	1.66%	26.13%

²¹ s. 218.503(1), F.S., as previously discussed above, addresses the indicators of financial distress.

²² s. 218.503 (3)(h)1.-3., F.S.

²³ s. 1011.051(1), F.S.

²⁴ s. 1011.051(2), F.S.

The following school districts have been included in the Auditor General's "Significant Financial Trends and Findings Reports" as having a financial condition ratio below 3 percent for the 2008-09 fiscal year: Highlands, Jefferson, Manatee, Miami-Dade and Taylor county district school boards.

Exact amounts are reflected in the following table:

School District	Financial Condition Ratio (FY 2008-09)	Number of Consecutive Years Ratio Under 3%
Highlands	2.01%	1
Jefferson	-8.05%	2
Manatee	2.96%	2
Miami-Dade	2.36%	3
Taylor	0.48%	6

For fiscal year 2009-10, the Auditor General has issued an operational report indicating that Indian River county district school board reported a financial condition ratio below 3 percent.²⁵ As the Auditor General has not completed audits for fiscal year 2009-10, there may be additional district school boards identified as meeting the threshold ratio in upcoming reports.

III. Effect of Proposed Changes:

This bill mandates inclusion of consolidation of services plans for entities in a state of financial emergency as follows:

- For counties and municipalities that have adopted the voluntary efficiency plan pursuant to s. 163.07, F.S.; or
- For local entities, including district school boards, if required by a board appointed by the Governor or Commissioner of Education.

This bill defines consolidation of administrative direction and support services to include such services as asset purchasing and sales, economic and community development, including planning and zoning, building inspections, facilities and fleet management, engineering and construction, and insurance coverage and risk management.

Section 7, article IV, of the state constitution, authorizes the Governor, through executive order, to suspend certain public officers, including state officers who are not subject to impeachment proceedings, and county officers.²⁶ The Senate then has the authority to remove, or reinstate, the suspended official. A Florida Supreme Court opinion clarified that district school board members are considered to be county officers, for purposes of suspension authority, as are the sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court, county

²⁵ E-mail from David Ward, Audit Supervisor, Office of the Auditor General (February 15, 2011). The 2008-09 fiscal year findings are published in Office of the Auditor General Report No. 2011-028. Fiscal year 2009-10 findings are contained in Report No. 2011-055.

²⁶ sec. 7, art. IV., of the state constitution, provides, in part: "(a) By executive order stating the grounds and filed with the custodian of state records, the governor may suspend from office...any county officer, for malfeasance, misfeasance, neglect of duty....The senate may...remove from office or reinstate the suspended official...."

commissioners and elected superintendents of schools.²⁷ This same opinion indicates, however, that superintendents who are appointed are not subject to removal through this constitutional provision.

Pursuant to the constitutional authority of section 7, article IV, of the state constitution, this bill classifies the failure of a district school board to correct a state of financial emergency as malfeasance, misfeasance, and neglect of duty, which enables a sitting Governor to suspend and recommend removal of district school board members. This language does not appear to reach elected district school superintendents. Also, the bill leaves the discretion with the Governor to determine when to act on the suspension of a member of a district school board or local governmental entity.

This bill does not limit local entities to consolidation with geographically adjacent or demographically similar entities to realize cost savings through shared support.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Counties and municipalities that elect to adopt an efficiency and accountability plan and that are under Governor review and oversight due to financial emergency will be required to include a structural and services consolidation plan as part of the adopted plan under s. 163.07, F.S. Any fiscal impact is indeterminate at this time.

²⁷ *In re Advisory Opinion to the Governor-School Board Member-Suspension Authority*, 626 So.2d 684, 689-690 (Fla. S.Ct. 1993).

Local government entities and district school boards that are declared by the Governor or Commissioner of Education to be in a state of financial emergency may be required to include the consolidation, sourcing or discontinuance of all administrative direction and support services as part of the entity's adopted financial emergency plan. Development of the plan should have a minimal fiscal impact; however, the consolidation of services should provide a savings to the entity or school board.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K – 12 Committee on February 21, 2011:

The committee substitute:

- Provides clarification that the consolidation of administrative and support services is meant to encompass the same types of services listed in both the voluntary development of an efficiency plan and the plan developed through the entity being in a state of financial emergency; and
- Clarifies the constitutional ability of a Governor to suspend and recommend removal of a district school board member on a malfeasance, misfeasance, or neglect of duty basis through a failure to correct a state of financial emergency.

- B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Wise) recommended the following:

Senate Amendment (with title amendment)

Between lines 102 and 103
insert:

Section 4. Paragraph (e) is added to subsection (2) of
section 1002.66, Florida Statutes, to read:

1002.66 Specialized instructional services for children
with disabilities.—

(2) The parent of a child who is eligible for the
prekindergarten program for children with disabilities may
select one or more specialized instructional services that are
consistent with the child's individual educational plan. These



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specialized instructional services may include, but are not limited to:

(e) Listening and Spoken Language specialists and an appropriate acoustical environment for any child who is deaf or hard of hearing who has received an implant or assistive hearing device.

Section 5. Paragraph (b) of subsection (3) of section 1003.01, Florida Statutes, is amended to read:

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

(3)

(b) "Special education services" means specially designed instruction and such related services as are necessary for an exceptional student to benefit from education. Such services may include: transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language pathology services; job placement; orientation and mobility training; braillists, typists, and readers for the blind; interpreters and auditory amplification; services provided by a certified Listening and Spoken Language specialist; rehabilitation counseling; transition services; mental health services; guidance and career counseling; specified materials, assistive technology devices, and other specialized equipment; and other such services as approved by rules of the state board.

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

And the title is amended as follows:

Delete line 21

and insert:



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circumstances; amending s. 1002.66, F.S.; adding
Listening and Spoken Language specialists and an
appropriate acoustical environment to the list of
specialized instructional services from which a parent
with an eligible child may choose; amending s.
1003.01, F.S.; adding services provided by a certified
Listening and Spoken Language specialist to the
definition of the term "special education services";
amending s. 1011.62, F.S.; revising

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Education Pre-K-12 Appropriations

BILL: CS/SB 1254

INTRODUCER: Education Pre-K-12 Committee and Senator Wise

SUBJECT: Auditory-Oral Education Programs

DATE: April 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Fav/CS
2.	Armstrong	Hamon	BEA	Pre-meeting
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

The bill allows a parent to enroll an eligible child who is deaf or hard of hearing in an auditory-oral education program at a school that meets specific accreditation or certification requirements. The level of services is determined by the child's individual educational (IEP) team or individualized family support (IFS) plan team. The student is eligible for services until the end of the school year in which he or she reaches the age of seven years or grade 2, whichever comes first. The bill also requires the Department of Education to review and revise the matrix of services, which is used to determine exceptional education cost factors.

This bill substantially amends sections 1002.20 and 1011.62 and creates section 1002.391 of the Florida Statutes.

II. Present Situation:

Exceptional Education

Federal law requires states to make a free appropriate public education available to all children with disabilities residing in the state between the ages of 3 and 21, inclusive, including children

with disabilities who have been suspended or expelled from school.¹ As the state educational agency, the Department of Education (DOE) must exercise general supervision over all educational programs for children with disabilities in the state, including all programs administered by other state or local agencies, and ensure that the programs meet the educational standards of the state educational agency.²

Funding

Exceptional Student Education (ESE) programs and services are provided by federal, state, and local funds. Under the Individuals with Disabilities Education Improvement Act (IDEA), federal special education funds are distributed through state grant programs and discretionary grant programs. Part B of the law, the main program, authorizes grants to state and local education agencies to offset part of the costs of the education needs of children with disabilities, ages 3 through 21. It also authorizes pre-school state grants for children with disabilities, ages 3 through 5. Part C authorizes infant and toddler state grants for early intervention services, for infants and toddlers with disabilities from birth through 36 months.³

Beginning with the 1997-1998 school year, districts were required to complete a matrix of services for every exceptional student at least annually to calculate school district funding based on the intensity of services provided to ESE students.⁴ In 2000, the Florida Education Finance Program (FEFP) for ESE programs was revised to require a matrix for exceptional students funded at the highest level of need, support levels 4 and 5.⁵

Consistent with the services identified through the IEP or IFS, the matrix is used to determine which one of the two cost factors would apply to each eligible exceptional education student and the support level needed. The matrix document contains checklists of services in each of the five domains (curriculum and learning environment; social/emotional behavior; independent functioning; health care; and communication) and a special considerations section. The sum of these domain ratings and any special considerations points corresponds to one of the two cost factors.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) published two reports related to the use of the matrix. The 2003 report concluded that the matrix on which funding is based had not been effectively or consistently implemented by school districts.⁶ To improve the accuracy of district application of the funding matrix and help ensure that state ESE funds are appropriately used, OPPAGA recommended that the DOE and the Florida Diagnostic Learning and Resources System provide additional training to district-level ESE directors on properly implementing the funding matrix. OPPAGA also recommended that the DOE create a

¹ 20 U.S.C. § 1400 et. seq., as amended by P.L. 108-446.

² 34 C.F.R. s. 300.149

³ Part C is administered by the Florida Department of Health (DOH), pursuant to s. 391.308, F.S.

⁴ Section 43, ch. 97-307, L.O.F.

⁵ ch. 2000-171, L.O.F. Pursuant to s. 1011.62(1)(c), F.S., the Commissioner of Education must specify a matrix of services and intensity levels to be used by districts in the determination of the two weighted cost factors. Levels 1 through 3 represent the lowest level of service. For these students, school districts receive an ESE Guaranteed Allocation in addition to the base funding in the FEFP. The matrix is also used to determine the support levels for these students.

⁶ *Special Report: Exceptional Student Education Population Grows Dramatically; More Accountability and Better Training Needed to Implement Funding Matrix*, OPPAGA Report No. 03-40, July 2003.

stronger accountability system to ensure the accuracy of district classifications of students within the matrix, thereby ensuring correct district funding amounts.

Subsequently, OPPAGA noted that stronger accountability is still needed. Specifically, the report noted that the department had not made changes to its monitoring process to better ensure the accuracy of the highest funded matrix categories. Past department reviews indicate a potential for significant over-funding.⁷ OPPAGA recommended that the DOE provide additional training for personnel who complete the training at the school site and that future editions of the matrix handbook provide needed levels of detail with examples to meet district needs.

Children with Hearing Impairments

Current law provides for a statewide program of universal hearing impairment screening, identification, and follow-up care for newborns and infants.⁸ The law requires licensed hospitals or other state licensed birthing facilities to provide for universal hearing screening for all newborns, prior to discharge from the facility. In the instance of a home birth, the health care provider in attendance is responsible for referral for the hearing screening. The goal is to screen all newborns for hearing impairment in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development.

Children with disabilities, including those who are deaf or hard-of-hearing, may receive ESE services if they meet specific requirements. Educational options for students with hearing impairments have expanded significantly in the last 30 years in that students are increasingly attending traditional schools and being educated in general education classrooms.⁹ Other developments have changed the classroom experiences of students with hearing impairments in the last three decades as well, including the evolution of implant technology and technologies such as visual or text communication devices and speech-to-print software.

For a student who is deaf or hard-of-hearing, the IEP or IFS team must consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.¹⁰

III. Effect of Proposed Changes:

Students

A parent would be permitted to enroll a child who is deaf or hard of hearing¹¹ in an auditory-oral education program, which is defined as a program that develops and relies solely on listening skills and uses an implant or assistive hearing device to rely on speech and spoken language skills as the method of communication. A child is eligible for the program if he or she is a

⁷ *Steps Taken to Implement the Exceptional Student Education Funding Matrix, But More Monitoring Needed*, OPPAGA Report No. 08-24, April 2008.

⁸ s. 383.145, F.S.

⁹ *The Secondary School Experiences and Academic Performance of Students With Hearing Impairments*, U.S. Department of Education Institute of Education Sciences National Center for Special Education Research, February 2011.

¹⁰ Rule 6A-6.03028(3)(g)9., F.A.C.

¹¹ See Rule 6A-6.03013, F.A.C., and 20 U.S.C.A. § 1401(3)(A)(i).

resident of the state, has received an implant or assistive hearing device, and is between the ages of 3 and 7 or between the ages of 2 and 7, if the district serves children under 3. The level of services would be determined by the child's IEP or IFS team. The student would be eligible for services until the end of the school year in which he or she is seven years old or reaches grade 2, whichever comes first.

Providers

The bill permits a parent to enroll his or her child in a program at a public or private school that is accredited by OPTION Schools, Inc., or that has a supervisor or a majority of faculty who provides direct services and meet Listening and Spoken Language Specialists (LSLS) certification requirements.

OPTION Schools Inc. is an international coalition of schools offering auditory-oral education for children who are deaf or hard of hearing. To be eligible for membership, a school must meet the following criteria:¹²

- Support the philosophy of listening and spoken language education;
- Operate listening and spoken language classes for children who are deaf and hard of hearing in an exclusively auditory-oral environment; and
- Be approved, licensed, or accredited by a recognized agency.

Member schools may be accredited through the organization's accreditation process.¹³ In the past two years, three schools have been accredited.¹⁴ The Clarke School campus in Jacksonville and the Debbie School are certified by OPTION Schools, Inc., and are in the process of becoming accredited.¹⁵

The AG Bell Academy for Listening and Spoken Language is an independently governed, subsidiary corporation of the Alexander Graham Bell Association for the Deaf and Hard of Hearing.¹⁶ The academy certifies individuals as either LSLS auditory-verbal therapists or LSLS auditory-verbal educators.¹⁷ To be eligible for certification, an applicant must meet the eligibility requirements (formal education, credential, professional experience, and post-graduate study), earn approved LSLS continuing education credits, and work with a LSLS-certified mentor before taking the LSLS written test.¹⁸ In order to be certified, an applicant must have a master's degree, or international equivalent post-baccalaureate degree or diploma, in audiology, speech-language

¹² OPTION Schools, Inc., by-laws, as of March 3, 2011. See <http://auditoryoralschools.org/gov.aspx>.

¹³ *OPTION Schools Accreditation, 2003*, on file with the committee.

¹⁴ Sunshine Cottage School (Texas), Clarke East School (Boston), and Listen and Talk School (Seattle, Washington). The organization has certified 50 schools in the past. E-mail, March 15, 2011, on file with the committee.

¹⁵ E-mail, March 15, 2011, on file with the committee. The Clarke Schools for Hearing and Speech provide children who are deaf and hard of hearing with listening, learning, and spoken language skills. See <http://www.clarkeschools.org/about/welcome>. The Debbie Institute, a division of the University of Miami Mailman Center for Child Development, is a center for early intervention research, training and service and offers an auditory-oral program. See <http://pediatrics.med.miami.edu/debbie-school/education-services/auditory-oral-education-program>.

¹⁶ See <http://agbell.org/NetCommunity/Document.Doc?id=298>.

¹⁷ *Id.*

¹⁸ *Id.*

pathology, or education of the deaf and hard of hearing.¹⁹ As of March 3, 2011, there were 15 LSLS certified professionals in Florida.²⁰

The number of schools that will meet the accreditation or certification requirements is unknown. The bill does not require schools to meet these requirements. For the 2010-2011 school year, the DOE reported that six of 55 districts contracted with a private provider for an auditory-oral program.²¹ Forty-five districts indicated that they did not have any staff members that meet the LSLS certification requirements.²² According to the DOE, Clay and St. Johns County School Districts have a contract with the Clarke School.²³ Under the contract with St. Johns, the students were age two to nine. Eight of the nine students served were age 5 or younger. In Clay, 11 students were served (eight prekindergarten students, two kindergarten students, and one first grade student).

Matrix of Services

Under the bill, the Department of Education would review and revise the matrix of services, which is used to determine exceptional education cost factors. The changes would have to be implemented prior to the 2011-2012 school year.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ 2011 Certification Handbook, available at <http://nc.agbell.org/NetCommunity/Document.Doc?id=638>. An individual seeking certification must hold a current license or credential to practice audiology, speech-language pathology or education of the deaf or hard of hearing in their geographic locale.

²⁰ See <http://agbell.org/NetCommunity/Page.aspx?pid=350>.

²¹ DOE, January 27, 2011, on file with the committee. The survey was conducted between January 17, 2011 and January 21, 2011.

²² *Id.* One district reported that it had LSLS certified staff. Nine reported that it was unknown.

²³ DOE, January 20, 2011. The Clarke Schools for Hearing and Speech is an auditory/oral program, which teaches children to listen and speak, rather than use sign language. Clarke's Jacksonville campus provides a variety of programs and services for children from birth to age 7. See <http://www.clarkeschools.org/>

B. Private Sector Impact:

Private schools with auditory-oral programs that wish to be accredited by OPTION Schools, Inc., will incur the cost of membership and accreditation. The costs related to accreditation are approximately \$5,000.²⁴ Accreditation must be renewed every 5 years.

Individuals who choose to be LSLS certified will incur costs. The LSLS certificate is valid for two years. The certification related fees include:²⁵

Certification Related Fees	Members	Non members
Application and Certification ²⁶	\$295	\$395
Preliminary Review of Academic Background	\$40	\$40
Request for review of continuing education credits	\$20	\$20
Certification Renewal (every two years)	\$120	\$120

C. Government Sector Impact:

Public schools with auditory-oral programs that wish to be accredited by OPTION Schools, Inc., will incur the cost of membership and accreditation.

The Department of Education's review of the descriptions of the services and supports included in the matrix of services may impact the FEFP cost factors over time. However, the overall fiscal impact is expected to be insignificant.

VI. Technical Deficiencies:

In public elementary schools, instructional personnel are not generally referred to as "faculty."

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Education Pre-K – 12 on March 17, 2011:

The committee substitute corrects a technical reference to the AG Bell Academy for Listening and Spoken Language.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²⁴ E-mail, March 15, 2011, on file with the committee.

²⁵ *Id.*

²⁶ This includes one exam session.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (4) of section
1001.20, Florida Statutes, is amended to read:

1001.20 Department under direction of state board.—

(4) The Department of Education shall establish the
following offices within the Office of the Commissioner of
Education which shall coordinate their activities with all other
divisions and offices:

(a) *Office of Technology and Information Services.*—



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13 Responsible for developing a systemwide technology plan, making
14 budget recommendations to the commissioner, providing data
15 collection and management for the system, assisting school
16 districts in securing Internet access and telecommunications
17 services, including those eligible for funding under the Schools
18 and Libraries Program of the federal Universal Service Fund, and
19 coordinating services with other state, local, and private
20 agencies. The office shall develop a method to address the need
21 for a statewide approach to planning and operations of library
22 and information services to achieve a single K-20 education
23 system library information portal and a unified higher education
24 library management system. ~~The Florida Virtual School shall be~~
25 ~~administratively housed within the office.~~

26 Section 2. Subsection (23) of section 1001.42, Florida
27 Statutes, is amended to read:

28 1001.42 Powers and duties of district school board.—The
29 district school board, acting as a board, shall exercise all
30 powers and perform all duties listed below:

31 (23) FLORIDA VIRTUAL SCHOOL.—Provide students with access
32 to ~~enroll in~~ courses available through the Florida Virtual
33 School and award credit for successful completion of such
34 courses. Access shall be available to students during and ~~or~~
35 after the normal school day and through summer school
36 enrollment.

37 Section 3. Section 1001.421, Florida Statutes, is created
38 to read:

39 1001.421 Gifts.—Notwithstanding any other provision of law
40 to the contrary, district school board members and their
41 relatives, as defined in s. 112.312(21), may not directly or



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indirectly solicit any gift, or directly or indirectly accept any gift in excess of \$50, from any person, vendor, potential vendor, or other entity doing business with the school district. The term "gift" has the same meaning as in s. 112.312(12).

Section 4. Paragraph (a) of subsection (1) of section 1002.37, Florida Statutes, is amended to read:

1002.37 The Florida Virtual School.—

(1)(a) The Florida Virtual School is established for the development and delivery of online and distance learning education ~~and shall be administratively housed within the Commissioner of Education's Office of Technology and Information Services.~~ The Commissioner of Education shall monitor the school's performance and report its performance to the State Board of Education and the Legislature.

The board of trustees of the Florida Virtual School shall identify appropriate performance measures and standards based on student achievement that reflect the school's statutory mission and priorities, and shall implement an accountability system for the school that includes assessment of its effectiveness and efficiency in providing quality services that encourage high student achievement, seamless articulation, and maximum access.

Section 5. Subsection (2) and paragraph (a) of subsection (3) of section 1002.38, Florida Statutes, are amended to read:

1002.38 Opportunity Scholarship Program.—

(2) OPPORTUNITY SCHOLARSHIP ELIGIBILITY.—For purposes of this section, a school's grade shall be based upon statewide assessments administered pursuant to s. 1008.22. A public school student's parent may request and receive from the state an



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71 opportunity scholarship for the student to enroll in and attend
72 a private school in accordance with the provisions of this
73 section if:

74 (a)1. By assigned school attendance area or by special
75 assignment, the student has spent the prior school year in
76 attendance at a public school that has been designated pursuant
77 to ~~s. 1008.34~~ as performance grade category "F," failing to make
78 adequate progress, and that has had 2 school years in a 4-year
79 period of such low performance, and the student's attendance
80 occurred during a school year in which such designation was in
81 effect;

82 2. The student has been in attendance elsewhere in the
83 public school system and has been assigned to such school for
84 the next school year; or

85 3. The student is entering kindergarten or first grade and
86 has been notified that the student has been assigned to such
87 school for the next school year.

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

94
95 The provisions of this section ~~do shall~~ not apply to a student
96 who is enrolled in a school operating for the purpose of
97 providing educational services to youth in Department of
98 Juvenile Justice commitment programs. For purposes of continuity
99 of educational choice, the opportunity scholarship shall remain



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in force until the student returns to a public school or, if the student chooses to attend a private school the highest grade of which is grade 8, until the student matriculates to high school and the public high school to which the student is assigned is an accredited school with a performance grade category designation of "C" or better. 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, as provided in subparagraph (3)(a)2.

(3) SCHOOL DISTRICT OBLIGATIONS.—

(a) A school district shall, for each student enrolled in or assigned to a school that has been designated as performance grade category "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 section.

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 state ~~pursuant to s. 1008.34~~ 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 opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

Section 6. Paragraph (a) of subsection (4) of section 1002.39, Florida Statutes, is amended to read:



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1002.39 The John M. McKay Scholarships for Students with Disabilities Program.—There is established a program that is separate and distinct from the Opportunity Scholarship Program and is named the John M. McKay Scholarships for Students with Disabilities Program.

(4) TERM OF JOHN M. MCKAY SCHOLARSHIP.—

(a) For purposes of continuity of educational choice, a John M. McKay Scholarship shall remain in force until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first. A scholarship student who enrolls in a public school or public school program is considered to have returned to a public school for the purpose of determining the end of the scholarship's term. However, if a student enters a Department of Juvenile Justice detention center for a period of no more than 21 days, the student is not considered to have returned to a public school for that purpose.

Section 7. Paragraph (b) of subsection (2) of section 1002.45, Florida Statutes, is amended to read:

1002.45 School district virtual instruction programs.—

(2) PROVIDER QUALIFICATIONS.—

(b) An approved provider shall retain its approved status during the 3 school years ~~for a period of 3 years~~ after the date of the department's approval under paragraph (a) as long as the provider continues to comply with all requirements of this section.

Section 8. Paragraph (e) is added to subsection (2) of section 1002.66, Florida Statutes, to read:

1002.66 Specialized instructional services for children



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with disabilities.—

(2) The parent of a child who is eligible for the prekindergarten program for children with disabilities may select one or more specialized instructional services that are consistent with the child's individual educational plan. These specialized instructional services may include, but are not limited to:

(e) Listening and Spoken Language specialists for any child who is deaf or hard of hearing and who has received an implant or assistive hearing device.

Section 9. Subsection (1) and paragraph (c) of subsection (3) of section 1002.67, Florida Statutes, are amended to read:
1002.67 Performance standards; curricula and accountability.—

(1)(a) By April 1, 2005, the department shall develop and adopt performance standards for students in the Voluntary Prekindergarten Education Program. The performance standards must address the age-appropriate progress of students in the development of:

1.~~(a)~~ The capabilities, capacities, and skills required under s. 1(b), Art. IX of the State Constitution; and

2.~~(b)~~ Emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development.

(b) The State Board of Education shall periodically review and revise the performance standards for the statewide kindergarten screening administered under s. 1002.69 and align the standards to the standards established by the state board



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187 for student performance on the statewide assessments
188 administered pursuant to s. 1008.22.

189 (3)

190 (c)1. If the kindergarten readiness rate of a private
191 prekindergarten provider or public school falls below the
192 minimum rate adopted by the State Board of Education as
193 satisfactory under s. 1002.69(6), the early learning coalition
194 or school district, as applicable, shall require the provider or
195 school to submit an improvement plan for approval by the
196 coalition or school district, as applicable, and to implement
197 the plan.

198 2. If a private prekindergarten provider or public school
199 fails to meet the minimum rate adopted by the State Board of
200 Education as satisfactory under s. 1002.69(6) ~~for 2 consecutive~~
201 ~~years~~, the early learning coalition or school district, as
202 applicable, shall place the provider or school on probation and
203 must require the provider or school to take certain corrective
204 actions, including the use of a curriculum approved by the
205 department under paragraph (2)(c).

206 3. A private prekindergarten provider or public school that
207 is placed on probation must continue the corrective actions
208 required under subparagraph 2., including the use of a
209 curriculum approved by the department, until the provider or
210 school meets the minimum rate adopted by the State Board of
211 Education as satisfactory under s. 1002.69(6).

212 4. If a private prekindergarten provider or public school
213 remains on probation for 2 consecutive years and fails to meet
214 the minimum rate adopted by the State Board of Education as
215 satisfactory under s. 1002.69(6) and is not granted a good cause



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exemption by the department pursuant to s. 1002.69(7), the Agency for Workforce Innovation shall require the early learning coalition or the Department of Education shall require the school district to remove, as applicable, the provider or school from eligibility to deliver the Voluntary Prekindergarten Education Program and receive state funds for the program.

Section 10. Subsections (1), (5), and (6) and paragraphs (b) and (c) of subsection (7) of section 1002.69, Florida Statutes, are amended to read:

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

(1) The department shall adopt a statewide kindergarten screening that assesses the readiness of each student for kindergarten based upon the performance standards adopted by the department under s. 1002.67(1) for the Voluntary Prekindergarten Education Program. The department shall require that each school district administer the statewide kindergarten screening to each kindergarten student in the school district within the first 30 school days of each school year. Nonpublic schools may administer the statewide kindergarten screening to each kindergarten student in a nonpublic school who was enrolled in the Voluntary Prekindergarten Education Program.

(5) The State Board of Education shall adopt procedures for the department to annually calculate each private prekindergarten provider's and public school's kindergarten readiness rate, which must be expressed as the percentage of the provider's or school's students who are assessed as ready for kindergarten. The kindergarten readiness rates must be based



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exclusively upon the results of the statewide kindergarten screening for students completing the Voluntary Prekindergarten Education Program, beginning with students completing the program during the 2005-2006 school year who are administered the statewide kindergarten screening during the 2006-2007 school year. The methodology for calculating each provider's kindergarten readiness rate must include the percentage of students who meet all state readiness measures. The rates must not include students who are not administered the statewide kindergarten screening.

(6) ~~(a)~~ The State Board of Education shall periodically adopt a minimum kindergarten readiness rate that, if achieved by a private prekindergarten provider or public school, would demonstrate the provider's or school's satisfactory delivery of the Voluntary Prekindergarten Education Program.

~~(b) The minimum rate must not exceed the rate at which more than 15 percent of the kindergarten readiness rates of all private prekindergarten providers and public schools delivering the Voluntary Prekindergarten Education Program in the state would fall below the minimum rate.~~

(7)

(b) A private prekindergarten provider's or public school's request for a good cause exemption, or renewal of such an exemption, must be submitted to the state board in the manner and within the timeframes prescribed by the state board and must include the following:

1. Submission of data by the private prekindergarten provider or public school which documents ~~on a standardized assessment~~ the achievement and progress of the children served



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as measured by the state-approved prekindergarten enrollment screening and the standardized post-assessment approved by the department pursuant to subparagraph (c)1.

2. Submission and review of data available from the respective early learning coalition or district school board, the Department of Children and Family Services, local licensing authority, or an accrediting association, as applicable, relating to the private prekindergarten provider's or public school's compliance with state and local health and safety standards.

3. Submission and review of data available to the department on the performance of the children served and the calculation of the private prekindergarten provider's or public school's kindergarten readiness rate.

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

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



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administration of each assessment. Each parent who enrolls his or her child in a Voluntary Prekindergarten Education Program offered by a provider seeking a good cause exemption must submit the child for the state-approved prekindergarten enrollment screening.

~~2. Verification that the private prekindergarten provider or public school serves at least twice the statewide percentage of children with disabilities as defined in s. 1003.01(3)(a) or children identified as limited English proficient as defined in s. 1003.56.~~

~~2.3.~~ Verification that local and state health and safety requirements are met.

Section 11. Subsection (4) of section 1002.71, Florida Statutes, is amended to read:

1002.71 Funding; financial and attendance reporting.—

(4) Notwithstanding s. 1002.53(3) and subsection (2):

(a) A child who, for any of the prekindergarten programs listed in s. 1002.53(3), has not completed more than 70 percent of the hours authorized to be reported for funding under subsection (2), or has not expended more than 70 percent of the funds authorized for the child under s. 1002.66, may withdraw from the program for good cause and reenroll in one of the programs. The total funding for a child who reenrolls in one of the programs for good cause may not exceed one full-time equivalent student. Funding for a child who withdraws and reenrolls in one of the programs for good cause shall be issued in accordance with the agency's uniform attendance policy adopted pursuant to paragraph (6)(d).

(b) A child who has not substantially completed any of the



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prekindergarten programs listed in s. 1002.53(3) may withdraw from the program due to an extreme hardship that is beyond the child's or parent's control, reenroll in one of the summer programs, and be reported for funding purposes as a full-time equivalent student in the summer program for which the child is reenrolled.

A child may reenroll only once in a prekindergarten program under this section. A child who reenrolls in a prekindergarten program under this subsection may not subsequently withdraw from the program and reenroll, unless the child is granted a good cause exemption under this subsection. The Agency for Workforce Innovation shall establish criteria specifying whether a good cause exists for a child to withdraw from a program under paragraph (a), whether a child has substantially completed a program under paragraph (b), and whether an extreme hardship exists which is beyond the child's or parent's control under paragraph (b).

Section 12. Subsection (2) of section 1002.73, Florida Statutes, is amended to read:

1002.73 Department of Education; powers and duties; accountability requirements.—

(2) The department shall adopt procedures for its:

(a) Approval of prekindergarten director credentials under ss. 1002.55 and 1002.57.

(b) Approval of emergent literacy training courses under ss. 1002.55 and 1002.59.

(c) Administration of the statewide kindergarten screening and calculation of kindergarten readiness rates under s.



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1002.69.

(d) Implementation of, and determination of costs associated with, the state-approved prekindergarten enrollment screening and the standardized post-assessment approved by the department, and determination of the learning gains of students who complete the state-approved prekindergarten enrollment screening and the standardized post-assessment approved by the department.

(e) ~~(d)~~ Approval of specialized instructional services providers under s. 1002.66.

(f) Annual reporting of the percentage of kindergarten students who meet all state readiness measures.

(g) ~~(e)~~ Granting of a private prekindergarten provider's or public school's request for a good cause exemption under s. 1002.69(7).

Section 13. Paragraph (b) of subsection (3) of section 1003.01, Florida Statutes, is amended to read:

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

(3)

(b) "Special education services" means specially designed instruction and such related services as are necessary for an exceptional student to benefit from education. Such services may include: transportation; diagnostic and evaluation services; social services; physical and occupational therapy; speech and language pathology services; job placement; orientation and mobility training; braillists, typists, and readers for the blind; interpreters and auditory amplification; services provided by a certified Listening and Spoken Language specialist; rehabilitation counseling; transition services;



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mental health services; guidance and career counseling;
specified materials, assistive technology devices, and other
specialized equipment; and other such services as approved by
rules of the state board.

Section 14. Subsection (1) of section 1003.4156, Florida
Statutes, is amended to read:

1003.4156 General requirements for middle grades
promotion.—

~~(1) Beginning with students entering grade 6 in the 2006-~~
~~2007 school year,~~ Promotion from a school composed of middle
grades 6, 7, and 8 requires that:

(a) The student must successfully complete academic courses
as follows:

1. Three middle school or higher courses in English. These
courses shall emphasize literature, composition, and technical
text.

2. Three middle school or higher courses in mathematics.
Each middle school must offer at least one high school level
mathematics course for which students may earn high school
credit. Successful completion of a high school level Algebra I
or geometry course is not contingent upon the student's
performance on the end-of-course assessment required under s.
1008.22(3)(c)2.a.(I). However, beginning with the 2011-2012
school year, to earn high school credit for an Algebra I course,
a middle school student must pass the Algebra I end-of-course
assessment, and beginning with the 2012-2013 school year, to
earn high school credit for a geometry course, a middle school
student must pass the geometry end-of-course assessment.

3. Three middle school or higher courses in social studies,



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one semester of which must include the study of state and federal government and civics education. Beginning with students entering grade 6 in the 2012-2013 school year, one of these courses must be at least a one-semester civics education course that a student successfully completes in accordance with s. 1008.22(3)(c) and that includes the roles and responsibilities of federal, state, and local governments; the structures and functions of the legislative, executive, and judicial branches of government; and the meaning and significance of historic documents, such as the Articles of Confederation, the Declaration of Independence, and the Constitution of the United States.

4. Three middle school or higher courses in science. Successful completion of a high school level Biology I course is not contingent upon the student's performance on the end-of-course assessment required under s. 1008.22(3)(c)2.a.(II). However, beginning with the 2012-2013 school year, to earn high school credit for a Biology I course, a middle school student must pass the Biology I end-of-course assessment.

5. One course in career and education planning to be completed in 7th or 8th grade. The course may be taught by any member of the instructional staff; must include career exploration using Florida CHOICES or a comparable cost-effective program; must include educational planning using the online student advising system known as Florida Academic Counseling and Tracking for Students at the Internet website FACTS.org; and shall result in the completion of a personalized academic and career plan. The required personalized academic and career plan must inform students of high school graduation requirements,



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high school assessment and college entrance test requirements, Florida Bright Futures Scholarship Program requirements, state university and Florida college admission requirements, and programs through which a high school student can earn college credit, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, career academy opportunities, and courses that lead to national industry certification.

A student with a disability, as defined in s. 1007.02(2), for whom the individual education plan team determines that an end-of-course assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations, shall have the end-of-course assessment results waived for purposes of determining the student's course grade and completing the requirements for middle grades promotion.

Each school must hold a parent meeting either in the evening or on a weekend to inform parents about the course curriculum and activities. Each student shall complete an electronic personal education plan that must be signed by the student; the student's instructor, guidance counselor, or academic advisor; and the student's parent. The Department of Education shall develop course frameworks and professional development materials for the career exploration and education planning course. The course may be implemented as a stand-alone course or integrated into another course or courses. The Commissioner of Education shall collect longitudinal high school course enrollment data by student ethnicity in order to analyze course-taking patterns.

(b) For each year in which a student scores at Level 1 on



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FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s.

1011.62(9). A middle grades student who scores at Level 1 or Level 2 on FCAT Reading but who did not score below Level 3 in the previous 3 years may be granted a 1-year exemption from the reading remediation requirement; however, the student must have an approved academic improvement plan already in place, signed by the appropriate school staff and the student's parent, for the year for which the exemption is granted.

(c) For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year, which may be integrated into the student's required mathematics course.

Section 15. Section 1003.4203, Florida Statutes, is created to read:

1003.4203 Digital curriculum.—

(1) Each district school board, in consultation with the district school superintendent, may develop and implement a digital curriculum for students in grades 6 through 12 in order to enable students to attain competencies in web communications and web design. A digital curriculum may include web-based skills, web-based core technologies, web design, use of digital



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technologies and markup language to show competency in computer skills, and use of web-based core technologies to design creative, informational, and content standards for web-based digital products that demonstrate proficiency in creating, publishing, testing, monitoring, and maintaining a website.

(2) The digital curriculum instruction may be integrated into middle school and high school subject area curricula or offered as a separate course, subject to available funding.

(3) The Department of Education shall develop a model digital curriculum to serve as a guide for district school boards in the development of a digital curriculum.

(4) A district school board may seek partnerships with private businesses and consultants to offer classes and instruction to teachers and students to assist the school district in providing digital curriculum instruction.

Section 16. Paragraph (b) of subsection (2) of section 1003.428, Florida Statutes, is amended to read:

1003.428 General requirements for high school graduation; revised.—

(2) The 24 credits may be earned through applied, integrated, and combined courses approved by the Department of Education. The 24 credits shall be distributed as follows:

(b) Eight credits in electives.

1. For each year in which a student scores at Level 1 on FCAT Reading, the student must be enrolled in and complete an intensive reading course the following year. Placement of Level 2 readers in either an intensive reading course or a content area course in which reading strategies are delivered shall be determined by diagnosis of reading needs. The department shall



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provide guidance on appropriate strategies for diagnosing and meeting the varying instructional needs of students reading below grade level. Reading courses shall be designed and offered pursuant to the comprehensive reading plan required by s. 1011.62(9). A high school student who scores at Level 1 or Level 2 on FCAT Reading but who did not score below Level 3 in the previous 3 years may be granted a 1-year exemption from the reading remediation requirement; however, the student must have an approved academic improvement plan already in place, signed by the appropriate school staff and the student's parent, for the year for which the exemption is granted.

2. For each year in which a student scores at Level 1 or Level 2 on FCAT Mathematics, the student must receive remediation the following year. These courses may be taught through applied, integrated, or combined courses and are subject to approval by the department for inclusion in the Course Code Directory.

Section 17. Subsections (2), (3), and (5) of section 1003.491, Florida Statutes, are amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(2) ~~Beginning with the 2007-2008 school year,~~ Each district school board shall develop, in collaboration with regional ~~local~~ workforce boards, economic development agencies, and postsecondary institutions approved to operate in the state, a



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564 strategic 5-year plan to address and meet local and regional
565 workforce demands. If involvement of a regional ~~the local~~
566 workforce board or an economic development agency in the
567 strategic plan development is not feasible, the local school
568 board, with the approval of the Agency for Workforce Innovation,
569 shall collaborate with the most appropriate regional ~~local~~
570 business leadership board. Two or more school districts may
571 collaborate in the development of the strategic plan and offer a
572 career and professional academy as a joint venture. The
573 strategic plan ~~Such plans~~ must describe in detail provisions for
574 the efficient transportation of students, the maximum use of
575 shared resources, ~~and~~ access to courses aligned to state
576 curriculum standards through virtual education providers
577 legislatively authorized to provide part-time instruction to
578 middle school students, and an objective review of career and
579 professional academy courses to determine if the courses will
580 lead to the attainment of industry certifications included on
581 the Industry Certified Funding List pursuant to rules adopted by
582 the State Board of Education ~~the Florida Virtual School when~~
583 ~~appropriate~~. Each strategic plan shall be reviewed, updated, and
584 jointly approved every 5 years by the local school district,
585 regional workforce boards, economic development agencies, and
586 state-approved postsecondary institutions ~~completed no later~~
587 ~~than June 30, 2008, and shall include provisions to have in~~
588 ~~place at least one operational career and professional academy,~~
589 ~~pursuant to s. 1003.492, no later than the beginning of the~~
590 ~~2008-2009 school year.~~

591 (3) The strategic 5-year plan developed jointly by ~~between~~
592 the local school district, regional ~~local~~ workforce boards,



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economic development agencies, and state-approved postsecondary institutions shall be constructed and based on:

(a) Research conducted to objectively determine local and regional workforce needs for the ensuing 5 years, using labor projections of the United States Department of Labor and the Agency for Workforce Innovation;

(b) Strategies to develop and implement career academies based on those careers determined to be in high demand;

(c) Maximum use of private sector facilities and personnel;

(d) Strategies that ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Alignment of the requirements for middle school career exploration, middle and high school career and professional academies leading to industry certification, and high school graduation requirements ~~redesign~~;

(f) Provisions to ensure that courses offered through career and professional academies are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;

(g) Strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent;

(h) ~~(g)~~ Establishment of student eligibility criteria in career and professional academies which include opportunities for students who have been unsuccessful in traditional classrooms but who show aptitude to participate in academies. School boards shall address the analysis of eighth grade student



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achievement data to provide opportunities for students who may be deemed as potential dropouts to participate in career and professional academies;

(i)~~(h)~~ Strategies to provide sufficient space within academies to meet workforce needs and to provide access to all interested and qualified students;

(j)~~(i)~~ Strategies to implement ~~engage Department of Juvenile Justice students in~~ career and professional academy training that leads to industry certification at Department of Juvenile Justice facilities;

(k)~~(j)~~ Opportunities for high school students to earn weighted or dual enrollment credit for higher-level career and technical courses;

(l)~~(k)~~ Promotion of the benefits of the Gold Seal Bright Futures Scholarship;

(m)~~(l)~~ Strategies to ensure the review of district pupil-progression plans and to amend such plans to include career and professional courses and to include courses that may qualify as substitute courses for core graduation requirements and those that may be counted as elective courses; and

(n)~~(m)~~ Strategies to provide professional development for secondary guidance counselors on the benefits of career and professional academies.

(5) The submission and review of newly proposed core courses shall be conducted electronically, and each proposed core course shall be approved or denied within 60 days. All courses approved as core courses for purposes of middle school promotion and high school graduation ~~purposes~~ shall be immediately added to the Course Code Directory. Approved core



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courses shall also be reviewed and considered for approval for dual enrollment credit. The Board of Governors and the Commissioner of Education shall jointly recommend an annual deadline for approval of new core courses to be included for purposes of postsecondary admissions and dual enrollment credit the following academic year. The State Board of Education shall establish an appeals process in the event that a proposed course is denied which shall require a consensus ruling by the Agency for Workforce Innovation and the Commissioner of Education within 15 days. The curriculum review committee must be established and operational no later than September 1, 2007.

Section 18. Subsections (2), (4), (5), and (6) of section 1003.493, Florida Statutes, are amended to read:

1003.493 Career and professional academies.—

(2) The goals of a career and professional academy are to:

(a) Increase student academic achievement and graduation rates through integrated academic and career curricula.

(b) Prepare graduating high school students to make appropriate choices relative to employment and future educational experiences.

(c) Focus on career preparation through rigorous academics and industry certification.

(d) Raise student aspiration and commitment to academic achievement and work ethics through relevant coursework.

~~(e) Support graduation requirements pursuant to s. 1003.428 by providing creative, applied major areas of interest.~~

(e) ~~(f)~~ Promote acceleration mechanisms, such as dual enrollment, articulated credit, or occupational completion points, so that students may earn postsecondary credit while in



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high school.

~~(f)-(g)~~ Support the state's economy by meeting industry needs for skilled employees in high-demand occupations.

(4) Each career and professional academy must:

(a) Provide a rigorous standards-based academic curriculum integrated with a career curriculum. The curriculum must take into consideration multiple styles of student learning; promote learning by doing through application and adaptation; maximize relevance of the subject matter; enhance each student's capacity to excel; and include an emphasis on work habits and work ethics.

(b) Include one or more partnerships with postsecondary institutions, businesses, industry, employers, economic development organizations, or other appropriate partners from the local community. Such partnerships shall be delineated in articulation agreements to provide for career-based courses that earn postsecondary credit. Such agreements may include articulation between the academy and public or private 2-year and 4-year postsecondary institutions and technical centers. The Department of Education, in consultation with the Board of Governors, shall establish a mechanism to ensure articulation and transfer of credits to postsecondary institutions in this state. Such partnerships must provide opportunities for:

1. Instruction from highly skilled professionals who possess industry-certification credentials for courses they are teaching.
2. Internships, externships, and on-the-job training.
3. A postsecondary degree, diploma, or certificate.
4. The highest available level of industry certification.



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5. Maximum articulation of credits pursuant to s. 1007.23 upon program completion.

(c) Provide shared, maximum use of private sector facilities and personnel.

(d) Provide personalized student advisement, including a parent-participation component, and coordination with middle schools to promote and support career exploration and education planning as required under s. 1003.4156. Coordination with middle schools must provide information to middle school students about secondary and postsecondary career education programs and academies.

(e) Promote and provide opportunities for career and professional academy students to attain, at minimum, the Florida Gold Seal Vocational Scholars award pursuant to s. 1009.536.

(f) Provide instruction in careers designated as high growth, high demand, and high pay by the regional local workforce development board, the chamber of commerce, economic development agencies, or the Agency for Workforce Innovation.

(g) Deliver academic content through instruction relevant to the career, including intensive reading and mathematics intervention required by s. 1003.428, with an emphasis on strengthening reading for information skills.

(h) Offer applied courses that combine academic content with technical skills.

(i) Provide instruction resulting in competency, certification, or credentials in workplace skills, including, but not limited to, communication skills, interpersonal skills, decisionmaking skills, the importance of attendance and timeliness in the work environment, and work ethics.



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(j) Include a plan to sustain career and professional academies ~~Provide opportunities for students to obtain the Florida Ready to Work Certification pursuant to s. 1004.99.~~

~~(k) Include an evaluation plan developed jointly with the Department of Education and the local workforce board. The evaluation plan must include an assessment tool based on national industry standards, such as the Career Academy National Standards of Practice, and outcome measures, including, but not limited to, achievement of national industry certifications identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education, graduation rates, enrollment in postsecondary education, business and industry satisfaction, employment and earnings, awards of postsecondary credit and scholarships, and student achievement levels and learning gains on statewide assessments administered under s. 1008.22(3)(c). The Department of Education shall use Workforce Florida, Inc., and Enterprise Florida, Inc., in identifying industry experts to participate in developing and implementing such assessments.~~

~~(k)-(m)~~ Redirect appropriated career funding to career and professional academies.

(5) All career courses offered in a career and professional academy must lead to industry certification or college credit linked directly to the career theme of the course. If the passage rate on an industry certification examination that is associated with the career and professional academy falls below 50 percent, the academy must discontinue enrollment of new students the following school year and each year thereafter until such time as the passage rate is above 50 percent or the



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~~academy is discontinued. At least 50 percent of students enrolled in a career course must achieve industry certifications or college credits during the second year the course is offered in order for the course to be offered a third year. At least 66 percent of students enrolled in such a course must achieve industry certifications or college credits during the third year the course is offered in order for it to be offered a fourth year and thereafter.~~

(6) Workforce Florida, Inc., through the secondary career academies initiatives, ~~The Okaloosa County School District CHOICE Institutes~~ shall serve in an advisory role and shall offer technical assistance in the development and deployment of newly established career and professional academies ~~for a 3-year period beginning July 1, 2007.~~

Section 19. Section 1003.4935, Florida Statutes, is created to read:

1003.4935 Middle school career and professional academy courses.—

(1) Beginning with the 2011-2012 school year, each district school board, in collaboration with regional workforce boards, economic development agencies, and state-approved postsecondary institutions, shall include plans to implement a career and professional academy in at least one middle school in the district as part of the strategic 5-year plan pursuant to s. 1003.491(2). The middle school career and professional academy component of the strategic plan must ensure the transition of middle school career and professional academy students to a high school career and professional academy currently operating within the school district. Students who complete a middle



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school career and professional academy must have the opportunity to earn an industry certificate and high school credit and participate in career planning, job shadowing, and business leadership development activities.

(2) Each middle school career and professional academy must be aligned with at least one high school career and professional academy offered in the district and maintain partnerships with local business and industry and economic development boards.

Middle school career and professional academies must:

(a) Provide instruction in courses leading to careers in occupations designated as high growth, high demand, and high pay in the Industry Certification Funding List approved under rules adopted by the State Board of Education;

(b) Offer career and professional academy courses that integrate content from core subject areas;

(c) Offer courses that integrate career and professional academy content with intensive reading and mathematics pursuant to s. 1003.428;

(d) Coordinate with high schools to maximize opportunities for middle school career and professional academy students to earn high school credit;

(e) Provide access to virtual instruction courses provided by virtual education providers legislatively authorized to provide part-time instruction to middle school students which are aligned to state curriculum standards for middle school career and professional academy students, with priority given to students who have required course deficits;

(f) Provide instruction from highly skilled professionals who hold industry certificates in the career area in which they



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825 teach;

826 (g) Offer externships; and

827 (h) Provide personalized student advisement that includes a
828 parent-participation component.

829 (3) Beginning with the 2012-2013 school year, if a school
830 district implements a middle school career and professional
831 academy, the Department of Education shall collect and report
832 student achievement data pursuant to performance factors
833 identified under s. 1003.492(3) for academy students.

834 Section 20. Section 1003.575, Florida Statutes, is amended
835 to read:

836 1003.575 Assistive technology devices; findings;
837 interagency agreements.—Accessibility, utilization, and
838 coordination of appropriate assistive technology devices and
839 services are essential as a young person with disabilities moves
840 from early intervention to preschool, from preschool to school,
841 from one school to another, and from school to employment or
842 independent living. If an individual education plan team makes a
843 recommendation in accordance with State Board of Education rule
844 for a student with a disability, as defined in s. 1003.01(3), to
845 receive an assistive technology assessment, that assessment must
846 be completed within 60 school days after the team's
847 recommendation. To ensure that an assistive technology device
848 issued to a young person as part of his or her individualized
849 family support plan, individual support plan, or an individual
850 education plan remains with the individual through such
851 transitions, the following agencies shall enter into interagency
852 agreements, as appropriate, to ensure the transaction of
853 assistive technology devices:



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(1) The Florida Infants and Toddlers Early Intervention Program in the Division of Children's Medical Services of the Department of Health.

(2) The Division of Blind Services, the Bureau of Exceptional Education and Student Services, and the Division of Vocational Rehabilitation of the Department of Education.

(3) The Voluntary Prekindergarten Education Program administered by the Department of Education and the Agency for Workforce Innovation.

Interagency agreements entered into pursuant to this section shall provide a framework for ensuring that young persons with disabilities and their families, educators, and employers are informed about the utilization and coordination of assistive technology devices and services that may assist in meeting transition needs, and shall establish a mechanism by which a young person or his or her parent may request that an assistive technology device remain with the young person as he or she moves through the continuum from home to school to postschool.

Section 21. Effective upon this act becoming a law, subsection (2) and paragraph (c) of subsection (3) of section 1008.22, Florida Statutes, are amended to read:

1008.22 Student assessment program for public schools.—

(2) NATIONAL AND INTERNATIONAL EDUCATION COMPARISONS.—It is Florida's intent to participate in the measurement of national educational goals. The Commissioner of Education shall direct Florida school districts to participate in the administration of the National Assessment of Educational Progress, or a similar national or international assessment program, both for the



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national sample and for any state-by-state comparison programs which may be initiated. The assessments must be conducted using the data collection procedures, the student surveys, the educator surveys, and other instruments included in the National Assessment of Educational Progress or similar national or international assessment program being administered in Florida. The results of these assessments shall be included in the annual report of the Commissioner of Education specified in this section, as applicable. The administration of the National Assessment of Educational Progress or similar national or international assessment program shall be in addition to and separate from the administration of the statewide assessment program.

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing



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program as follows:

1. The Florida Comprehensive Assessment Test (FCAT) measures a student's content knowledge and skills in reading, writing, science, and mathematics. The content knowledge and skills assessed by the FCAT must be aligned to the core curricular content established in the Next Generation Sunshine State Standards. Other content areas may be included as directed by the commissioner. Comprehensive assessments of reading and mathematics shall be administered annually in grades 3 through 10 except, beginning with the 2010-2011 school year, the administration of grade 9 FCAT Mathematics shall be discontinued, and beginning with the 2011-2012 school year, the administration of grade 10 FCAT Mathematics shall be discontinued, except as required for students who have not attained minimum performance expectations for graduation as provided in paragraph (9)(c). FCAT Writing and FCAT Science shall be administered at least once at the elementary, middle, and high school levels except, beginning with the 2011-2012 school year, the administration of FCAT Science at the high school level shall be discontinued.

2.a. End-of-course assessments for a subject shall be administered in addition to the comprehensive assessments required under subparagraph 1. End-of-course assessments must be rigorous, statewide, standardized, and developed or approved by the department. The content knowledge and skills assessed by end-of-course assessments must be aligned to the core curricular content established in the Next Generation Sunshine State Standards.

(I) Statewide, standardized end-of-course assessments in



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mathematics shall be administered according to this sub-sub-
subparagraph. Beginning with the 2010-2011 school year, all
students enrolled in Algebra I or an equivalent course must take
the Algebra I end-of-course assessment. ~~Students who earned high
school credit in Algebra I while in grades 6 through 8 during
the 2007-2008 through 2009-2010 school years and who have not
taken Grade 10 FCAT Mathematics must take the Algebra I end-of-
course assessment during the 2010-2011 school year.~~ For students
entering grade 9 during the 2010-2011 school year and who are
enrolled in Algebra I or an equivalent, each student's
performance on the end-of-course assessment in Algebra I shall
constitute 30 percent of the student's final course grade.
Beginning with students entering grade 9 in the 2011-2012 school
year, a student who is enrolled in Algebra I or an equivalent
must earn a passing score on the end-of-course assessment in
Algebra I or attain an equivalent score as described in
subsection (11) in order to earn course credit. Beginning with
the 2011-2012 school year, all students enrolled in geometry or
an equivalent course must take the geometry end-of-course
assessment. For students entering grade 9 during the 2011-2012
school year, each student's performance on the end-of-course
assessment in geometry shall constitute 30 percent of the
student's final course grade. Beginning with students entering
grade 9 during the 2012-2013 school year, a student must earn a
passing score on the end-of-course assessment in geometry or
attain an equivalent score as described in subsection (11) in
order to earn course credit.

(II) Statewide, standardized end-of-course assessments in
science shall be administered according to this sub-sub-



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subparagraph. Beginning with the 2011-2012 school year, all students enrolled in Biology I or an equivalent course must take the Biology I end-of-course assessment. For the 2011-2012 school year, each student's performance on the end-of-course assessment in Biology I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a passing score on the end-of-course assessment in Biology I in order to earn course credit.

b. During the 2012-2013 school year, an end-of-course assessment in civics education shall be administered as a field test at the middle school level. During the 2013-2014 school year, each student's performance on the statewide, standardized end-of-course assessment in civics education shall constitute 30 percent of the student's final course grade. Beginning with the 2014-2015 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and be promoted from the middle grades ~~receive course credit~~. The school principal of a middle school shall determine, in accordance with State Board of Education rule, whether a student who transfers to the middle school and who has successfully completed a civics education course at the student's previous school must take an end-of-course assessment in civics education.

c. The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or



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industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards.

d. Contingent upon funding provided in the General Appropriations Act, including the appropriation of funds received through federal grants, the Commissioner of Education shall establish an implementation schedule for the development and administration of additional statewide, standardized end-of-course assessments in English/Language Arts II, Algebra II, chemistry, physics, earth/space science, United States history, and world history. Priority shall be given to the development of end-of-course assessments in English/Language Arts II. The Commissioner of Education shall evaluate the feasibility and effect of transitioning from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an end-of-course assessment in English/Language Arts II. The commissioner shall report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011.

3. The testing program shall measure student content



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knowledge and skills adopted by the State Board of Education as specified in paragraph (a) and measure and report student performance levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

4. The testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

5. FCAT Reading, Mathematics, and Science and all statewide, standardized end-of-course assessments shall measure the content knowledge and skills a student has attained on the assessment by the use of scaled scores and achievement levels. Achievement levels shall range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment. For purposes of FCAT Writing, student achievement shall be scored using a scale of 1 through 6 and the score earned shall be used in calculating school grades. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction



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to students who score below these levels.

6. The State Board of Education shall, by rule, designate a passing score for each part of the grade 10 assessment test and end-of-course assessments. Any rule that has the effect of raising the required passing scores may apply only to students taking the assessment for the first time after the rule is adopted by the State Board of Education. Except as otherwise provided in this subparagraph and as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on grade 10 FCAT Reading and grade 10 FCAT Mathematics or attain concordant scores as described in subsection (10) in order to qualify for a standard high school diploma.

7. In addition to designating a passing score under subparagraph 6., the State Board of Education shall also designate, by rule, a score for each statewide, standardized end-of-course assessment which indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

8. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. A student who has not earned passing scores on the grade 10 FCAT as provided in subparagraph 6. must participate in each retake of the assessment until the student earns passing scores or achieves scores on a standardized assessment which are concordant with passing scores pursuant to subsection (10). If a student does not participate in the statewide assessment, the district must notify the



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student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT or an end-of-course assessment. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT or an end-of-course assessment may have the FCAT or an end-of-course assessment requirement waived pursuant to the requirements of s.

1003.428(8)(b) or s. 1003.43(11)(b).

9. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

10. District school boards must provide instruction to prepare students in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional



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accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected performance levels in reading, writing, mathematics, and science. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

11. District school boards must provide opportunities for students to demonstrate an acceptable performance level on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

12. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Next Generation Sunshine State Standards.

13. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Next Generation Sunshine State Standards for students with disabilities under s. 1003.438.

14. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student test results. When establishing the schedules for the administration of statewide assessments, the commissioner shall consider the observance of religious and



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school holidays. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results for the FCAT must be made available no later than the week of June 8. Student results for end-of-course assessments must be provided no later than 1 week after the school district completes testing for each course. The commissioner may extend the reporting schedule under exigent circumstances.

b. ~~Beginning with the 2010-2011 school year,~~ FCAT Writing may ~~is~~ not be administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject may ~~is~~ not be administered earlier than the week of April 15.

c. A statewide, standardized end-of-course assessment is administered ~~during a 3-week period~~ at the end of the course. The commissioner shall select an ~~a 3-week~~ administration period for assessments that meets the intent of end-of-course assessments and provides student results prior to the end of the course. School districts shall administer tests in accordance with the schedule determined by the commissioner ~~select 1 testing week within the 3-week administration period for each end-of-course assessment.~~ For an end-of-course assessment administered at the end of the first semester, the commissioner



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shall determine the most appropriate testing dates based on a
review of each school district's academic calendar.

The commissioner may, based on collaboration and input from
school districts, design and implement student testing programs,
for any grade level and subject area, necessary to effectively
monitor educational achievement in the state, including the
measurement of educational achievement of the Next Generation
Sunshine State Standards for students with disabilities.
Development and refinement of assessments shall include
universal design principles and accessibility standards that
will prevent any unintended obstacles for students with
disabilities while ensuring the validity and reliability of the
test. These principles should be applicable to all technology
platforms and assistive devices available for the assessments.
The field testing process and psychometric analyses for the
statewide assessment program must include an appropriate
percentage of students with disabilities and an evaluation or
determination of the effect of test items on such students.

Section 22. Subsection (3) of section 1008.30, Florida
Statutes, is amended to read:

1008.30 Common placement testing for public postsecondary
education.—

(3) The State Board of Education shall adopt rules that
require high schools to evaluate before the beginning of grade
12 the college readiness of each student who ~~indicates an~~
~~interest in postsecondary education and~~ scores at Level 2 or
Level 3 on the reading portion of the grade 10 FCAT or Level 2,
Level 3, or Level 4 on the mathematics assessments under s.



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1008.22(3)(c). High schools shall perform this evaluation using results from the corresponding component of the common placement test prescribed in this section, or an equivalent test identified by the State Board of Education. The State Board ~~Department~~ of Education shall identify in rule ~~purchase or develop~~ the assessments necessary to perform the evaluations required by this subsection and shall work with the school districts to administer the assessments. The State Board of Education shall establish by rule the minimum test scores a student must achieve to demonstrate readiness. Students who demonstrate readiness by achieving the minimum test scores established by the state board and enroll in a community college within 2 years of achieving such scores shall not be required to retest or enroll in remediation when admitted ~~courses as a condition of acceptance~~ to any community college. The high school shall use the results of the test to advise the students of any identified deficiencies and to ~~the maximum extent practicable~~ provide 12th grade students, and require them to complete, access to appropriate postsecondary preparatory ~~remedial~~ instruction prior to high school graduation. The curriculum ~~remedial instruction~~ provided under this subsection shall be identified in rule by the State Board of Education and encompass Florida's Postsecondary Readiness Competencies. Other elective courses may not be substituted for the selected postsecondary reading, mathematics, or writing preparatory course unless the elective course covers the same competencies included in the postsecondary reading, mathematics, or writing preparatory course ~~a collaborative effort between secondary and postsecondary educational institutions. To the extent courses~~



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1231 ~~are available, the Florida Virtual School may be used to provide~~
1232 ~~the remedial instruction required by this subsection.~~

1233 Section 23. Paragraph (b) of subsection (3) and subsection
1234 (4) of section 1008.33, Florida Statutes, are amended to read:

1235 1008.33 Authority to enforce public school improvement.—

1236 (3)

1237 (b) For the purpose of determining whether a public school
1238 requires action to achieve a sufficient level of school
1239 improvement, beginning with the 2010-2011 school year, the
1240 Department of Education shall annually categorize a public
1241 school in one of six categories based on the following:

1242 1. A school's grade based upon statewide assessments
1243 administered pursuant to s. 1008.22; and

1244 2. ~~school's grade, pursuant to s. 1008.34, and~~ The level
1245 and rate of change in student performance in the areas of
1246 reading and mathematics, disaggregated into student subgroups as
1247 described in the federal Elementary and Secondary Education Act,
1248 20 U.S.C. s. 6311(b) (2) (C) (v) (II).

1249 (4) The Department of Education shall create a matrix that
1250 reflects intervention and support strategies to address the
1251 particular needs of schools in each category.

1252 (a) Intervention and support strategies shall be applied to
1253 schools based upon the school categorization pursuant to
1254 paragraph (3) (b). The Department of Education shall apply the
1255 most intense intervention strategies to the lowest-performing
1256 schools. For all but the lowest category and "F" schools in the
1257 second lowest category, the intervention and support strategies
1258 shall be administered solely by the districts and the schools.

1259 (b) The lowest-performing schools are schools that are



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categorized pursuant to paragraph (3)(b) and have received:

1. A grade of "F" in the most recent school year and in 4 of the last 6 years; or

2. A grade of "D" or "F" in the most recent school year and meet at least three of the following criteria:

a. The percentage of students who are not proficient in reading has increased when compared to measurements taken 5 years previously;

b. The percentage of students who are not proficient in mathematics has increased when compared to measurements taken 5 years previously;

c. At least 65 percent of the school's students are not proficient in reading; or

d. At least 65 percent of the school's students are not proficient in mathematics.

Section 24. Paragraph (h) is added to subsection (2) of section 1008.331, Florida Statutes, to read:

1008.331 Supplemental educational services in Title I schools; school district, provider, and department responsibilities.—

(2) RESPONSIBILITIES OF SCHOOL DISTRICT AND PROVIDER.—

(h) Notwithstanding a provider's submission to the department regarding the premethods and postmethods to be used to determine student learning gains, beginning with the 2011-2012 school year, a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment, if the department is notified of such intent before services are provided to the student.

Section 25. Paragraphs (b) and (c) of subsection (3) of



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section 1008.34, Florida Statutes, are amended to read:

1008.34 School grading system; school report cards;
district grade.—

(3) DESIGNATION OF SCHOOL GRADES.—

(b)1. A school's grade shall be based on a combination of:

a. Student achievement scores, including achievement on all FCAT assessments administered under s. 1008.22(3)(c)1., end-of-course assessments administered under s. 1008.22(3)(c)2.a., and achievement scores for students seeking a special diploma.

b. Student learning gains in reading and mathematics as measured by FCAT and end-of-course assessments, as described in s. 1008.22(3)(c)1. and 2.a. Learning gains for students seeking a special diploma, as measured by an alternate assessment tool, shall be included not later than the 2009-2010 school year.

c. Improvement of the lowest 25th percentile of students in the school in reading and mathematics on the FCAT or end-of-course assessments described in s. 1008.22(3)(c)2.a., unless these students are exhibiting satisfactory performance.

2. Beginning with the 2011-2012 school year, for schools comprised of middle school grades 6 through 8 or grades 7 and 8, the school's grade shall include the performance and participation of its students enrolled in high school level courses with end-of-course assessments administered under s. 1008.22(3)(c)2.a. Performance and participation must be weighted equally. As valid data becomes available, the school grades shall include the students' attainment of national industry certification identified in the Industry Certification Funding List pursuant to rules adopted by the State Board of Education.

3.2. Beginning with the 2009-2010 school year for schools



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comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, 50 percent of the school grade shall be based on a combination of the factors listed in sub-subparagraphs 1.a.-c. and the remaining 50 percent on the following factors:

a. The high school graduation rate of the school;

b. As valid data becomes available, the performance and participation of the school's students in College Board Advanced Placement courses, International Baccalaureate courses, dual enrollment courses, and Advanced International Certificate of Education courses; and the students' achievement of national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

c. Postsecondary readiness of the school's students as measured by the SAT, ACT, or the common placement test;

d. The high school graduation rate of at-risk students who scored at Level 2 or lower on the grade 8 FCAT Reading and Mathematics examinations;

e. As valid data becomes available, the performance of the school's students on statewide standardized end-of-course assessments administered under s. 1008.22(3)(c)2.b. and c.; and

f. The growth or decline in the components listed in sub-subparagraphs a.-e. from year to year.

(c) 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 FCAT and statewide, standardized end-of-course assessments in courses required for high school graduation, including, beginning with the 2010-2011



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school year, the end-of-course assessment in Algebra I; and beginning with the 2011-2012 school year, the end-of-course assessments in geometry and Biology; and beginning with the 2013-2014 school year, on the statewide, standardized end-of-course assessment in civics education at the middle school level.

2. The aggregate scores of all eligible students enrolled in the school who have been assessed on the FCAT and end-of-course assessments as described in s. 1008.22(3)(c)2.a., and who have scored at or in the lowest 25th percentile of students in the school in reading and mathematics, unless these students are exhibiting satisfactory performance.

3. The achievement scores and learning gains of eligible students attending alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53. 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. The student performance data for eligible students identified in this subparagraph shall be included in the calculation of the home school's grade. As used in this subparagraph ~~section~~ and s. 1008.341, the term "home school" means the school to which the student would be assigned if the student were not assigned to an alternative school. If an alternative school chooses to be graded under this section, student performance data for eligible students identified in



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this subparagraph shall not be included in the home school's grade but shall be included only in the calculation of the alternative school's grade. A school district that fails to assign the FCAT and end-of-course assessment as described in s. 1008.22(3)(c)2.a. scores of each of its students to his or her home school or to the alternative school that receives a grade shall forfeit Florida School Recognition Program funds for 1 fiscal year. School districts must require collaboration between the home school and the alternative school in order to promote student success. This collaboration must include an annual discussion between the principal of the alternative school and the principal of each student's home school concerning the most appropriate school assignment of the student.

4. The achievement scores and learning gains of students designated as hospital or homebound. Student assessment data for students designated as hospital or homebound shall be assigned to their home school for the purposes of school grades. As used in this subparagraph, the term "home school" means the school to which a student would be assigned if the student were not assigned to a hospital or homebound program.

5.4. For schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the data listed in subparagraphs 1.-3. and the following data as the Department of Education determines such data are valid and available:

a. The high school graduation rate of the school as calculated by the Department of Education;

b. The participation rate of all eligible students enrolled in the school and enrolled in College Board Advanced Placement courses; International Baccalaureate courses; dual enrollment



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courses; Advanced International Certificate of Education courses; and courses or sequence of courses leading to national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

c. The aggregate scores of all eligible students enrolled in the school in College Board Advanced Placement courses, International Baccalaureate courses, and Advanced International Certificate of Education courses;

d. Earning of college credit by all eligible students enrolled in the school in dual enrollment programs under s. 1007.271;

e. Earning of a national industry certification identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education;

f. The aggregate scores of all eligible students enrolled in the school in reading, mathematics, and other subjects as measured by the SAT, the ACT, and the common placement test for postsecondary readiness;

g. The high school graduation rate of all eligible at-risk students enrolled in the school who scored at Level 2 or lower on the grade 8 FCAT Reading and Mathematics examinations;

h. The performance of the school's students on statewide standardized end-of-course assessments administered under s. 1008.22(3)(c)2.b. and c.; and

i. The growth or decline in the data components listed in sub-subparagraphs a.-h. from year to year.

The State Board of Education shall adopt appropriate criteria



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for each school grade. The criteria must also give added weight to student achievement in reading. Schools designated with a grade of "C," making satisfactory progress, shall be required to demonstrate that adequate progress has been made by students in the school who are in the lowest 25th percentile in reading and mathematics on the FCAT and end-of-course assessments as described in s. 1008.22(3)(c)2.a., unless these students are exhibiting satisfactory performance. Beginning with the 2009-2010 school year for schools comprised of high school grades 9, 10, 11, and 12, or grades 10, 11, and 12, the criteria for school grades must also give added weight to the graduation rate of all eligible at-risk students, as defined in this paragraph. Beginning in the 2009-2010 school year, in order for a high school to be designated as having a grade of "A," making excellent progress, the school must demonstrate that at-risk students, as defined in this paragraph, in the school are making adequate progress.

Section 26. Paragraph (a) of subsection (3) of section 1011.01, Florida Statutes, is amended to read:

1011.01 Budget system established.—

(3)(a) Each district school board and each community college board of trustees shall prepare, adopt, and submit to the Commissioner of Education ~~for review~~ an annual operating budget. Operating budgets shall be prepared and submitted in accordance with the provisions of law, rules of the State Board of Education, the General Appropriations Act, and for district school boards in accordance with the provisions of ss. 200.065 and 1011.64.

Section 27. Subsection (4) of section 1011.03, Florida



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Statutes, is amended to read:

1011.03 Public hearings; budget to be submitted to
Department of Education.—

(4) The board shall hold public hearings to adopt tentative and final budgets pursuant to s. 200.065. The hearings shall be primarily for the purpose of hearing requests and complaints from the public regarding the budgets and the proposed tax levies and for explaining the budget and proposed or adopted amendments thereto, if any. The district school board shall then require the superintendent to transmit forthwith two copies of the adopted budget to the Department of Education ~~for approval~~ as prescribed by law and rules of the State Board of Education.

Section 28. Section 1011.035, Florida Statutes, is created to read:

1011.035 School district budget transparency.—

(1) It is important for school districts to provide budgetary transparency to enable taxpayers, parents, and education advocates to obtain school district budget and related information in a manner that is simply explained and easily understandable. Budgetary transparency leads to more responsible spending, more citizen involvement, and improved accountability. A budget that is not transparent, accessible, and accurate cannot be properly analyzed, its implementation thoroughly monitored, or its outcomes evaluated.

(2) Each district school board shall post on its website a plain language version of each proposed, tentative, and official budget which describes each budget item in terms that are easily understandable to the public. This information must be prominently posted on the school district's website in a manner



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that is readily accessible to the public.

(3) Each district school board is encouraged to post the following information on its website:

(a) Timely information as to when a budget hearing will be conducted.

(b) Each contract between the district school board and the teachers' union.

(c) Each contract between the district school board and noninstructional staff.

(d) Each contract exceeding \$35,000 between the school board and a vendor of services, supplies, or programs or for the purchase or lease of lands, facilities, or properties.

(e) Each contract exceeding \$35,000 that is an emergency procurement or is with a single source as authorized under s. 287.057(3).

(f) Recommendations of the citizens' budget advisory committee.

(g) Current and archived video recordings of each district school board meeting and workshop.

(4) The website should contain links to:

(a) Help explain or provide background information on various budget items that are required by state or federal law.

(b) Allow users to navigate to related sites to view supporting details.

(c) Enable taxpayers, parents, and education advocates to send e-mails asking questions about the budget and enable others to view the questions and responses.

Section 29. Paragraph (e) of subsection (1) of section 1011.62, Florida Statutes, is amended to read:



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

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

(e) *Funding model for exceptional student education programs.*—

1.a. The funding model uses basic, at-risk, support levels IV and V for exceptional students and career Florida Education Finance Program cost factors, and a guaranteed allocation for exceptional student education programs. Exceptional education cost factors are determined by using a matrix of services to document the services that each exceptional student will receive. The nature and intensity of the services indicated on the matrix shall be consistent with the services described in each exceptional student's individual educational plan. The Department of Education shall review and revise the descriptions of the services and supports included in the matrix of services for exceptional students and shall implement those revisions before the beginning of the 2012-2013 school year.

b. In order to generate funds using one of the two weighted cost factors, a matrix of services must be completed at the time of the student's initial placement into an exceptional student education program and at least once every 3 years by personnel



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who have received approved training. Nothing listed in the matrix shall be construed as limiting the services a school district must provide in order to ensure that exceptional students are provided a free, appropriate public education.

c. Students identified as exceptional, in accordance with chapter 6A-6, Florida Administrative Code, who do not have a matrix of services as specified in sub-subparagraph b. shall generate funds on the basis of full-time-equivalent student membership in the Florida Education Finance Program at the same funding level per student as provided for basic students.

Additional funds for these exceptional students will be provided through the guaranteed allocation designated in subparagraph 2.

2. For students identified as exceptional who do not have a matrix of services and students who are gifted in grades K through 8, there is created a guaranteed allocation to provide these students with a free appropriate public education, in accordance with s. 1001.42(4)(m) and rules of the State Board of Education, which shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program, and the amount allocated for each school district shall not be recalculated during the year. These funds shall be used to provide special education and related services for exceptional students and students who are gifted in grades K through 8. Beginning with the 2007-2008 fiscal year, a district's expenditure of funds from the guaranteed allocation for students in grades 9 through 12 who are gifted may not be greater than the amount expended during the 2006-2007 fiscal



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year for gifted students in grades 9 through 12.

Section 30. Paragraph (c) of subsection (1) of section 1012.39, Florida Statutes, is amended to read:

1012.39 Employment of substitute teachers, teachers of adult education, nondegreed teachers of career education, and career specialists; students performing clinical field experience.—

(1) Notwithstanding ss. 1012.32, 1012.55, 1012.56, and 1012.57, or any other provision of law or rule to the contrary, each district school board shall establish the minimal qualifications for:

(c) Part-time and full-time nondegreed teachers of career programs. Qualifications shall be established for nondegreed teachers of career and technical education courses for program clusters that are recognized in the state and are ~~agriculture, business, health occupations, family and consumer sciences, industrial, marketing, career specialist, and public service education teachers,~~ based primarily on successful occupational experience rather than academic training. The qualifications for such teachers shall require:

1. The filing of a complete set of fingerprints in the same manner as required by s. 1012.32. Faculty employed solely to conduct postsecondary instruction may be exempted from this requirement.

2. Documentation of education and successful occupational experience including documentation of:

a. A high school diploma or the equivalent.

b. Completion of 6 years of full-time successful occupational experience or the equivalent of part-time



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experience in the teaching specialization area. The district school board may establish alternative qualifications for teachers with an industry certification in the career area in which they teach. ~~Alternate means of determining successful occupational experience may be established by the district school board.~~

c. Completion of career education training conducted through the local school district inservice master plan.

d. For full-time teachers, completion of professional education training in teaching methods, course construction, lesson planning and evaluation, and teaching special needs students. This training may be completed through coursework from an accredited or approved institution or an approved district teacher education program.

e. Demonstration of successful teaching performance.

f. Documentation of industry certification when state or national industry certifications are available and applicable.

Section 31. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2011.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to education accountability; amending

s. 1001.20, F.S.; deleting a provision that requires



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the Florida Virtual School to be administratively housed within the Office of Technology and Information Services within the Office of the Commissioner of Education; amending s. 1001.42, F.S.; revising the powers and duties of district school boards relating to student access to Florida Virtual School courses; creating s. 1001.421, F.S.; prohibiting district school board members and their relatives from soliciting or accepting certain gifts; amending s. 1002.37, F.S.; conforming provisions to changes made by the act; amending s. 1002.38, F.S.; requiring that a school's grade be based on statewide assessments for purposes of the Opportunity Scholarship Program; amending s. 1002.39, F.S.; providing requirements for determining the end of the term of a John M. McKay Scholarship; amending s. 1002.45, F.S.; revising provisions relating to virtual instruction program provider qualifications; amending s. 1002.66, F.S.; providing an additional instructional service for children with disabilities in the Voluntary Prekindergarten Education Program; amending s. 1002.67, F.S.; requiring that the State Board of Education periodically review and revise the performance standards for the statewide kindergarten screening; amending s. 1002.69, F.S.; authorizing nonpublic schools to administer the statewide kindergarten screening to kindergarten students who were enrolled in the Voluntary Prekindergarten Education Program; revising provisions relating to the



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minimum kindergarten readiness rate and criteria for good cause exemptions from meeting the requirement; requiring prekindergarten enrollment screening and post-assessment under certain circumstances; amending s. 1002.71, F.S.; providing that a child may reenroll more than once in a prekindergarten program if granted a good cause exemption; amending s. 1002.73, F.S.; requiring the Department of Education to adopt procedures relating to prekindergarten enrollment screening, the standardized post-assessment, and reporting of the results of readiness measures; amending s. 1003.01, F.S.; providing an additional special education service; amending s. 1003.4156, F.S.; revising the general requirements for middle grades promotion; providing that a student with a disability may have end-of-course assessment results waived under certain circumstances; providing that a middle grades student may be exempt from reading remediation requirements under certain circumstances; creating s. 1003.4203, F.S.; authorizing each district school board to develop and implement a digital curriculum for students in grades 6 through 12; requiring the Department of Education to develop a model digital curriculum; authorizing partnerships with private businesses and consultants; amending s. 1003.428, F.S.; revising provisions relating to the general requirements for high school graduation; providing that a high school student may be exempt from reading remediation requirements under certain



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1695 circumstances; amending s. 1003.491, F.S.; revising
1696 provisions relating to the development, contents, and
1697 approval of the strategic plan to address workforce
1698 needs; amending s. 1003.493, F.S.; revising
1699 requirements for career and professional academies and
1700 enrollment of students; creating s. 1003.4935, F.S.;
1701 requiring each district school board to develop a plan
1702 to implement a career and professional academy in at
1703 least one middle school; providing requirements for
1704 middle school career and professional academies and
1705 academy courses; amending s. 1003.575, F.S.; providing
1706 requirements for completion of an assistive technology
1707 assessment; amending s. 1008.22, F.S.; revising
1708 provisions relating to the student assessment program
1709 for public schools; requiring that the Commissioner of
1710 Education direct school districts to participate in
1711 certain international assessment programs; authorizing
1712 a school principal to exempt certain students from the
1713 end-of-course assessment in civics education; revising
1714 provisions relating to administration and reporting of
1715 results of assessments; amending s. 1008.30, F.S.;
1716 revising provisions relating to evaluation of college
1717 readiness and providing for postsecondary preparatory
1718 instruction; requiring the State Board of Education to
1719 adopt certain rules; amending s. 1008.33, F.S.;
1720 revising provisions relating to public school
1721 improvement; requiring the Department of Education to
1722 categorize public schools based on a school's grade
1723 that relies on statewide assessments; amending s.



129976

1724 1008.331, F.S., relating to supplemental educational
1725 services in Title I schools; providing that a school
1726 board may include in its district contract with a
1727 provider a requirement to use a uniform standardized
1728 assessment if the Department of Education is notified
1729 of such intent before services are provided to the
1730 student; amending s. 1008.34, F.S.; revising the basis
1731 for the designation of school grades; including
1732 achievement scores and learning gains for students who
1733 are hospital or homebound; amending s. 1011.01, F.S.;
1734 revising provisions relating to the annual operating
1735 budgets of district school boards and Florida College
1736 System institution boards of trustees; amending s.
1737 1011.03, F.S.; revising provisions relating to adopted
1738 district school board budgets; creating s. 1011.035,
1739 F.S.; requiring each school district to post budgetary
1740 information on its website; amending s. 1011.62, F.S.;
1741 revising provisions relating to the funding model for
1742 exceptional student education programs; requiring the
1743 Department of Education to revise the descriptions of
1744 services and to implement the revisions; amending s.
1745 1012.39, F.S.; revising provisions relating to the
1746 qualifications for nondegreed teachers of career
1747 education; providing effective dates.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Flores) recommended the following:

**Senate Amendment to Amendment (129976) (with title
amendment)**

Between lines 833 and 834
insert:

Section 20. Section 1003.573, Florida Statutes, is amended
to read:

1003.573 Use of ~~seclusion and~~ restraint and seclusion on
students with disabilities.—

(1) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24
hours after a student is released from restraint or seclusion.



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If the student's release occurs on a day before the school closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.

2. The age and ethnicity and the eligibility of the student restrained or secluded.

3.2. The date and time of the event and the duration of the restraint or seclusion.

4.3. The location at which the restraint or seclusion occurred.

5.4. A description of the type of restraint used in terms established by the Department of Education.

6.5. The name of the person using or assisting in the restraint or seclusion of the student.

7.6. The name of any nonstudent who was present to witness the restraint or seclusion.

8.7. A description of the incident, including:

a. The context in which the restraint or seclusion occurred.

b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.

c. The specific positive behavioral strategies used to prevent and deescalate the behavior.

d. What occurred with the student immediately after the termination of the restraint or seclusion.



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e. Any injuries, visible marks, or possible medical emergencies that may have occurred during the restraint or seclusion, documented according to district policies.

f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(2) MONITORING.—

(a) Monitoring of the use of manual or physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) ~~Beginning July 1, 2010,~~ Documentation prepared as required in subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional



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71 Education and Student Services electronically each month that
72 the school is in session.

73 (c) The department shall maintain aggregate data of
74 incidents of manual or physical restraint and seclusion and
75 disaggregate the data for analysis by county, school, student
76 exceptionality, and other variables, including the type and
77 method of restraint or seclusion used. This information shall be
78 updated monthly.

79 (d) The department shall establish standards for
80 documenting, reporting, and monitoring the use of manual or
81 physical restraint or mechanical restraint, and occurrences of
82 seclusion. These standards shall be provided to school districts
83 by October 1, 2011.

84 (3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

85 (a) Each school district shall develop policies and
86 procedures that are consistent with this section and that govern
87 the following:

88 1. Incident-reporting procedures.

89 2. Data collection and monitoring, including when, where,
90 and why students are restrained or secluded; the frequency of
91 occurrences of such restraint or seclusion; and the prone or
92 mechanical restraint that is most used.

93 3. Monitoring and reporting of data collected.

94 4. Training programs relating to manual or physical
95 restraint and seclusion.

96 5. The district's plan for selecting personnel to be
97 trained.

98 6. The district's plan for reducing the use of restraint
99 and seclusion particularly in settings in which it occurs



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frequently or with students who are restrained repeatedly, and
for reducing the use of prone restraint and mechanical
restraint. The plan must include a goal for reducing the use of
restraint and seclusion and must include activities, skills, and
resources needed to achieve that goal. Activities may include,
but are not limited to:

- a. Additional training in positive behavioral support and
crisis management;
- b. Parental involvement;
- c. Data review;
- d. Updates of students' functional behavioral analysis and
positive behavior intervention plans;
- e. Additional student evaluations;
- f. Debriefing with staff;
- g. Use of schoolwide positive behavior support; and
- h. Changes to the school environment.

(b) Any revisions to the district's ~~such~~ policies and
procedures, which must be prepared as part of its ~~the school~~
~~district's~~ special policies and procedures, must be filed with
the bureau chief of the Bureau of Exceptional Education and
Student Services no later than January 31, 2012 ~~2011~~.

(4) PROHIBITED RESTRAINT.—School personnel may not use a
mechanical restraint or a manual or physical restraint that
restricts a student's breathing.

(5) SECLUSION.—School personnel may not close, lock, or
physically block a student in a room that is unlit and does not
meet the rules of the State Fire Marshal for seclusion time-out
rooms.



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

And the title is amended as follows:

Delete line 1705

and insert:

academy courses; amending s. 1003.573, F.S.; revising provisions relating to the use of restraint and seclusion on students with disabilities; requiring that certain information be included in incident reports; removing an obsolete date; requiring that the Department of Education maintain certain data of incidents of manual or physical restraint and seclusion and establish standards for documenting, reporting, and monitoring the use of restraint and seclusion; requiring that the department provide these standards to school districts by a specified date; revising provisions relating to school district policies and procedures to include monitoring, training, selecting personnel to be trained, and planning for reducing the use of restraint and seclusion; extending the date that such policies and procedures must be revised and filed with the bureau chief of the Bureau of Exceptional Education and Student Services within the Department of Education; amending s. 1003.575, F.S.; providing



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LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Siplin) recommended the following:

**Senate Amendment to Amendment (129976) (with title
amendment)**

Between lines 1624 and 1625
insert:

Section 29. College-preparatory boarding academy pilot
program for at-risk students.-

(1) PROGRAM CREATION.-The College-Preparatory Boarding
Academy Pilot Program is created for the purpose of providing
unique educational opportunities to dependent or at-risk
children who are academic underperformers, but who have the
potential to progress from at-risk to college-bound. The State



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Board of Education shall implement this program.

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

(a) "Board" means the board of trustees of the college preparatory boarding academy for at-risk students.

(b) "Eligible student" means a student who is a resident of the state and entitled to attend school in a participating school district; is at-risk of academic failure; is currently enrolled in grade 5 or 6; is from a family whose income is below 200 percent of the federal poverty guidelines; and meets at least two of the following additional risk factors:

1. The student has a record of suspensions, office referrals, or chronic truancy.

2. The student has been referred for academic intervention or has not attained at least a proficient score on the state achievement assessment in English and language arts, reading, or mathematics.

3. The student's parent is a single parent.

4. The student does not live with the student's custodial parent.

5. The student has received a referral from a school, teacher, counselor, dependency court circuit judge, or community-based care organization.

6. The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance.

7. A member of the student's immediate family has been incarcerated.

8. The student has been declared an adjudicated dependent by a court of competent jurisdiction.



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42 9. The student meets any additional criteria prescribed by
43 an agreement between the State Board of Education and the
44 operator of the program.

45 (c) "Operator" means a private nonprofit corporation that
46 is selected by the state under subsection (3) to operate the
47 college-preparatory boarding academy for at-risk students.

48 (d) "Program" means the college-preparatory boarding
49 academy for at-risk students which includes:

- 50 1. A remedial curriculum for middle school grades;
51 2. The college-preparatory curriculum for high school
52 grades;
53 3. Extracurricular activities, including athletics and
54 cultural events;
55 4. College admissions counseling;
56 5. Health and mental health services;
57 6. Tutoring;
58 7. Community service and service learning opportunities;
59 8. A residential student life program;
60 9. Extended school days and supplemental programs; and
61 10. Professional services focused on the language arts
62 standards, math standards, science standards, technology
63 standards, and developmental or life skill standards using
64 innovative and best practices for all students.

65 (e) "Sponsor" means a public school district that acts as a
66 sponsor pursuant to s. 1002.33, Florida Statutes.

67 (3) PROPOSALS.—

68 (a) The State Board of Education shall select a private
69 nonprofit corporation to operate the college-preparatory
70 boarding academy for at-risk students which meets the following



466794

71 qualifications:

72 1. The nonprofit corporation has, or will receive as a
73 condition of the contract, a public charter school authorized
74 under s. 1002.33, Florida Statutes, to offer grades 6 through 12
75 or has a partnership with a sponsor to operate a school.

76 2. The nonprofit corporation has experience operating a
77 school or program similar to that authorized under this section.

78 3. The nonprofit corporation has demonstrated success with
79 a school or program similar to that authorized under this
80 section.

81 4. The nonprofit corporation has the capacity to finance
82 and secure private funds for the development of a campus for the
83 program.

84 (b) Within 60 days after July 1, 2011, the state board
85 shall issue a request for proposals from private nonprofit
86 corporations interested in operating the college preparatory
87 academy for at-risk students. The state board shall select the
88 operator from among the qualified responders within 120 days
89 after the issuance of the requests for proposal.

90 (c) Each proposal must contain the following information:

91 1. The proposed location of the college-preparatory
92 boarding academy;

93 2. A plan for offering grade 6 in the program's initial
94 year of operation and a plan for expanding the grade levels
95 offered by the school in subsequent years; and

96 3. Any other information about the proposed educational
97 program, facilities, or operations of the school as determined
98 necessary by the state board.

99 (4) CONTRACT.—The State Board of Education shall enter into



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a contract with the operator of the college-preparatory boarding academy. The contract must stipulate that:

(a) The academy may operate only if, and to the extent that, it holds a valid charter authorized under s. 1002.33, Florida Statutes, or is authorized by a local school district defined as a sponsor pursuant to s. 1002.33, Florida Statutes.

(b) The operator shall finance and oversee the acquisition of a facility for the academy.

(c) The operator shall operate the academy in accordance with the terms of the proposal accepted by the state board.

(d) The operator shall comply with this section.

(e) The operator shall comply with any other provisions of law specified in the contract, the charter granted by the local school district or operating agreement with the sponsor, and the rules adopted by the state board for schools operating in this state.

(f) The operator shall comply with the bylaws that it adopts.

(g) The operator shall comply with standards for admission of students to the academy and the dismissal of students from the academy which are included in the contract and may be reevaluated and revised by mutual agreement between the operator and the state board.

(h) The operator shall meet the academic goals and other performance standards established by the contract.

(i) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall at least require that the party seeking termination give prior written notice of the intent to terminate



466794

129 the contract and require that the party receiving the
130 termination notice be granted an opportunity to redress any
131 grievances cited therein.

132 (j) If the school closes for any reason, the academy's
133 board of trustees shall execute the closing in a manner
134 specified in the contract.

135 (5) OPERATOR BYLAWS.—The operator of the college
136 preparatory boarding academy for at-risk students shall adopt
137 bylaws for the oversight and operation of the academy which are
138 consistent with this section, state law, and the contract
139 between the operator and the State Board of Education. The
140 bylaws shall include procedures for the appointment of board
141 members to the academy's board of trustees, which may not exceed
142 25 members, five members of which shall be appointed by the
143 Governor with the advice and consent of the Senate. The bylaws
144 shall be subject to approval of the state board.

145 (6) OUTREACH.—The operator of the college-preparatory
146 boarding academy shall adopt an outreach program with the local
147 education agency or school district and community. The outreach
148 program shall give special attention to the recruitment of
149 children in the state's foster care program as a dependent child
150 or as a child in a program to prevent dependency who are
151 academic underperformers who, if given the unique educational
152 opportunity found in the program, have the potential to progress
153 from at-risk children to college-bound children.

154 (7) FUNDING.—The college-preparatory boarding academy shall
155 be a public school and is part of the state's program of
156 education. If the program receives state funding from
157 noneducation sources, the State Board of Education shall



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coordinate, streamline, and simplify any requirements to
eliminate duplicate, redundant, or conflicting requirements and
oversight by various governmental programs or agencies. The
applicable regulating entities shall, to the maximum extent
feasible, use independent reports and financial audits provided
by the program and coordinated by the state board to eliminate
or reduce contract and administrative reviews. Additional items
may be suggested, if reasonable, to the state board to be
included in independent reports and financial audits for the
purpose of implementing this section. Reporting paperwork that
is prepared for the state and local education agency must also
be shared with and accepted by other state and local regulatory
entities, to the maximum extent feasible.

(8) PROGRAM CAPACITY.—Beginning August 2012, the college
preparatory boarding academy shall admit 80 students. In each
additional fiscal year, the program shall grow by an additional
number of students, as specified in the contract, until the
program reaches a capacity of 400 students.

(9) STUDENT SERVICES.—Students enrolled in the program who
have been adjudicated dependent must remain under the case
management services and supervision of the lead agency and its
respective providers. The operator may contract with its own
licensed providers as necessary to provide services to children
in the program and to ensure continuity of the full range of
services required by children in foster care who attend the
academy.

(10) MEDICAID BILLING.—This section does not prohibit the
operator from appropriately billing Medicaid for services
rendered to eligible students through the program or from



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187 earning federal or local funding for services provided.

188 (11) ADMISSION.—Any eligible student may apply for
189 admission to the college-preparatory boarding academy. If more
190 eligible students apply for admission than the number of
191 students permitted by the capacity established by the board of
192 trustees, admission shall be determined by lottery.

193 (12) STUDENT HOUSING.—Notwithstanding ss. 409.1677(3)(d) and
194 409.176, Florida Statutes, or any other provision of law, an
195 operator may house and educate dependent, at-risk youth in its
196 residential school for the purpose of facilitating the mission
197 of the program and encouraging innovative practices.

198 (13) ANNUAL REPORT.—

199 (a) The State Board of Education shall issue an annual
200 report for each college-preparatory boarding academy which
201 includes all information applicable to schools.

202 (b) Each college-preparatory boarding academy shall report
203 to the Department of Education, in the form and manner
204 prescribed in the contract, the following information:

205 1. The total number of students enrolled in the academy;
206 2. The number of students enrolled in the academy who are
207 receiving special education services pursuant to an individual
208 education plan; and

209 3. Any additional information specified in the contract.

210 (c) The operator shall comply with s. 1002.33, Florida
211 Statutes, and shall annually assess reading and mathematics
212 skills. The operator shall provide the student's legal guardians
213 with sufficient information on whether the student is reading at
214 grade level and whether the child gains at least a year's worth
215 of learning for every year spent in the program.



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(14) RULES.—The State Board of Education shall adopt rules to administer this section. These rules must identify any existing rules that are applicable to the program and preempt any other rules that are not specified for the purpose of clarifying the rules that may be conflicting, redundant, or result in an unnecessary burden on the program or the operator.

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

And the title is amended as follows:

Delete line 1747

and insert:

education; creating the College Preparatory Boarding Academy Pilot Program for dependent or at-risk students; providing a purpose for the program; requiring that the State Board of Education implement the program; providing definitions; requiring that the state board select a private nonprofit corporation to operate the academy if certain qualifications are met; requiring that the state board request proposals from private nonprofit corporations; providing requirements for such proposals; requiring that the state board enter into a contract with the operator of the academy; requiring that the contract contain specified requirements; requiring that the operator adopt bylaws, subject to approval by the state board; requiring that the operator adopt an outreach program with the local education agency or school district and community; providing that the academy is a public school and part of the state's education program;



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providing program funding guidelines; limiting the capacity of eligible students attending the academy; requiring that enrolled students remain under case management services and the supervision of the lead agency; authorizing the operator to appropriately bill Medicaid for services rendered to eligible students or earn federal or local funding for services provided; providing for eligible students to be admitted by lottery if the number of applicants exceeds the allowed capacity; authorizing the operator to board dependent, at-risk students; requiring the State Board of education to provide a report with certain information; authorizing the State Board of Education to adopt rules to administer this act; providing criteria; providing effective dates.



416182

LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Wise and Montford) recommended the following:

**Senate Amendment to Amendment (129976) (with title
amendment)**

Delete lines 1233 - 1274.

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

And the title is amended as follows:

Delete lines 1719 - 1723

and insert:

adopt certain rules; amending s.



972698

LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Wise and Montford) recommended the following:

**Senate Amendment to Amendment (129976) (with title
amendment)**

Delete line 1287
and insert:
intent before services are provided to the student, and the
assessment is not deemed unreliable or invalid by the department
as a means to measure the effectiveness of the provider. The
department may use the results for such assessment in awarding a
provider's service designation.

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



972698

And the title is amended as follows:

Delete line 1730

and insert:

student and the assessment is not deemed unreliable or
invalid by the department as a means to measure the
effectiveness of the provider; authorizing the
department to use the results of such assessment in
awarding a provider's service designation; amending s.
1008.34, F.S.; revising the basis



949738

LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 1046 and 1047
insert:

Section 18. Section 1003.573, Florida Statutes, is amended
to read:

1003.573 Use of ~~seclusion and~~ restraint and seclusion on
students with disabilities.—

(1) DOCUMENTATION AND REPORTING.—

(a) A school shall prepare an incident report within 24
hours after a student is released from restraint or seclusion.
If the student's release occurs on a day before the school



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closes for the weekend, a holiday, or another reason, the incident report must be completed by the end of the school day on the day the school reopens.

(b) The following must be included in the incident report:

1. The name of the student restrained or secluded.

2. The age, ethnicity, and the eligibility of the student restrained or secluded.

~~3.2.~~ The date and time of the event and the duration of the restraint or seclusion.

~~4.3.~~ The location at which the restraint or seclusion occurred.

~~5.4.~~ A description of the type of restraint used in terms established by the Department of Education.

~~6.5.~~ The name of the person using or assisting in the restraint or seclusion of the student.

~~7.6.~~ The name of any nonstudent who was present to witness the restraint or seclusion.

~~8.7.~~ A description of the incident, including:

a. The context in which the restraint or seclusion occurred.

b. The student's behavior leading up to and precipitating the decision to use manual or physical restraint or seclusion, including an indication as to why there was an imminent risk of serious injury or death to the student or others.

c. The specific positive behavioral strategies used to prevent and deescalate the behavior.

d. What occurred with the student immediately after the termination of the restraint or seclusion.

e. Any injuries, visible marks, or possible medical



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emergencies that may have occurred during the restraint or seclusion, documented according to district policies.

f. Evidence of steps taken to notify the student's parent or guardian.

(c) A school shall notify the parent or guardian of a student each time manual or physical restraint or seclusion is used. Such notification must be in writing and provided before the end of the school day on which the restraint or seclusion occurs. Reasonable efforts must also be taken to notify the parent or guardian by telephone or computer e-mail, or both, and these efforts must be documented. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she was notified of his or her child's restraint or seclusion.

(d) A school shall also provide the parent or guardian with the completed incident report in writing by mail within 3 school days after a student was manually or physically restrained or secluded. The school shall obtain, and keep in its records, the parent's or guardian's signed acknowledgment that he or she received a copy of the incident report.

(2) MONITORING.—

(a) Monitoring of the use of manual or physical restraint or seclusion on students shall occur at the classroom, building, district, and state levels.

(b) ~~Beginning July 1, 2010,~~ Documentation prepared as required in subsection (1) shall be provided to the school principal, the district director of Exceptional Student Education, and the bureau chief of the Bureau of Exceptional Education and Student Services electronically each month that



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the school is in session.

(c) The department shall maintain aggregate data of incidents of manual or physical restraint and seclusion and disaggregate the data for analysis by county, school, student exceptionality, and other variables, including the type and method of restraint or seclusion used. This information shall be updated monthly.

(d) The department shall establish standards for documenting, reporting, and monitoring the use of manual physical restraints and mechanical restraints and occurrences of seclusion. These standards shall be provided to school districts no later than October 1, 2011.

(3) SCHOOL DISTRICT POLICIES AND PROCEDURES.—

(a) Each school district shall develop policies and procedures that are consistent with this section and that govern the following:

1. Incident-reporting procedures.

2. Data collection and monitoring, including when, where, and why students are restrained or secluded; the frequency of occurrences of such restraint or seclusion; and the most used prone or mechanical restraint.

3. Monitoring and reporting of data collected.

4. Training programs relating to manual or physical restraint and seclusion.

5. The district's plan for selecting personnel to be trained.

7. The district's plan for reducing the use of restraint and seclusion particularly in settings in which it occurs more frequently and with students who are restrained repeatedly, or



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with prone or mechanical restraints. The plan must include a goal for reducing the use of restraint and seclusion and the activities, skills, and resources needed to achieve that goal. Activities may include, but are not limited to:

a. Additional training in positive behavioral support and crisis management;

b. Parental involvement;

c. Data review;

d. Updates to students' functional behavioral analysis and positive behavior intervention plans;

e. Needs for additional student evaluations;

f. Debriefing with staff;

g. Use of school-wide positive behavior support; and

h. Changes to the school environment.

(b) Any revisions to the district's ~~such~~ policies and procedures, which must be prepared as part of its ~~the school district's~~ special policies and procedures, must be revised and filed with the bureau chief of the Bureau of Exceptional Education and Student Services no later than January 31, 2012 ~~2011~~.

(4) PROHIBITED RESTRAINT.—School personnel may not use a mechanical restraint or a manual physical restraint that restricts a student's breathing.

(5) SECLUSION.—School personnel may not close, lock, or physically block a student in a room that is unlit and does not meet the rules of the State Fire Marshal for seclusion time-out rooms.

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



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And the title is amended as follows:

Delete line 116

and insert:

students; amending s. 1003.573, F.S.; revising provisions relating to the use of restraint and seclusion on students with disabilities; requiring that certain information be included in incident reports; removing an obsolete date; requiring that the Department of Education maintain certain data of incidents of manual or physical restraint and seclusion and establish standards for documenting, reporting, and monitoring the use of restraint and seclusion; revising provisions relating to school district policies and procedures to include monitoring, training, selecting personnel to be trained, and planning for reducing the use of restraint and seclusion; extending the date that such policies and procedures must be revised and filed with the bureau chief of the Bureau of Exceptional Education and Student Services within the Department of Education; amending s. 1003.575, F.S.; revising



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LEGISLATIVE ACTION

Senate

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House

The Committee on Budget Subcommittee on Education Pre-K - 12
Appropriations (Siplin) recommended the following:

Senate Amendment (with title amendment)

Between lines 1936 and 1937
insert:

Section 29. College-preparatory boarding academy pilot
program for at-risk students.-

(1) PROGRAM CREATION.-The College-Preparatory Boarding
Academy Pilot Program is created for the purpose of providing
unique educational opportunities to dependent or at-risk
children who are academic underperformers, but who have the
potential to progress from at-risk to college-bound. The State
Board of Education shall implement this program.



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13 (2) DEFINITIONS.—As used in this section, the term:

14 (a) "Board" means the board of trustees of the college
15 preparatory boarding academy for at-risk students.

16 (b) "Eligible student" means a student who is a resident of
17 the state and entitled to attend school in a participating
18 school district; is at-risk of academic failure; is currently
19 enrolled in grade 5 or 6; is from a family whose income is below
20 200 percent of the federal poverty guidelines; and meets at
21 least two of the following additional risk factors:

22 1. The student has a record of suspensions, office
23 referrals, or chronic truancy.

24 2. The student has been referred for academic intervention
25 or has not attained at least a proficient score on the state
26 achievement assessment in English and language arts, reading, or
27 mathematics.

28 3. The student's parent is a single parent.

29 4. The student does not live with the student's custodial
30 parent.

31 5. The student has received a referral from a school,
32 teacher, counselor, dependency court circuit judge, or
33 community-based care organization.

34 6. The student resides in a household that receives a
35 housing voucher or has been determined eligible for public
36 housing assistance.

37 7. A member of the student's immediate family has been
38 incarcerated.

39 8. The student has been declared an adjudicated dependent
40 by a court of competent jurisdiction.

41 9. The student meets any additional criteria prescribed by



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an agreement between the State Board of Education and the operator of the program.

(c) "Operator" means a private nonprofit corporation that is selected by the state under subsection (3) to operate the college-preparatory boarding academy for at-risk students.

(d) "Program" means the college-preparatory boarding academy for at-risk students which includes:

1. A remedial curriculum for middle school grades;
2. The college-preparatory curriculum for high school grades;
3. Extracurricular activities, including athletics and cultural events;
4. College admissions counseling;
5. Health and mental health services;
6. Tutoring;
7. Community service and service learning opportunities;
8. A residential student life program;
9. Extended school days and supplemental programs; and
10. Professional services focused on the language arts standards, math standards, science standards, technology standards, and developmental or life skill standards using innovative and best practices for all students.

(e) "Sponsor" means a public school district that acts as a sponsor pursuant to s. 1002.33, Florida Statutes.

(3) PROPOSALS.—

(a) The State Board of Education shall select a private nonprofit corporation to operate the college-preparatory boarding academy for at-risk students which meets the following qualifications:



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71 1. The nonprofit corporation has, or will receive as a
72 condition of the contract, a public charter school authorized
73 under s. 1002.33, Florida Statutes, to offer grades 6 through 12
74 or has a partnership with a sponsor to operate a school.

75 2. The nonprofit corporation has experience operating a
76 school or program similar to that authorized under this section.

77 3. The nonprofit corporation has demonstrated success with
78 a school or program similar to that authorized under this
79 section.

80 4. The nonprofit corporation has the capacity to finance
81 and secure private funds for the development of a campus for the
82 program.

83 (b) Within 60 days after July 1, 2011, the state board
84 shall issue a request for proposals from private nonprofit
85 corporations interested in operating the college preparatory
86 academy for at-risk students. The state board shall select the
87 operator from among the qualified responders within 120 days
88 after the issuance of the requests for proposal.

89 (c) Each proposal must contain the following information:

90 1. The proposed location of the college-preparatory
91 boarding academy;

92 2. A plan for offering grade 6 in the program's initial
93 year of operation and a plan for expanding the grade levels
94 offered by the school in subsequent years; and

95 3. Any other information about the proposed educational
96 program, facilities, or operations of the school as determined
97 necessary by the state board.

98 (4) CONTRACT.—The State Board of Education shall enter into
99 a contract with the operator of the college-preparatory boarding



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academy. The contract must stipulate that:

(a) The academy may operate only if, and to the extent that, it holds a valid charter authorized under s. 1002.33, Florida Statutes, or is authorized by a local school district defined as a sponsor pursuant to s. 1002.33, Florida Statutes.

(b) The operator shall finance and oversee the acquisition of a facility for the academy.

(c) The operator shall operate the academy in accordance with the terms of the proposal accepted by the state board.

(d) The operator shall comply with this section.

(e) The operator shall comply with any other provisions of law specified in the contract, the charter granted by the local school district or operating agreement with the sponsor, and the rules adopted by the state board for schools operating in this state.

(f) The operator shall comply with the bylaws that it adopts.

(g) The operator shall comply with standards for admission of students to the academy and the dismissal of students from the academy which are included in the contract and may be reevaluated and revised by mutual agreement between the operator and the state board.

(h) The operator shall meet the academic goals and other performance standards established by the contract.

(i) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall at least require that the party seeking termination give prior written notice of the intent to terminate the contract and require that the party receiving the



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129 termination notice be granted an opportunity to redress any
130 grievances cited therein.

131 (j) If the school closes for any reason, the academy's
132 board of trustees shall execute the closing in a manner
133 specified in the contract.

134 (5) OPERATOR BYLAWS.—The operator of the college
135 preparatory boarding academy for at-risk students shall adopt
136 bylaws for the oversight and operation of the academy which are
137 consistent with this section, state law, and the contract
138 between the operator and the State Board of Education. The
139 bylaws shall include procedures for the appointment of board
140 members to the academy's board of trustees, which may not exceed
141 25 members, five members of which shall be appointed by the
142 Governor with the advice and consent of the Senate. The bylaws
143 shall be subject to approval of the state board.

144 (6) OUTREACH.—The operator of the college-preparatory
145 boarding academy shall adopt an outreach program with the local
146 education agency or school district and community. The outreach
147 program shall give special attention to the recruitment of
148 children in the state's foster care program as a dependent child
149 or as a child in a program to prevent dependency who are
150 academic underperformers who, if given the unique educational
151 opportunity found in the program, have the potential to progress
152 from at-risk children to college-bound children.

153 (7) FUNDING.—The college-preparatory boarding academy shall
154 be a public school and is part of the state's program of
155 education. If the program receives state funding from
156 noneducation sources, the State Board of Education shall
157 coordinate, streamline, and simplify any requirements to



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eliminate duplicate, redundant, or conflicting requirements and oversight by various governmental programs or agencies. The applicable regulating entities shall, to the maximum extent feasible, use independent reports and financial audits provided by the program and coordinated by the state board to eliminate or reduce contract and administrative reviews. Additional items may be suggested, if reasonable, to the state board to be included in independent reports and financial audits for the purpose of implementing this section. Reporting paperwork that is prepared for the state and local education agency must also be shared with and accepted by other state and local regulatory entities, to the maximum extent feasible.

(8) PROGRAM CAPACITY.—Beginning August 2012, the college preparatory boarding academy shall admit 80 students. In each additional fiscal year, the program shall grow by an additional number of students, as specified in the contract, until the program reaches a capacity of 400 students.

(9) STUDENT SERVICES.—Students enrolled in the program who have been adjudicated dependent must remain under the case management services and supervision of the lead agency and its respective providers. The operator may contract with its own licensed providers as necessary to provide services to children in the program and to ensure continuity of the full range of services required by children in foster care who attend the academy.

(10) MEDICAID BILLING.—This section does not prohibit the operator from appropriately billing Medicaid for services rendered to eligible students through the program or from earning federal or local funding for services provided.



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187 (11) ADMISSION.—Any eligible student may apply for
188 admission to the college-preparatory boarding academy. If more
189 eligible students apply for admission than the number of
190 students permitted by the capacity established by the board of
191 trustees, admission shall be determined by lottery.

192 (12) STUDENT HOUSING.—Notwithstanding ss. 409.1677(3)(d) and
193 409.176, Florida Statutes, or any other provision of law, an
194 operator may house and educate dependent, at-risk youth in its
195 residential school for the purpose of facilitating the mission
196 of the program and encouraging innovative practices.

197 (13) ANNUAL REPORT.—

198 (a) The State Board of Education shall issue an annual
199 report for each college-preparatory boarding academy which
200 includes all information applicable to schools.

201 (b) Each college-preparatory boarding academy shall report
202 to the Department of Education, in the form and manner
203 prescribed in the contract, the following information:

204 1. The total number of students enrolled in the academy;

205 2. The number of students enrolled in the academy who are
206 receiving special education services pursuant to an individual
207 education plan; and

208 3. Any additional information specified in the contract.

209 (c) The operator shall comply with s. 1002.33, Florida
210 Statutes, and shall annually assess reading and mathematics
211 skills. The operator shall provide the student's legal guardians
212 with sufficient information on whether the student is reading at
213 grade level and whether the child gains at least a year's worth
214 of learning for every year spent in the program.

215 (14) RULES.—The State Board of Education shall adopt rules



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to administer this section. These rules must identify any
existing rules that are applicable to the program and preempt
any other rules that are not specified for the purpose of
clarifying the rules that may be conflicting, redundant, or
result in an unnecessary burden on the program or the operator.

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

And the title is amended as follows:

Delete line 178

and insert:

certain teachers; creating the College Preparatory
Boarding Academy Pilot Program for dependent or at-
risk students; providing a purpose for the program;
requiring that the State Board of Education implement
the program; providing definitions; requiring that the
state board select a private nonprofit corporation to
operate the academy if certain qualifications are met;
requiring that the state board request proposals from
private nonprofit corporations; providing requirements
for such proposals; requiring that the state board
enter into a contract with the operator of the
academy; requiring that the contract contain specified
requirements; requiring that the operator adopt
bylaws, subject to approval by the state board;
requiring that the operator adopt an outreach program
with the local education agency or school district and
community; providing that the academy is a public
school and part of the state's education program;
providing program funding guidelines; limiting the



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capacity of eligible students attending the academy;
requiring that enrolled students remain under case
management services and the supervision of the lead
agency; authorizing the operator to appropriately bill
Medicaid for services rendered to eligible students or
earn federal or local funding for services provided;
providing for eligible students to be admitted by
lottery if the number of applicants exceeds the
allowed capacity; authorizing the operator to board
dependent, at-risk students; requiring the State Board
of education to provide a report with certain
information; authorizing the State Board of Education
to adopt rules to administer this act; providing
criteria; providing effective dates.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on Education Pre-K-12 Appropriations

BILL: CS/SB 1696

INTRODUCER: Education Pre-K – 12 Committee and Senator Wise

SUBJECT: Public School Accountability

DATE: March 30, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	Matthews	ED	Fav/CS
2.	Armstrong	Hamon	BEA	Pre-meeting
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

This bill is a comprehensive public school accountability package which will implement reforms in the following areas:

- Virtual Education—The bill enables the Florida Virtual School to provide courses and be funded for students in Grades 4 and 5 and career education in Grades 9 through 12. In addition, it clarifies that for students in grades 6 through 8 in district virtual programs and the Florida Virtual School (FLVS), funding is based on successful course completions rather than on credit completions.
- Gift Ban—The bill prohibits school board members and their relatives from soliciting or accepting any gift from any person, vendor, potential vendor, or other entity doing business with the school district.
- Voluntary Prekindergarten Program (VPK) and kindergarten screening—The bill requires a VPK provider that is on probation to administer the statewide VPK enrollment screening, which the Department of Education (DOE) must adopt, to newly admitted VPK students. The provider must pay for the screening. The bill also repeals a numeric limitation on providers who fail to meet the kindergarten readiness rate.

- Career and Professional Academies—The bill specifies criteria for middle school career and professional academies relating to alignment to high school career and professional academies, an opportunity to earn an industry certification and partnerships with the business community. The State Board of Education must adopt rules to establish program weights for industry certification based on rigor and demand.
- Student Assessment and School Accountability—The bill:
 - Repeals the requirement for certain middle school students to take the Algebra I end-of-course assessment (EOC) in 2010-2011;
 - Revises the middle school grading formula to add the performance of students in high school courses with statewide standardized assessments;
 - Requires passage of civics for middle school promotion;
 - Provides that a school shall receive a school grade of “F” if it does not meet specified minimum proficiency standards in reading;
 - Provides that a determination of school grades for the Opportunity Scholarship Program (OSP) will be based on statewide assessments alone;
 - Provides that for purposes of calculating the performance category under differentiated accountability, the statewide assessments’ portion of a school grade would be used in determining the appropriate performance category, and revises category criteria;
 - Provides for the assignment of scores from hospital/homebound students to be assigned to their home school; and
 - Authorizes the Commissioner of Education to revise statewide testing dates.
- Supplemental Education Services (SES)—The bill provides that a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment if the Department of Education is notified of its intent before services are provided to the student.
- Students with Disabilities—The bill:
- Authorizes the waiver of certain EOC assessment requirements for students with disabilities; and
- Codifies existing rule that a McKay scholarship student who enters a Department of Juvenile Justice detention center for less than 21 days would not lose the scholarship.
- Budget Transparency—The bill requires school districts to post each proposed, tentative, and official budget on their websites and encourages school districts to provide additional information on their websites.

The bill substantially amends sections 1001.20, 1001.42, 1002.37, 1002.38, 1002.39, 1002.45, 1002.67, 1002.69, 1002.71, 1002.73, 1003.4156, 1003.428, 1003.491, 1003.492, 1003.493, 1003.575, 1008.22, 1008.33, 1008.331, 1008.34, 1011.01, 1011.03, 1011.61, 1011.62, and 1012.39 of the Florida Statutes.

This bill creates sections 1001.421, 1003.4935, and 1011.035 of the Florida Statutes.

II. Present Situation:

Virtual Education

The Florida Virtual School (FLVS) offers individual course enrollments to all Florida students in grades 6 through 12, including public school, private school, and home education students.¹ School districts are required to provide students with access to enroll in courses available through the FLVS during or after the normal school day and through summer school enrollment.

Virtual education is also provided through school district virtual instruction programs.² Each school district is required to provide a full-time virtual instruction program for students in kindergarten through grade 12 and a full-time or part-time virtual instruction program for students in grades 9 through 12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.³

According to the DOE, “anytime access” has been inconsistently implemented by school districts. Thus, students in some schools have not been allowed to take courses from FLVS, especially as part of their regular school-day curriculum. In these cases, student choice is limited.

Gift Ban

Public officers, employees of agencies, local government attorneys, and candidates for nomination or election are not allowed to accept anything of value, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney or candidate would be influenced by the gift.⁴ School board members, as elected officials, are included in the definition of public officers.⁵ In addition, school board members, school superintendents, and any business organization in which a school board member or school superintendent has any financial interest are prohibited from contracting with a school district for materials, supplies, and services needed.⁶ School board members⁷ must also report any gifts that exceed \$100 in value, for which compensation was not “provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less.”⁸

Voluntary Prekindergarten (VPK)

The 2004 Legislature established the Voluntary Prekindergarten Education (VPK) Program, a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.

¹ See s. 1002.37, F.S.; see also Florida Department of Education, Florida Public Virtual Schools, *FLVS FAQ*, <http://www.fldoe.org/Schools/virtual-schools/faqs.asp>; last checked March 17, 2011. The FLVS is required to be administratively housed within the Office of Technology and Information Services (OTIS) in the DOE.

² s. 1002.45(1)(a), F.S.

³ s. 1002.45(1)(b)2., F.S.

⁴ s. 112.313, F.S.

⁵ s. 112.313(1), F.S.

⁶ s. 1001.42(12)(i), F.S.

⁷ School board members are considered “reporting individuals” for purposes of filing full or limited public disclosure of their financial interests, s. 112.3148(2)(e), F.S.

⁸ s. 112.3148(8)(a), F.S.

Within the first 30 days of an academic year, school districts must screen each kindergarten student to determine his or her readiness for kindergarten. From the results of this screening, the kindergarten readiness rate is calculated for each VPK provider.⁹ If a provider falls below the minimum readiness rate for two consecutive years, the provider is placed on probation and is required to take certain corrective actions, including the use of a curriculum approved by the DOE.¹⁰ If a provider remains on probation for two consecutive years without receiving a good cause exemption, the provider loses eligibility to deliver the VPK.¹¹ A good cause exemption may be granted for a provider that meets certain criteria established by the State Board of Education (SBE).¹²

Career and Professional Academies

The Career and Professional Education (CAPE) Act was enacted by the Florida Legislature to attract and retain targeted, high-value industries and to develop a knowledge-based workforce.¹³ Each district school board must develop, in collaboration with the local workforce board and the area postsecondary institutions, a 5-year strategic plan to meet local and regional workforce demands through career academies.¹⁴

For each student enrolled in a career and professional academy who graduates with a standard high school diploma and who earns a certification included on the “Industry Certification Funding List,” the district of instruction may earn 0.3 full-time equivalent (FTE) student membership for the following year’s funding calculation in the Florida Education Finance Program (FEFP).¹⁵ Industry certifications increased from 803 in 2007-2008 to 8,629 in 2009-2010.¹⁶ Industry Certification bonus FTE funding in the FEFP is roughly \$4 million for 2010-2011.

CAPE academy students perform better than other high school students and have higher grade point averages, lower absentee rates, fewer disciplinary actions, lower dropout rates, higher rates of standard diplomas awarded, higher rates of enrollment in advanced courses, and higher eligibility rates for Bright Futures Scholarships.¹⁷ While high school students have the option to earn industry certifications, there is little opportunity for students to earn rigorous industry certifications in the middle grades. Furthermore, middle school grades are determined solely on

⁹ The kindergarten readiness rate is the percentage of students that participated in the provider’s VPK program that are deemed ready for kindergarten. Currently, the readiness rate may not be set higher than a rate below which 15 percent of the VPK providers would fall. See s. 1002.69(6)(b), F.S.

¹⁰ s. 1002.67(3)(c), F.S.

¹¹ s. 1002.69(7), F.S.

¹² A provider may receive an exemption if it can show learning gains of children served in the VPK program, if the provider has served at least twice the statewide percentage of children with disabilities or children identified as limited English proficient, and if the provider shows that local and state health and safety requirements are met. A provider must still take corrective actions after receiving a good cause exemption. See s. 1002.69(7)(b), F.S.

¹³ ss. 1003.491-1003.494, F.S.

¹⁴ ss. 1003.491(2), F.S.

¹⁵ s. 1011.62(1)(p), F.S. Certifications earned through dual enrollment are not eligible for additional FTE. The additional FTE may not exceed 0.3 per student (i.e., no repeat allocations for additional certifications).

¹⁶ DOE presentation to the Senate Pre-K – 12 Education Appropriations Committee, March 15, 2010, on file with the committee.

¹⁷ *The Ninth Grade--A Precarious Time for the Potential Dropout*. ERIC Digest No. 34, available at <http://www.ericdigests.org/pre-926/ninth.htm>. See also <http://www.edweek.org/rc/articles/2007/10/03/sow1003.h27.html>.

the results of statewide assessments without additional incentives to encourage more rigorous and engaging coursework, such as courses offered through a career and professional academy.

School Accountability

The school grades for public schools in Florida are determined each year based upon a point system of student achievement and annual learning gains.¹⁸ Middle school grades are currently based upon student scores on the FCAT.

Beginning with the 2009-10 school year, the calculation for high school grades incorporated other factors in addition to student achievement and annual learning gains on statewide standardized assessments. These factors include a high school's graduation rate, a high school's graduation rate of certain at-risk students, postsecondary readiness, and student performance and participation in Advanced Placement, International Baccalaureate, dual enrollment, industry certification, and Advanced International Certificate of Education courses.¹⁹

The school grade is used to determine categories of differentiated accountability and eligibility for the Opportunity Scholarship Program (OSP). Differentiated accountability is a system of categorizing schools based upon student achievement and determining appropriate interventions. Each category is based upon the school's grade, progress towards adequate yearly progress under the federal No Child Left Behind requirements, and changes in student performance. School grades are also used to determine if a child is eligible for an Opportunity Scholarship. The OSP provides parents whose children are assigned to a school that has received an "F" twice in a 4-year period the opportunity to send their children to a higher performing public school.

*Supplemental Education Services (SES)*²⁰

The No Child Left Behind Act (NCLB) in federal law prescribes that any public school that fails to make Adequate Yearly Progress (AYP) for two consecutive years must provide to students the following year both school choice with transportation and supplemental educational services from state-approved providers.²¹ As part of the application process, current law requires SES providers to identify the specific assessment to be administered and to describe the procedures and timelines to be used to evaluate, monitor, and report each student's progress toward meeting the goals as stated on the student learning plan.²² Providers must describe how diagnostic assessment data will be used to identify the student's knowledge and skills gaps and set measurable goals for the student learning plan. Concerns have been raised that there is not sufficient accountability in the SES provider program because the providers select and score the pre- and post-assessment tool to measure student progress towards the student learning plan.

Student Assessment

The Commissioner of Education is required to design and implement a statewide program of educational assessment and to establish schedules for the administration of the assessments and

¹⁸ s. 1008.34(3), F.S.

¹⁹ s. 1008.34(3)(b)2., F.S.

²⁰ See s. 1008.331(2), F.S.

²¹ <http://www.fldoe.org/faq/default.asp?ALL=Y&Dept=307&ID=831>, Florida Department of Education, Bureau of Student Assistance.

²² SES provider application, available at:

http://www.fldoe.org/board/meetings/2008_02_19/Item%202%20Form%20SES%20100.pdf

reporting of student test results. The schedule for reporting student test results on the FCAT is no later than the week of June 8 and for end-of-course assessment results no later than a week after the school district completes testing for each course.²³

Beginning in the 2011-12 school year, entering ninth grade students must take and pass the statewide end-course-assessment (EOC) for Algebra I, to earn course credit.²⁴ Although students have been required to take and pass Algebra I to earn high school credit, students were not previously required to take and pass an EOC associated with the course.²⁵

Beginning in the 2010-11 school year, there will no longer be a ninth grade Mathematics FCAT and beginning in the 2011-12 school year, there will no longer be a tenth grade Mathematics FCAT.²⁶ Because federal law requires that all public school students be tested in reading and mathematics at least once at the elementary, middle, and high school level,²⁷ students who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years would be required to take the Algebra I EOC, as the tenth grade Mathematics FCAT would no longer be administered.²⁸ Although students who take high school level courses in the middle grades will, most likely, enroll in sequentially more rigorous courses, some school districts raised concerns that the lapse in time between taking the course in middle school and sitting for the EOC assessment in high school would be unfair. In addition, these students will have already earned their course credit in Algebra I and do not need to pass the EOC assessment to earn course credit or graduate from high school. Accordingly, there were concerns that these students had no reason to perform well, yet their test results would be included in the school's grade. As a result, the Department of Education submitted a request to the U.S. Department of Education for a waiver from the federal law for the specific cohort of students who are affected. The waiver was granted on January 19, 2011.²⁹

Students in grades 6 through 12 who score a Level 1 on FCAT Reading must be enrolled in and complete an intensive reading course the following year. The reading needs of a student that scores a Level II on FCAT Reading must be assessed to determine whether the student needs to be placed in an intensive reading course or a content area course in which reading strategies are delivered.

In order for students to be promoted to high school, the student must successfully complete three middle school or higher courses in English, mathematics, science, and social studies, including one semester of civics education, and one course in career and education planning to be completed in grades 7 or 8.³⁰ Beginning in the 2012-13 school year, the required civics course

²³ The Commissioner is also required to direct Florida school districts to participate in the administration of the National Assessment of Educational Progress (NAEP), or a similar national assessment program. See s. 1008.22(2), F.S.

²⁴ s. 1008.22(3)(c) 2.a.(I), F.S.

²⁵ s. 1008.22(3)(c)2.a.(I), F.S.

²⁶ s. 1008.22(3)(c)1., F.S.

²⁷ See s. 1111(b)(3)(C)(v)(I)(cc) of the Elementary and Secondary Education Act (ESEA), available at: <http://www2.ed.gov/policy/elsec/leg/esea02/pg2.html>.

²⁸ s. 1008.22(3)(c)2.a.(I), F.S.

²⁹ Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the committee (Jan. 19, 2011). The DOE estimates that approximately 39,600 students completed Algebra I in the middle grades and will not take the 10th grade Mathematics FCAT.

³⁰ s. 1003.4156, F.S.

must include an end-of-course assessment. By the 2014-15 school year, all students must pass the civics EOC assessment to pass the course and receive course credit.³¹

Students with Disabilities

Current law does not provide for an exemption for middle school students with disabilities from end-of-course assessments, however, the law does include a provision to waive end-of-course assessments for high school students with disabilities when the IEP committee determines that an end-of-course assessment cannot accurately measure the student's abilities, taking into consideration all allowable accommodations.

McKay Scholarship Program

Current law sets forth the requirements for parental placement of a student with disabilities in an eligible private school or another public school.³² To be eligible for a McKay scholarship to attend a private school, a K-12 student with a disability³³ must have an individual education plan (IEP) and have spent the prior school year in attendance at a Florida public school.³⁴ Prior school year in attendance means that the student was enrolled and reported by a school district for funding during the preceding October and February Florida Education Finance Program (FEFP) surveys in kindergarten through grade 12, which includes time spent in a Department of Juvenile Justice (DJJ) commitment program, if funded in the FEFP.³⁵

For purposes of continuity of educational choice, the scholarship remains in force until the student returns to a public school, graduates from high school, or reaches the age of 22, whichever occurs first.³⁶ Under current administrative rule, a student who enters a DJJ detention center for less than 15 days is not considered to be returning to public school.³⁷

*Assistive Technology Devices*³⁸

Presently, certain agencies are required to enter into interagency agreements, as appropriate, to ensure the transaction of assistive technology devices in accordance with the student's individualized family support plan, individual support plan, or an IEP.³⁹ The interagency agreements help the agencies to coordinate services for students with disabilities, including a determination of the need for assistive technology, the content of the transition plan, and the post-school support required to meet the student's transition goals.⁴⁰

³¹ s. 1008.22(3)(c), F.S.

³² s. 1002.39, F.S.

³³ s. 1002.39(1), F.S.

³⁴ s. 1002.39(2), F.S. There are two exceptions to the requirement for prior year in attendance.

³⁵ *Id.*

³⁶ s. 1002.39(4), F.S.

³⁷ Rule 6A-6.0970(3), F.A.C.

³⁸ Assistive technology devices are defined as manual and motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, Braille printers, environmental control devices for use by a person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to, in effect, speak, personal transfer systems, and specialty beds, including a demonstrator, that a consumer purchases or accepts transfer of in this state for use by a person with a disability. See s. 427.802, F.S.

³⁹ The required agencies include the Department of Health, the Department of Education, and the Agency for Workforce Innovation. See s. 1003.575, F.S.

⁴⁰ Florida Department of Education, Technical Assistance Paper, The Transfer of Assistive Technology to Home, Other Districts, Other Schools, and Other Agencies (Dec. 2005), available at: <http://www.fldoe.org/ese/pdf/y2006-6.pdf>.

Budget Transparency

District school boards are currently required to post a summary of their tentative budget online and advertise it in a newspaper of general circulation in the district.⁴¹

III. Effect of Proposed Changes:*Virtual Education*

The bill requires school districts to provide students access to FLVS courses during and after the normal school day. This change provides uniformity among school districts and increases a student's access to the FLVS.

The bill amends the length of time a virtual instruction provider maintains its approved provider status. The bill changes the date of approval for virtual instruction providers to three school years after the date of approval. Because providers are currently approved in February, changing the length of approved provider status to correlate with the school year will prevent the loss of approved status in the middle of a school year.

The bill also eliminates the requirement that the FLVS be administratively housed within the DOE.

Gift Ban

The bill expands the current prohibition to include any gift to a school board member, regardless of whether the gift was accepted to influence a school board member's vote. The bill also expands the gift ban to apply to the relatives of school board members.⁴² A gift is defined to include real property, personal property, preferential rate or terms on debt, forgiveness of indebtedness, transportation, food or beverage, membership dues, entrance fees, plants, flowers, or floral arrangements.

The bill prohibits school board members and their relatives from soliciting or accepting, directly or indirectly, any gift from any person, vendor, potential vendor, or other entity doing business with the school district. This change imposes stricter ethics requirements on school board members and their relatives.

Voluntary Prekindergarten (VPK)

The bill requires the SBE to periodically review and revise the performance standards for statewide kindergarten screening and to align these standards to the standards for student performance on statewide assessments. The bill authorizes nonpublic schools to administer the kindergarten readiness screening to each kindergarten student in nonpublic school who was enrolled in VPK.

⁴¹ s. 1011.03, F.S.

⁴² Section 112.312(12), F.S., defines "relative" to mean: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the school board member, or any other natural person having the same legal residence as the school board member.

The bill requires a VPK provider to be placed on probation if it fails to meet the minimum kindergarten readiness rate established by the State Board of Education. Previously, a provider had to fail to meet the standards for two consecutive years. This change will require providers to begin corrective actions sooner and will thus improve the quality of VPK providers.

The methodology for calculating each VPK provider's readiness rate must include the percentage of students who meet all state readiness measures, and the DOE must adopt procedures for annually reporting the percentage of students who meet all kindergarten readiness measures. The bill eliminates a restriction placed on increasing the kindergarten readiness rate by removing the requirement that no more than 15 percent of the VPK providers can fall below the minimum readiness rate. Thus, readiness rates would no longer be tied to the number of VPK providers that fail to meet them, and the SBE can set the rate based on its determination of readiness.

The bill requires the DOE to adopt a statewide VPK enrollment screening to assess the readiness of each student for kindergarten upon the student's entry into a VPK program that is on probation. A VPK provider that is on probation must pay for the screening. Each parent enrolling a child in a VPK program must submit the child for the enrollment screening if required to do so by the provider. The department must adopt the fee schedule associated with the VPK enrollment screening and the process for determining learning gains of students who take the VPK enrollment screening and the kindergarten readiness screening.

The bill amends the criteria the SBE may use to grant good cause exemptions for public and private VPK providers by eliminating the exemption for providers serving at least twice the statewide percentage of children with disabilities or those identified as limited English proficient. Instead, good cause will be determined by learning gains through a VPK enrollment screening and the statewide kindergarten screening. This change shifts the emphasis for a good cause exemption from simply the type of students a provider serves (inputs) to the extent of student learning gains (outputs).

Students with Disabilities

The bill authorizes the individual education plan (IEP) committee to waive the EOC assessment results for students with disabilities, if the IEP committee determines that the EOC assessment cannot accurately measure the student's abilities even after considering all allowable accommodations.⁴³ This exemption will allow middle grade students with disabilities the opportunity to pass a course and receive course credit without passing the EOC assessment; however, the student is still required to take the assessment. The bill also requires any school with an IEP team to complete an assistive technology assessment within 60 days of receiving a request to determine the most appropriate assistive technology needed to maintain or improve the functional capabilities of the student.

⁴³ To be eligible for this waiver, a student must be documented as having an intellectual disability, a hearing impairment, including deafness, a speech or language impairment, a visual impairment, including blindness, an emotional or behavioral disability, an orthopedic or other health impairment, an autism spectrum disorder, a traumatic brain injury, or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia.

McKay Scholarship Program

The bill provides that a McKay scholarship student who enters a Department of Juvenile Justice detention center for less than 21 days would not lose the scholarship. This provision will prevent a student from losing their McKay scholarship for a temporary stay at a DJJ facility.

Career and Professional Academies

In an effort to engage students at an earlier age, prepare them for increasingly demanding coursework, and attain higher level industry certifications, the bill would expand CAPE opportunities to students in middle grades and establish funding for middle school students who earn industry certifications. The strategic 5-year plan developed and approved by school districts, workforce boards and agencies, and postsecondary institutions must include plans to implement career and professional academies at the middle grades.

Middle school students who earn industry certifications would generate the additional funding following graduation from high school with a standard diploma. Although there would be a considerable lapse in time before these students would generate bonus funding, these students will most likely be enrolled in higher level courses and be academically engaged, thus less likely to drop out. High school students who begin their career academy exposure in the middle grades would be prepared to earn additional and more demanding certifications at the high school level.⁴⁴

The bill also establishes weights for industry certifications based on the level of rigor for the certification, entry-level earnings, and workforce demand in the industry. The formula used to determine these weights would be established through rulemaking.⁴⁵ The bill also specifies that a secondary school must discontinue enrollment for the CAPE academy the following year if the passage rate falls below 50 percent on the academy-related industry certification

Student Assessment

The bill authorizes the commissioner to direct school districts to participate in the administration of an international assessment, in addition to the administration of the National Assessment of Educational Progress (NAEP). This will authorize the commissioner to direct school district participation in assessments like the Program for International Student Assessment (PISA) and the Trends in International Mathematics and Science Study (TIMSS) assessment. The bill also provides the commissioner flexibility to adjust the administration of statewide assessments under exigent circumstances.

⁴⁴ School districts that offer industry-certified career and professional academies in the middle grades would receive a prorated portion of the additional bonus weight in the FEFP for students who receive industry certification in middle school and who subsequently earn a standard high school diploma. Funds would be provided in the General Appropriations Act in the year following the student's graduation from high school and attainment of the industry certification. If the middle school student were to earn additional industry certifications at the high school level, the bonus weight associated with the highest industry certification would be prorated and shared with the appropriate middle school.

⁴⁵ The DOE and AWI are currently collaborating in establishing the weighting process for inclusion in rule. Factors would include the number of instructional hours, including work experience hours, required to earn the certification, award of college credit for academy courses based on statewide articulation agreements with postsecondary institutions, entry-level wages, growth rate in employment for each occupational category, and average annual openings for the primary occupation linked to the industry certification.

The bill eliminates the requirement that all students who took Algebra I in middle school during the 2007-08 through 2009-10 school years take the EOC assessment in the 2010-11 school year. These students are no longer required to take the EOC assessment because the DOE obtained a waiver from the U.S. Department of Education. Without removing this requirement, approximately 39,600 students will unnecessarily be required to take the Algebra I EOC assessment in May. The bill also authorizes middle school principals to determine whether a student that transfers to the middle school and has already completed a civics education course prior to transfer must take the civics education EOC assessment. The middle school principal must make this determination in accordance with SBE rules.

School Accountability

The bill requires the school grade for schools comprised of middle school grades 6 through 8 or grades 7 and 8, to include the performance of its students enrolled in Algebra I, geometry, and biology. The determination of middle school grades would also include middle school students' attainment of specific industry certifications, as data becomes available. This provision would encourage middle students to enroll in more challenging content and school districts to provide such offerings.

The bill also requires the achievement score and learning gains of a student designated as hospital or homebound to be assigned to that student's home school. A home school is defined as the school the student would be assigned if the student were not assigned to a hospital or homebound program. This provision would ensure that a school district retains its focus on helping these students succeed.

The bill requires a school to receive a school grade of "F," unless it meets a minimum percentage of students proficient in reading, irrespective of its performance on other indicators in the school grading formula. In addition, the bill allows the DOE to grant an exception if the school made significant gains in reading proficiency from the prior year. The SBE must establish the minimum percentage required to receive an exception.

The bill changes how school grades are determined for purposes of differentiated accountability. The bill requires high school grades to be based solely upon the portion of school's grade derived from statewide assessments, including the FCAT and end-of-course assessments. The formula for calculating high school grades changed in the 2009-10 school year to incorporate other factors, including high school graduation rates and student participation and performance in industry certifications and in certain accelerated courses. Because of the additional factors included in the high school grading formula, the DOE will not be able to appropriately identify intervention options based on the school's performance levels until after the following school year begins. By changing the law to focus on statewide assessment results, which are provided before the end of the school year, a school may be more quickly and appropriately identified. This allows the school districts to more timely provide the necessary type and intensity of intervention for schools in need of improvement.

The bill changes how school grades are determined for purposes of Opportunity Scholarship Program eligibility by solely using statewide assessments. Because incorporating the additional factors into the high school grading formula takes more time, a parent must wait until as late as November to determine if their child is eligible to participate in the OSP. Changing how the

school grades are calculated for the OSP will allow parents to decide if they want their child to participate in the OSP before the school year begins.⁴⁶

Supplemental Education Services (SES)

The bill provides that a school board may include in its district contract with a provider a requirement to use a uniform standardized assessment if the Department of Education is notified of such intent before services are provided to the student. This may promote consistency in establishing baseline student achievement information and subsequent learning gains achieved by students being served by SES providers.

Budget Approval

The bill removes the requirement that the commissioner review the annual operating budgets for district school boards and the Florida College System institutions. Some school districts have attempted to hold the commissioner and the DOE accountable when problems existed with their budgets because the budgets had, in theory, been reviewed and approved. By removing the requirement to review and approve, the school districts will be fully accountable for their budgets.

Budget Transparency

The bill requires district school boards to post on their websites each proposed, tentative, and official budget in terms that are easily understandable and in a manner that is easily accessible to the public.⁴⁷

School boards are also encouraged to post timely information as to when a budget hearing will be conducted; each contract between the district school board and the teacher's union; contracts between the district school board and noninstructional staff; recommendations of the citizens' budget advisory committee; and current and archived video recordings of each district school board meeting and workshop.⁴⁸

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁴⁶ According to the DOE, prior to 2010, these grades have been available mid-summer, allowing time for parent notification and student transfers prior to the beginning of the following school year. Opportunity Scholarship Program eligibility for high schools was unclear as of the opening of the 2010-11 school year, since high school grades were not yet available due to changes in s. 1008.34, F.S. Attempts to identify eligible high schools based on statewide assessments led to some confusion among parents and district personnel, since some identified schools anticipated a performance grade category of "D" or above. Additionally, appropriate transfer schools (ones performing higher than the eligible school, but not less than performance grade category "C") could not be confidently identified. By specifying that high school grades will be based on statewide assessments, this language could allow identification of Opportunity Scholarship-eligible high schools to be made early enough to allow districts sufficient time for parent notification and student transfer. See Department of Education legislative bill analysis, on file with the committee.

⁴⁷ District school boards are currently required to post a summary of their tentative budget online and advertise it in a newspaper of general circulation in the district.

⁴⁸ These items are included to address some of the issues raised by the grand jury regarding the wasteful utilization of resources and contracts made by the Broward County School Board. *Final Report of the 19th Statewide Grand Jury in the Supreme Court of the State of Florida*, Case No: SC09-1910, at 3 and 24.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The cost of the VPK pre-enrollment screening will be incurred by private providers that are on probation.

C. Government Sector Impact:

According to the DOE, changes to school improvement categories under the bill may affect the number of schools that qualify for School Recognition Awards. In 2010-11 each qualifying school was awarded \$75 per student for School Recognition, with total program funding at \$119,824,250.⁴⁹

Middle school students who earn industry certifications will generate the additional bonus funding following graduation from high school with a standard diploma. This impact is not expected to take place until at least the 2014-2015 fiscal year.

In addition, the expansion of FLVS courses for Grades 4 and 5 students and for career education courses for high school students will have a potentially significant fiscal impact if these students take these courses in addition to their home school courses and earn more than one full-time-equivalent for funding in the Florida Education Finance Program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁹ *Id.*

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Education Pre-K – 12 Committee on March 30, 2011:

The committee substitute:

- Removes comprehensive changes to the state instructional materials adoption process;
- Removes provisions for Florida College System institutions to offer elementary education in a charter school;
- Removes provisions relating to the class size categorical allocation;
- Removes the requirement for school districts to offer a digital curriculum to students in grades 5-12; and
- Removes the provision to establish a District Oversight Board for school districts with financial management deficiencies.

- B. **Amendments:**

None.