Senator Gardiner moved the following:

**Senate Amendment (with title amendment)**

Between lines 430 and 431

insert:

Section 8. Section 1008.212, Florida Statutes, is created to read:

1008.212 Students with disabilities; extraordinary exemption.—

(1) As used in this section, the term:

(a) “Circumstance” means a situation in which accommodations allowable for use on the statewide standardized assessment, a statewide standardized end-of-course assessment,
or a student during the current year’s assessment administration due to technological limitations in the testing administration program which lead to results that reflect the student’s impaired sensory, manual, or speaking skills rather than the student’s achievement of the benchmarks assessed by the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment.

(b) “Condition” means an impairment, whether recently acquired or longstanding, which affects a student’s ability to communicate in modes deemed acceptable for statewide assessments, even if appropriate accommodations are provided, and creates a situation in which the results of administration of the statewide standardized assessment, an end-of-course assessment, or an alternate assessment would reflect the student’s impaired sensory, manual, or speaking skills rather than the student’s achievement of the benchmarks assessed by the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment.

(2) A student with a disability for whom the individual education plan (IEP) team determines is prevented by a circumstance or condition from physically demonstrating the mastery of skills that have been acquired and are measured by the statewide standardized assessment, a statewide standardized end-of-course assessment, or an alternate assessment pursuant to s. 1008.22(3)(c)13. shall be granted an extraordinary exemption from the administration of the assessment. A learning, emotional, behavioral, or significant cognitive disability, or the receipt of services through the homebound or hospitalized
program in accordance with rule 6A-6.03020, Florida Administrative Code, is not, in and of itself, an adequate criterion for the granting of an extraordinary exemption.

(3) The IEP team, which must include the parent, may submit to the district school superintendent a written request for an extraordinary exemption at any time during the school year, but not later than 60 days before the current year’s assessment administration for which the request is made. A request must include all of the following:

(a) A written description of the student’s disabilities, including a specific description of the student’s impaired sensory, manual, or speaking skills.

(b) Written documentation of the most recent evaluation data.

(c) Written documentation, if available, of the most recent administration of the statewide standardized assessment, an end-of-course assessment, or an alternate assessment.

(d) A written description of the condition’s effect on the student’s participation in the statewide standardized assessment, an end-of-course assessment, or an alternate assessment.

(e) Written evidence that the student has had the opportunity to learn the skills being tested.

(f) Written evidence that the student has been provided appropriate instructional accommodations.

(g) Written evidence as to whether the student has had the opportunity to be assessed using the instructional accommodations on the student’s IEP which are allowable in the administration of the statewide standardized assessment, an end-
of-course assessment, or an alternate assessment in prior
assessments.

(h) Written evidence of the circumstance or condition as
defined in subsection (1).

(4) Based upon the documentation provided by the IEP team,
the school district superintendent shall recommend to the
Commissioner of Education whether an extraordinary exemption for
a given assessment administration window should be granted or
denied. A copy of the school district’s procedural safeguards as
required in rule 6A-6.03311, Florida Administrative Code, shall
be provided to the parent. If the parent disagrees with the IEP
team’s recommendation, the dispute resolution methods described
in the procedural safeguards shall be made available to the
parent. Upon receipt of the request, documentation, and
recommendation, the commissioner shall verify the information
documented, make a determination, and notify the parent and the
district school superintendent in writing within 30 days after
the receipt of the request whether the exemption has been
granted or denied. If the commissioner grants the exemption, the
student’s progress must be assessed in accordance with the goals
established in the student’s individual education plan. If the
commissioner denies the exemption, the notification must state
the reasons for the denial.

(5) The parent of a student with a disability who disagrees
with the commissioner’s denial of an extraordinary exemption may
request an expedited hearing. If the parent requests the
expedited hearing, the Department of Education shall inform the
parent of any free or low-cost legal services and other relevant
services available in the area. The Department of Education
shall arrange a hearing with the Division of Administrative
Hearings, which must be commenced within 20 school days after
the parent’s request for the expedited hearing. The
administrative law judge at the division shall make a
determination within 10 school days after the expedited hearing.
The standard of review for the expedited hearing is de novo, and
the department has the burden of proof.

(6) Beginning June 30, 2014, and each June 30 thereafter,
the commissioner shall annually submit to the Governor, the
President of the Senate, and the Speaker of the House of
Representatives the number of extraordinary exemptions requested
under this section, the number of extraordinary exemptions
granted under this section, and the criteria by which all
decisions were made. The commissioner shall regularly inform
district testing and special education administrators of the
procedures established in this section.

(7) The State Board of Education shall adopt rules to
administer this section.

============ T I T L E A M E N D M E N T =============
And the title is amended as follows:
Delete line 38
and insert:
conforming a cross-reference; creating s. 1008.212,
F.S.; providing definitions; providing that a student
with a disability be granted an extraordinary
exemption from the administration of certain
assessments under certain circumstances; providing
that certain disabilities or the receipt of services
through a homebound or hospitalized program is not an adequate criterion for the granting of an extraordinary exemption; authorizing a written request for an extraordinary exemption; providing requirements for the request; providing a procedure for granting or denying an extraordinary exemption; providing a procedure for appealing a denial of an extraordinary exemption; requiring the Commissioner of Education to annually submit by a specified date to the Governor and the Legislature a report and regularly inform district testing and special education administrators of the procedures regarding extraordinary exemptions; requiring the State Board of Education to adopt rules; creating s. 1008.3415,