

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 732

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Pre-K-12 Education); Education Committee; and Senator Baxley

SUBJECT: K-12 Education

DATE: March 5, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<u>Recommend: Fav/CS</u>
3.	<u>Sikes</u>	<u>Hansen</u>	<u>AP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 732 modifies requirements related to home education programs, school attendance, competency-based education, the Florida Partnership for Minority and Underrepresented Student Achievement, and the Gardiner Scholarship Program, and establishes reading scholarship accounts. Specifically, the bill:

- Modifies the home education program to:
  - Limit the information a parent must provide to establish and maintain a home education program unless the home education program student chooses to participate in a district program or service.
  - Authorize school districts to provide home education program students access to career and technical education courses and programs.
  - Require school districts to make industry certifications and national and statewide assessments available to home education program students.
- Requires a home education program student to register his or her intent to participate in an extracurricular activity prior to participating in the activity.
- Clarifies the academic requirements that home education program students must meet in order to participate in dual enrollment programs by:
  - Exempting a home education program student from maintaining a specific high school grade point average if he or she has meets a minimum score on a common placement test.
  - Requiring a home education program student to maintain a minimum GPA established by the postsecondary institution for continued enrollment in a dual enrollment course.

- Clarifies school attendance procedures to:
  - Prohibit the district school superintendent from requiring evidence of a child's age if the child attends a school or program specified in law.
  - Authorize the district school superintendent to refer instances of nonenrollment to a child study team for intervention.
  - Require school districts to implement interventions for nonenrollment and nonattendance prior to criminal prosecution.
- Renames the Competency-Based Education Pilot Program as the Mastery-Based Education Pilot Program (mastery-based pilot) and:
  - Expands participation in the mastery-based pilot to all school districts.
  - Authorizes district school boards participating in the mastery-based pilot to determine award of credit based on mastery of content and skills and to use an alternative interpretation of letter grades to measure student success in grades 6 through 12.
- Requires the statewide articulation agreement to ensure fair and equitable access for high school graduates with mastery-based, nontraditional diplomas and transcripts.
- Modifies the Florida Partnership for Minority and Underrepresented Student Achievement to:
  - Update the name of the preliminary ACT to the PreACT.
  - Add the ACT and the PreACT to specified assessments included in databases containing assessment data, to which the Department of Education must provide access for evaluation purposes.
- Modifies the Gardiner Scholarship Program (program) to:
  - Revise, for the purposes of the program, the definition of a rare disease to be as defined by the Orphan Drug Act of 1983, Pub. L. No.97-414.
  - Expand authorized uses of program funds to include tuition or fees associated with full-time or part-time enrollment in home education program; tuition or fees for enrollment in recognized research-based training program; and fees for art, music, and sports lessons.
  - Eliminates private tutoring programs from authorized uses of program funds but expands the qualifying credentials for who may provide part-time tutoring services to include individuals who hold a valid teaching certificate from another state and individuals who have a bachelor's or higher degree in the subject area in which instruction is given.
  - Clarify accountability provisions regarding private schools that participate in the program.
- Establishes reading scholarship accounts for public school students in grades 3 through 5 who scored below a Level 3 on the grade 3 or grade 4 statewide, standardized ELA assessment in the prior school year.

For the 2018-2019 fiscal year, the bill appropriates the sum of \$9.7 million in recurring funds from the General Revenue Fund to the Department of Education to fund reading scholarship accounts and \$300,000 in recurring funds from the General Revenue Fund toward related administrative fees.

The bill takes effect July 1, 2018.

## II. Present Situation:

The present situation for the relevant portions of the bill is discussed in the Effect of Proposed Changes section of this bill analysis.

### III. Effect of Proposed Changes:

#### Gardiner Scholarship Program (Section 1)

##### *Present Situation*

The Gardiner Scholarship Program (GSP) provides a parent of an eligible student with a disability the option to better meet the educational needs of his or her child.<sup>1</sup> Funds are distributed to qualified<sup>2</sup> scholarship funding organizations (SFOs) to establish accounts for eligible students.<sup>3</sup> Parents can use funds from the student's account to choose from a variety of approved items or services for their students including, but not limited to: specialized services, curriculum, instructional materials, tuition, and contracted services.<sup>4</sup>

##### *Eligibility*

The parent of a student, who is a Florida resident, may request and receive an account if the student:<sup>5</sup>

- Is 3 or 4 years old, or is eligible to enroll in kindergarten through grade 12 in a Florida public school;
- Has one of the specified disabilities, one of which is a rare disease which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization of Rare Disorders;
- Has an individualized education plan (IEP) written in accordance with the SB or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.

##### *Allowable Expenditures*

GSP funds must be used to meet the individual education needs of the student.<sup>6</sup> Program funds may be spent for authorized purposes specified in law, which include:<sup>7</sup>

- Enrollment in, or tuition and fees for enrollment in, a home education program, an eligible private school or postsecondary institution or a program offered by the institution, a private tutoring program, or virtual education programs or courses.
- Tuition and fees for part-time tutoring services provided by an individual who has a valid Florida educator's certificate, an adjunct teaching certificate, or has demonstrated mastery of subject area knowledge.
- Fees for specialized summer or after-school education programs.
- Fees for an annual evaluation used by home education students.

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<sup>1</sup> Section 1002.385(1), F.S.

<sup>2</sup> *Id.* at (2)(e).

<sup>3</sup> Section 1002.385, F.S.

<sup>4</sup> Section 1002.385(5), F.S.

<sup>5</sup> Section 1002.385(3), F.S.

<sup>6</sup> *Id.* at (11).

<sup>7</sup> *Id.* at (5).

*Eligible Service Providers*

Entities eligible to provide specialized services or educational programs include:<sup>8</sup>

- A provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the Florida Department of Education (DOE) to offer specialized instructional services for children with disabilities.
- A postsecondary educational institution including a Florida College System institution; a state university; a school district technical center; a school district adult general education center; an independent college or university eligible to participate in the William L. Boyd, IV Florida Resident Access Grant Program; or an accredited, independent postsecondary educational institution which is licensed to operate in this state.
- A private school that is located in this state, offers education to students in any grade from kindergarten to grade 12, meets all the requirements of a private school operating in Florida, and meets all the requirements of a private school participating in the John M. McKay Scholarship Program or the Florida Tax Credit Scholarship Program.

An eligible private school may be sectarian or nonsectarian and must:<sup>9</sup>

- Comply with all requirements for private schools participating in state school choice scholarship programs.<sup>10</sup>
- Provide to the organization, upon request, all documentation required for the student's participation, including the private school's and student's fee schedules.
- Be academically accountable to the parent for meeting the educational needs of the student.
- Employ or contract with teachers who have regular and direct contact with each student receiving a scholarship under this section at the school's physical location.
- Provide a report from an independent certified public accountant (CPA) if the private school receives more than \$250,000 in funds from GSP in a state fiscal year.

If a private school is unable to meet the requirements for participation or has consecutive years of material exceptions listed in the report from the specified CPA, the Commissioner of Education (commissioner) may determine that the private school is ineligible to participate in the program.<sup>11</sup>

*Effect of Proposed Changes*

Section 1 revises the definition of a rare disease as a disorder that affects patient populations of 200,000 individuals or fewer in the United States, and conforms the definition of a rare disease to the definition provided by the Orphan Drug Act of 1983, Pub. L. No. 97-414.

The section expands authorized uses of program funds to include:

- Tuition and fees associated with full-time or part-time enrollment in home education program.
- Tuition or fees for enrollment in a nationally or internationally recognized research-based training program for a child with a neurological disorder or brain damage.

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<sup>8</sup> Section 1002.285(2), F.S.

<sup>9</sup> Section 1002.385(8), F.S.

<sup>10</sup> Section 1002.421, F.S.

<sup>11</sup> Section 1002.385(8), F.S.

- Fees for art, music, and sports lessons.

This section eliminates private tutoring programs from authorized uses of program funds, but expands the qualifying credentials for who may provide part-time tutoring services to include individuals who hold a valid teaching certificate from another state and individuals who have a bachelor's or a graduate degree in the subject area in which instruction is given.

Finally, this section changes the criteria for the commissioner to determine ineligibility for a private school to participate in the GSP. This section specifies that a private school may be deemed ineligible if the private school fails or refuses to meet requirements for participation.

### **Home Education Programs (Section 2)**

Florida is a long-time supporter of home education, and the number of families choosing this education option has shown steady growth since the Legislature established it as a school choice option in 1985. For the 2016-2017 school year, 60,547 families and 87,462 students participated in home education programs.

#### ***Present Situation***

A home education program is defined as the sequentially progressive instruction of a student directed by his or her parent in order to satisfy the attendance requirements established in law.<sup>12</sup> To establish a home education program, a parent must:

- Submit a written and signed notice of intent to establish a home education program to the district school superintendent in the county of residence.<sup>13</sup> The notice must include the names, addresses, and birthdates of all children to be enrolled as students in the home education program.<sup>14</sup>
- Maintain a portfolio of records and materials, the contents of which are specified in law and which must be preserved by the parent for two years and made available for inspection if requested.<sup>15</sup>
- Select and provide for an annual educational evaluation to document the student's educational progress.<sup>16</sup> The parent must file a copy of the evaluation annually with the district school superintendent's office, and the district school superintendent must review and accept the results.<sup>17</sup>

If a parent terminates a home education program, he or she must file a written notice of termination in the district school superintendent's office.<sup>18</sup>

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<sup>12</sup> Section 1002.01(1), F.S. The attendance requirements are established in ss 1002.41, 1003.01(13), and 1003.21(1), F.S.

<sup>13</sup> Section 1002.41(1)(a), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 1002.41(1)(b), F.S.

<sup>16</sup> *Id.* at (c).

<sup>17</sup> *Id.* at (2).

<sup>18</sup> *Id.* at (a).

Although not required, some school districts provide opportunities for home education program students to enroll in specified courses in district schools.<sup>19</sup> The public school district may report such home education program students for full-time equivalent funding through the Florida Education Finance Program.<sup>20</sup>

### *Effect of Proposed Changes*

Section 2 amends s. 1002.41, F.S., to specify that a home education program is not a school district program and is registered with the district school superintendent only for the purpose of complying with attendance requirements specified under Florida law.

This section clarifies the definition of a “parent,” consistent with Florida law.<sup>21</sup> A parent is defined as either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent. The bill requires the:

- Notice submitted by the parent to include the full legal names of all children who will be enrolled as students in the home education program.
- District school superintendent to accept the notice and immediately register the home education program.
- Parent to file a written notice of termination upon completion of a home education program with the district school superintendent, and requires the notice to accompany the required annual educational evaluation.

Additionally, this section specifies that a school district may not require any additional information or verification, assign a grade level to the home education program student, or include a social security number or any other personal information in any database unless the student chooses to participate in a school district program or service.

This section clarifies that the parent determines the content of a portfolio and provides that a parent must make the portfolio available for inspection if requested by the district school superintendent or agent. The bill also removes the requirement for a district school superintendent to review the annual educational evaluation. Accordingly, the bill provides that a district school superintendent must accept the results of an annual education evaluation without a review of such evaluation.

This section provides to home education program students access to courses, programs, industry certifications and assessments. Specifically, the school district:

- May provide home education program students access to career and technical education courses and may report participating students as full-time equivalent students for funding through the Florida Education Finance Program.
- Must make available to home education program students industry certifications, national assessments, and statewide, standardized assessments offered by the school district. The school district must notify home education program students of available certifications,

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<sup>19</sup> Florida Department of Education, Office of School Choice, *Frequently Asked Questions*, available at <http://www.fldoe.org/core/fileparse.php/7709/urlt/Home-Ed-FAQs-2017.pdf>, at 3.

<sup>20</sup> Florida Department of Education, *FTE General Instructions, 2017-18*, available at <http://www.fldoe.org/core/fileparse.php/7508/urlt/1718FTE-GeneralInstructions.pdf>, at 29.

<sup>21</sup> Section 1000.21(5), F.S.

assessments, administrations, and deadlines for the student to notify the district of the student's intent to participate.

Finally, this section specifies that the school district may not further regulate, exercise control over, or require documentation from parents of home education program students beyond the requirements of the law, unless the regulation, control, or documentation is necessary for participation in a school district program.

The modifications to the home education program are likely to expedite the establishment of home education programs and may provide the student access to additional courses and programs.

### **Reading Instruction and Scholarship (Section 3)**

#### ***Present Situation***

Any student in kindergarten through grade 3 who exhibits a substantial deficiency in reading based upon screening, diagnostic, progress monitoring, or assessment data; statewide assessments; or teacher observations must be provided intensive, explicit, systematic, and multisensory reading interventions immediately following the identification of the reading deficiency.<sup>22</sup> A school may not wait for a student to receive a failing grade at the end of a grading period to identify the student as having a substantial reading deficiency and initiate intensive reading interventions.<sup>23</sup> The student's reading proficiency must be monitored and the intensive interventions must continue until the student demonstrates grade level proficiency in a manner determined by the district, which may include achieving a Level 3 on the statewide, standardized English Language Arts (ELA) assessment.<sup>24</sup>

To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3.<sup>25</sup> The parent of any student who exhibits a substantial deficiency in reading must be notified in writing of the student's deficiency in reading, current services that are provided to the child, and a description of the proposed intensive interventions and supports that will be provided to the child that are designed to remediate the reading deficiency.<sup>26</sup>

Each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment for the prior year must use supplemental academic instruction funds, along with the funds provided in the district's research-based reading instruction

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<sup>22</sup> Section 1008.25(5)(a), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* "Achievement level," "student achievement," or "achievement" describes the level of content mastery a student has acquired in a particular subject as measured by a statewide, standardized assessment administered pursuant to s. 1008.22(3)(a) and (b). There are five achievement levels. Level 1 is the lowest achievement level, level 5 is the highest achievement level, and level 3 indicates satisfactory performance. A student passes an assessment if the student achieves a level 3, level 4, or level 5. Section 1008.34(1)(a), F.S.

<sup>25</sup> Section 1008.25(5)(b), F.S.

<sup>26</sup> *Id.* at (5)(c), F.S.

allocation<sup>27</sup> and other available funds, to provide an additional hour of instruction beyond the normal school day for intensive reading instruction.<sup>28,29</sup> The additional hour of instruction must be provided by teachers or reading specialists who have demonstrated effectiveness in teaching reading or by a K-5 mentoring reading program that is supervised by a teacher who is effective at teaching reading.<sup>30</sup>

After this requirement has been met, supplemental instruction strategies may include, but are not limited to: use of a modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, a reduction in class size, extended school year, intensive skills development in summer school, and other methods of improving student achievement.<sup>31</sup> Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.<sup>32</sup>

### *Effect of Proposed Changes*

Section 3 establishes reading scholarship accounts to provide educational options for students, and specifies that each student in grades 3 through 5 who is enrolled in a Florida public school is eligible for the reading scholarship if the student scored below a Level 3 on the grade 3 or grade 4 statewide, standardized ELA assessment in the prior school year. The eligibility requirements for students in grade 3 may apply to students who scored Level 1 on the grade 3 ELA assessment in the prior school year and were retained in grade 3.

This section authorizes an eligible nonprofit scholarship-funding organization (SFO) participating in the Florida Tax Credit Scholarship to establish reading scholarship accounts for eligible students. The scholarship is \$500 per eligible student for the 2018-2019 school year, and is available on a first-come, first-served basis contingent on available funds. Thereafter, the maximum scholarship amount will be provided in the General Appropriations Act.

The parent of a student receiving a reading scholarship must submit eligible expenses to the SFO for reimbursement of qualifying expenditures, which may include:

- Instructional materials;

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<sup>27</sup> The research-based reading instruction allocation is created to provide comprehensive reading instruction to students in kindergarten through grade 12. Section 1011.62(9)(a), F.S.

<sup>28</sup> Section 1011.62(1)(f)2., F.S. The intensive reading instruction delivered in the additional hour and for other students must include: research-based reading instruction that has been proven to accelerate progress of students exhibiting a reading deficiency; differentiated instruction based on screening, diagnostic, progress monitoring, or student assessment data to meet students' specific reading needs; explicit and systematic reading strategies to develop phonemic awareness, phonics, fluency, vocabulary, and comprehension, with more extensive opportunities for guided practice, error correction, and feedback; and the integration of social studies, science, and mathematics-text reading, text discussion, and writing in response to reading. Section 1011.62(9)(a), F.S. Funds for comprehensive, research-based reading instruction must be allocated annually to each school district in the amount provided in the General Appropriations Act (GAA). Each eligible school district must receive the same minimum amount as specified in the GAA, and any remaining funds must be distributed to eligible school districts based on each school district's proportionate share of K-12 base funding. Section 1011.62(9)(b), F.S.

<sup>29</sup> Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Section 1011.62(1)(f), F.S.

<sup>30</sup> Section 1011.62(1)(f)2., F.S.

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

- Curriculum;
- Tuition and fees for part-time tutoring services provided by a person who holds an authorized credential;
- Fees for summer education programs and after-school education programs.

This section also specifies responsibilities for parents of eligible students, school districts, Department of Education, and eligible SFOs.

Finally, this section provides that no state liability arises from the award or use of the reading scholarship account.

### **Participation in Extracurricular Activities (Section 10)**

#### ***Present Situation***

An extracurricular activity is any school-authorized or education-related activity occurring during or outside the regular instructional school day.<sup>33</sup>

An individual home education program student is eligible to participate<sup>34</sup> in extracurricular activities at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend under controlled open enrollment.<sup>35</sup> The student may also develop an agreement to participate in interscholastic extracurricular activities at a private school.

A home education program student who intends to participate in a public school's extracurricular activity must register with the school his or her intent to participate in the activity before the beginning date of the season for the activity in which he or she wishes to participate.<sup>36</sup>

#### ***Effect of Proposed Changes***

Section 10 amends s. 1006.15, F.S., to specify that a student must register his or her intent to participate in an extracurricular activity prior to participating in the activity rather than before the beginning date of the season for the activity. Accordingly, the bill provides flexibility for a home education program student to begin participation in such activity.

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<sup>33</sup> Section 1006.15(2), F.S.

<sup>34</sup> "Eligible to participate" includes, but is not limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests; but does not require that a student be placed on any specific team for interscholastic or intrascholastic extracurricular activities.

<sup>35</sup> Section 1006.15(3)(c), F.S. Beginning with the 2017-18 school year, each district school board and charter school must adopt a controlled open enrollment plan that allows a parent from any school district in the state to enroll his or her child in and transport his or her child to any public school that has not reached capacity. Section 1002.31, F.S.

<sup>36</sup> Section 1006.15(3)(c)5., F.S.

## **Dual Enrollment (Section 12)**

### ***Present Situation***

The dual enrollment program is the enrollment of an eligible secondary student or home education program student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree.<sup>37</sup>

Each postsecondary institution eligible to participate in the dual enrollment courses<sup>38</sup> must enter into a home education articulation agreement with each home education program student seeking to enroll a dual enrollment course and the student's parent. The home education articulation agreement includes, but is not limited to:<sup>39</sup>

- A delineation of courses and programs available to dually enrolled home education program students. Courses and programs may be added, revised, or deleted at any time by the postsecondary institution.
- The initial and continued eligibility requirements for home education program student participation, not to exceed those required of other dually enrolled students. Florida College System (FCS) institutions may not establish additional requirements in the articulation agreement that arbitrarily prohibit students who have demonstrated the ability to master advanced courses from participating in dual enrollment courses.

### ***Effect of Proposed Changes***

Section 12 amends s. 1007.271, F.S., to modify specified provisions in the home education articulation agreement, which may provide home education program students with greater access to dual enrollment courses. Specifically, this section:

- Specifies that any limitations to courses and programs available to home education program students may not exceed the limitations for other dual enrollment students.
- Exempts a home education program student who meets a minimum score on a common placement test from maintaining a high school grade point average (GPA) in order to participate in dual enrollment.
- Clarifies that a home education program student must meet postsecondary requirements for continued eligibility to participate in dual enrollment, which may include maintenance of a minimum postsecondary GPA.
- Prohibits a FCS institution from limiting the number of dual enrollment courses in which a student may enroll based solely upon enrollment by the student at an independent postsecondary institution.

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<sup>37</sup> Section 1007.271(1), F.S.

<sup>38</sup> Eligible institutions include public postsecondary institutions and independent colleges or universities, which are not for profit, accredited by a regional or national accrediting agency recognized by the United States Department of Education, and confer postsecondary degrees. Section 1011.62(1)(i), F.S.

<sup>39</sup> Section 1007.271(13)(b), F.S.

## **School Attendance**

### ***Required School Attendance (Section 4)***

#### *Present Situation*

Except as otherwise provided, children who are age 6 by February 1 of any school year but are not age 16, are required to attend school regularly during the entire school term.<sup>40</sup> Additionally, children who are age 5 by September 1 of the school year are eligible for public kindergarten.<sup>41</sup> A district school superintendent may require evidence of the age of any child whom he or she believes to be within the limits of compulsory attendance as provided for by law.<sup>42</sup>

#### *Effect of Proposed Changes*

Section 4 amends s. 1003.21, F.S., to specify that the district school superintendent may require evidence of the age of any child being enrolled in public school whom he or she believes to be within the limits of compulsory attendance. However, the district school superintendent may not require evidence of age from any child who satisfies attendance requirements by attending a:<sup>43</sup>

- Parochial, religious, or denominational school;
- Private school supported in whole or in part by tuition charges or by endowments or gifts;
- Home education program that meets the requirements specified in law; or
- Private tutoring program that meets the requirements specified in law.

### ***Enforcement of School Attendance (Section 5)***

#### *Present Situation*

When there is no valid reason for a child not to be enrolled in school, a designated school representative must give written notice to the parent that requires enrollment or attendance within three days after the date of notice.<sup>44</sup> If the parent ignores the notice and requirement, the designated school representative must report the case to the district school superintendent and may refer the case to the case staffing committee.<sup>45</sup> The district school superintendent must then take steps necessary to bring criminal prosecution against the parent.<sup>46</sup>

#### *Effect of Proposed Changes*

Section 5 amends s. 1003.26, F.S., to authorize an intervention prior to the district school superintendent taking steps to initiate criminal prosecution. If the parent ignores a notice and requirement for enrollment or attendance, the district school superintendent may refer the case to

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<sup>40</sup> Section 1003.21(1)(a)1, F.S.

<sup>41</sup> *Id.* at (a)2.

<sup>42</sup> *Id.* at (4).

<sup>43</sup> Section 1003.01(13)(b)-(e), F.S.

<sup>44</sup> Section 1003.26(1)(a), F.S.

<sup>45</sup> *Id.* at (2). The case staffing committee reviews the case of any family or child who the Department of Children and Families determines is in need of services or treatment. Section 984.12(1), F.S.

<sup>46</sup> Section 1003.26(2)(a), F.S.

a child study team<sup>47</sup> at the school the student would be assigned to attend according to district school board's attendance policies.

This section requires the child study team to be diligent in facilitating intervention services and to report the case to the district school superintendent only when all reasonable efforts to resolve the nonenrollment behavior are exhausted. If the parent continues to refuse to cooperate or enroll the child in school, the district school superintendent must take the steps necessary to bring criminal prosecution against the parent.

## **Court Procedures and Penalties Related to School Attendance (Section 6)**

### *Present Situation*

Each parent of a child within the compulsory attendance age is responsible for the child's school attendance as required by law.<sup>48</sup> While the absence of a student from school is evidence of a violation of compulsory attendance, criminal prosecution may not be brought against a parent prior to compliance with provisions related to enforcement of school attendance.<sup>49</sup>

When no valid reason for nonenrollment or nonattendance is found for a student who is required to attend a school, the district school superintendent must institute a criminal prosecution against the student's parent.<sup>50</sup>

### *Effect of Proposed Changes*

Section 6 amends s. 1003.27, F.S., to clarify that court procedures and penalties for nonenrollment or nonattendance may not be initiated against the student's parent until the school and school district have complied with the policies and procedures established to enforce school attendance.

## **Mastery-Based Education (Section 9)**

### *Present Situation*

In 2016<sup>51</sup> the Legislature created the Competency-Based Education Pilot Program (pilot program) within the Department of Education (DOE) to be administered for a period of 5 years,

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<sup>47</sup> A child study team is also used for patterns of nonattendance, defined as five unexcused absences, or absences for which the reasons are unknown, within a calendar month or 10 unexcused absences, or absences for which the reasons are unknown, within a 90-calendar-day period. Section 1003.26(1)(b), F.S. The school principal must refer the case to the school's child study team to determine if early patterns of truancy are developing. *Id.* The child study team must implement specified interventions, and may implement other interventions, including referral to other agencies for family services or recommendation for filing a truancy petition. *Id.* at (b) and (c). The child study team must be diligent in facilitating intervention services and shall report the case to the district school superintendent only when all reasonable efforts to resolve the nonattendance behavior are exhausted. *Id.* at (d). District school boards are also authorized to establish policies that require referral to a school's child study team for students who have fewer absences than the established number. Section 1003.02(1)(b), F.S.

<sup>48</sup> Section 1003.24, F.S.

<sup>49</sup> *Id.*

<sup>50</sup> Section 1003.27(2)(a), F.S.

<sup>51</sup> Section 1, ch. 2016-149, L.O.F.

beginning with the 2016-2017 school year.<sup>52</sup> The purpose of the pilot program is to provide an educational environment that allows students to advance to higher levels of learning upon the mastery of concepts and skills through statutory exemptions relating to student progression and the awarding of credits.<sup>53</sup>

The Lake, Palm Beach, Pinellas, and Seminole County School Districts and the P.K. Yonge Developmental Research School may submit an application in a format prescribed by the DOE to participate in the pilot program.<sup>54</sup>

The application to participate in the pilot program must, at a minimum, include:<sup>55</sup>

- The vision and timelines for the implementation of competency-based education within the school district, including a list of the schools that will participate in the pilot program during the first school year and the list of schools that will be integrated into the program in subsequent school years.
- The annual goals and performance outcomes, specified in law, for participating schools.
- A communication plan for parents and other stakeholders, including local businesses and community members.
- The scope of and timelines for professional development for school instructional and administrative personnel.
- A plan for student progression based on the mastery of content, including mechanisms that determine and ensure that a student has satisfied the requirements for grade-level promotion and content mastery.
- A plan for using technology and digital and blended learning to enhance student achievement and facilitate the competency-based education system.
- The proposed allocation of resources for the pilot program at the school and district levels.
- The recruitment and selection of participating schools.
- The rules to be waived for participating schools to implement the pilot program.<sup>56</sup>

Four of the five eligible school districts chose to participate in the pilot program during the 2016-2017 school year.<sup>57</sup> The Seminole County School District elected to use 2016-2017 as a planning year only.<sup>58</sup> Additionally, while the Lake County School District participated in the pilot program in 2016-2017, the district school superintendent decided to suspend the district's

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<sup>52</sup> Section 1003.4996, F.S.

<sup>53</sup> *Id.*

<sup>54</sup> Section 1003.4996(1), F.S. The P.K. Yonge Developmental Research School is a public school affiliated with the University of Florida. P.K. Yonge Developmental Research School at the University of Florida, <https://pk Yonge.ufl.edu/> (last visited Feb. 19, 2018).

<sup>55</sup> Section 1003.4996(2), F.S.

<sup>56</sup> To facilitate innovative practices and to allow local selection of educational methods, the State Board of Education (SBE) may authorize the commissioner to waive, upon the request of a district school board, SBE rules that relate to district school instruction and school operations, except those rules pertaining to civil rights, and student health, safety, and welfare. Section 1001.10(3), F.S. The SBE may authorize the commissioner to grant an additional waiver of rules relating to student progression and the awarding of credits. Section 1003.4996(2)(i), F.S.

<sup>57</sup> Florida Department of Education, *Competency-Based Education Pilot Program, 2016-17 Annual Report* (June 9, 2017), at 1. Email, Florida Department of Education (Feb. 15, 2018).

<sup>58</sup> *Id.*

participation in 2017-2018 to assess the pressing needs of the district, but intends for the school district to participate in the pilot program in 2018-2019.<sup>59</sup>

### ***Effect of Proposed Changes***

Section 9 amends s. 1003.4996, F.S., to expand participation in the pilot program to all public school districts.<sup>60</sup> In addition, beginning in the 2018-2019 school year, participating school districts may amend their applications to include alternatives to:

- Awarding credit, which must include a verification of the student's mastery of the applicable course content using rigorous scoring rubrics to evaluate the student's work.
- The interpretation of middle school and high school letter grades, which may substitute the applicable language from the school district's rigorous scoring rubric.

An application that is amended to include such provisions must be approved by the district school board.

### **Definition of Credit (Section 7)**

#### ***Present Situation***

For the purposes of requirements for high school graduation, one full credit means a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards, except as otherwise provided through the Credit Acceleration Program.<sup>61</sup> For a school authorized to implement block scheduling by the district school board, one full credit means a minimum of 120 hours of bona fide instruction in a designated course of study that contains student performance standards for purposes of meeting high school graduation requirements.<sup>62</sup>

The State Board of Education is required to determine the number of postsecondary credit hours earned through dual enrollment<sup>63</sup> that satisfy the requirements of a dual enrollment articulation agreement<sup>64</sup> and that equal one full credit of the equivalent high school course.<sup>65</sup>

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<sup>59</sup> *Id.*

<sup>60</sup> Each county is designated as a school district. Art IX, sec. 4, Fla. Const. and section 1001.30, F.S. For the purposes of funding and educational facilities, developmental research (laboratory) schools are designated as special school districts. Section 1011.24, F.S. It is unclear, however, if developmental research schools affiliated with Florida Agricultural and Mechanical University, Florida Atlantic University, and Florida State University would be eligible to participate in the mastery-based pilot under section 1003.4996, F.S.

<sup>61</sup> Section 1003.436(1), F.S. The Credit Acceleration Program allows a student to earn high school credit in courses required for high school graduation through passage of an end-of-course assessment, an Advanced Placement Examination, or a College Level Examination Program. Section 1003.4295(3), F.S.

<sup>62</sup> Section 1003.436(1), F.S.

<sup>63</sup> The dual enrollment program is the enrollment of an eligible secondary student or home education student in a postsecondary course creditable toward high school completion and a career certificate or an associate or baccalaureate degree. Section 1007.271, F.S.

<sup>64</sup> The dual enrollment articulation agreement between a school district and public postsecondary institution must delineate the high school credit earned for passage of each dual enrollment course. Section 1007.271(21)(f), F.S.

<sup>65</sup> Section 1003.436(1), F.S. The Commissioner of Education must recommend to the State Board of Education postsecondary courses that meet high school graduation requirements and the number of postsecondary semester credit hours of instruction and equivalent high school credits that are necessary to meet high school graduation requirements. Section 1007.271(9), F.S.

### *Effect of Proposed Changes*

Section 7 amends s. 1003.436, F.S., to authorize district school boards<sup>66</sup> participating in the mastery-based pilot to determine and award credit based on a student's mastery of the core content and skills, consistent with the Next Generation Sunshine State Standards,<sup>67</sup> as approved by the district school board. This section may allow a student to progress more rapidly by completing course competencies without the requirement to meet the minimum hours of instruction.

### **Middle and High School Grading System (Section 8)**

#### *Present Situation*

The grading system and interpretation of letter grades used to measure student success in grade 6 through grade 12 courses for students in public schools shall be as follows:<sup>68</sup>

- Grade "A" equals 90 percent through 100 percent, has a grade point average value of 4, and is defined as "outstanding progress."
- Grade "B" equals 80 percent through 89 percent, has a grade point average value of 3, and is defined as "above average progress."
- Grade "C" equals 70 percent through 79 percent, has a grade point average value of 2, and is defined as "average progress."
- Grade "D" equals 60 percent through 69 percent, has a grade point average value of 1, and is defined as "lowest acceptable progress."
- Grade "F" equals zero percent through 59 percent, has a grade point average value of zero, and is defined as "failure."
- Grade "I" equals zero percent, has a grade point average value of zero, and is defined as "incomplete."

For the purposes of class ranking, district school boards may exercise a weighted grading system.<sup>69</sup>

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<sup>66</sup> See *supra* note 15. It is unclear if the P.K. Yonge Developmental Research School is included in the authorization in the bill to award credit based on a student's mastery of core content and skills. A district school board refers to the president of the university, or the president's designee, only for the purposes of school improvement and accountability. Section 1002.32(10)(b), F.S.

<sup>67</sup> The Next Generation Sunshine State Standards establish the core content of the curricula to be taught in the state and specify the core content knowledge and skills that K-12 public school students are expected to acquire. Standards must be rigorous and relevant and provide for the logical, sequential progression of core curricular content that incrementally increases a student's core content knowledge and skills over time. Section 1003.41(1), F.S.

<sup>68</sup> Section 1003.437, F.S.

<sup>69</sup> *Id.* School districts and Florida College System institutions must weigh dual enrollment courses the same as advanced placement, International Baccalaureate, and Advanced International Certificate of Education courses when grade point averages are calculated. Alternative grade calculation systems, alternative grade weighting systems, and information regarding student education options that discriminate against dual enrollment courses are prohibited. Section 1007.271(18), F.S.

***Effect of Proposed Changes***

Section 8 amends s. 1003.437, F.S. to authorize district school boards<sup>70</sup> participating in the mastery-based pilot to use an alternative interpretation of letter grades to measure student success in grade 6 through grade 12.

According to the Department of Education and Board of Governors of the State University System (BOG), the use of an alternative interpretation of the letter grade system by school districts that participate in the pilot program may impact the students' ability to meet the specific minimum grade point average (GPA) requirements for the following:<sup>71</sup>

- National Collegiate Athletic Association Division I and II scholarships;
- Interscholastic extracurricular activities;
- Bright Futures and other scholarships; and
- Dual enrollment.

**Statewide Articulation Agreement (Section 11)*****Present Situation***

The State Board of Education (SBE) and the Board of Governors of the State University System (BOG) are required to enter into a statewide articulation agreement, which must preserve Florida's "2+2" system of articulation, facilitate the seamless articulation of student credit across and among Florida's educational entities, and govern, among other provisions, articulation between secondary and postsecondary education.<sup>72</sup>

***Effect of Proposed Changes***

Section 11 amends s. 1007.23, F.S., to require the statewide articulation agreement to ensure fair and equitable access for high school graduates with mastery-based, nontraditional diplomas and transcripts. Accordingly, the statewide articulation agreement may need to be updated in rule by the SBE and in regulation by the BOG. In addition, postsecondary institutions may need to update first-time-in-college admissions procedures to revise GPA requirements consistent with alternatives to the letter-grade system.<sup>73</sup>

**Florida Partnership for Minority and Underrepresented Student Achievement (Section 13)*****Present Situation***

The Florida Partnership for Minority and Underrepresented Student Achievement (Florida partnership), was created in 2004<sup>74</sup> to prepare, inspire, and connect students to postsecondary success and opportunity, with a particular focus on minority students and students who are underrepresented in postsecondary education.<sup>75</sup>

<sup>70</sup> See *supra* note 16.

<sup>71</sup> Department of Education, *2018 Agency Analysis for SB 968* (Dec. 1, 2017), at 4 and 7, and Board of Governors, *2018 Bill Analysis of SB 968* (Dec. 13, 2017), at 4.

<sup>72</sup> Section 1007.23(1), F.S.

<sup>73</sup> Board of Governors, *2018 Bill Analysis of SB 968* (Dec. 13, 2017), at 3-4.

<sup>74</sup> Section 1, ch. 2004-63, L.O.F.

<sup>75</sup> Section 1007.35(4), F.S.

The Florida partnership provides to students enrolled in grade 10 in public schools access to the preliminary ACT and another specified assessment.<sup>76</sup> Test results will provide each high school with a database of student assessment data that certified school counselors must use to identify students who are prepared or who need additional work to be prepared to enroll and be successful in AP courses or other advanced high school courses.<sup>77</sup>

The Florida partnership is required to provide information to students and other specified recipients regarding the preliminary ACT or PSAT/NMSQT administration and participation by 10<sup>th</sup> grade students.<sup>78</sup> The Florida partnership must also submit to the Florida Department of Education (DOE) a report that, among other items, evaluates the level of participation in the preliminary ACT.<sup>79</sup>

Additionally, the DOE must contribute to the evaluation of the Florida partnership by providing access to student and teacher information necessary to match against databases containing teacher professional development data and against databases containing assessment data for the PSAT/NMSQT, SAT, AP, and other appropriate measures.<sup>80</sup>

#### *Effect of Proposed Changes*

Section 13 amends s. 1007.35, F.S., to retain the requirements of the Florida partnership but updates the name of the preliminary ACT to the PreACT to be consistent with the correct name of the assessment.<sup>81</sup> In addition this section:

- Adds dual enrollment to the types of college credit-bearing courses that certified school counselors must use PSAT/NMSQT or PreACT data to identify students who are prepared to enroll in and be successful in advanced high school courses or college credit-bearing courses.
- Adds the ACT and the PreACT to specified assessments in databases for which the DOE must provide access for evaluation purposes.

The bill takes effect July 1, 2018.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

<sup>76</sup> *Id.* at (5). Public high schools are required to provide for the administration of the Preliminary ACT or the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT). *Id.*

<sup>77</sup> *Id.* at (5)(a), F.S.

<sup>78</sup> *Id.* at (6)(j), F.S.

<sup>79</sup> *Id.* at (8)(a), F.S.

<sup>80</sup> *Id.*

<sup>81</sup> ACT, *PreACT*, <https://www.act.org/content/act/en/products-and-services/preact/preact-classroom.html> (last visited Jan. 23, 2018).

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

For the 2018-2019 fiscal year, the bill appropriates the sum of \$9.7 million in recurring funds from the General Revenue Fund to the Department of Education to fund reading scholarship accounts and \$300,000 in recurring funds from the General Revenue Fund toward related administrative fees.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1002.385, 1002.41, 1003.21, 1003.26, 1003.27, 1003.436, 1003.437, 1003.4996, 1006.15, 1007.271, 1007.23, and 1007.35.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

**CS/CS by Appropriations on March 2, 2018:**

The committee substitute maintains the substance of the bill with the following modifications:

- Renames the Competency-Based Education Pilot Program as the Mastery-Based Education Pilot Program (mastery-based pilot) and:
  - Expands participation in the mastery-based pilot to all school districts.
  - Authorizes district school boards participating in the mastery-based pilot to determine award of credit based on mastery of content and skills and to use an

- alternative interpretation of letter grades to measure student success in grades 6 through 12.
- Requires the statewide articulation agreement to ensure fair and equitable access for high school graduates with mastery-based, nontraditional diplomas and transcripts.
- Modifies the Gardiner Scholarship Program (program) to:
  - Revise the definition of a rare disease based on the Orphan Drug Act of 1983, for the purposes of the program.
  - Expand authorized uses of program funds to include tuition or fees associated with full-time or part-time enrollment in home education program; tuition or fees for enrollment in recognized research-based training program; and fees for art, music, and sports lessons.
  - Eliminates private tutoring programs from authorized uses of program funds but expand the entities who may provide part-time tutoring services to include individuals who hold a valid teaching certificate from another state and individuals who have a bachelor's or higher degree in the subject area in which instruction is given.
  - Clarify accountability provisions regarding private schools that participate in the program.
- Establishes reading scholarship accounts for public school students in grades 3 through 5 who scored below a Level 3 on the grade 3 or grade 4 statewide, standardized ELA assessment in the prior school year

**CS by Education on January 22, 2018:**

The committee substitute modifies requirements in the bill regarding home education program students' enrollment in extracurricular courses and dual enrollment. The bill also modifies provisions relating to the Florida Partnership for Minority and Underrepresented Student Achievement. Specifically, the committee substitute:

- Removes the bill's provision that deemed home education program students eligible to participate in extracurricular courses, which are exempted from maximum class size requirements, regardless of the school's capacity under controlled open enrollment; and deletes related conforming provisions and exemptions from meeting school district residency requirements and standards for acceptance to extracurricular activities.
- Modifies the provision in the bill related to home education program students' participation in dual enrollment to clarify that such students must maintain the minimum postsecondary grade point average for continued enrollment in dual enrollment courses, not limited to only the college credit dual enrollment courses.
- Updates cross references to home education program portfolio specifications under provisions related to the enforcement of school attendance, and home education program annual evaluations under provisions related to participation in the Gardiner Scholarship Program.
- Modifies the Florida Partnership for Minority and Underrepresented Student Achievement to:
  - Update the name of the preliminary ACT to the PreACT.

- Add the ACT and the PreACT to specified assessments included in databases containing assessment data, to which the Department of Education must provide access for evaluation purposes.
- Add dual enrollment to the types of college credit-bearing courses for which certified school counselors will use PSAT/NMSQT or PreACT data to identify students who are prepared to enroll in and be successful in advanced high school courses or college credit-bearing courses.

**B. Amendments:**

None.