

FINAL BILL ANALYSIS

BILL #: CS/CS/HB 1255

FINAL HOUSE FLOOR ACTION:

94 Y's 23 N's

SPONSOR: Rep. Adkins

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/SB 1696

SUMMARY ANALYSIS

CS/CS/HB 1255 was passed by the House on May 6, 2011, and subsequently passed the Senate on May 6, 2011. The bill was approved by the Governor on June 17, 2011, chapter 2011-175, Laws of Florida. Sections 25 and 35 of the bill are effective upon becoming law. Sections 1-24 and 26-34 of the bill are effective July 1, 2011. This bill amends various provisions of the law related to public school accountability, as follows:

Voluntary Prekindergarten (VPK) Program: Revises requirements for a good cause exemption for a VPK provider who fails to meet minimum student readiness rates for kindergarten and eliminates the cap on the percentage of VPK providers who may fail to meet the minimum rate.

Students with Disabilities: Establishes a waiver from the results of end of course (EOC) assessments for certain students with disabilities; requires restraint or seclusion incident reports to include age, grade, and ethnicity; defines an auditory-oral education program; adds to the special education services that may be provided to a child with disabilities, services by a certified listening and spoken language specialist; and requires the Department of Education (DOE) to review and revise the matrix of services for exceptional students and implement any changes by the 2012-13 school year.

Statewide Assessments: Allows a principal to waive the civics EOC assessment requirement for a transfer student who already completed a civics course; establishes an exemption from the intensive reading course requirement for certain students; provides the commissioner limited flexibility in reporting student results on statewide assessments; eliminates the 3-week EOC administration window; and requires high schools to evaluate the college readiness of each student who scores a certain level on statewide assessments.

School Grades: Amends the formula for calculating school grades to include EOC assessments taken by middle school students and middle school student attainment of industry certification; specifies that student performance on statewide assessments determine school grades for purposes of differentiated accountability and Opportunity Scholarship Program eligibility; and requires that performance of students designated as hospital/homebound be assigned to their home school.

Instructional Programs: Authorizes school districts to provide a digital curriculum for students in grades 6 through 12; requires a district's strategic plan to include plans to implement a middle school career and professional academy; eliminates the requirement that a student choose the 18 credit accelerated graduation option no later than ninth grade; and authorizes school districts to select premethods and postmethods for determining student learning gains for supplemental educational service providers.

Miscellaneous Provisions: Removes the requirement that the commissioner review the budgets for districts and Florida College System institutions and DOE approve school board budgets; requires districts to post certain budget information on their websites; revises the gift ban law for school board members; and requires industry certification, when available, for certain career and technical education teachers.

This bill provides an effective date of July 1, 2011, except as otherwise expressly provided.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

EFFECT OF CHANGES:

This bill amends various provisions of the Florida School Code related to public school accountability, described below in further detail.

Voluntary Prekindergarten Education Program

Current Law

In 2002, the Florida voters amended the State Constitution to require the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. In 2004, the Legislature established the Voluntary Prekindergarten Education (VPK) Program. The VPK program is a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.¹ A child must be a Florida resident and attain four years of age on or before September 1 of the academic year to be eligible for the VPK program. Parents may choose either a school year or summer program offered by either a private or public school provider. The child remains eligible for the VPK program until he or she is eligible for kindergarten in a public school or is admitted to kindergarten, whichever occurs first.² A child may not attend the summer VPK program earlier than the summer immediately before the academic year in which the child becomes eligible for kindergarten.³

Within the first 30 days of an academic year, school districts must screen each kindergarten student to determine his or her readiness for kindergarten. Kindergarten students, regardless of whether the student is attending a public or private school, must be submitted for the statewide kindergarten screening. The school districts are required to designate sites to administer the screening for children admitted to kindergarten in a nonpublic school.⁴

From the results of the statewide kindergarten screening, the kindergarten readiness rate is calculated for each VPK provider. The kindergarten readiness rate is the percentage of students that participated in the provider's VPK program that are deemed ready for kindergarten. The rates may not include students who were not administered the statewide kindergarten screening.⁵ Currently, the readiness rate may not be set higher than a rate below which 15 percent of the VPK providers would fall.⁶

If a provider falls below the minimum readiness rate the provider must submit and implement an improvement plan. If the provider then 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 using curriculum approved by the Department of Education (DOE).⁷ If a provider remains on probation for two consecutive years without receiving a good cause exemption, the provider loses eligibility to deliver the VPK program and may no longer receive state funds for the program.⁸

¹ Section 1, ch. 2004-484, L.O.F.; ss. 1002.51 through 1002.79, F.S.; Art. IX, s. 1(b) and (c), Fla. Const.

² Section 1002.53, F.S.

³ Section 1002.61(2)(c), F.S.

⁴ Section 1002.69(4), F.S.

⁵ Section 1002.69(5), F.S.

⁶ Section 1002.69(6)(b), F.S.

⁷ Section 1002.67(3)(c), F.S.

⁸ Section 1002.69(7), F.S.

A good cause exemption may be granted for a provider that meets certain criteria established by the State Board of Education (SBE). 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 implement its improvement plan and continue necessary corrective actions after receiving a good cause exemption.⁹

Currently, a child may only reenroll in a VPK program once. A child who reenrolls in a VPK program may not subsequently withdraw from the program and reenroll.¹⁰

DOE is authorized to adopt procedures for its approval of prekindergarten director credentials, approval of emergent literacy training courses, administration of the statewide kindergarten screening and calculation of kindergarten readiness rates, approval of specialized instructional services providers, and granting of a private VPK provider's or a public school's request for a good cause exemption.¹¹

Effect of Bill

The bill requires the SBE to periodically review and revise the performance standards for the statewide kindergarten screening. The SBE must align the performance standards for the statewide kindergarten screening to the standards for statewide assessments.

The bill requires a VPK provider to be placed on probation the first time 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 readiness rate for two consecutive years. This change will require providers to begin corrective actions sooner and will thus improve the quality of VPK providers.

The bill eliminates the restriction on setting the readiness rate such that no more than 15 percent of the VPK providers can fall below the minimum readiness rate. The readiness rates may now be increased regardless of how many public or private VPK providers will fail to meet them.

The bill also requires that the methodology for calculating each provider's kindergarten readiness rate include the percentage of students who meet all state readiness measures, as demonstrated by the students' performance on the statewide kindergarten screening. This allows the kindergarten readiness rate to more accurately portray how well a provider is preparing its students for kindergarten.

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 children identified as limited English proficient. However, the bill authorizes a good cause exemption if the provider submits data, in accordance with the criteria established by the SBE, which documents the achievement and progress of the children served, as measured by the state-approved prekindergarten enrollment screening and the standardized post-assessment approved by the DOE.

The state-approved prekindergarten enrollment screening¹² must be administered by either the Early Learning Coalition or a second party approved by the DOE. The assessment must be approved by the DOE and

⁹ Section 1002.69(7)(b), F.S.

¹⁰ Flush left at the end of s. 1002.71(4), F.S.

¹¹ Section 1002.73(2), F.S.

¹² The state-approved prekindergarten enrollment screening measures a child's ability to recognize letters or words, knowledge of letter names and the sounds they make; awareness and manipulation of the different sounds in a word; early numeracy skills, including counting, numerical relations, and arithmetic reasoning; knowledge of adjectives, verbs, verb tenses, prepositions, and nouns; and also assesses the

administered within the first 30 days of each school year for which a good cause exemption is sought. The provider must also administer the standardized post-assessment approved by the DOE to measure learning gains for the year or the summer, as appropriate. Providers must submit this data to the DOE within 30 days of the administration of each assessment. The bill also requires a parent to submit his or her child for the state-approved prekindergarten enrollment screening if the parent enrolls the child in a VPK program offered by a provider seeking a good cause exemption. By requiring these assessments, the bill shifts the emphasis for a good cause exemption from simply what types of students a provider serves (inputs) to how much student learning has occurred (outputs).

The bill authorizes nonpublic schools to administer the statewide kindergarten screening to any kindergarten student enrolled in the nonpublic school that was enrolled in the VPK program. The DOE anticipates the nonpublic school would be provided access to the online assessment and would also have access to the training offered by the DOE through webinars.¹³

The bill also authorizes a student to reenroll in a VPK program more than once if granted a good cause exemption. This allows a child who, for example, is in the foster care system, to continue attending a VPK program after withdrawing twice, due to factors outside of the child's control.

In addition to the existing procedures DOE may adopt, the bill authorizes DOE to adopt procedures for its implementation of and determination of costs associated with the state-approved prekindergarten enrollment screening and the determination of the learning gains of students who complete both the state-approved prekindergarten enrollment screening and the standardized post-assessment approved by the DOE.

Virtual Education

Current Law

The Florida Virtual School (FLVS) is a public online school providing students with virtual education options, offering over 100 courses in core subjects, world languages, electives, honors, and Advanced Placement.¹⁴ The FLVS offers individual course enrollments to all Florida students in grades 6 through 12, including public school, private school, and home education students.¹⁵ 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.¹⁶

The FLVS is currently required to be administratively housed within the Office of Technology and Information Services (OTIS) within the DOE. The OTIS is responsible for developing a systemwide technology plan and assisting school districts in securing Internet access and telecommunications services, among other things.¹⁷

child's expressive language and receptive language. The purpose of the assessment is to provide teachers with valid and reliable feedback regarding a child's progress in attaining the skills established in the VPK Education Standards. Teachers may use the assessment data to inform instructional decisions in the VPK classroom. Florida Department of Education, VPK Assessment, *available at*, <http://www.fldoe.org/earlylearning/assessments.asp> (last visited May 18, 2011). VPK Education Standards create a common framework and language for VPK programs. The standards reflect the latest research on child development and developmentally appropriate practices for four-year old children. Florida Department of Education, Florida's Voluntary Prekindergarten Education Standards, *available at*, <http://www.fldoe.org/earlylearning/perform.asp> (last visited May 18, 2011).

¹³ Email, Florida Department of Education (April 5, 2011).

¹⁴ See s. 1002.37, F.S.; see also Florida Department of Education, Florida Public Virtual Schools, *FLVS FAQ*, *available at*, <http://www.fldoe.org/Schools/virtual-schools/faqs.asp> (last visited May 18, 2011).

¹⁵ *Id.*

¹⁶ Section 1001.42(23), F.S.

¹⁷ Sections 1001.02 and 1002.37, F.S.

A Board of Trustees appointed by the Governor governs the FLVS. The performance of FLVS is monitored by the Commissioner of Education and reported to the SBE and the Legislature.¹⁸

Virtual education is also provided through school district virtual instruction programs. These programs of instruction provide an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.¹⁹ 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 Florida College System institutions offering a school district virtual instruction program.²⁰

In order to provide the required virtual instruction program, a school district may contract with the FLVS or establish a franchise of the FLVS; contract with a provider approved by the DOE; contract with a Florida College System institution; or enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.²¹

A provider approved by the DOE is required to be nonsectarian, comply with antidiscrimination provisions, require all instructional staff to be Florida-certified teachers, conduct background screenings for all employees or contracted personnel, have prior successful experience offering online courses to K-12 students, and be accredited by a specified accrediting agency. Once a provider is approved, it retains its approved status for a period of three years after the date of the DOE's approval as long as the provider continues to comply with program requirements.²²

Effect of Bill

The bill eliminates the requirement that the FLVS be administratively housed within the OTIS within the DOE. The FLVS is governed by a Board of Trustees appointed by the Governor and no longer needs to be administratively housed within the OTIS.

The bill changes the requirement that a school district provide students access to enroll in FLVS courses during or after the school day by requiring school districts to provide students access to FLVS courses during and after the normal school day. This increases a student's access to the FLVS.

The bill amends the length of time a virtual instruction provider retains its approved provider status. Virtual instruction providers approved by the DOE are currently approved for a period of 3 years from the date of approval. The bill changes that to "3 school years" after the date of approval. Since 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 provider status in the middle of a school year.

¹⁸ Section 1002.37(1) and (2), F.S.

¹⁹ Section 1002.45(1)(a), F.S.

²⁰ Section 1002.45(1)(b)2., F.S.

²¹ Section 1002.45(1)(c), F.S.

²² Section 1002.45(2), F.S.

Assessments

Current Law

The Commissioner of Education is required to direct school districts to participate in the administration of the National Assessment of Educational Progress (NAEP),²³ or a similar national assessment program.²⁴

The commissioner is also required to design and implement a statewide program of educational assessment, establish schedules for the administration of the assessments, and report student test results. The commissioner is required to consider religious and school holidays when establishing the schedules. Currently, the end-of-course (EOC) assessments are required to be administered during a 3-week period at the end of the course. The 3-week administration period is selected by the commissioner and school districts must pick one testing week within the 3-week administration period for each EOC assessment. The schedule for reporting student test results on the Florida Comprehensive Assessment Test (FCAT)²⁵ is no later than the week of June 8 and for EOC assessment results no later than a week after the school district completes testing for each course.²⁶

Effect of Bill

The bill expands the type of assessments in which the commissioner may direct school districts to participate. The commissioner may direct districts to participate in international assessments in addition to the NAEP or other similar national assessments. This authorizes the commissioner to direct school districts to participate in assessments like the Program for International Student Assessment and the Trends in International Mathematics and Science Study assessment.

The bill provides the commissioner limited flexibility in the reporting of student test results by authorizing the commissioner to report after June 8th for FCAT results and more than one week after the district completes testing for the course for EOC assessments, under exigent circumstances.

Additionally, the bill eliminates the 3-week administration period for EOC assessments and requires school districts to administer these assessments in accordance with the schedule determined by the commissioner. The commissioner must base the schedule upon a review of school district academic calendars. This change provides the commissioner the flexibility to consider the variability among the different districts' calendars when setting the EOC assessment calendar.

²³ The NAEP is a national assessment that tests 4th, 8th, and 12th grade students in mathematics, reading, science, writing, the arts, civics, economics, geography, and U.S. history. The Commissioner of Education Statistics of the National Center for Education Statistics in the U.S. Department of Education is responsible for the assessment; however, an independent governing board is responsible developing the framework and test specifications that serve as the blueprint for the assessments. U.S. Department of Education Institute of Education Sciences, National Center for Education Statistics, National Assessment of Educational Progress, *available at*, <http://nces.ed.gov/nationsreportcard/about/> (last visited May 18, 2011).

²⁴ Section 1008.22(2), F.S.

²⁵ The FCAT consists of criterion-referenced tests in mathematics, reading, science, and writing, which measure student progress toward meeting the Sunshine State Standards benchmarks. The state is currently transitioning from the FCAT to the FCAT 2.0 and Florida end-of-course assessments. FCAT 2.0 measures student achievement of the Next Generation Sunshine State Standards. In the 2011-12 school year, the FCAT 2.0 Reading will be administered in grades 3-10, the FCAT 2.0 Math will be administered in grades 3-8, the FCAT 2.0 Science will be administered in grades 5 and 8, and the FCAT Writing will be administered in grades 4, 8, and 10. Florida Department of Education, Transition to Next Generation and Computer-Based Tests in Florida: Plans Currently Included in the FCAT 2.0 Contract (May 11, 2010), *available at*, <http://www.fldoe.org/asp/k12memo/pdf/tngcbtf.pdf> (last visited May 18, 2011); rule 6A-1.09422(2) and (3), F.A.C.

²⁶ Section 1008.22(14), F.S.

Algebra I End of Course Assessment Exemption

Current Law

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.²⁷ 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.²⁸

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.²⁹ 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.³⁰ To comply with the federal law, a high school student who earned high school credit for Algebra I while in middle school in the 2007-08 through 2009-10 school years and who would not be able to take the tenth grade Mathematics FCAT because of its discontinuance are required to take the Algebra I EOC.³¹ This provision was enacted to satisfy the federal testing requirements. The DOE estimates that approximately 39,600 students completed Algebra I in the middle grades, and will not take the tenth grade Mathematics FCAT; therefore, these students are required to take the Algebra I EOC in May 2010.³²

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, 2011.³³

Effect of Bill

This 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.

This provision will take effect upon becoming law.

²⁷ Section 1008.22(3)(c) 2.a.(I), F.S.

²⁸ Section 1008.22(3)(c)2.a.(I), F.S.

²⁹ Section 1008.22(3)(c)1., F.S.

³⁰ 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> (last visited May 18, 2011).

³¹ Section 1008.22(3)(c)2.a.(I), F.S.

³² Email, Florida Department of Education (March 7, 2011).

³³ Letter to Commissioner of Education Eric Smith from the Assistant Secretary of the U.S. Department of Education, on file with the House Education Committee (Jan. 19, 2011).

Intensive Reading Course Exemption

Current Law

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. A student who scores a Level 2 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.³⁴

Effect of Bill

The bill provides an exemption for a student in grades 6 through 12 who scores a Level 1 or 2 on FCAT Reading from the intensive reading requirement, so long as the student has not scored below Level 3 on FCAT Reading in the previous three years. The bill requires the student to have an approved academic improvement plan already in place and signed by the school and a parent or guardian for the year the exemption is granted. This allows a student to avoid taking an intensive reading course when the test results are significantly inconsistent compared to the student's normal test results.

School Grades

Current Law

School grades for public schools are determined each year based upon a point system. The school's points are based upon student achievement and annual learning gains.³⁵ Middle school grades are currently based upon student scores on the FCAT in Reading, Mathematics, Science, and Writing. Beginning in the 2013-14 school year, middle school grades will also include the aggregate scores of all eligible students enrolled in the school who have been assessed on the civics education end-of-course (EOC) examination.³⁶

Beginning in the 2009-10 school year, the calculation for high school grades incorporated other factors in addition to student achievement and annual learning gains. These factors include the high school's graduation rate; the graduation rate of certain at-risk students; and student performance and participation in Advanced Placement, International Baccalaureate, dual enrollment, and Advanced International Certificate of Education courses.³⁷

The school grading formula does not consider the student achievement and annual learning gains for students attending a hospital homebound program. The assessment data is currently assigned to the hospital homebound program, not the home school³⁸ to which the student is assigned.

The grade a school receives is used to determine categories of differentiated accountability and eligibility for the Opportunity Scholarship Program (OSP). Differentiated accountability is a system for categorizing schools based upon student achievement and determining appropriate interventions for those schools with low student achievement. Each category is based upon the school's grade, and the level and rate of change in student performance in the areas of reading and mathematics, disaggregated into student subgroups as described in

³⁴ Sections 1003.4156(1)(b) and 1003.428(2)(b)1., F.S.

³⁵ Section 1008.34, F.S.; rule 6A-1.09981, F.A.C.

³⁶ Section 1008.34(3)(c)1., F.S.

³⁷ Section 1008.34, F.S.

³⁸ A home school is defined as the school the student would be assigned to if the student were not assigned to a hospital or homebound program.

the federal No Child Left Behind Act.³⁹ 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 four-year period, with the opportunity to send their children to a higher performing school.⁴⁰

Effect of Bill

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 and participation of its students enrolled in high school level courses with end-of-course assessments. The performance and participation of students in these courses must be weighted equally in the calculation of school grades. In addition, the bill requires school grades for middle schools to include student attainment of national industry certification. The changes in the middle school grade calculation incentivizes middle schools to offer more difficult high school curriculum for students ready for these courses and rewards student achievement of industry certification.

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.

The bill changes how school grades are determined for purposes of differentiated accountability. The bill requires all school grades to be based upon statewide assessments.⁴¹ The categories used for differentiated accountability continue to be based upon the school grade and the level and rate of change in student performance in the areas of reading and mathematics. 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 certain accelerated courses. Because of the additional factors included in the high school grading formula, the DOE will not be able to grade schools until after the following school year begins. Accordingly, by changing the law to focus on statewide assessment results, which are provided before the end of the school year, a school may be evaluated and categorized before the beginning of the following school year. This allows the DOE, school districts, and schools to more timely provide the necessary type and intensity of intervention for schools in need of improvement.

Likewise, the bill changes how school grades are determined for purposes of the OSP. The bill requires all school grades to be based upon statewide assessments for the purpose of determining eligibility for the OSP. 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.

Middle Grades Promotion

Current Law

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, and one course in career and education planning to be completed in grades 7 or 8.⁴² Beginning in the 2012-13 school year, one of the social

³⁹ Section 1008.33(3)(b), F.S.

⁴⁰ Section 1002.38(2)(a), F.S. During the 2011 Legislative Session, the eligibility requirements for the Opportunity Scholarship Program were revised to include schools that receive a school grade of “D” or “F” and are in one of the two lowest-performing categories of the state’s school improvement and education accountability system. Section 1002.38(2)(a), F.S. *as amended by* s. 1, ch. 2011-128, L.O.F.

⁴¹ Statewide assessments are the FCAT and end-of-course assessments.

⁴² Section 1003.4156, F.S.

studies courses must include at least a one-semester civics education course.⁴³ By the 2014-15 school year, all students must pass the civics EOC assessment to pass the course and receive course credit.⁴⁴

Effect of Bill

The bill authorizes the individual education plan (IEP) team to waive the EOC assessment results for students with disabilities.⁴⁵ The IEP team must determine that the EOC assessment cannot accurately measure the student's abilities even after considering all allowable accommodations. 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 waiver only exempts the student from passing the EOC assessment, not taking the EOC assessment.

The bill also authorizes a middle school principal to determine whether a student who 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. Allowing a principal to make this determination will allow civics education course credit to transfer with a student, when appropriate.

Digital Curriculum

Current Law

School boards are not currently required or specifically authorized to provide digital curriculum; however, school boards are not prohibited from providing this type of instruction. In fact, many schools currently offer courses in computer programming, web design, and in other information technology areas. Computer and other digital curriculum are included under the Fine Arts subject area of the Sunshine State Standards and the Next Generation Sunshine State Standards. These standards establish the core content of the curricula to be taught and specify the core content knowledge and skills that K-12 public school students are expected to acquire.⁴⁶

Effect of Bill

The bill authorizes district school boards to develop and implement a digital curriculum for students in grades 6 through 12. The curriculum will enable students to attain competencies in web communications and web design and may include web-based skills, web-based core technologies, web design, use of digital technologies and markup language to evidence competency in computer skills. The curriculum should use 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. The digital curriculum may be integrated into another subject area or may be offered as a separate course, subject to available funding.

⁴³ The civics education course must include 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. Section 1003.4156(1(a)3), F.S.

⁴⁴ Section 1008.22(3)(c), F.S.

⁴⁵ 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. Section 1007.02(2), F.S.

⁴⁶ See Florida Department of Education, *Sunshine State Standards*, available at, <http://www.fl DOE.org/bii/curriculum/sss> (last visited May 18, 2011).

The DOE is required to develop a model digital curriculum to provide school boards a guide in the development of a digital curriculum. To provide school boards further guidance on providing digital curriculum instruction, school boards are authorized to seek partnerships with private businesses and consultants to offer classes and instruction to both teachers and students.

Career and Professional Academies

Current Law

A career and professional academy (academy) is a public high school career and technical education program that leads to a high school diploma, industry certification, and opportunities for students to simultaneously earn postsecondary credit. Each school board is required to operate at least one high school academy, which may be established as a school within an existing high school or as a total school configuration offering multiple academies. School boards are required to develop a five year strategic plan in partnership with local workforce boards, employers, and state-approved postsecondary institutions to better align academy programs with local workforce needs.⁴⁷

Newly established academies were previously able to receive technical assistance and advice from the Okaloosa County School District CHOICE Institutes. This provision of law sunset on July 1, 2010. Currently, the law does not require any entity to serve in an advisory role to newly established academies.⁴⁸ However, there is a Secondary Career Academies banner center through Workforce Florida, Inc. A banner center works to develop partnerships among workforce, education, industry, and economic development entities to create curricula targeted to specific high-value state industries that help to diversify the state's economy. The Banner Center for Secondary Career Academies works to ensure that partnerships exist in every community and all partners are working together to create new, meaningful opportunities to prepare students for high-skill, high-wage jobs.⁴⁹

A strategic plan must be based upon various factors including strategies to develop and implement career academies based upon those careers determined to be in high demand and 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, among other things.⁵⁰

Courses offered in an academy must lead to industry certification or postsecondary credit linked directly to the career theme of the course. At least 50 percent of students enrolled in an academy 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, and at least 66 percent of the students must achieve certification or college credits in the third year for the course to be offered a fourth year.⁵¹

Effect of Bill

The bill continues to require school districts to develop a strategic 5 year plan; however, the school district must collaborate with regional workforce boards, economic development agencies, and postsecondary

⁴⁷ Sections 1003.491(1) and 1003.493(1) and (2), F.S.

⁴⁸ Section 1003.493(6), F.S.

⁴⁹ Workforce Florida, Inc., Employ Florida Banner Center for Secondary Career Academies, *available at*, <http://www.workforceflorida.com/PrioritiesInitiatives/BannerCenters/SecondaryCareerAcademies.php> (last visited May 18, 2011).

⁵⁰ Section 1003.491(3), F.S.

⁵¹ Section 1003.493(5), F.S.

institutions, rather than local workforce boards and postsecondary institutions. The plans must describe how the academy will provide access to courses aligned to state curriculum standards through virtual education providers legislatively authorized to provide part-time instruction to middle school students⁵² and must also include an objective review of career and professional academy courses to determine if the courses will lead to the attainment of industry certifications. The objective review of courses was previously included in an academy's evaluation plan, but the bill eliminates the requirement for the evaluation plan because the strategic plan now includes the objective review process. The bill requires the strategic plan to be reviewed, updated, and jointly approved every five years by the school district, regional workforce boards, economic development agencies, and postsecondary institutions. The bill also includes additional items that the strategic plan must be based upon including strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent and strategies to implement career and professional academy training that leads to industry certification at Department of Juvenile Justice facilities.

The bill requires that if the passage rate on an industry certification examination that is associated with the academy falls below 50 percent, the academy must discontinue enrollment of new students the following school year and each school year thereafter until the passage rate is above 50 percent, or the academy is discontinued. Students enrolling in an academy expect to be provided sufficient instruction to provide them the best opportunity to obtain industry certification. If an academy cannot provide that instruction, the academy will no longer be able to enroll new students.

The bill requires each district school board, in collaboration with the appropriate workforce entities, to include plans to implement an academy in at least one middle school in the district as part of the strategic plan. The middle school academy component of the strategic plan must ensure the transition of middle school academy students to a high school academy currently operating within the district. Students who complete a middle school academy must be provided the opportunity to earn an industry certificate and high school credit and participate in career planning, job shadowing, and business leadership development activities. The bill does not require a district to establish a middle school academy, only that a plan to establish a middle school academy be included in the district's strategic plan.

If established, a middle school academy must provide instruction in courses leading to careers in occupations designated as high growth, high demand, and high pay in the Industry Certification Funding List;⁵³ offer courses that integrate content from core subject areas including intensive reading and mathematics; maximize opportunities for middle school academy students to earn high school credit; provide access to virtual instruction courses;⁵⁴ provide instruction from highly skilled professionals; offer externships; and provide personalized student advisement.

The bill also requires the DOE to collect and report student achievement data beginning in the 2012-13 school year for any school district that has implemented a middle school academy.

The bill requires Workforce Florida, Inc., through the Banner Center for Secondary Career Academies, rather than the Okaloosa County School District CHOICE Institutes, to serve in an advisory role and offer technical assistance in the development and deployment of newly established academies. The Banner Center for

⁵² Currently, the Florida Virtual School is the only virtual education provider legislatively authorized to provide part-time instruction to middle school students. *See* s. 1002.37, F.S.

⁵³ The Industry Certification Funding List is a list of certifications that the DOE has reviewed and determined to be sufficiently rigorous academically and, thus, eligible for additional full-time equivalent membership funding. Rule 6A-6.0573(3), F.A.C.; *see also* s. 1011.62(1), F.S.

⁵⁴ Virtual instruction courses must be provided by a virtual education provider legislatively authorized to provide part-time instruction to middle school students. Currently, the Florida Virtual School is the only virtual education provider legislatively authorized to provide part-time instruction to middle school students.

Secondary Career Academies will continue to form partnerships with workforce, education, industry and economic development entities, and will also serve in an advisory role to any newly established academy.

Career and Technical Education Teachers

Current Law

Qualifications for certain nondegreed teachers of career programs must be based primarily upon successful occupational experience rather than academic training. The qualifications for these teachers include filing a complete set of fingerprints and documentation of education and successful occupational experience. These qualifications apply to agriculture, business, health occupations, family and consumer sciences, industrial, marketing, career specialist, and public service education teachers.⁵⁵

Effect of Bill

The bill creates a new qualification for nondegreed teachers of career and technical education courses. In addition to the current qualifications, the bill requires documentation of industry certification, when state or national industry certifications are available and applicable. This qualification is for teachers teaching courses for program clusters that are recognized by the state. The bill eliminates the specific references to individual industry areas. Program clusters are not defined in law; however, DOE defines them as groupings of occupations or career specialties that require a set of common knowledge and skills for career success.^{56, 57}

The bill also authorizes a school district to establish alternative qualifications for a teacher with an industry certification in the career area in which they teach. This, for example, provides a school district flexibility to hire a nondegreed teacher with industry certification even if the teacher does not have the required amount of work experience.

Assistive Technology Devices

Current Law

Certain agencies⁵⁸ 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,⁵⁹ or individual education plan.⁶⁰ The interagency agreements provide the framework for ensuring that students with disabilities, their families, educators, and post-graduation support agencies coordinate services. These agreements also ensure that all agencies are informed about the needed assistive

⁵⁵ Section 1012.39(1)(c), F.S.

⁵⁶ Email, Florida Department of Education (April 7, 2011).

⁵⁷ Program clusters include agriculture, food, and natural resources; architecture and construction; arts, A/V Technology, and communication; business, management, and administration; education and training; energy; finance; government and public administration; health science; hospitality and tourism; human services; information technology; law, public safety, and security; manufacturing; marketing, sales, and service; science, technology, engineering, and mathematics; and transportation, distribution and logistics.

⁵⁸ The required agencies include the Florida Infants and Toddlers Early Intervention Program in the Division of Children's Medical Services of the Department of Health, the Division of Blind Services and the Division of Vocational Rehabilitation of the Department of Education, and the Voluntary Prekindergarten Education Program administered by the Department of Education and the Agency for Workforce Innovation. Section 1003.575, F.S.

⁵⁹ The Agency for Persons with Disabilities is responsible for developing both individual family support plans and individual support plans. Section 393.0651, F.S.

⁶⁰ Local school boards, in accordance with the rules of the State Board of Education, are responsible for developing individual education plans. *See* s. 1002.66(1)(b), F.S.; *see also* rule 6A-6.03028(3), F.A.C.

technology, the content of the transition plan, and the post-school support required to meet the student's transition goals.⁶¹

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.⁶²

School districts must ensure that initial evaluations of students suspected of having a disability are performed within 60 cumulative school days that the student is in attendance after the school district's receipt of parental consent for the evaluation. Similarly, parental consent is necessary for a reevaluation to be performed.⁶³ However, SBE rules authorize a school district to perform an evaluation using mediation or due process procedures if the parent refuses to consent or if the parent fails to respond.⁶⁴

Effect of Bill

The bill requires that if an individual education plan team makes a recommendation, in accordance with SBE rule, for a student with a disability to receive an assistive technology assessment, that assessment must be completed within 60 school days after the recommendation. The assistive technology assessment is performed to determine what type of assistive technology is needed to maintain or improve the functional capabilities of the student with disabilities and consequently provide greater benefit from the educational program.

Budget

Current Law

District school boards and Florida College System boards of trustees are required to prepare, adopt, and submit an annual operating budget to the Commissioner of Education for review.⁶⁵ The DOE is also required to approve budgets adopted by district school boards.⁶⁶

Effect of Bill

The bill removes the requirement that the commissioner review the annual operating budgets for district school boards and Florida College System boards of trustees and also removes the requirement that the DOE approve the budgets of district school boards. 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.

⁶¹ 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> (last visited May 18, 2011).

⁶² Section 427.802, F.S.

⁶³ Rule 6A-6.0331(3)(d), F.A.C.; see also 20 U.S.C. 1400; 34 C.F.R. ss. 300.300(a)(1)(i) and 300.300(c)(1)(i).

⁶⁴ Rule 6A-6.0331(4)(e), F.A.C.

⁶⁵ Section 1011.01(3)(a), F.S.

⁶⁶ Section 1011.03(4), F.S.

Budget Transparency

Current Law

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.⁶⁷

Effect of Bill

The bill requires district school boards to post on their websites their plain language version of each proposed, tentative, and official budget. The document posted on their websites must describe each budget item in terms that are easily understandable to the public. This information must be prominently posted on the website in a manner that is readily accessible to the public.

The bill encourages district school boards 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; each contract between the district school board and noninstructional staff; each contract exceeding \$35,000 between the school board and a vendor of service, supplies, or programs, or a contract for the purchase or lease of lands, facilities, or properties; each contract over \$35,000 that was an emergency procurement or a contract with a single source; recommendations of the citizens' budget advisory committee; and current and archived video recordings of each district school board meeting and workshop.⁶⁸

The website should also contain links to help explain or provide background information on various budget items that are required by state or federal law; to allow users to navigate to related sites to view supporting detail; and to enable taxpayers, parents, and education advocates to send e-mails asking questions about the budget and enable others to see the questions and responses.

Gift Ban

Current Law

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.⁶⁹ School board members are elected officials, and are therefore included in the definition of public officers.⁷⁰

A gift is defined in s. 112.312(12), F.S., 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. A gift does not include salary or benefits; contributions or expenditures appropriately reported, an honorarium; an award, plaque, or certificate; an honorary membership; and transportation provided by an agency for approved business.

⁶⁷ Section 1011.03, F.S.

⁶⁸ 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.

⁶⁹ Section 112.313, F.S.

⁷⁰ Section 112.313(1), F.S.

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.⁷¹ School board members⁷² 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.”⁷³

Effect of Bill

The bill prohibits school board members and their relatives⁷⁴ from directly or indirectly soliciting any gift or directly or indirectly accepting a gift that exceeds \$50, from any person, vendor, potential vendor, or other entity doing business with the school district. The bill defines gift by cross-referencing the existing statutory definition of gift found in s. 112.312(12), F.S. The \$50 limit allows, for example, a school board member or their relative, to accept a meal provided by someone doing business with the school district, as long as the cost of the meal does not exceed \$50.

McKay Scholarships

Current Law

The John M. McKay Scholarships for Students with Disabilities Program⁷⁵ (McKay Scholarship Program) provides eligible students with disabilities⁷⁶ the option to attend a public school other than the one to which they are assigned or a private school of their choice. A scholarship is provided if the student chooses to attend a private school.⁷⁷

A student may not receive a McKay scholarship while enrolled in a Department of Juvenile Justice commitment program; receiving a Florida tax credit scholarship; receiving an Opportunity Scholarship; participating in a home education program; participating in a private tutoring program; participating in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; enrolled in the Florida School for the Deaf and Blind; or do not have regular and direct contact with their private school teachers at the school's physical location.⁷⁸

⁷¹ Section 1001.42(12)(i), F.S.

⁷² School board members are “reporting individuals” for purposes of filing full or limited public disclosure of their financial interests. Section 112.3148(2)(e), F.S.

⁷³ Section 112.3148(8)(a), F.S.

⁷⁴ Relative is defined to include: 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. Section 112.312(21), F.S.

⁷⁵ The John M. McKay Scholarships for Students with Disabilities Program was established in 1999 to allow parents of students with disabilities to choose the best academic environment for their children. In 2009-10 school year, there were 20,926 students and 959 private schools participating in the McKay scholarship program. Florida Department of Education, Office of School Choice, McKay Scholarship Program (July 2010), available at, http://www.floridaschoolchoice.org/Information/McKay/files/Fast_Facts_McKay.pdf (last visited May 18, 2011).

⁷⁶ Students with disabilities include K-12 students who are documented as having an intellectual disability; a speech impairment; a language impairment; a hearing impairment, including deafness; a visual impairment, including blindness; a dual sensory impairment; an orthopedic impairment; an other health impairment; an emotional or behavioral disability; a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; a traumatic brain injury; a developmental delay; or autism spectrum disorder. Section 1002.39(1), F.S.

⁷⁷ Section 1002.39(1), F.S.

⁷⁸ Section 1002.39(3), F.S.

Once a student receives a McKay scholarship, 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.⁷⁹

Effect of Bill

The bill clarifies that when a student returns to public school that student's McKay scholarship ends; however, if a McKay scholarship student enters into a Department of Juvenile Justice detention center for no more than 21 days, the student is not considered to have returned to a public school. This allows students to maintain their McKay scholarship if they are placed in a detention center for no more than 21 days, but ends the scholarship as soon as they enroll in a public school or public school program.

Auditory-Oral

Current Law

All newborns are screened for the detection of hearing loss prior to discharge from the hospital.⁸⁰ If a newborn is diagnosed as having a permanent hearing impairment the child must be referred to the primary care physician for medical management, treatment, and follow-up services. Additionally, in accordance with federal law, any child from birth to 36 months of age who is diagnosed as having a hearing impairment that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides.⁸¹

Educational options for students with hearing impairments have significantly expanded in the last 30 years. Technologies such as visual or text communication devices and speech to print software have brought new ways for these students to communicate and access educational content.⁸² In addition, the number of children receiving cochlear implants has expanded. A cochlear implant is a small, complex electronic device that can help to provide a sense of sound to a person who is profoundly deaf or severely hard of hearing. Signals generated by a cochlear implant are sent by way of the auditory nerve to the brain, which recognizes the signals as sound. Cochlear implants, coupled with intensive postimplantation therapy, can help young children acquire speech, language, and social skills. As of December 2010, approximately 28,400 children in the United States had received an implant.⁸³

As required by state and federal law, school districts must provide for an appropriate program of special instruction, facilities, and services for students with disabilities.⁸⁴ The services provided by a school district 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; rehabilitation counseling; transition services; mental health services; guidance and career counseling; and specialized equipment.⁸⁵

⁷⁹ Section 1002.39(4)(a), F.S.

⁸⁰ Section 383.145(3)(a), F.S.

⁸¹ Section 383.145(3)(k), F.S.; 20 U.S.C. 1400.

⁸² *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 (Feb. 2011).

⁸³ Cochlear Implants, National Institute on Deafness and Other Communication Disorders, *available at*, <http://www.nidcd.nih.gov/health/hearing/coch.asp> (last visited May 18, 2011).

⁸⁴ Sections 1003.57(1)(a) and 1003.571, F.S.; 20 U.S.C. 1400.

⁸⁵ Section 1003.01(3)(b), F.S.

School districts must ensure that students suspected of having a disability are subject to general education intervention procedures. The school district must identify, locate, and evaluate students with disabilities who are in need of specially designed instruction and must also make appropriate exceptional student education available to eligible students.⁸⁶

For a student who is deaf or hard of hearing, an individual education plan (IEP) team must consider, with regard to developing the student's IEP, 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.⁸⁷ A student who is deaf or hard of hearing is a student with a hearing loss aided or unaided, that impacts the processing of linguistic information and which adversely affects performance in the educational environment.⁸⁸

Parents of public school students may also seek any public school choice options that are applicable to their students and are available to students in their school districts. These options may include controlled open enrollment, single-gender programs, lab schools, school district virtual instruction programs, charter schools, charter technical career centers, magnet schools, alternative schools, special programs, advanced placement, dual enrollment, International Baccalaureate, International General Certificate of Secondary Education, Advanced International Certificate of Education, early admissions, credit by examination or demonstration of competency, the New World School of the Arts, the Florida School for the Deaf and the Blind, the Florida Virtual School, the Opportunity Scholarship Program, and the McKay Scholarships for Students with Disabilities Program.⁸⁹

Additionally, beginning in the 2012-13 school year, a child with a disability who enrolls with an Early Learning Coalition is eligible for specialized instructional services, if the child is eligible for the VPK Program and has a current IEP. These specialized services include applied behavior analysis, speech-language pathology, occupational therapy, and physical therapy.⁹⁰

Effect of Bill

The bill defines an auditory-oral education program as a "program that develops and relies solely on listening skills and uses an implant or assistive hearing device for the purpose of relying on speech and spoken language skills as the method of communication." A child may be enrolled in an auditory-oral education program if the child has received an implant or assistive hearing device, is between the ages of 3 and 7,⁹¹ and is a Florida resident.

The services provided to a student enrolled in an auditory-oral education program must be determined by the child's individual educational plan team or individualized family support plan team. The child remains eligible for these services until the end of the school year in which he or she reaches the age of 7 years or after grade 2, whichever comes first.

The bill adds to the special education services available to a child with disabilities, services by a certified listening and spoken language specialist for children who are deaf or hard of hearing and have received a cochlear implant or assistive hearing device. The bill also adds these services to the list of specialized

⁸⁶ Rule 6A-6.0331, F.A.C.

⁸⁷ Rule 6A-6.0328(3)(g)(9), F.A.C.

⁸⁸ Rule 6A-6.03013, F.A.C.

⁸⁹ Section 1002.20(6)(a), F.S.

⁹⁰ Section 1002.66(1) and (2), F.S.

⁹¹ If the school district serves children with disabilities who are under the age of 3 years, a child may enroll in a program at age 2.

instructional services available to a child who is eligible for the prekindergarten program for children with disabilities. Beginning in the 2012-13 school year, a child who is deaf or hard of hearing and is eligible for the VPK program will be able to receive services provided by a Listening and Spoken Language specialist while attending a VPK program. This provides deaf or hard of hearing students with a cochlear implant or assistive hearing device the services needed to help them acquire speech, language, and social skills.

The bill also adds auditory-oral education programs to the list of public school choice options that a parent may choose if such program is provided in their school district.

Remediation

Current Law

Public high schools are currently required to evaluate the college readiness of each eleventh grade student who indicates an interest in postsecondary education⁹² and scores at Level 2 or Level 3 on the tenth grade Reading FCAT, or Level 2, Level 3, or Level 4 on the required mathematics assessments.^{93,94} High schools are required to use the College Placement Test⁹⁵ (CPT), or an equivalent assessment identified by the SBE. In the 2009-10 school year, 21,573 students took the Mathematics CPT; 20,272 students took the Reading CPT; and 19,276 students took the Writing CPT.⁹⁶

The CPT is given to students in the middle of the eleventh grade. This allows time for the student to complete as much secondary math and language arts coursework as possible before being assessed for college readiness and allows time for the student to be appropriately scheduled into postsecondary preparatory courses if needed. CPT scores are considered valid for two years. So if the test was administered earlier, the student would be required to retake the test before enrolling in college.⁹⁷

The high school uses the results from the assessment to advise students of any deficiencies. To the maximum extent possible, the high school must provide twelfth grade students access to appropriate remedial instruction prior to graduation.⁹⁸

For purposes of providing remedial instruction opportunities in high school, the DOE has designated three ½ credit high school courses in the Course Code Directory: Math for College Success; Writing for College

⁹² Guidance from the DOE indicates that each school district is responsible for establishing the process to be utilized by the district's high schools to determine student interest in postsecondary education. Florida Department of Education, Division of Florida Colleges and Division of Public Schools, *Memorandum: Implementation of Senate Bill 1908: Expanded Postsecondary Readiness Assessment for High School Students and Opportunities for Remediation Prior to High School Graduation*, at 9 (July 28, 2008), available at, <http://www.fldoe.org/schools/pdf/CCRI-epra.pdf> (last visited May 18, 2011).

⁹³ Required mathematics assessments currently include the end-of-course assessment in Algebra I, and will soon include end-of-course assessments in Geometry and Algebra II. Section 1008.22(3)(c)2.a.(I), F.S.

⁹⁴ Section 1008.30(3), F.S.

⁹⁵ The CPT is currently being phased out by both high schools and public postsecondary institutions and being replaced by the Postsecondary Education Readiness Test (PERT). The PERT is comprised of Common Core College and Career Readiness Standards, American Diploma Project Benchmarks, and the Basic Skills Exit Test. The PERT is aligned to the state's Postsecondary Readiness Competencies in reading, writing, and mathematics. Florida State Board of Education Workshop, Florida's System of Assessment and Accountability (Jan. 18, 2011), available at, http://www.fldoe.org/board/meetings/2011_01_18/workshop.pdf (last visited April 11, 2011); email, Florida Department of Education, Division of Florida Colleges (May 18, 2011).

⁹⁶ Florida Department of Education, Division of Florida colleges, College and Career Readiness Initiative: College Placement Testing Results for High School Students, at 2 (Aug. 2010), available at, <http://www.fldoe.org/cc/OSAS/Evaluations/pdf/fyi2010-04.pdf> (last visited May 18, 2011).

⁹⁷ Email, Florida Department of Education, Division of Florida Colleges (April 5, 2011).

⁹⁸ Section 1008.30(3), F.S.

Success; and Reading for College Success. Math for College Success prepares students to enter the college-level Intermediate Algebra course.⁹⁹ Writing for College Success and Reading for College Success prepare students to enter the college-level Freshman Composition Skills I course.¹⁰⁰ Students who demonstrate readiness by achieving the minimum test scores established by the SBE and enroll in a Florida College System (FCS) Institution within two years of achieving such scores do not have to enroll in remediation courses as a condition of acceptance to any FCS institution.¹⁰¹

Effect of Bill

The bill requires high schools to evaluate the college readiness of all students who score at a Level 2 or Level 3 on the tenth grade Reading FCAT or Level 2, 3, or 4 on required mathematics assessments¹⁰² before the student enters twelfth grade. A high school must now assess all students achieving the specified scores, not just those students expressing an interest in postsecondary education.

For the students identified with a deficiency, the high school is required to provide, and require students to complete, appropriate postsecondary preparatory instruction prior to graduation. The curriculum for this instruction must encompass Florida's Postsecondary Readiness Competencies. High schools are required to provide postsecondary preparatory instruction to all students identified with deficiencies, rather than only to those students that indicate an interest in postsecondary education.

The bill also prohibits an elective course from being substituted for the selected postsecondary reading, mathematics, or writing preparatory course, unless the elective course covers the same competencies included in the required postsecondary preparatory course.

Matrix of Services

Current Law

School districts provide a wide array of services to children with disabilities through the Exceptional Student Education (ESE) program. School districts are also required to provide any related services needed by a student with disabilities in order to benefit from a public school education.¹⁰³ ESE programs and services are funded from state and general revenue as well as state trust funds, federal education funding, and local tax revenue through the Florida Education Finance Program. Because the needs of children with disabilities vary widely, requiring differing types, intensity, and frequency of services, the Legislature began to finance the ESE program using a matrix of services that calculates school district funding based on the intensity of services provided to ESE students in 1997.¹⁰⁴ A matrix of services is completed for students at the time of the student's initial placement in an ESE program and at least once every 3 years thereafter.¹⁰⁵

⁹⁹ Florida Department of Education, Division of Florida Colleges and Division of Public Schools, *Memorandum: Implementation of Senate Bill 1908: Expanded Postsecondary Readiness Assessment for High School Students and Opportunities for Remediation Prior to High School Graduation*, at 9 (July 28, 2008), available at <http://www.fldoe.org/schools/pdf/CCRI-epra.pdf> (last visited May 18, 2011).

¹⁰⁰ Florida Department of Education, Division of Florida Colleges and Division of Public Schools, *Memorandum: High School Students Completing Math/Reading/Writing for College Success Courses And College Placement Determinations*, at 2-3 and 14 (March 29, 2010), available at <http://www.fldoe.org/schools/pdf/hsscsmrwscscpd.pdf> (last visited May 18, 2011).

¹⁰¹ Section 1008.30(3), F.S.

¹⁰² Required mathematics assessments currently include the end-of-course assessment in Algebra I, and will soon include end-of-course assessments in Geometry and Algebra II. Section 1008.22(3)(c)2.a.(I), F.S.

¹⁰³ Section 1003.57(1), F.S.; see also 20 U.S.C. s. 1400.

¹⁰⁴ Section 41, ch. 1997-301, L.O.F.; see also Office of Program Policy Analysis and Government Accountability, *Steps Taken to Implement the Exceptional Student Education Funding Matrix, But More Monitoring Needed*, Report No. 08-24 (April 2008), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0824rpt.pdf> (last visited May 18, 2011).

¹⁰⁵ Section 1011.62(1)(e), F.S.

Effect of Bill

The bill requires the DOE to review and revise the descriptions of services and supports included in the matrix of services for exceptional students. The revisions must be implemented by the 2012-13 school year. This change will ensure the matrix of services provides exceptional students the most appropriate and up-to-date services and supports.

Supplemental Educational Services

Current Law

Supplemental educational services (SES) are research-based tutoring, after-school, summer school, and other supplemental academic enrichment services designed to increase student achievement and proficiency as measured by statewide assessments and academic achievement standards.¹⁰⁶ Only students from low-income families are eligible for SES.¹⁰⁷ A school district must offer SES to each eligible student who attends a school that has been identified for improvement for a second consecutive year and must continue to provide SES until the school meets its annual measurable objectives, and thus shows annual increases in student achievement.¹⁰⁸

School districts must notify parents of eligible students of the availability of SES and assist parents in choosing a provider from a state-approved list of providers. Each district and SES provider must enter into an agreement that includes, among other things, specific student goals, a timetable for improving each student's achievement, and procedures for informing a student's parents and teachers of the student's progress.¹⁰⁹

State educational agencies must, among other things, promote maximum participation by SES providers to increase parental choice, approve both public and private SES providers, maintain a statewide list of approved SES providers, and monitor SES provider performance.¹¹⁰

No Child Left Behind sets forth various criteria for approving SES providers. A state must consider whether:

- The provider's instructional methods and content are aligned with state academic content and student academic achievement standards, and are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children;
- The provider has been removed from any state's approved provider list;
- Parent recommendations or results from parent surveys, if available, attest to the success of the provider's instructional program in increasing student achievement; and
- Evaluation results, if any, demonstrate that the provider's instructional program has improved student achievement.¹¹¹

In monitoring SES provider performance, a state must examine, at a minimum, evidence that the provider's instructional program: is consistent with the instruction provided and content used by the district and the state; addresses students' individual needs; has contributed to increasing students' academic proficiency; and is aligned with state academic content and student achievement standards.¹¹²

¹⁰⁶ 20 U.S.C. s. 6316(e)(12); 34 C.F.R. s. 200.45(a).

¹⁰⁷ 20 U.S.C. s. 6316(e)(12)(A); 34 C.F.R. s. 200.45(b)(1).

¹⁰⁸ 20 U.S.C. s. 6316(b)(5) and (e)(1); 34 C.F.R. s. 200.45(a) – (c).

¹⁰⁹ 20 U.S.C. s. 6316(e)(2) – (3).

¹¹⁰ 20 U.S.C. s. 6316(e)(4).

¹¹¹ 34 C.F.R. s. 200.47(b).

¹¹² 34 C.F.R. s. 200.47 (c).

Effect of Bill

The bill authorizes school districts to select premethods and postmethods for determining student learning gains for SES providers; however, the districts must make their selections no later than September 1, 2011. The premethods and postmethods may include standardized assessments, diagnostic assessments, criterion-referenced and skills-based assessments, or other applicable methods appropriate for each grade level.

Restraint and Seclusion

Current Law

Schools are required to prepare an incident report within 24 hours after a student with disabilities¹¹³ is restrained or secluded and must provide incident reports to DOE each month the school is in session. An incident report must include the name of the student restrained or secluded; the date and time of the event and the duration of the restraint or seclusion; the location at which the restraint or seclusion occurred; the type of restraint used; the name of the person using or assisting in the restraint or seclusion of the student; the name of any nonstudent who was present to witness the restraint or seclusion; and a description of the incident.¹¹⁴ Schools are required to notify parents of the incident and provide a copy of the incident report to the parent.¹¹⁵

The DOE is required to maintain aggregate data of incidents of manual physical restraint and seclusion and disaggregate the data for analysis by count, school, student exceptionality, and other variables and is required to be updated monthly.¹¹⁶

School districts must develop policies and procedures that govern incident-reporting procedures; data collection; and monitoring and reporting of data collected.¹¹⁷

School personnel are prohibited from using a mechanical or manual physical restraint that restricts a student's breathing. School personnel are also prohibited from closing, locking, or physically blocking a student in a room that is unlit and does not meet the requirements for a seclusion time-out room.¹¹⁸

Effect of Bill

The bill adds information that must be included in each incident report for a student that was restrained or secluded, including the age, grade, ethnicity, and disability of the student. The bill also clarifies that when describing the type of restraint used, the incident report must use terms established by the DOE.

The bill requires the DOE to establish standards for documenting, reporting, and monitoring the use of manual or physical¹¹⁹ restraint or mechanical restraint, and occurrences of seclusion. The standards must be provided to school districts by October 1, 2011.

¹¹³ For purposes of restraint and seclusion, students with disabilities is not defined, however, schools have been reporting incidents of restraint and seclusion for students with individual education plans and 504 accommodation plans.

¹¹⁴ Section 1003.573(1)(a) and (b), F.S.

¹¹⁵ Section 1003.573(1)(c) and (d), F.S.

¹¹⁶ Section 1003.573(2)(c), F.S.

¹¹⁷ Section 1003.573(3)(a), F.S.

¹¹⁸ Section 1003.573(4) and (5), F.S.

¹¹⁹ The bill changes all references to "manual physical restraint" to "manual or physical restraint."

The bill also adds to the policies and procedures a school district must develop to include training programs relating to manual or physical restraint and seclusion; the district's plan for selecting personnel to be trained; and the district's plan for reducing the use of restraint and seclusion, particularly in settings in which incidents of restraint and seclusion occur 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. These activities may include additional training in positive behavioral support and crisis management; parental involvement; data review; updates of students' functional behavioral analysis and positive behavior intervention plans; additional student evaluations; debriefing with staff; use of schoolwide positive behavior support; and changes to the school environment.

Accelerated 18-Credit High School Graduation Options

Current Law

High school students currently have the option to choose two accelerated graduation options, a College Preparatory Program and a Career Preparatory Program. These accelerated options allow a student to graduate from high school within three years.¹²⁰

A student and his or her parent must choose an accelerated graduation option before the end of the student's ninth grade year.¹²¹ In addition, the parent is required to meet with designated school personnel for an explanation of the requirements, advantages, and disadvantages of an accelerated graduation option and provide written consent for the student to choose such option.¹²²

A student who selects an accelerated graduation option has the right to change to the traditional 24-credit graduation option at any time.¹²³ Additionally, a student who selects an accelerated graduation option is automatically moved to the traditional 24-credit graduation option if the student: fails to earn 5 credits by the end of ninth grade; fails to earn 11 credits by the end of tenth grade; does not earn a score of 3 or higher on the grade 10 FCAT Writing; or does not complete the required credits and have the required grade point average by the end of the eleventh grade.¹²⁴

Effect of Bill

The bill eliminates the requirement that a student choose an accelerated 18-credit graduation option no later than ninth grade. Instead, a student may choose an accelerated graduation option at any time while enrolled in high school. Additionally, a parent may provide consent for an accelerated graduation option without meeting with school personnel if the school personnel have documented the failed efforts to meet with the parent. The bill also authorizes a student to choose an accelerated graduation option without parental consent if the student is 18 years or older. These changes expand access to the accelerated graduation option.

¹²⁰ Section 1003.429(1)(b) and (c), F.S.

¹²¹ Section 1003.429(4), F.S. A district school board may extend the deadline for selecting an accelerated graduation option through the end of the first semester in tenth grade for a student who transfers from a private or out-of-state school or who was prevented from choosing a graduation option due to illness during ninth grade. Section 1003.429(4), F.S.

¹²² Section 1003.429(2), F.S.

¹²³ Section 1003.429(7)(c) and (8)(a), F.S.

¹²⁴ Section 1003.429(8)(b)-(d), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires VPK providers who fail to meet the established student readiness rates to begin corrective action sooner and eliminates the restriction on setting the readiness rate. These two changes directly impact providers and may increase the number of providers that will need corrective action.

D. FISCAL COMMENTS:

Remediation

Although the bill increases the number of students taking the College Placement Test the DOE estimates the assessment budget appropriation will be sufficient to cover the increase. The FY 2010-11 appropriation would have been adequate to handle the expected increased in students tested.¹²⁵

The DOE estimates the total cost associated with college preparatory courses offered at public postsecondary institutions was close to \$55.2 million for FY 2009-10.¹²⁶ While requiring remediation before graduating from high school will not eliminate the need for college preparatory courses, it will reduce the number of high school graduates who will need college preparatory courses. There is an anticipated cost savings from requiring students identified with a deficiency in mathematics, reading, or writing to take postsecondary preparatory instruction prior to graduation.

Digital Curriculum

The bill requires the DOE to develop a model digital curriculum to serve as a guide for district school boards. The DOE states many of the components of this model curriculum already exist in various career technical programs. The DOE anticipates the cost of this requirement to be limited to staff time, and does not consider the development of the model curriculum to have a fiscal impact.¹²⁷

¹²⁵ Email, Florida Department of Education, Division of Florida Colleges (April 5, 2011).

¹²⁶ *Id.*

¹²⁷ Email, Florida Department of Education (April 7, 2011).

Algebra I End-of-Course Assessment

The DOE estimates that eliminating the requirement that approximately 39,600 students take the Algebra I EOC assessment in May will not have a positive or negative fiscal impact. The DOE has already entered into a contract for the provision of the EOC assessments, so the cost has been set.¹²⁸

¹²⁸ *Id.*