



Education Committee

Thursday, February 15, 2018

9:00 AM

Reed Hall (102 HOB)

Meeting Packet

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Education Committee

Start Date and Time: Thursday, February 15, 2018 10:00 am
End Date and Time: Thursday, February 15, 2018 12:00 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

CS/CS/HJR 1031 Limitation on Terms of Office for Members of a District School Board by Public Integrity & Ethics Committee, PreK-12 Quality Subcommittee, Fischer, Raburn
HB 1035 Personalized Education by Sullivan
CS/CS/HB 1091 Early Learning by PreK-12 Appropriations Subcommittee, PreK-12 Quality Subcommittee, Grall

Consideration of the following proposed committee substitute(s):

PCS for CS/HB 827 -- Instructional Support

NOTICE FINALIZED on 02/13/2018 4:20PM by Jones.Missy

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 827 Instructional Support
SPONSOR(S): Education Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Brink	Hassell

SUMMARY ANALYSIS

Instructional Materials

The proposed committee substitute (PCS) expands upon opportunities for public involvement in the adoption of instructional materials by requiring the Department of Education (DOE) to conduct a public workshop on instructional materials before the materials are included on the state adoption list. The PCS also:

- provides that instructional materials recommended for adoption may be more rigorous than the Next Generation Sunshine State Standards (NGSSS), so long as they are aligned with the NGSSS;
- revises requirements for the state instructional materials reviewer affidavit;
- provides that if the Commissioner of Education finds that instructional materials fully meet or are more rigorous than the NGSSS, the materials are not subject to preadoption public review procedures by the local school district, with an exception;
- requires the State Board of Education and each district school board with an instructional materials program to establish a process by which members of the public can recommend instructional materials for consideration by instructional materials reviewers;
- specifies that recommended instructional materials must be content rich and age appropriate; and
- requires that instructional materials purchased using instructional material allocation funds to include professional development and ancillary materials to support high-quality, accurate instruction.

Statewide Assessment Program

The PCS:

- specifies that assessments must be published in a format that facilitates sharing of assessment items;
- requires all statewide, standardized English Language Arts (ELA) and math assessments in grades 7 and 8 to be paper-based by the 2019-2020 school year; and
- requires that reading passages and writing prompts used in state ELA assessments incorporate grade-level social studies core curricular content.

Professional Development and Curriculum

The PCS requires the DOE to develop and disseminate sample course-at-a-glance and unit overview templates that school districts may use when developing curricula.

Dual Enrollment

The PCS:

- provides that a home education student participating in a dual enrollment program is not responsible for providing his or her own instructional materials;
- revises requirements for articulation agreements between public postsecondary institutions and home education students and private schools; and
- specifies that only public postsecondary institutions must enter into articulation agreements with home education students and private schools.

See Fiscal Comments, *infra*.

The PCS takes effect on July 1, 2018.

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

STORAGE NAME: pcs0827.EDC

DATE: 2/13/2018

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Instructional Materials

Present Situation

“Instructional materials” are items having intellectual content that by design serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.¹

Each district school board has the constitutional duty and responsibility to select and provide adequate instructional materials to each student for core courses in mathematics, language arts, science, social studies, reading, and literature for kindergarten through grade 12.² School districts may purchase instructional materials from a list of state-reviewed and adopted instructional materials or establish their own review and adoption program.³

Each district school board is responsible for the content of all instructional materials and any other materials used in the classroom, made available in a school library, or included on a reading list, whether adopted and purchased from the state-adopted instructional materials list, adopted and purchased through a district instructional materials program, or otherwise purchased or made available to students.⁴

Funding for instructional materials is provided annually by the Legislature in the General Appropriations Act (GAA). The following chart shows GAA funding for instructional materials since FY 2012-13:

Instructional Materials Funding History	
Fiscal Year	Amount
2012-13 ⁵	\$211,665,913
2013-14 ⁶	\$217,277,372
2014-15 ⁷	\$223,382,911
2015-16 ⁸	\$225,830,113
2016-17 ⁹	\$228,792,422
2017-18 ¹⁰	\$230,743,258

¹ See ss. 1006.28(1) and 1006.29(2), F.S.

² See s. 1006.40(2) and (4), F.S. “Adequate instructional materials” means a “sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature.” Section 1006.28(1), F.S.

³ See ss. 1006.283 and 1006.40, F.S.

⁴ Section 1006.28(2)(a)1., F.S.

⁵ Specific Appropriations 6, s. 1 and 84, s. 2, ch. 2012-118, L.O.F.

⁶ Specific Appropriations 7, s. 1 and 87, s. 2, ch. 2013-40, L.O.F.

⁷ Specific Appropriations 9, s. 1 and 96, s. 2, ch. 2014-51, L.O.F.

⁸ Specific Appropriations 7, s. 1 and 90, s. 2, ch. 2015-232, L.O.F.

⁹ Specific Appropriations 7, s. 1 and 94, s. 2, ch. 2016-66, L.O.F.

¹⁰ Section 6, ch. 2017-234, L.O.F.

State Adoption Process

Before adopting instructional materials in a certain subject area, the Department of Education (DOE) publishes specifications for the materials. These specifications detail the courses for which instructional materials are sought and the standards the materials must meet.¹¹ Beginning on or before May 15 of the adoption year, DOE advertises a request for sealed bids or proposals from publishers of instructional materials. The advertisement must require each bidder to furnish electronic sample copies of all instructional materials submitted.¹²

Once all bids have been considered, the commissioner selects and adopts, from the list reported by the state instructional materials reviewers as “suitable, usable, and desirable,” instructional materials for each grade and subject as advertised. The commissioner must always reserve the right to reject any and all bids.¹³ State-adopted instructional materials are available for purchase beginning April 1 of the year following adoption and must be requisitioned from the depository of the publisher.¹⁴

The Commissioner of Education adopts instructional materials according to a 5-year rotating schedule. The commissioner may approve a shorter schedule if the content area requires more frequent revision.¹⁵ DOE annually publishes an official schedule of subject areas calling for adoption for each of the succeeding two years and a tentative schedule for years three through five. Under extenuating circumstances, the commissioner may direct DOE to add one or more subject areas to the official schedule.¹⁶

The following chart shows the adoption schedule for instructional materials through FY 2019-20:

Instructional Materials Adoption Schedule ¹⁷	
Year	Subject
2016-17	Social Studies (K-12)
2017-18	Science (K-12)
2018-19	Mathematics (K-12)
2019-20	English Language Arts (K-12)

State Instructional Materials Reviewers

State instructional materials reviewers are state or national content experts appointed by the Commissioner of Education. The reviewers must be appointed by April 15 of each school year to review the instructional materials up for adoption and evaluate the content for alignment with Next Generation Sunshine State Standards (NGSSS).¹⁸

State instructional material reviewers receive training in competencies related to the evaluation and selection of instructional materials.¹⁹ After receiving training, the reviewers must review the materials

¹¹ Florida Department of Education, *2014 Policies and Procedures for the Florida Instructional Materials Adoption*, at 1, available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/PoliciesandProceduresSpecifications.pdf>.

¹² Section 1006.33(1)(a) and (b), F.S. A school district may not request samples in addition to the electronic sample copies. Section 1006.33(1)(b), F.S.

¹³ Section 1006.34(2)(a), F.S.

¹⁴ Sections 1006.36(1) and 1006.37(1), F.S.; *see also* s. 1006.28(2)(b), F.S.

¹⁵ Section 1006.36(1), F.S.

¹⁶ Section 1006.36(2), F.S.

¹⁷ Florida Department of Education, *Florida Instructional Materials Adoption Schedule for Adoption Years 2015-16 through 2019-20* (Feb. 3, 2015), available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf>.

¹⁸ Section 1006.29(1)(b), F.S.

¹⁹ Section 1006.29(5), F.S.

for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials must be made electronically available to the reviewers.²⁰

The initial review of the materials is made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer must break the tie. The reviewers must independently make recommendations to the commissioner regarding materials that should be placed on the state-adopted list through an electronic feedback review system.²¹

Each state instructional materials reviewer must sign an affidavit stating that he or she:

- will faithfully discharge the duties imposed as a state instructional materials reviewer;
- has no interest in any publishing or manufacturing organization that produces or sells instructional materials;
- is in no way connected with the distribution of the instructional materials;
- does not have any direct or indirect pecuniary interest in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in public schools;
- will not accept any emolument or promise of future reward from anyone intending to bias his or her judgment in the selection of materials to be adopted; and
- understands that it is unlawful to discuss matters relating to instructional materials submitted for adoption with any publisher or manufacturer of instructional materials, except during the period when the publisher or manufacturer is providing a presentation for the reviewer.²²

The law specifies standards to which reviewers must adhere when reviewing instructional materials.

Reviewers must:

- only recommend instructional materials that are accurate, objective, balanced, noninflammatory, current, free of pornography, and suited to student needs and their ability to comprehend the material;
- include only instructional materials that accurately portray the ethnic, socioeconomic, cultural, religious, physical, and racial diversity of our society;
- include only materials that accurately portray, whenever appropriate, humankind's place in ecological systems;
- include materials that encourage thrift, fire prevention, and humane treatment of people and animals;
- require, when appropriate to the comprehension of students, that materials for social science, history, or civics classes contain the Declaration of Independence and the Constitution of the United States; and
- only recommend instructional materials that do not reflect unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, religion, disability, socioeconomic status, or occupation.²³

Each district school superintendent, at the request of the commissioner, must nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts must ensure that these district reviewers are provided with the support and time necessary to accomplish a thorough review of the instructional materials. District reviewers must independently rate the recommended submissions on the instructional usability of the resources.²⁴ Persons selected as school district reviewers must complete training, developed by DOE, related to the evaluation and selection of instructional materials.²⁵

²⁰ Section 1006.29(1)(b), F.S.

²¹ *Id.*

²² Section 1006.30, F.S.

²³ Section 1006.31(2), F.S. (2017)

²⁴ Section 1006.29(1)(c), F.S.

²⁵ Section 1006.29(5), F.S.

Before the commissioner includes instructional materials on the state-adopted list, the public is provided electronic access for 14 days to review instructional materials submitted for adoption.²⁶ The DOE makes the instructional materials evaluation instrument, which allows users to complete an online evaluation with comments, available for submissions on reviewed materials during this period.²⁷

Purchasing Instructional Materials on the State-Adopted List

If a district school board adopts instructional materials from the state-adopted list, then within the first three years of the state adoption of that instructional material the school district superintendent must purchase the instructional material.²⁸ The superintendent must keep adequate records and accounts for all financial transactions related to instructional materials.²⁹ The superintendent must notify DOE by April 1 of each year of the state-adopted instructional materials that will be requisitioned. The notification must include a district school board plan for instructional materials use to assist in determining if adequate instructional materials have been requisitioned.³⁰

District Instructional Materials Adoption Programs

The law authorizes a district school board, or consortium of school districts, to implement its own instructional materials program.³¹ A school district or consortium of school districts that implements its own program is not required to purchase instructional materials from the state-adopted list,³² requisition instructional materials from the publisher's depository,³³ or follow the same review cycle used for state instructional materials adoption.³⁴

If a district school board chooses to implement its own instructional materials program, the school board must adopt rules implementing the program. The rules must include its processes, criteria, and requirements for:

- selecting instructional materials reviewers, one or more of who must be a parent with children in public schools;
- reviewing and selecting instructional materials, including a thorough review of curriculum content;
- providing for reviewer recommendations;
- adopting instructional materials by the district school board; and
- purchasing instructional materials³⁵

The rules must also:³⁶

- identify, by subject area, a review cycle for instructional materials;
- specify the qualifications for, selection process for, and the duties of instructional materials reviewers, including compliance with statutorily prescribed conflict of interest affidavits and state instructional materials reviewer duties;

²⁶ See Florida Department of Education, *2014 Policies and Procedures for the Florida Instructional Materials Adoption*, at 4, available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/PoliciesandProceduresSpecifications.pdf>.

²⁷ See *id.*

²⁸ Section 1006.37(1), F.S.

²⁹ Section 1006.28(3)(a), F.S.

³⁰ Section 1006.28(3)(b), F.S.

³¹ See s. 1006.283, F.S.

³² Section 1006.40(7), F.S.

³³ Section 1006.37(3), F.S.

³⁴ See s. 1006.283(2)(b), F.S. However, the district school superintendent must certify to the Department of Education by March 31 of each year that all instructional materials for core courses used by the district are aligned with applicable state standards. A list of the core instructional materials that will be used or purchased for use by the school district must be included in the certification. Section 1006.283(1), F.S.

³⁵ Section 1006.283(2)(a), F.S.

³⁶ Section 1006.283(2)(b), F.S.

- require that all instructional materials recommended by a reviewer be accompanied by the reviewer's statement that the materials align with the applicable state standards;
- establish a process for certifying the accuracy of instructional materials;
- require reviewer and publisher compliance with the law prohibiting the acceptance or solicitation of money or inducements to influence approval or purchase of instructional materials;³⁷ and
- incorporate the requirements of state law regarding publisher duties, responsibilities, and requirements.³⁸

In addition, the rules must provide for:

- conducting an open, noticed school board hearing to receive public comment on the instructional materials recommended for adoption by the district school board;
- conducting an open, noticed meeting, held on a different date, to approve an annual plan for adopting instructional materials; and
- posting student editions of instructional materials recommended for adoption by the district school board on the school district website at least 20 days in advance of public hearings and public meetings.³⁹

Notices for public meetings and hearings must specifically identify the instructional materials up for review and adoption and the manner in which the materials can be accessed by the public.⁴⁰

The school district must establish a process that enables the public to submit comments regarding the recommended instructional materials to the school board for the board members to review. The rules must also specify a process for notifying parents of their ability to access their child's instructional materials. This notification must be displayed on the school district's website and provided annually, in writing, to all parents of enrolled students.⁴¹

Requirements for Instructional Materials Publishers and Manufacturers

Whether operating pursuant to the state's instructional materials program or a district instructional materials program, publishers and manufacturers of instructional materials must, among other things:

- submit electronic sample copies of the instructional material;
- submit evidence that the provided materials address the required state standards and are accessible through the district's digital classrooms plan and a variety of electronic, digital, and mobile devices;
- furnish instructional materials at a price not to exceed the lowest price offered in other states;
- automatically reduce the price of instructional materials or provide materials free of charge if provided to other states at a reduced rate or free of charge;
- disclose the authors of the instructional materials; and
- keep the materials revised, free from all errors, and up-to-date.⁴²

³⁷ Like state instructional materials reviewers, district reviewers must sign an affidavit required under s. 1006.30, F.S., stating, in part, that they will faithfully discharge their duties and not accept payment or benefit from anyone for their recommendations. Section 1006.283(2)(b)3., F.S.

³⁸ See *infra* text accompanying notes 51 and 52 for an explanation of the duties, responsibilities, and requirements of publishers and manufacturers with regard to instructional materials; see also s. 1006.38, F.S.

³⁹ Section 1006.283(2)(b)8., F.S.

⁴⁰ Sections 1006.283(2)(b)8. and 1006.40(4)(b), F.S. Reasonable safeguards must be established against the unauthorized use, reproduction, and distribution of instructional materials posted online for public review and comment. Section 1006.283(2)(b)8.a., F.S.

⁴¹ Sections 1006.283(2)(b)9. and 11. and 1006.40(4)(b), F.S.

⁴² Sections 1006.38 and 1006.283(2)(b)7., F.S. With regard to the state's instructional materials program, publishers and manufacturers must maintain a depository in Florida for the in-state distribution of instructional materials to school districts from the depository or contract with a depository in the state. Section 1006.38 (11), (12), and (13), F.S.

Additionally, publishers and manufacturers of instructional materials are prohibited from offering any emolument, money, or other valuable thing or any inducement, to any district school board official or instructional materials reviewer to directly or indirectly introduce, recommend, vote for, or otherwise influence the adoption or purchase of any instructional materials. Violating this prohibition is a second degree misdemeanor and will result in a ban from practicing business in the state for one calendar year.⁴³

Public Review of Instructional Materials

Prior to the purchase of any instructional material, whether from the state-adopted list or through a district-established instructional materials review process, a district school board must:

- establish a process to allow student editions of recommended instructional materials to be accessed and viewed online by the public at least 20 calendar days before the required school board hearing and public meeting. This process must include reasonable safeguards against the unauthorized use, reproduction, and distribution of instructional materials considered for adoption;
- conduct an open, noticed school board hearing to receive public comment on the recommended instructional materials;
- conduct an open, noticed public meeting to approve an annual instructional materials plan to identify any instructional materials that will be purchased. This public meeting must be held on a different date than the school board hearing;
- provide notice for the school board hearing and the public meeting that specifically states the instructional materials being reviewed and how the instructional materials can be accessed for public review; and
- establish a process for public comment on, and review of, the recommended instructional materials.⁴⁴

The school board hearing must allow the parent of a public school student or a resident of the county to proffer evidence that an instructional material recommended for purchase does not align to the NGSSS, does not meet state adoption criteria, or is not suitable to student needs or appropriate for students in the course or age group for which the instructional material would be used, taking into consideration course expectations based on the district's student progression plan and course descriptions in the course code directory.⁴⁵

In addition, the school board must establish a process by which the district notifies parents of their ability to access their children's instructional materials. The notification must be displayed prominently on the school district's website and provided annually in written format to all parents of enrolled students.⁴⁶

Effect of Proposed Changes

The proposed committee substitute (PCS) revises the state instructional materials adoption process by requiring the DOE to hold a public workshop on instructional materials recommended by state reviewers before they may be included on the state-adopted list. Any public comments received by the DOE during the workshop must be filed and preserved at DOE, along with the report of the instructional materials reviewers, for public inspection. The PCS also requires the commissioner to certify, as part of the report, that the DOE complied with bidding, review, and adoption requirements in s. 1006.34(2), F.S., as revised by the PCS. The PCS also provides that any virtual presentation provided by a bidding

⁴³ Section 1006.32(1) and (4), F.S. A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

⁴⁴ Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S.

⁴⁵ Sections 1006.40(4)(b) and 1006.283(2)(b)8., 9., and 11., F.S. (2017)

⁴⁶ Section 1006.283(2)(b)11., F.S.

publisher or manufacturer must be posted on the DOE's website for public access until the evaluation period closes.

The PCS specifies that state instructional materials reviewers may recommend for adoption instructional materials with content more rigorous than the NGSSS, so long as the instructional materials, at a minimum, are aligned with the NGSSS. The PCS also provides that instructional materials that are found by the Commissioner to fully meet or be more rigorous than the NGSSS are not subject to public review procedures at the school district level; nevertheless, a district school board member may initiate the public review procedures if he or she has evidence that the instructional materials do not meet required criteria and standards for state instructional materials adoption.

The PCS requires the state instructional materials reviewer affidavit to include a statement that the reviewer will recommend only those instructional materials that are, at a minimum, aligned to the NGSSS and meet state adoption criteria and standards, to the best of the reviewer's knowledge. Additionally, the PCS specifies that instructional materials recommended by each reviewer must also be content rich and age appropriate.

The PCS requires the SBE and each district school board with an instructional materials program to establish a process by which members of the public can recommend instructional materials for consideration by instructional materials reviewers. Recommendations for consideration of instructional materials at the school district level may only come from parents and residents of the district. The DOE or district school board must contact the publisher of any instructional material recommended for consideration and provide the publisher with the opportunity to submit a bid for evaluation in accordance with the applicable procedures. However, the PCS specifies that this provision does not require the state or the school district to engage in additional bidding processes during an adoption or review cycle and requires any bid submitted by a publisher must meet applicable deadlines and procedures.

The PCS requires that instructional materials purchased using instructional materials allocation funds include professional development and ancillary materials to support high-quality, accurate instruction.

Dual Enrollment

Present Situation

The dual enrollment program is an acceleration mechanism that allows an eligible secondary⁴⁷ or home education student to enroll in a postsecondary course creditable toward high school completion and an associate or baccalaureate degree or career certificate.⁴⁸ Upon successful completion of a dual enrollment course, the student simultaneously receives high school and college, university or career certificate credit.⁴⁹

Home education students can participate in the dual enrollment program. To participate in dual enrollment, a home education student must:⁵⁰

- provide proof of enrollment in a home education program that meets statutory requirements;⁵¹
- be responsible for his or her own instructional materials unless provided for in the articulation agreement; and

⁴⁷ For purposes of dual enrollment, "secondary" is defined as a student who is enrolled in grades 6-12 in a Florida public school or Florida private school. Section 1007.271(2), F.S.

⁴⁸ Section 1007.271(1), F.S.

⁴⁹ Florida Department of Education, Office of Articulation, *Dual Enrollment Frequently Asked Questions*, available at <http://fldoe.org/core/fileparse.php/5421/urlt/DualEnrollmentFAQ.pdf> (last visited March 15, 2017).

⁵⁰ Section 1007.271(13), F.S.

⁵¹ Requirements for home education programs are outlined in s. 1002.41, F.S.

- sign a home education articulation agreement⁵² with the postsecondary institution in which the student plans to enroll.

Each postsecondary institution eligible to participate in the dual enrollment program is required to enter into a home education articulation agreement with each eligible home education student seeking enrollment in a dual enrollment course and the student's parent. Initial and continued eligibility requirements for home education students may not exceed those required of other dually enrolled students. Articulation agreements must be annually submitted by the postsecondary institution to the DOE on or before August 1.⁵³

In addition, each eligible postsecondary institution must also enter into a private school articulation agreement with each eligible private school in its geographic service area. The private school articulation agreement must include:⁵⁴

- a delineation of courses and programs available to the private school student;
- the initial and continued eligibility requirements for private school student participation, not to exceed those required of other dual enrollment students;
- the student's responsibilities for providing his or her own instructional materials and transportation;
- a provision clarifying that the private school will award appropriate credit toward high school completion for the postsecondary course under the dual enrollment program;
- a provision expressing that costs associated with tuition and fees, including registration, and laboratory fees, will not be passed along to the student; and
- a provision stating whether the private school will compensate the postsecondary institution for the standard tuition rate per credit hour for each dual enrollment course taken by its students.

Currently, a dual enrollment student is not required to pay registration, tuition or lab fees for dual enrollment courses taken at a public postsecondary career center, FCS institution or state university.⁵⁵ Home education students are responsible for their instructional materials and transportation. However, a FCS institution is not prohibited from providing instructional materials at no cost to a home education student.⁵⁶

Effect of Proposed Changes

The PCS provides that a home education student participating in a dual enrollment program is not responsible for providing his or her own instructional materials. The PCS also removes the requirement that a private school articulation agreement include a provision stating whether the private school will compensate the postsecondary instruction for the standard tuition rate per credit hour.

The PCS specifies that only public postsecondary institutions are required to enter into articulation agreements with home education students and private schools.

Statewide Assessment Program

Present Situation

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment

⁵² Section 1007.271(13)(b), F.S.

⁵³ *Id.*

⁵⁴ See s. 1007.271(24)(b), F.S.

⁵⁵ Section 1009.25(1)(a), F.S.; section 1007.271(2) and (16), F.S.

⁵⁶ Section 1007.271(17), F.S.

(grades 5 and 8).⁵⁷ The assessments measure the extent to which students have mastered Florida's academic content standards: the Next-Generation Sunshine State Standards (NGSSS), including Florida Standards for ELA and math.⁵⁸ The grade-level ELA and math assessments and Algebra I and Geometry EOC assessments are referred to as the Florida Standards Assessments (FSA). EOC assessments count as 30 percent of a student's final course grade.⁵⁹ Results from the assessments are used to calculate school grades and school improvement ratings⁶⁰ and determine student readiness for promotion to 4th grade and high school graduation.⁶¹ In addition, school districts use student performance data from the assessments in the performance evaluations for instructional personnel and school administrators.⁶²

In 2017, the Legislature amended the law to reduce the assessment burden on public schools. Specifically, the Legislature eliminated the Algebra II end-of-course assessment and required that all statewide, standardized ELA and math assessments in grades 3 through 6 must be delivered only in a paper-based format no later than the 2018-2019 school year.⁶³ As of the 2017-2018 school year all assessments, except the statewide, standardized Grade 3 ELA assessment, the writing portion of the ELA assessment for grades 4 through 7, and the science assessments for grades 5 and 8, are administered on computers.⁶⁴

In addition, the DOE must publish each statewide, standardized assessment and statewide EOC assessment on the DOE's website, excluding retake and alternate assessments, at least once every three years.⁶⁵ When published, each assessment must have been administered during the most recent school year. The law allows the commissioner to determine the schedule for publishing assessments during the 3- year period; however, subject to appropriation, the initial publication must occur no later than June 30, 2021, and must include the grade 3 ELA and mathematics assessments, the grade 10 ELA assessment, and the Algebra I EOC assessment.⁶⁶ The DOE, as part of the next procurement of assessments, must solicit cost proposals for publication of assessments. The DOE must also publish materials on its website to help the public interpret the published assessment information.⁶⁷

Effect of Proposed Changes

The PCS specifies that the statewide, standardized assessments published by the DOE must be published in a format that facilitates sharing of assessment items. The PCS also requires all statewide, standardized ELA and math assessments in grades 7 and 8 to be paper-based by the 2019-2020 school year.

To increase the focus on developing student literacy skills through content-rich curriculum and instruction, the PCS requires that reading passages and writing prompts used in statewide, standardized ELA assessments incorporate grade-level social studies core curricular content.

Professional Development and Curriculum

Present Situation

⁵⁷ Sections 1008.22(3), 1003.4156, and 1003.4282, F.S. (2017) Retake administrations are offered for the Grade 10 FSA ELA and Algebra I EOC assessment.

⁵⁸ See Florida Department of Education, *ESEA Flexibility Request* (August 21, 2015) at 98, available at <http://www.fldoe.org/core/fileparse.php/5637/urlt/15WaiverRenewalESEA.pdf>.

⁵⁹ Sections 1003.4156(1)(c)-(d) and 1003.4282(3), F.S.

⁶⁰ See ss. 1008.34 and 1008.341, F.S.

⁶¹ See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

⁶² See s. 1012.34(3)(a)1., F.S.; rule 6A-5.030(2)(a), F.A.C.

⁶³ See s. 35, ch. 2017-116, L.O.F., codified at s. 1008.22(3), F.S. (2017).

⁶⁴ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 7069* (2017).

⁶⁵ See s. 35, ch. 2017-116, L.O.F., codified at s. 1008.22(8), F.S. (2017).

⁶⁶ See *id.*

⁶⁷ See *id.*

Currently, the DOE publishes test specification sheets that identify standards that are measured through the statewide, standardized assessments.⁶⁸ However, the specification sheets are not designed to assist with the development, selection, or implementation of curriculum. The 2017 Legislature took initial steps to help school districts implement standards-based curricula to develop core knowledge and literacy skills by requiring the Just Read, Florida! Office to develop and provide access to sequenced, content-rich curriculum programming, instructional practices, and resources that help elementary schools use state-adopted instructional materials to increase students' background knowledge and literacy skills, including student attainment of the Next Generation Sunshine State Standards for social studies, science, and the arts.⁶⁹

Florida law requires a number of entities, including the DOE, public postsecondary educational institutions, public school districts, public schools, state education foundations, consortia, and professional organizations, to work collaboratively to develop a coordinated system of professional development. The purpose of the system is to increase student achievement, enhance classroom instructional strategies that promote rigor and relevance throughout the curriculum, and prepare students for continuing education and the workforce.⁷⁰

Part of the DOE's responsibility in the professional development system is to disseminate to the school community research-based professional development methods and programs that have demonstrated success in meeting identified student needs.⁷¹ At least one method of dissemination must be through a web-based statewide performance support system, including a database of exemplary professional development activities, a listing of available professional development resources, training programs, and available assistance.⁷² In addition, the DOE must disseminate, using the web-based statewide performance-support system, proven model professional development programs that have demonstrated success in increasing rigorous and relevant content, increasing student achievement and engagement, meeting identified school needs, and providing effective teacher mentorship activities.⁷³ The DOE must also disseminate, using web-based technology, research-based best practice methods by which the state and district school boards may evaluate and improve the professional development system.⁷⁴

Effect of Proposed Changes

To help school districts and teachers plan and implement effective, standards-based curricula, the PCS requires that professional development resources disseminated through the web-based statewide performance-support system include sample course-at-a-glance and unit overview templates that school districts may use when developing curricula. The templates must provide an organized structure for addressing the Florida Standards, grade-level expectations, evidence outcomes, and 21st Century skills that build toward mastery at each grade level.

Each template must support teaching to greater intellectual depth and:

- provide course or year-long sequencing of concept-based unit overviews based on the Florida Standards;
- describe the knowledge and vocabulary required within the standards;
- promote the instructional shifts required within the standards; and

⁶⁸ See, e.g., Florida Department of Education, *DRAFT Grade 4 Mathematics Item Specifications* (Nov. 2017), available at https://fsassessments.org/assets/documents/Math_G4_FSA-Item-Specifications_v5_101617.pdf.

⁶⁹ Section 15, ch. 2017-116, L.O.F., *codified at* s. 1001.215(4), F.S. (2017).

⁷⁰ Section 1012.98(1), F.S.

⁷¹ Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

⁷² *Id.*

⁷³ Section 1012.98(11), F.S.

⁷⁴ Section 1012.98(7), F.S.

- illustrate the interdependence of grade level expectations within and across content areas within a grade.

B. SECTION DIRECTORY:

- Section 1. Amends s. 1006.283, F.S., requiring district school boards to establish in rule a process by which certain persons may recommend instructional materials for consideration by district instructional materials reviewers.
- Section 2. Amends s. 1006.30, F.S., requiring a specified affidavit to include a statement that instructional materials recommended for adoption meet certain requirements.
- Section 3. Amends s. 1006.31, F.S., requiring district instructional materials to meet or exceed the Next Generation Sunshine State Standards; requiring public access to and opportunity to comment on instructional materials recommended for adoption; requiring certain comments to be provided to the State Board of Education; authorizing members of the public to recommend instructional materials for consideration; requiring the Department of Education to contact certain publishers; conforming a cross-reference.
- Section 4. Amends s. 1006.34, F.S., requiring specified virtual presentations to be posted on the Department of Education's website; providing that the state board, rather than the Commissioner of Education, adopt instructional materials by a certain date; requiring public comment at certain state board meetings; exempting instructional materials from certain public review procedures; authorizing district school board members to initiate certain public review procedures before instructional materials are adopted under certain conditions; conforming a provision.
- Section 5. Amends s. 1006.40, F.S., requiring instructional materials purchased using a specific allocation include certain professional development and ancillary materials; conforming a provision.
- Section 6. Amends s. 1007.271, F.S.; deleting a requirement for a home education student to provide his or her own instructional materials; revising the requirements for home education and private school articulation agreements.
- Section 7. Amends s. 1008.22, F.S.; requiring certain portions of the English Language Arts assessments to include social studies content; revising the format requirements for certain statewide assessments; requiring published assessment items to be in a format that meets certain criteria.
- Section 8. Amends s. 1012.98, F.S.; requiring professional development resources to include sample course-at-a-glance and unit overview templates; providing requirements for such templates.
- Section 9. Provides funding from the General Revenue Fund.
- Section 10. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

For the 2018-2019 fiscal year, the PCS appropriates to the DOE from the General Revenue Fund:

- \$550,000 in recurring funds to be used for the acquisition of instructional materials for home education students enrolled in a dual enrollment course as provided in the PCS
- \$5,600,000 in recurring funds to be used to implement paper-based assessments in grades 7 and 8 as provided in the PCS

The PCS makes these appropriations contingent upon CS/HB 7055 or similar legislation in the 2018 regular legislative session failing to become law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, The PreK-12 Quality Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. The amendments specify that:

- any virtual presentation by a publisher or manufacturer must be posted on the DOE's website for public access until the instructional materials evaluation period closes;
- a district school board member may initiate public review procedures before adoption of an instructional material by the district school board; and
- instructional materials purchased using the instructional materials allocation must include professional development and ancillary materials to support high-quality, accurate instruction.

1 A bill to be entitled
2 An act relating to instructional support; amending s.
3 1006.283, F.S.; requiring district school boards to
4 establish in rule a process by which certain persons
5 may recommend instructional materials for
6 consideration by district instructional materials
7 reviewers; amending s. 1006.30, F.S.; requiring a
8 specified affidavit to include a statement that
9 instructional materials recommended for adoption meet
10 certain requirements; amending s. 1006.31, F.S.;
11 requiring district instructional materials to meet or
12 exceed the Next Generation Sunshine State Standards;
13 requiring public access to and opportunity to comment
14 on instructional materials recommended for adoption;
15 requiring certain comments to be provided to the State
16 Board of Education; authorizing members of the public
17 to recommend instructional materials for
18 consideration; requiring the Department of Education
19 to contact certain publishers; conforming a cross-
20 reference; amending s. 1006.34, F.S.; requiring
21 specified virtual presentations to be posted on the
22 Department of Education's website; providing that the
23 state board, rather than the Commissioner of
24 Education, adopt instructional materials by a certain
25 date; requiring public comment at certain state board

26 meetings; exempting instructional materials from
 27 certain public review procedures; authorizing district
 28 school board members to initiate certain public review
 29 procedures before instructional materials are adopted
 30 under certain conditions; conforming a provision;
 31 amending s. 1006.40, F.S.; requiring instructional
 32 materials purchased using a specific allocation
 33 include certain professional development and ancillary
 34 materials; conforming a provision; amending s.
 35 1007.271, F.S.; deleting a requirement for a home
 36 education student to provide his or her own
 37 instructional materials; revising the requirements for
 38 home education and private school articulation
 39 agreements; amending s. 1008.22, F.S.; requiring
 40 certain portions of the English Language Arts
 41 assessments to include social studies content;
 42 revising the format requirements for certain statewide
 43 assessments; requiring published assessment items to
 44 be in a format that meets certain criteria; amending
 45 s. 1012.98, F.S.; requiring professional development
 46 resources to include sample course-at-a-glance and
 47 unit overview templates; providing requirements for
 48 such templates; providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51 Section 1. Paragraph (b) of subsection (2) of section
 52 1006.283, Florida Statutes, is amended to read:
 53 1006.283 District school board instructional materials
 54 review process.—
 55 (2)
 56 (b) District school board rules must also:
 57 1. Identify, by subject area, a review cycle for
 58 instructional materials.
 59 2. Specify the qualifications for an instructional
 60 materials reviewer and the process for selecting reviewers; list
 61 a reviewer's duties and responsibilities, including compliance
 62 with the requirements of s. 1006.31; and provide that all
 63 instructional materials recommended by a reviewer be accompanied
 64 by the reviewer's statement that the materials align with the
 65 state standards pursuant to s. 1003.41 and the requirements of
 66 s. 1006.31.
 67 3. State the requirements for an affidavit to be made by
 68 each district instructional materials reviewer which
 69 ~~substantially~~ meet the requirements of s. 1006.30.
 70 4. Comply with s. 1006.32, relating to prohibited acts.
 71 5. Establish a process that certifies the accuracy of
 72 instructional materials.
 73 6. Incorporate applicable requirements of s. 1006.31,
 74 which relates to the duties of instructional materials
 75 reviewers.

76 7. Incorporate applicable requirements of s. 1006.38,
77 relating to the duties, responsibilities, and requirements of
78 publishers of instructional materials.

79 8. Establish the process by which instructional materials
80 are adopted by the district school board, which must include:

81 a. A process to allow student editions of recommended
82 instructional materials to be accessed and viewed online by the
83 public at least 45 ~~20~~ calendar days before the school board
84 hearing and public meeting as specified in this subparagraph.

85 This process must include reasonable safeguards against the
86 unauthorized use, reproduction, and distribution of
87 instructional materials considered for adoption.

88 b. An open, noticed school board hearing to receive public
89 comment on the recommended instructional materials.

90 c. An open, noticed public meeting to approve an annual
91 instructional materials plan to identify any instructional
92 materials that will be purchased through the district school
93 board instructional materials review process pursuant to this
94 section. This public meeting must be held on a different date
95 than the school board hearing.

96 d. Notice requirements for the school board hearing and
97 the public meeting that must specifically state which
98 instructional materials are being reviewed and the manner in
99 which the instructional materials can be accessed for public
100 review. The hearing must allow the parent of a public school

101 student or a resident of the county to proffer evidence that a
 102 recommended instructional material does not meet the criteria
 103 provided in s. 1006.31(2), taking into consideration course
 104 expectations based on the district's comprehensive plan for
 105 student progression under s. 1008.25(2) and course descriptions
 106 in the course code directory.

107 9. Establish the process by which the district school
 108 board shall receive public comment on, and review, the
 109 recommended instructional materials.

110 10. Establish the process by which instructional materials
 111 will be purchased, including advertising, bidding, and
 112 purchasing requirements.

113 11. Establish the process by which the school district
 114 will notify parents of their ability to access their children's
 115 instructional materials through the district's local
 116 instructional improvement system and by which the school
 117 district will encourage parents to access the system. This
 118 notification must be displayed prominently on the school
 119 district's website and provided annually in written format to
 120 all parents of enrolled students.

121 12. Establish the process by which parents and residents
 122 of the county, as defined in s. 1006.28(1)(b), may recommend
 123 instructional materials for consideration by district
 124 instructional materials reviewers. The district school board
 125 shall contact the publisher of any instructional material

126 recommended for consideration and provide the publisher with the
 127 opportunity to submit a bid for evaluation in accordance with
 128 this section. This subparagraph does not require a district
 129 school board to engage in additional bidding processes for the
 130 purchase of instructional materials for a given review cycle. A
 131 publisher who submits a bid pursuant to this subparagraph must
 132 comply with all district school board deadlines and procedures.

133 Section 2. Subsection (7) is added to section 1006.30,
 134 Florida Statutes, to read:

135 1006.30 Affidavit of state instructional materials
 136 reviewers.—Before transacting any business, each state
 137 instructional materials reviewer shall make an affidavit, to be
 138 filed with the department, that:

139 (7) The reviewer will recommended for adoption only those
 140 instructional materials that are, at a minimum, aligned to the
 141 Next Generation Sunshine State Standards under s. 1003.41 and
 142 meet all of the requirements under ss. 1006.31(2) and
 143 1006.34(2)(c), to the best of the reviewer's knowledge.

144 Section 3. Subsection (2) of section 1006.31, Florida
 145 Statutes, is amended, and subsection (4) is added to that
 146 section, to read:

147 1006.31 Duties of the Department of Education and school
 148 district instructional materials reviewer.—The duties of the
 149 instructional materials reviewer are:

150 (2) EVALUATION OF INSTRUCTIONAL MATERIALS.—To use the

151 selection criteria listed in s. 1006.34(2)(c) ~~s. 1006.34(2)(b)~~
 152 and recommend for adoption only those instructional materials
 153 that are, at a minimum, aligned with the Next Generation
 154 Sunshine State Standards provided for in s. 1003.41. However,
 155 such instructional materials may be more rigorous than the Next
 156 Generation Sunshine State Standards. Instructional materials
 157 recommended by each reviewer shall be, to the satisfaction of
 158 each reviewer, accurate, objective, balanced, noninflammatory,
 159 current, free of pornography and material prohibited under s.
 160 847.012, content rich, age appropriate, and suited to student
 161 needs and their ability to comprehend the material presented.
 162 Reviewers shall consider for recommendation materials developed
 163 for academically talented students, such as students enrolled in
 164 advanced placement courses. When recommending instructional
 165 materials, each reviewer shall:

166 (a) Include only instructional materials that accurately
 167 portray the ethnic, socioeconomic, cultural, religious,
 168 physical, and racial diversity of our society, including men and
 169 women in professional, career, and executive roles, and the role
 170 and contributions of the entrepreneur and labor in the total
 171 development of this state and the United States.

172 (b) Include only materials that accurately portray,
 173 whenever appropriate, humankind's place in ecological systems,
 174 including the necessity for the protection of our environment
 175 and conservation of our natural resources and the effects on the

176 human system of the use of tobacco, alcohol, controlled
 177 substances, and other dangerous substances.

178 (c) Include materials that encourage thrift, fire
 179 prevention, and humane treatment of people and animals.

180 (d) Require, when appropriate to the comprehension of
 181 students, that materials for social science, history, or civics
 182 classes contain the Declaration of Independence and the
 183 Constitution of the United States. A reviewer may not recommend
 184 any instructional materials that contain any matter reflecting
 185 unfairly upon persons because of their race, color, creed,
 186 national origin, ancestry, gender, religion, disability,
 187 socioeconomic status, or occupation.

188 (4) PUBLIC ACCESS AND INPUT.—Members of the public must be
 189 provided access to, and the opportunity to submit comments on,
 190 instructional materials recommended for adoption by state
 191 instructional materials reviewers. Any submitted comment related
 192 to a specific recommended instructional material must be
 193 provided to the State Board of Education as part of its
 194 consideration of the instructional material pursuant to s.
 195 1006.34(2)(a). Members of the public must also be permitted to
 196 recommend instructional materials for consideration by state
 197 instructional materials reviewers. The department shall contact
 198 the publisher of any instructional material recommended for
 199 consideration and provide the publisher with the opportunity to
 200 submit a bid for evaluation in accordance with this section and

201 s. 1006.34. This subsection does not require the department to
 202 engage in additional bidding processes for the purchase of
 203 instructional materials for a given 5-year adoption cycle. A
 204 publisher who submits a bid pursuant to this subsection must
 205 comply with all department deadlines and procedures. Such bid
 206 may not delay the state board review process under s. 1006.34.

207 Section 4. Subsections (1) through (3) of section 1006.34,
 208 Florida Statutes, are amended to read:

209 1006.34 Powers and duties of the commissioner and the
 210 department in selecting and adopting instructional materials.—

211 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—The
 212 State Board of Education shall adopt rules prescribing the
 213 procedures by which the department shall evaluate instructional
 214 materials submitted by publishers and manufacturers in each
 215 adoption. The ~~Included in these procedures~~ must provide ~~shall be~~
 216 ~~provisions affording~~ each publisher or manufacturer or his or
 217 her representative with an opportunity to provide a virtual
 218 presentation to state instructional materials reviewers on the
 219 merits of each instructional material submitted in each
 220 adoption. Any virtual presentation provided by a bidding
 221 publisher or manufacturer must be posted on the department's
 222 website for public access until the evaluation period closes.

223 (2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—

224 (a)

225 1. The department shall notify all publishers and

226 manufacturers of instructional materials who have submitted bids
 227 that within 3 weeks after the deadline for receiving bids, at a
 228 designated time and place, it will open the bids submitted and
 229 deposited with it. At the time and place designated, the bids
 230 shall be opened, read, and tabulated in the presence of the
 231 bidders or their representatives. No one may revise his or her
 232 bid after the bids have been filed.

233 2. When all bids have been carefully reviewed ~~considered~~,
 234 the commissioner shall prepare for consideration at a public
 235 workshop a, ~~from the~~ list of suitable, usable, and desirable
 236 instructional materials reported by the state instructional
 237 materials reviewers, ~~select and adopt instructional materials~~
 238 for each grade and subject field in the curriculum of public
 239 elementary, middle, and high schools in which adoptions are made
 240 and in the subject areas designated in the advertisement. The
 241 commissioner shall select and adopt instructional materials from
 242 the list after the public workshop is conducted.

243 3. The adoption shall continue for the period specified in
 244 the advertisement, beginning on the ensuing April 1. The
 245 adoption shall not prevent the extension of a contract as
 246 provided in subsection (3). The commissioner shall always
 247 reserve the right to reject any and all bids. The commissioner
 248 may ask for new sealed bids from publishers or manufacturers
 249 whose instructional materials were recommended by the state
 250 instructional materials reviewers as suitable, usable, and

251 desirable; specify the dates for filing such bids and the date
 252 on which they shall be opened; and proceed in all matters
 253 regarding the opening of bids and the awarding of contracts as
 254 required by this part. In all cases, bids shall be accompanied
 255 by a cash deposit or certified check of from \$500 to \$2,500, as
 256 the department may direct.

257 4. The commissioner~~department~~, in adopting instructional
 258 materials, shall give due consideration ~~both~~ to the prices bid
 259 for furnishing instructional materials, ~~and to~~ the report and
 260 recommendations of the state instructional materials reviewers,
 261 the comments received by the department during the public
 262 workshop pursuant to this paragraph, and any district reviewer
 263 ratings received pursuant to s. 1006.29(1)(c). When the
 264 commissioner has finished with the report of the state
 265 instructional materials reviewers, the report, along with any
 266 comments received by the department during the public workshop,
 267 shall be filed and preserved with the department and shall be
 268 available at all times for public inspection. The commissioner
 269 shall certify, as part of the report, that the department
 270 complied with the requirements of this subsection.

271 (b) Instructional materials are not subject to public
 272 review procedures under s. 1006.40(4)(b) if the materials are
 273 found by the Commissioner to fully meet or be more rigorous than
 274 the Next Generation Sunshine State Standards under s. 1003.41
 275 and comply with the adoption criteria and standards of s.

276 | 1006.31(2) and paragraph (c). However, a district school board
 277 | member may initiate the public review procedures before the
 278 | instructional materials are adopted by the district school board
 279 | if he or she has evidence that the instructional materials do
 280 | not meet the criteria and standards provided in this paragraph.

281 | (c)~~(b)~~ In the selection of instructional materials,
 282 | library media, and other reading material used in the public
 283 | school system, the standards used to determine the propriety of
 284 | the material shall include:

285 | 1. The age of the students who normally could be expected
 286 | to have access to the material.

287 | 2. The educational purpose to be served by the material.
 288 | Priority shall be given to the selection of materials that align
 289 | with and that may be more rigorous than the Next Generation
 290 | Sunshine State Standards as provided for in s. 1003.41 and
 291 | include the instructional objectives contained within the
 292 | curriculum frameworks for career and technical education and
 293 | adult and adult general education adopted by rule of the State
 294 | Board of Education under s. 1004.92.

295 | 3. The degree to which the material would be supplemented
 296 | and explained by mature classroom instruction as part of a
 297 | normal classroom instructional program.

298 | 4. The consideration of the broad racial, ethnic,
 299 | socioeconomic, and cultural diversity of the students of this
 300 | state.

301
 302 Any instructional material containing pornography or otherwise
 303 prohibited by s. 847.012 may not be used or made available
 304 within any public school.

305 (3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND.—As
 306 soon as practicable after the commissioner has adopted any
 307 instructional materials and all bidders that have secured the
 308 adoption of any instructional materials have been notified
 309 thereof by registered letter, the department shall prepare a
 310 contract in proper form with every bidder awarded the adoption
 311 of any instructional materials. Each contract shall be executed
 312 by the commissioner, one copy to be kept by the contractor and
 313 one copy to be filed with the department. After giving due
 314 consideration to comments by the district school boards, the
 315 commissioner, with the agreement of the publisher, may extend or
 316 shorten a contract period for a period not to exceed 2 years;
 317 and the terms of any such contract shall remain the same as in
 318 the original contract. Any publisher or manufacturer to whom any
 319 contract is let under this part must give bond in such amount as
 320 the department requires, payable to the state, conditioned for
 321 the faithful, honest, and exact performance of the contract. The
 322 bond must provide for the payment of reasonable attorney's fees
 323 in case of recovery in any suit thereon. The surety on the bond
 324 must be a guaranty or surety company lawfully authorized to do
 325 business in the state; however, the bond shall not be exhausted

326 by a single recovery but may be sued upon from time to time
 327 until the full amount thereof is recovered, and the department
 328 may at any time, after giving 30 days' notice, require
 329 additional security or additional bond. The form of any bond or
 330 bonds or contract or contracts under this part shall be prepared
 331 and approved by the department. At the discretion of the
 332 department, a publisher or manufacturer to whom any contract is
 333 let under this part may be allowed a cash deposit in lieu of a
 334 bond, conditioned for the faithful, honest, and exact
 335 performance of the contract. The cash deposit, payable to the
 336 department, shall be placed in the Textbook Bid Trust Fund. The
 337 department may recover damages on the cash deposit given by the
 338 contractor for failure to furnish instructional materials, the
 339 sum recovered to inure to the General Revenue Fund.

340 Section 5. Paragraph (a) of subsection (3) and paragraph
 341 (b) of subsection (4) of section 1006.40, Florida Statutes, are
 342 amended to read:

343 1006.40 Use of instructional materials allocation;
 344 instructional materials, library books, and reference books;
 345 repair of books.-

346 (3)(a) Except for a school district or a consortium of
 347 school districts that implements an instructional materials
 348 program pursuant to s. 1006.283, each district school board
 349 shall use the annual allocation only for the purchase of
 350 instructional materials that align with and that may be more

351 rigorous than state standards, and are included on the state-
 352 adopted list, except as otherwise authorized in paragraphs (b)
 353 and (c), and include professional development and ancillary
 354 materials to support high-quality accurate instruction.

355 (4) Each district school board is responsible for the
 356 content of all materials used in a classroom or otherwise made
 357 available to students. Each district school board shall adopt
 358 rules, and each district school superintendent shall implement
 359 procedures, that:

360 (b) Except as provided in s. 1006.34(2)(b), provide a
 361 process for public review of, public comment on, and the
 362 adoption of instructional materials that satisfies the
 363 requirements of s. 1006.283(2)(b)8., 9., and 11.

364 Section 6. Subsection (13) and paragraph (b) of subsection
 365 (24) of section 1007.271, Florida Statutes, are amended to read:
 366 1007.271 Dual enrollment programs.—

367 (13)(a) The dual enrollment program for a home education
 368 student, including, but not limited to, students with
 369 disabilities, consists of the enrollment of an eligible home
 370 education secondary student in a postsecondary course creditable
 371 toward an associate degree, a career certificate, or a
 372 baccalaureate degree. To participate in the dual enrollment
 373 program, an eligible home education secondary student must:

374 1. Provide proof of enrollment in a home education program
 375 pursuant to s. 1002.41.

376 2. Be responsible for his or her own ~~instructional~~
 377 ~~materials and~~ transportation unless provided for in the
 378 articulation agreement.

379 3. Sign a home education articulation agreement pursuant
 380 to paragraph (b).

381 (b) Each public postsecondary institution eligible to
 382 participate in the dual enrollment program pursuant to s.
 383 1011.62(1)(i) must enter into a home education articulation
 384 agreement with each home education student seeking enrollment in
 385 a dual enrollment course and the student's parent. By August 1
 386 of each year, the eligible postsecondary institution shall
 387 complete and submit the home education articulation agreement to
 388 the Department of Education. The home education articulation
 389 agreement must include, at a minimum:

390 1. A delineation of courses and programs available to
 391 dually enrolled home education students. Courses and programs
 392 may be added, revised, or deleted at any time by the
 393 postsecondary institution.

394 2. The initial and continued eligibility requirements for
 395 home education student participation, not to exceed those
 396 required of other dually enrolled students.

397 3. The student's responsibilities for providing his or her
 398 own ~~instructional materials and~~ transportation.

399 4. A copy of the statement on transfer guarantees
 400 developed by the Department of Education under subsection (15).

401 (24)
 402 (b) Each public postsecondary institution eligible to
 403 participate in the dual enrollment program pursuant to s.
 404 1011.62(1)(i) must enter into a private school articulation
 405 agreement with each eligible private school in its geographic
 406 service area seeking to offer dual enrollment courses to its
 407 students, including, but not limited to, students with
 408 disabilities. By August 1 of each year, the eligible
 409 postsecondary institution shall complete and submit the private
 410 school articulation agreement to the Department of Education.
 411 The private school articulation agreement must include, at a
 412 minimum:

413 1. A delineation of courses and programs available to the
 414 private school student. The postsecondary institution may add,
 415 revise, or delete courses and programs at any time.

416 2. The initial and continued eligibility requirements for
 417 private school student participation, not to exceed those
 418 required of other dual enrollment students.

419 3. The student's responsibilities for providing his or her
 420 own instructional materials and transportation.

421 4. A provision clarifying that the private school will
 422 award appropriate credit toward high school completion for the
 423 postsecondary course under the dual enrollment program.

424 5. A provision expressing that costs associated with
 425 tuition and fees, including registration, and laboratory fees,

426 will not be passed along to the student.

427 ~~6. A provision stating whether the private school will~~
 428 ~~compensate the postsecondary institution for the standard~~
 429 ~~tuition rate per credit hour for each dual enrollment course~~
 430 ~~taken by its students.~~

431 Section 7. Paragraphs (a) and (d) of subsection (3) and
 432 paragraph (a) of subsection (8) of section 1008.22, Florida
 433 Statutes, are amended to read:

434 1008.22 Student assessment program for public schools.—

435 (3) STATEWIDE, STANDARDIZED ASSESSMENT PROGRAM.—The
 436 Commissioner of Education shall design and implement a
 437 statewide, standardized assessment program aligned to the core
 438 curricular content established in the Next Generation Sunshine
 439 State Standards. The commissioner also must develop or select
 440 and implement a common battery of assessment tools that will be
 441 used in all juvenile justice education programs in the state.
 442 These tools must accurately measure the core curricular content
 443 established in the Next Generation Sunshine State Standards.
 444 Participation in the assessment program is mandatory for all
 445 school districts and all students attending public schools,
 446 including adult students seeking a standard high school diploma
 447 under s. 1003.4282 and students in Department of Juvenile
 448 Justice education programs, except as otherwise provided by law.
 449 If a student does not participate in the assessment program, the
 450 school district must notify the student's parent and provide the

451 parent with information regarding the implications of such
 452 nonparticipation. The statewide, standardized assessment program
 453 shall be designed and implemented as follows:

454 (a) Statewide, standardized comprehensive assessments.—The
 455 statewide, standardized Reading assessment shall be administered
 456 annually in grades 3 through 10. The statewide, standardized
 457 Writing assessment shall be administered annually at least once
 458 at the elementary, middle, and high school levels. When the
 459 Reading and Writing assessments are replaced by English Language
 460 Arts (ELA) assessments, ELA assessments shall be administered to
 461 students in grades 3 through 10. Retake opportunities for the
 462 grade 10 Reading assessment or, upon implementation, the grade
 463 10 ELA assessment must be provided. Students taking the ELA
 464 assessments shall not take the statewide, standardized
 465 assessments in Reading or Writing. Reading passages and writing
 466 prompts for ELA assessments shall incorporate grade-level core
 467 curricula content from social studies ~~be administered online.~~

468 The statewide, standardized Mathematics assessments shall be
 469 administered annually in grades 3 through 8. Students taking a
 470 revised Mathematics assessment shall not take the discontinued
 471 assessment. The statewide, standardized Science assessment shall
 472 be administered annually at least once at the elementary and
 473 middle grades levels. In order to earn a standard high school
 474 diploma, a student who has not earned a passing score on the
 475 grade 10 Reading assessment or, upon implementation, the grade

476 10 ELA assessment must earn a passing score on the assessment
 477 retake or earn a concordant score as authorized under subsection
 478 (9).

479 (d) Implementation schedule.-

480 1. The Commissioner of Education shall establish and
 481 publish on the department's website an implementation schedule
 482 to transition from the statewide, standardized Reading and
 483 Writing assessments to the ELA assessments and to the revised
 484 Mathematics assessments, including the Algebra I and Geometry
 485 EOC assessments. The schedule must take into consideration
 486 funding, sufficient field and baseline data, access to
 487 assessments, instructional alignment, and school district
 488 readiness to administer the assessments online. All such
 489 assessments must be delivered through computer-based testing,
 490 ~~however, the following assessments must be delivered in a~~
 491 ~~computer-based format, as follows: the grade 3 Mathematics~~
 492 ~~assessment beginning in the 2016-2017 school year; the grade 4~~
 493 ~~ELA assessment, beginning in the 2015-2016 school year; and the~~
 494 ~~grade 4 Mathematics assessment, beginning in the 2016-2017~~
 495 ~~school year.~~ Notwithstanding the requirements of this
 496 subparagraph, statewide, standardized ELA and mathematics
 497 assessments in grades 3 through 6 must be delivered only in a
 498 paper-based format, ~~beginning with the 2017-2018 school year,~~
 499 ~~and all such assessments must be paper-based no later than the~~
 500 2018-2019 school year, and statewide, standardized ELA and

501 mathematics assessments in grades 7 and 8 must be delivered only
 502 in a paper-based format no later than the 2019-2020 school year.

503 2. The Department of Education shall publish minimum and
 504 recommended technology requirements that include specifications
 505 for hardware, software, networking, security, and broadband
 506 capacity to facilitate school district compliance with the
 507 requirements of this section.

508 (8) PUBLICATION OF ASSESSMENTS.—To promote transparency in
 509 the statewide assessment program, in any procurement for the ELA
 510 assessment in grades 3 through 10 and the mathematics assessment
 511 in grades 3 through 8, the Department of Education shall solicit
 512 cost proposals for publication of the state assessments on its
 513 website in accordance with this subsection.

514 (a) The department shall publish each assessment
 515 administered under paragraph (3)(a) and subparagraph (3)(b)1.,
 516 excluding assessment retakes, at least once on a triennial basis
 517 pursuant to a schedule determined by the Commissioner of
 518 Education. Each assessment, when published, must have been
 519 administered during the most recent school year and be in a
 520 format that facilitates the sharing of assessment items.

521 Section 8. Subsection (11) of section 1012.98, Florida
 522 Statutes, is amended to read:

523 1012.98 School Community Professional Development Act.—

524 (11) The department shall disseminate to the school
 525 community proven model professional development programs that

526 have demonstrated success in increasing rigorous and relevant
 527 content, increasing student achievement and engagement, meeting
 528 identified student needs, and providing effective mentorship
 529 activities to new teachers and training to teacher mentors. The
 530 methods of dissemination must include a web-based statewide
 531 performance-support system including a database of exemplary
 532 professional development activities, a listing of available
 533 professional development resources, training programs, and
 534 available technical assistance. Professional development
 535 resources must include sample course-at-a-glance and unit
 536 overview templates that school districts may use when developing
 537 curriculum. The templates must provide an organized structure
 538 for addressing the Florida Standards, grade-level expectations,
 539 evidence outcomes, and 21st century skills that build to
 540 students' mastery of the standards at each grade level. Each
 541 template must support teaching to greater intellectual depth and
 542 emphasize transfer and application of concepts, content, and
 543 skills. At a minimum, each template must:

544 (a) Provide course or year-long sequencing of concept-
 545 based unit overviews based on the Florida Standards.

546 (b) Describe the knowledge and vocabulary necessary for
 547 comprehension.

548 (c) Promote the instructional shifts required within the
 549 Florida Standards.

550 (d) Illustrate the interdependence of grade level

551 | expectations within and across content areas within a grade.

552 | Section 9. Contingent upon CS/HB 7055 or similar
553 | legislation in the 2018 Regular Session of the Legislature or an
554 | extension thereof failing to become law, for the 2018-2019
555 | fiscal year, the sum of \$550,000 in recurring funds from the
556 | General Revenue Fund is appropriated to the Department of
557 | Education to be used for the acquisition of instructional
558 | materials pursuant to s. 1007.271(13), Florida Statutes, and the
559 | sum of \$5,600,000 in recurring funds from the General Revenue
560 | Fund is appropriated to the Department of Education to be used
561 | to implement the assessment provisions of s. 1008.22(3)(d),
562 | Florida Statutes.

563 |

564 | Section 10. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HJR 1031 Limitation of Terms of Office for Members of a District School Board
SPONSOR(S): Public Integrity & Ethics Committee; PreK-12 Quality Subcommittee; Fischer and Raburn
TIED BILLS: None **IDEN./SIM. BILLS:** SJR 194

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	12 Y, 2 N, As CS	Brink	DavisGreene
2) Public Integrity & Ethics Committee	17 Y, 1 N, As CS	Poreda	Kiner
3) Education Committee		Brink	Hassell

SUMMARY ANALYSIS

District school board members are elected constitutional officials of Florida who serve four-year terms without limit. Term limits on other elected officials, including Florida representatives; Florida senators; the Florida lieutenant governor; Florida Cabinet members, including the Governor; U.S. representatives from Florida; and U.S. senators from Florida, were amended into the Florida Constitution by way of a citizens' initiative in 1992. Such officials are ineligible to appear on a ballot for reelection if, by the end of the current term of office, the person will have served for (or, but for resignation, would have served) in that office for eight consecutive years.

The House joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the general election in November 2018, prohibits a district school board member from appearing on a ballot for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years. This provision is similar to the term limits for elected state and federal officials added to the Florida Constitution in 1992.

The proposed limitation would only apply to terms of office that begin after November 6, 2018.

A joint resolution proposing an amendment to the State Constitution must be passed by three-fifths of the membership of each house of the Legislature.

The Constitution requires 60 percent voter approval for passage of a proposed constitutional amendment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

Present Situation

Florida's Constitution provides that each county school district must be governed by a school board composed of no fewer than five members elected to staggered, four-year terms, as provided by law.¹ Each district school board must operate, control, and supervise all free public schools within the school district and determine the rate of school district taxes within constitutional limits.²

Florida's Constitution establishes term limits for the following elected officials:³

- Florida representatives;
- Florida senators;
- Florida Lieutenant governor;
- Florida Cabinet members;
- U.S. representatives from Florida; and
- U.S. senators from Florida.

Terms limits for federal elected officials were held to be unconstitutional, and thus unenforceable, by the U.S. Supreme Court in 1995.⁴

Specifically, the Constitution states that none of these officials may appear on a ballot for reelection if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) in that office for eight consecutive years.⁵ These term limits became effective in 1992 and were prospective, so that officials reelected to a consecutive term in 1992 could serve another consecutive eight-years before reaching the term limit.⁶

There are no term limits for district school board members; however, term limits have been applied to county commissioners by charter counties.⁷

Effect of Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that, if approved by the voters at the general election in November 2018, prohibits a district school board member from appearing on a ballot for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years.

The resolution also provides that school board members' current terms will not count toward the proposed limitation. Terms that begin on November 6, 2018, or after will count against the proposed limitation. This is consistent with the 1992 Constitutional Amendment that enacted the term limits to Florida Cabinet members, the Lieutenant governor, State Representatives and State Senators.

¹ Art. IX, s. 4(a), Fla. Const.

² See art. IX, s. 4(b), Fla. Const.

³ Art. VI, s. 4(b), Fla. Const.

⁴ *U.S. Term Limits, Inc. v. Thornton*, 514 U.S. 779 (1995). See also *Ray v. Mortham*, 742 So.2d 1276 (Fla. 1999) (holding that term limits imposed on elected state officials were severable from provisions imposing the limits on federal offices).

⁵ See *id.*

⁶ See Florida Department of State, Proposed Constitutional Amendment #9 (1992), available at <http://dos.elections.myflorida.com/initiatives/fulltext/pdf/1066-1.pdf>.

⁷ See *Telli v. Broward County*, 94 So.3d 504 (Fla. 2012) (holding that an amendment to the Broward County charter limiting commissioners to no more than three consecutive four-year terms was constitutional).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Article XI, Section 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The division of Elections within the Department of State has not estimated the publication costs for advertising the joint resolution.

However, based on 2016 advertising costs, staff estimates full publication costs for advertising the proposed constitutional amendment to be less than \$50,000. This would likely be paid from non-recurring General Revenue funds.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the PreK-12 Quality Subcommittee adopted a strike all amendment and reported the joint resolution favorably as a committee substitute. The strike all amendment differs from the resolution as originally filed by:

- specifying that a school board member is ineligible for reelection if, by the end of their current term of office, the member will have served, or but for resignation would have served, in that office for eight consecutive years (this is the same term limit for elected state officials that was added to the Florida Constitution in 1992); and
- providing that service as a school board member after 2013 counts towards the eight-year limit.

On January 24, 2018, the Public Integrity & Ethics Committee adopted an amendment and reported the joint resolution favorably as a committee substitute. The amendment provides that only terms of office that begin on or after November 6, 2018, count toward the limitation in the resolution. The amendment also provides a schedule amendment to enact this intent of the resolution.

The analysis is drafted to reflect the joint resolution, as amended.

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article IX and the creation of a new section in Article XII of the State Constitution to limit the terms of office for a member of a district school board; providing applicability; providing an effective date.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article IX and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards.—

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately

51 LIMITATION ON TERMS OF OFFICE FOR MEMBERS OF A DISTRICT
52 SCHOOL BOARD.—Proposing an amendment to the State Constitution
53 to limit terms for school board members by prohibiting incumbent
54 members who have held the office for the preceding eight years
55 from appearing on a ballot for reelection to that office and to
56 provide that the amendment only applies to terms of office
57 beginning on or after November 6, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1035 Personalized Education
SPONSOR(S): Sullivan and others
TIED BILLS: None **IDEN./SIM. BILLS:** SB 968

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Innovation Subcommittee	11 Y, 0 N	Healy	Healy
2) PreK-12 Appropriations Subcommittee	13 Y, 0 N	Seifert	Potvin
3) Education Committee		Healy	Hassell

SUMMARY ANALYSIS

In 2016, the Legislature created the Competency-Based Education Pilot Program within the Department of Education (DOE) to provide an educational environment that allows students to progress based upon the mastery of concepts and skills. The Commissioner of Education was authorized to waive State Board of Education rules relating to pupil progression and the awarding of credit. Applications to participate were limited to the P.K. Yonge Developmental Research School and the Lake, Palm Beach, Seminole, and Pinellas County school districts.

The bill:

- Renames the Competency-Based Education Pilot Program to the Mastery-Based Education Pilot Program.
- Allows any district in the state to submit an application to DOE to participate.
- Authorizes districts participating in the pilot program to use an alternative interpretation of letter grades to measure student success in grades 6-12. The alternate system must meet specific requirements and be approved by the district school board.
- Allows districts to determine and award one full credit toward high school graduation based on the student's mastery of core content and skills without meeting the current minimum requirement of 135 or 120 hours of bona fide instruction to award one full credit.
- Requires the statewide articulation agreement to ensure fair and equitable access for high school graduates with mastery-based, nontraditional diplomas and transcripts.

There is no fiscal impact to the state.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 2016, the Legislature created the Competency-Based Education Pilot Program within the Department of Education (DOE) to provide an educational environment that allows students to progress based upon the mastery of concepts and skills. The purpose of the program is to provide an educational environment that allows students to advance to higher levels of learning upon the mastery of concepts and skills.¹ Participation was limited to the P.K. Yonge Developmental Research School and the Lake, Palm Beach, and Pinellas County school districts.²

The DOE was required to:

- Develop an application
- Compile student and staff schedules of participating schools before and after program implementation.
- Provide participants access to statewide, standardized assessments.
- Provide an annual report to the Legislature and the Governor, by June 1, summarizing the accomplishments of the program and recommendations for statutory revisions.
- Adopt rules to administer this program.³

In order to facilitate innovative practices, and to allow local selection of educational methods, the Commissioner of Education has the authority to waive, upon district request, provisions relating to district school instruction.⁴ Additionally, for districts participating in the competency-based pilot program, the State Board of Education may authorize the Commissioner of Education to grant an additional waiver of rules relating to student progression and the awarding of credits.⁵

Four of the five eligible districts chose to participate in the 2016-2017 school year, and one district chose to use Fiscal Year 2016-2017 as a planning year. Districts reported varying levels of progress across the following components:

- Communication Plans
- Professional Development
- Student Progression
- Digital and Blended Learning
- Allocation of Resources

Across four districts, components of the pilot program were implemented in 67 elementary schools, eight middle schools, nine high schools, and one K-12 school.⁶

Awarding of Credit

Current law defines, for purposes of high school graduation requirements, one full credit as 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 (CAP). For districts

¹ Section 1003.4996(1), F.S.

² Section 1003.4996(2), F.S.

³ Section 1003.4996(2)(b)&(5), F.S.

⁴ Section 1001.10(3), F.S.

⁵ Section 1003.4996(3), F.S.

⁶ Competency-Based Education Pilot Program, 2016-2017 Annual Report.

that have been authorized to implement block scheduling, one full credit means a minimum of 120 hours of bona fide instruction in a designated course of study that contains student performance standards. The State Board of Education determines the number of postsecondary credit hours earned through dual enrollment that equal one full credit of the equivalent high school course.⁷

In awarding credit for high school graduation, each district school board must maintain a one-half credit earned system that includes courses provided on a full-year basis. A student enrolled in a full-year course must receive one-half credit if the student successfully completes either the first half or the second half of a full-year course but fails to complete the other half of the course.⁸

Middle and High School Grading System

Under current law, the grading system and interpretation of letter grades used to measure student success in grade 6 through grade 12 courses is as follows:

- Grade “A” equals 90%-100%, has a grade point average value of 4, and is defined as “outstanding progress.”
- Grade “B” equals 80%-89%, has a grade point average value of 3, and is defined as “above average progress.”
- Grade “C” equals 70%-79%, has a grade point average value of 2, and is defined as “average progress.”
- Grade “D” equals 60%-69%, has a grade point average value of 1, and is defined as “lowest acceptable progress.”
- Grade “F” equals 50%-59%, 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.”⁹

For purposes of class ranking, districts are authorized to exercise a weighted grading system in accordance with the weighted provisions allowed in dual enrollment courses.¹⁰

Effect of Proposed Changes

The bill renames the Competency-Based Education Pilot Program to the Mastery-Based Education Pilot Program and allows any district in the state to apply to the DOE for participation. The pilot program is for five years.

The bill provides that school districts participating in the Mastery-Based Education Pilot Program may award credit as a student demonstrates mastery of the core content and skills, consistent with the Next Generation Sunshine State Standards, rather than awarding credit only if the student receives 135 or 120 hours of instruction. Participating districts may also use an alternative interpretation of letter grades to measure student success in grades 6 – 12.

One form of alternative grading system is a standards-based grading system which is used in conjunction with standards-based instruction, assessments, and academic reporting. The standards-based systems are based on students demonstrating understanding or mastery of the knowledge and skills they are expected to learn as they progress through their education. In most high schools, students typically earn credit for passing a course, but a passing grade may be an A or it may be a D, suggesting that the awarded credit is based on a spectrum of learning expectations—with some students learning more and others learning less—rather than on the same learning standards being applied to all students equally. And because grades may be calculated differently from school to school

⁷ Section 1003.436(1)(a), F.S.

⁸ Section 1003.436(2), F.S.

⁹ Section 1003.437, F.S.

¹⁰ *Id.*

or teacher to teacher, and they may be based on different learning expectations (for example, some courses may be “harder” and others “easier”), students may pass their courses, earn the required number of credits, and receive a diploma without acquiring the most essential knowledge and skills described in standards. The following is an example of a standards-based report card:¹¹

Grade 3

Student Name: _____ Teacher: _____

School: _____

Grading Key

- 4 Exceeds expectations
- 3 Meets expectations
- 2 Progressing toward expectations
- 1 Not meeting expectations
- X Skill/concept not introduced or tested

Q1 Q2 Q3 Q4

READING

Understands what is read
 Uses comprehension strategies
 Understands/applies new words
 Reads fluently
 Selects materials/reads independently
 EFFORT

At least one of the current participants is transitioning to a standards-based grading system to provide parents, students and teachers with more accurate information about students’ progress toward meeting content and skill standards. Students receive a separate designation of progress for each subject within a course which allows for better support to students with goal-setting and overall achievement of the academic standards by clearly communicating progress in a subject (rather than an entire course). Student progress is reported as a level of proficiency, i.e., *Expert, Proficient, Approaching Proficiency, Not Meeting, and Insufficient Evidence*.¹²

Beginning with the 2018-2019 school year, districts currently participating in the program may amend their application to include alternatives for awarding credit and alternatives for the interpretation of middle and high school grades. Applications that are amended must be approved by the district school board. Districts applying for the first time would include these requests in their initial application.

Alternatives to awarding credit 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 bill also requires the statewide articulation agreement to ensure fair and equitable access for high school graduates with mastery-based, nontraditional diplomas and transcripts.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.436, F.S., relating to definition of “credit.”

Section 2. Amends s. 1003.437, F.S., relating to middle and high school grading system.

¹¹ Education Reform, *Standards-Based*, at <http://edglossary.org/standards-based/>

¹² Standards-Based Grading, *What is Standards-Based Grading*, at <https://pkyonge.ufl.edu/academics/standards-based-grading/>

Section 3. Amends s. 1003.4996, F.S., relating to the Competency-Based Education Pilot Program.

Section 4. Amends s. 1007.23, F.S., relating to the statewide articulation agreement.

Section 5. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to personalized education; amending s.
 1003.436, F.S.; authorizing a district school board
 participating in the Mastery-Based Education Pilot
 Program to award credit based on student mastery of
 certain content and skills; amending s. 1003.437,
 F.S.; authorizing a district school board
 participating in the Mastery-Based Education Pilot
 Program to use an alternative interpretation of letter
 grades for certain students; amending s. 1003.4996,
 F.S.; renaming the Competency-Based Education Pilot
 Program as the Mastery-Based Education Pilot Program;
 authorizing public school districts to submit
 applications for the program; authorizing
 participating school districts to amend their
 applications to include alternatives for the award
 credits and interpretation of letter grades; providing
 requirements for such alternatives; deleting a
 requirement that the State Board of Education adopt
 rules; amending s. 1007.23, F.S.; requiring the
 statewide articulation agreement to ensure fair and
 equitable access for students with mastery-based,
 nontraditional diplomas and transcripts; providing an
 effective date.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

26 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (a) of subsection (1) of section 1003.436, Florida Statutes, is amended to read:

1003.436 Definition of "credit."—

(1)(a) 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 (CAP) under s. 1003.4295(3). 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 in a district school that has been authorized to implement block scheduling by the district school board. In lieu of the 135- and 120-hour instruction requirements, district school boards participating in the Mastery-Based Education Pilot Program under s. 1003.4996, may determine and award credit based on a student's mastery of the core content and skills, consistent with s. 1003.41, as approved by the district school board. The State Board of Education shall determine the number of postsecondary credit hours earned through dual enrollment pursuant to s. 1007.271 that satisfy the requirements of a dual enrollment articulation agreement according to s. 1007.271(21) and that equal one full

51 credit of the equivalent high school course identified pursuant
 52 to s. 1007.271(9).

53 Section 2. Section 1003.437, Florida Statutes, is amended
 54 to read:

55 1003.437 Middle and high school grading system.—

56 (1) The grading system and interpretation of letter grades
 57 used to measure student success in grade 6 through grade 12
 58 courses for students in public schools shall be as follows:

59 (a)~~(1)~~ Grade "A" equals 90 percent through 100 percent,
 60 has a grade point average value of 4, and is defined as
 61 "outstanding progress."

62 (b)~~(2)~~ Grade "B" equals 80 percent through 89 percent, has
 63 a grade point average value of 3, and is defined as "above
 64 average progress."

65 (c)~~(3)~~ Grade "C" equals 70 percent through 79 percent, has
 66 a grade point average value of 2, and is defined as "average
 67 progress."

68 (d)~~(4)~~ Grade "D" equals 60 percent through 69 percent, has
 69 a grade point average value of 1, and is defined as "lowest
 70 acceptable progress."

71 (e)~~(5)~~ Grade "F" equals zero percent through 59 percent,
 72 has a grade point average value of zero, and is defined as
 73 "failure."

74 (f)~~(6)~~ Grade "I" equals zero percent, has a grade point
 75 average value of zero, and is defined as "incomplete."

76 (2) District school boards participating in the Mastery-
 77 Based Education Pilot Program under s. 1003.4996 may use an
 78 alternative interpretation of letter grades to measure student
 79 success in grades 6 through 12.

80
 81 For the purposes of class ranking, district school boards may
 82 exercise a weighted grading system pursuant to s. 1007.271.

83 Section 3. Section 1003.4996, Florida Statutes, is amended
 84 to read:

85 1003.4996 Mastery-Based ~~Competency-Based~~ Education Pilot
 86 Program. ~~Beginning with the 2016-2017 school year,~~ The Mastery-
 87 Based ~~Competency-Based~~ Education Pilot Program is created within
 88 the Department of Education to be administered for a period of 5
 89 years. The purpose of the pilot program is to provide an
 90 educational environment that allows students to advance to
 91 higher levels of learning upon the mastery of concepts and
 92 skills through statutory exemptions relating to student
 93 progression and the awarding of credits.

94 (1) PARTICIPATION.—The P.K. Yonge Developmental Research
 95 School and public school districts, including, but not limited
 96 to, the Lake, Palm Beach, Pinellas, and Seminole County School
 97 Districts, may submit an application in a format prescribed by
 98 the department to participate in the pilot program.

99 (2) APPLICATION.—The application to participate in the
 100 pilot program must, at a minimum, include:

101 (a) The vision and timelines for the implementation of
 102 mastery-based ~~competency-based~~ education within the school
 103 district, including a list of the schools that will participate
 104 in the pilot program during the first school year and the list
 105 of schools that will be integrated into the program in
 106 subsequent school years.

107 (b) The annual goals and performance outcomes for
 108 participating schools, including, but not limited to:

- 109 1. Student performance as defined in s. 1008.34.
- 110 2. Promotion and retention rates.
- 111 3. Graduation rates.
- 112 4. Indicators of college and career readiness.

113 (c) A communication plan for parents and other
 114 stakeholders, including local businesses and community members.

115 (d) The scope of and timelines for professional
 116 development for school instructional and administrative
 117 personnel.

118 (e) A plan for student progression based on the mastery of
 119 content, including mechanisms that determine and ensure that a
 120 student has satisfied the requirements for grade-level promotion
 121 and content mastery.

122 (f) A plan for using technology and digital and blended
 123 learning to enhance student achievement and facilitate the
 124 mastery-based ~~competency-based~~ education system.

125 (g) The proposed allocation of resources for the pilot

126 program at the school and district levels.

127 (h) The recruitment and selection of participating
128 schools.

129 (i) The rules to be waived for participating schools
130 pursuant to subsection (3) to implement the pilot program.

131 (3) EXEMPTION FROM RULES.—In addition to the waivers
132 authorized in s. 1001.10(3), the State Board of Education may
133 authorize the commissioner to grant an additional waiver of
134 rules relating to student progression and the awarding of
135 credits.

136 (4) ALTERNATE CREDIT AND LETTER GRADE SYSTEMS.—

137 (a) Beginning with the 2018-2019 school year,
138 participating school districts may amend their applications to
139 include alternatives for awarding credit, as authorized under s.
140 1003.436, and for the interpretation of middle and high school
141 letter grades, as authorized under s. 1003.437.

142 1. Alternatives to awarding credit must include a
143 verification of the student's mastery of the applicable course
144 content using rigorous scoring rubrics to evaluate the student's
145 work.

146 2. Alternatives to the interpretation of middle and high
147 school letter grades may substitute the applicable language from
148 the school district's rigorous scoring rubric.

149 (b) An application that is amended pursuant to this
150 subsection must be approved by the district school board.

151 ~~(5)~~~~(4)~~ STUDENT FUNDING.—Students enrolled in a
 152 participating school shall be reported for and generate funding
 153 pursuant to s. 1011.62.

154 ~~(6)~~~~(5)~~ DEPARTMENT DUTIES.—The department shall:

155 (a) Compile the student and staff schedules of
 156 participating schools before and after implementation of the
 157 pilot program.

158 (b) Provide participating schools with access to
 159 statewide, standardized assessments required under s. 1008.22.

160 (c) Annually, by June 1, provide to the Governor, the
 161 President of the Senate, and the Speaker of the House of
 162 Representatives a report summarizing the activities and
 163 accomplishments of the pilot program and any recommendations for
 164 statutory revisions.

165 ~~(6) RULES.—The State Board of Education shall adopt rules
 166 to administer this section.~~

167 Section 4. Subsection (7) is added to section 1007.23,
 168 Florida Statutes, to read:

169 1007.23 Statewide articulation agreement.—

170 (7) The articulation agreement must ensure fair and
 171 equitable access for high school graduates with mastery-based,
 172 nontraditional diplomas and transcripts.

173 Section 5. This act shall take effect July 1, 2018.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Education Committee
 2 Representative Diaz, M. offered the following:

Amendment (with title amendment)

Between lines 27 and 28, insert:

Section 1. Paragraph (e) of subsection (2), paragraphs (d) and (h) of subsection (5) of section 1002.385, Florida Statutes, are amended, and paragraph (p) is added to subsection (5) of that section, to read:

1002.385 The Gardiner Scholarship.—

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

(e) "Eligible nonprofit scholarship-funding organization"

or "organization" means a nonprofit scholarship-funding organization that is approved pursuant to s. 1002.395(15) ~~s. 1002.395(16)~~.

(5) AUTHORIZED USES OF PROGRAM FUNDS.—Program funds must



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17 be used to meet the individual educational needs of an eligible
18 student and may be spent for the following purposes:

19 (d) ~~Enrollment in, or~~ Tuition or fees associated with
20 full-time or part-time enrollment in, a home education program,
21 an eligible private school, an eligible postsecondary
22 educational institution or a program offered by the
23 postsecondary institution, a private tutoring program authorized
24 under s. 1002.43, a virtual program offered by a department-
25 approved private online provider that meets the provider
26 qualifications specified in s. 1002.45(2)(a), the Florida
27 Virtual School as a private paying student, or an approved
28 online course offered pursuant to s. 1003.499 or s. 1004.0961.

29 (h) Tuition and fees for part-time tutoring services
30 provided by a person who holds a valid Florida educator's
31 certificate pursuant to s. 1012.56; a person who holds an
32 adjunct teaching certificate pursuant to s. 1012.57; a person
33 who has a bachelor's degree or a graduate degree in the subject
34 area in which instruction is given; or a person who has
35 demonstrated a mastery of subject area knowledge pursuant to s.
36 1012.56(5). As used in this paragraph, the term "part-time
37 tutoring services" does not qualify as regular school attendance
38 as defined in s. 1003.01(13)(e).

39 (p) Tuition or fees associated with enrollment in a
40 nationally or internationally recognized research-based training
41 program for a child with a neurological disorder or brain

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42 damage.

43

44 A provider of any services receiving payments pursuant to this
45 subsection may not share, refund, or rebate any moneys from the
46 Gardiner Scholarship with the parent or participating student in
47 any manner. A parent, student, or provider of any services may
48 not bill an insurance company, Medicaid, or any other agency for
49 the same services that are paid for using Gardiner Scholarship
50 funds.

51 Section 2. Section 1002.411, Florida Statutes, is created
52 to read:

53 1002.411 Reading scholarship accounts.-

54 (1) READING SCHOLARSHIP ACCOUNTS.-Reading scholarship
55 accounts are established to provide educational options for
56 students.

57 (2) ELIGIBILITY.-Contingent upon available funds, and on a
58 first-come, first-served basis, each student in grades 3 through
59 5 who is enrolled in a Florida public school is eligible for a
60 reading scholarship account if the student scored below a Level
61 3 on the grade 3 or grade 4 statewide, standardized English
62 Language Arts (ELA) assessment in the prior school year. An
63 eligible student who is classified as an English Learner and is
64 enrolled in a program or receiving services that are
65 specifically designed to meet the instructional needs of English
66 Learner students shall receive priority.

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67 (3) PARENT AND STUDENT RESPONSIBILITIES FOR
68 PARTICIPATION.-

69 (a) For an eligible student to receive a reading
70 scholarship account, the student's parent must:

71 1. Submit an application to an eligible nonprofit
72 scholarship-funding organization by the deadline established by
73 such organization; and

74 2. Submit eligible expenses to the eligible nonprofit
75 scholarship-funding organization for reimbursement of qualifying
76 expenditures, which may include:

77 a. Instructional materials.

78 b. Curriculum. As used in this sub-subparagraph, the term
79 "curriculum" means a complete course of study for a particular
80 content area or grade level, including any required supplemental
81 materials and associated online instruction.

82 c. Tuition and fees for part-time tutoring services
83 provided by a person who holds a valid Florida educator's
84 certificate pursuant to s. 1012.56; a person who holds a
85 baccalaureate or graduate degree in the subject area; a person
86 who holds an adjunct teaching certificate pursuant to s.
87 1012.57; or a person who has demonstrated a mastery of subject
88 area knowledge pursuant to s. 1012.56(5).

89 d. Fees for summer education programs.

90 e. Fees for after-school education programs.

91

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92 A provider of any services receiving payments pursuant to this
93 subparagraph may not share any moneys from the reading
94 scholarship with, or provide a refund or rebate of any moneys
95 from such scholarship to, the parent or participating student in
96 any manner. A parent, student, or provider of any services may
97 not bill an insurance company, Medicaid, or any other agency for
98 the same services that are paid for using reading scholarship
99 funds.

100 (b) The parent is responsible for the payment of all
101 eligible expenses in excess of the amount in the account in
102 accordance with the terms agreed to between the parent and any
103 providers and may not receive any refund or rebate of any
104 expenditures made in accordance with paragraph (a).

105 (4) ADMINISTRATION.—An eligible nonprofit scholarship-
106 funding organization participating in the Florida Tax Credit
107 Scholarship Program established by s. 1002.395 may establish
108 reading scholarship accounts for eligible students in accordance
109 with the requirements of eligible nonprofit scholarship-funding
110 organizations under this chapter.

111 (5) DEPARTMENT OBLIGATIONS.—The department shall have the
112 same duties imposed by this chapter upon the department
113 regarding oversight of scholarship programs administered by an
114 eligible nonprofit scholarship-funding organization.

115 (6) SCHOOL DISTRICT OBLIGATIONS; PARENTAL OPTIONS.—By
116 September 30, the school district shall notify the parent of



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117 each student in grades 3 through 5 who scored below a level 3 on
118 the statewide, standardized ELA assessment in the prior school
119 year of the process to request and receive a reading
120 scholarship, subject to available funds.

121 (7) ACCOUNT FUNDING AND PAYMENT.—

122 (a) For the 2018-2019 school year, the amount of the
123 scholarship shall be \$500 per eligible student. Thereafter, the
124 maximum amount awarded an eligible student shall be provided in
125 the General Appropriations Act.

126 (b) One hundred percent of the funds appropriated for the
127 reading scholarship accounts shall be released to the department
128 at the beginning of the first quarter of each fiscal year.

129 (c) Upon notification from the eligible nonprofit
130 scholarship-funding organization that a student has been
131 determined eligible for a reading scholarship, the department
132 shall release the student's scholarship funds to such
133 organization to be deposited into the student's account.

134 (d) Accrued interest in the student's account is in
135 addition to, and not part of, the awarded funds. Account funds
136 include both the awarded funds and accrued interest.

137 (e) The eligible nonprofit scholarship-funding
138 organization may develop a system for payment of scholarship
139 funds by funds transfer, including, but not limited to, debit
140 cards, electronic payment cards, or any other means of payment
141 that the department deems to be commercially viable or cost-



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142 effective. A student's scholarship award may not be reduced for
143 debit card or electronic payment fees. Commodities or services
144 related to the development of such a system shall be procured by
145 competitive solicitation unless they are purchased from a state
146 term contract pursuant to s. 287.056.

147 (f) Payment of the scholarship shall be made by the
148 eligible nonprofit scholarship-funding organization no less
149 frequently than on a quarterly basis.

150 (g) In addition to funds appropriated for scholarships and
151 subject to a separate, specific legislative appropriation, an
152 organization may receive an amount equivalent to not more than 3
153 percent of the amount of each scholarship from state funds for
154 administrative expenses if the organization has operated as a
155 nonprofit entity for at least the preceding 3 fiscal years and
156 did not have any findings of material weakness or material
157 noncompliance in its most recent audit under s. 1002.395. Such
158 administrative expenses must be reasonable and necessary for the
159 organization's management and distribution of scholarships under
160 this section. Funds authorized under this paragraph may not be
161 used for lobbying or political activity or expenses related to
162 lobbying or political activity. An organization may not charge
163 an application fee for a scholarship. Administrative expenses
164 may not be deducted from funds appropriated for scholarships.

165 (h) Moneys received pursuant to this section do not
166 constitute taxable income to the qualified student or his or her



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167 parent.

168 (i) A student's scholarship account must be closed and any
169 remaining funds shall revert to the state after:

170 1. Denial or revocation of scholarship eligibility by the
171 commissioner for fraud or abuse, including, but not limited to,
172 the student or student's parent accepting any payment, refund,
173 or rebate, in any manner, from a provider of any services
174 received pursuant to subsection (3); or

175 2. Three consecutive fiscal years in which an account has
176 been inactive.

177 (8) LIABILITY.--No liability shall arise on the part of the
178 state based on the award or use of a reading scholarship
179 account.

180 Section 3. Contingent upon CS/HB 7055 or similar
181 legislation in the 2018 Regular Session of the Legislature or an
182 extension thereof failing to become law, for the 2018-2019
183 fiscal year, the sum of \$9,700,000 in recurring funds from the
184 General Revenue Fund shall be used to fund reading scholarship
185 accounts pursuant to s. 1002.411, Florida Statutes, and \$300,000
186 in recurring funds from the General Revenue Fund shall be
187 provided as an administrative fee pursuant to s. 1002.411(7)(g),
188 Florida Statutes.

189

190

191

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



Amendment No. 1

192 Remove line 3 and insert:
193 1002.385, F.S.; revising eligible expenditures for the Gardiner
194 Scholarship Program; creating s. 1002.411, F.S.; establishing
195 reading scholarship accounts for specified purposes; providing
196 for eligibility for scholarships; providing for administration;
197 providing duties of the Department of Education; providing
198 school district obligations; specifying options for parents;
199 providing that maximum funding shall be specified in the General
200 Appropriations Act; providing for payment of funds; specifying
201 that no state liability arises from the award or use of such an
202 account; providing an appropriation; 1003.436, F.S.; authorizing
203 a district school board

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1091 Early Learning

SPONSOR(S): PreK-12 Appropriations Subcommittee, PreK-12 Quality Subcommittee and Grall

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1254

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) PreK-12 Quality Subcommittee	14 Y, 0 N, As CS	Brink	DavisGreene
2) PreK-12 Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Potvin
3) Education Committee		Brink	Hassell

SUMMARY ANALYSIS

The School Readiness program is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Office of Child Care of the United States Department of Health and Human Services. It is administered by early learning coalitions (ELC) at the county or regional level. Florida's OEL administers the program at the state level, including statewide coordination of the ELCs. The program subsidizes child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

The bill revises provisions related to the School Readiness program by:

- expanding the definition of "at-risk" for eligibility purposes;
- requiring OEL to identify observation-based child assessments;
- requiring OEL to adopt program assessment requirements that measure teacher-child interactions;
- requiring OEL to revise the statewide provider contract to include contracted slots and quality improvement strategies, if applicable, and program assessment requirements;
- establishing a payment differential of up to 15 percent based on program assessment results with no more than 5% of the 15% allocated based on submission of data by providers that implement an observation-based child assessment identified by OEL;
- modifying the required functionality of the single statewide information system;
- requiring OEL's annual report to include certain program assessment information;
- requiring ELCs to establish local eligibility priorities and include them in their biennial School Readiness plans;
- requiring an ELC's biennial plan to include procedures for the use of contracted slots, a description of quality improvement strategies, and the results of a community needs assessment;
- requiring School Readiness providers to participate in a program assessment; and
- allowing the award of grants and financial supports to providers and instructors to meet program assessment requirements.

The bill appropriates for FY 2018-2019, the sum of \$6 million in nonrecurring funds from the Child Care and Development Block Grant Trust Fund to the OEL to implement the program assessment.

The bill takes effect on July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

School Readiness Program

Established in 1999,¹ the School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.² The School Readiness program offers financial assistance for child care to support working families and children to develop skills for success in school and provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, and the Voluntary Prekindergarten Education (VPK) Program.³

The School Readiness program is a state-federal partnership between Florida's Office of Early Learning (OEL)⁴ and the Office of Child Care of the United States Department of Health and Human Services.⁵ It is administered by early learning coalitions (ELC) at the county or regional level.⁶ Florida's OEL administers the program at the state level, including statewide coordination of the ELCs.⁷

The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, inspects licensed and license exempt child care providers that provide the School Readiness program for specified health and safety standards.⁸ The law authorizes a county to designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards. Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. Thus, in these five counties the local licensing agency, not DCF, inspects child care providers that provide the School Readiness program⁹ for health and safety standards.

Responsibilities of the Office of Early Learning

Present Situation

Florida's OEL is the lead agency in Florida for administering the federal Child Care and Development Fund (CCDF) from which funds are used to implement the School Readiness program. Florida law

¹Section 1, ch. 99-357, L.O.F.

² Section 1002.87, F.S.

³ Florida Office of Early Learning,

Parents, http://www.floridaearlylearning.com/parents/early_learning_programs_and_services/school_readiness.aspx (last visited Jan. 17, 2018).

⁴ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE). The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified as s. 1002.213*, F.S.

⁵ See U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet*, <http://www.acf.hhs.gov/programs/occ/fact-sheet-occ> (last visited Jan. 17, 2018).

⁶ Section 1002.83, F.S.

⁷ Section 1001.213(3), F.S.

⁸ See ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

⁹ Section 402.306(1), F.S.; Department of Children and Families, *Licensing Information*, <http://www.myflfamilies.com/service-programs/child-care/licensing-information> (last visited Jan. 19, 2018).

requires OEL to focus on improving the educational quality of all program providers participating in the School Readiness program while preserving parental choice by permitting parents to choose from a variety of child care categories.¹⁰

OEL must adopt, in rule, a statewide provider contract to be used by each School Readiness program provider, review and approve each ELC's School Readiness plan every 2 years, and monitor and evaluate the performance of each ELC in administering the School Readiness program and the VPK program.¹¹ OEL must also adopt specific system support services for the state's School Readiness program including statewide data information program requirements that include:

- Eligibility requirements.
- Financial reports.
- Program accountability measures.
- Child progress reports.¹²

Additional support services include child care resource and referral services and a single point of entry and uniform waiting list.¹³ To promote informed child care choices OEL may provide technical assistance and guidance on additional support services to complement the School Readiness program, including:

- Rating and improvement systems.
- Warm-line services.¹⁴
- Anti-fraud plans.
- School Readiness program standards.
- Child screening and assessments.
- Training and support for parental involvement in children's early education, including research on child development and best practices.
- Family literacy activities and services.¹⁵

OEL must develop and adopt performance standards and benchmarks to address the age-appropriate progress of children in the development of School Readiness skills. The performance standards must be aligned with the standards for children in the VPK program.¹⁶ OEL must enter into a memorandum of understanding with local licensing agencies and the Department of Children and Families, Office of Child Care Regulation for inspection of School Readiness program providers.¹⁷

In 2014, the Legislature created the Early Learning Performance Funding Pilot in the General Appropriations Act.¹⁸ The Legislature directed OEL to organize a workgroup of early learning stakeholders to provide input to help develop the program and select ELCs to participate.¹⁹ Under the performance funding program, which is no longer a pilot and has been funded each year since 2014,

¹⁰ Section 1002.82(1) and (2)(a)-(b), F.S. Care and curriculum by a faith-based provider must not be limited or excluded in any of these categories. *Id.*

¹¹ Section 1002.82(2)(e), (m), and (p), F.S.

¹² Section 1002.82(2)(f)1.a., F.S.

¹³ Section 1002.82(2)(f)1.b., F.S., and Florida's Office of Early Learning, *Welcome to Florida's Early Learning Family Portal*, <https://spe.schoolreadiness.org/pe/> (last visited Jan. 19, 2018).

¹⁴ Florida's OEL must "administer a statewide toll-free Warm-Line for the purpose of providing assistance and consultation to child care facilities and FDCHs regarding health, developmental, disability, and other special needs." Section 1002.82(2)(r), F.S.

¹⁵ Section 1002.82(2)(f)2., F.S.

¹⁶ Section 1002.82(2)(j), F.S.; rule 6M-4.700, F.A.C.; Florida's Office of Early Learning, *Early Learning and Developmental Standards*,

http://www.floridaearlylearning.com/parents/parent_resources/floridas_early_learning_and_development_standards_birth_to_five.aspx (last visited Jan. 19, 2018).

¹⁷ Section 1002.82(2)(i), F.S.

¹⁸ Specific Appropriation 87, s. 2, ch. 2014-51, L.O.F.

¹⁹ *See id.*

ELCs are eligible for funding to award child care providers and instructors for improving School Readiness program outcomes. The method for allocating funds to ELCs must include:²⁰

- A funding differential incentive for high-need populations.
- A professional development system to significantly improve instructor quality.
- A research-based observational system to significantly improve instructor interactions with children.

Under the performance funding program, providers are assigned to one of five tiers using the OEL-adopted Class Assessment and Scoring System (CLASS) composite score, which is determined by averaging the CLASS observation dimension scores together from each classroom. Once assigned to a tier, providers must choose one continuous quality improvement strategy from a list compiled by OEL.²¹ Approximately 1,000 providers and their instructors participate in the program, which, among other things, requires participation in CLASS training and agreeing to have an evaluator conduct assessments.²²

The 2017 Legislature appropriated \$15.5 million, of which \$12,000,000 is from nonrecurring funds, to implement the program for the 2017-2018 fiscal year.²³ The funds must be administered by OEL in coordination with ELCs to provide consistent standards and leverage community efforts to support a coordinated statewide system of quality.²⁴

Effect of Proposed Changes

The bill requires that the program accountability measures adopted by OEL include a program assessment for School Readiness providers. The program assessment must measure the quality of teacher-child interactions using a research-based observation tool. The bill establishes additional minimum requirements for the program assessment to include quality measures, including a minimum threshold for contracting purposes; a process for program participation; exemptions; and improvement through the completion of an improvement plan.

The bill requires OEL to identify observation-based child assessments for use at a minimum three times a year. The assessments must: provide interval level and criterion-referenced data that measures equivalent level of growth across core domains; measure progress in the performance standards; provide for appropriate accommodations for children with disabilities and English language learners; coordinate with the performance standards for the Voluntary Prekindergarten Education Program; and provide data in a format for use in the single statewide information system.

The bill requires OEL to revise the statewide provider contract to include program assessment requirements and contracted slots and quality improvement strategies, if applicable. The provisions for termination for cause in the statewide provider contract must include a provider's failure to meet minimum quality measures for a period of up to 5 years. However, a provider is not subject to termination for failure to meet quality measures if the provider has an active improvement plan and the ELC finds that the provider is essential to meeting capacity needs based on the community needs assessment.

The bill also requires OEL to revise its annual report to include the number of providers that have completed the program assessment requirement and the number of providers that have not met minimum quality measures to be eligible for a contract, have been granted an exemption, or have an active improvement plan.

²⁰ See *id.*

²¹ See Florida Office of Early Learning, *Early Learning Performance Funding Project 2017-18 Overview* (July 10, 2017), available at http://www.floridaearlylearning.com/school_readiness/early_learning_performance_funding_project.aspx.

²² See *id.*

²³ Specific Appropriation 83, s. 2, ch. 2017-70, L.O.F.

²⁴ See *id.*

Child Eligibility and Responsibilities of Early Learning Coalitions

Present Situation

Federal regulations governing the CCDF,²⁵ the primary funding source for the School Readiness program, authorize states to use grant funds for child care services, if:

- the child is under 13 years of age, or at the state's option, under age 19 if the child is physically or mentally incapable of caring for himself or herself or under court supervision;
- the child's family income does not exceed 85 percent of the state's median income for a family of the same size; and
- the child:
 - resides with a parent or parents who work or attend job training or educational programs; or
 - receives, or needs to receive, protective services.²⁶

Within these broad federal eligibility categories, Florida law specifies that ELCs must admit children into the School Readiness program according to the following priorities:

- **First priority** is a child under 13 years of age from families in which an adult is receiving temporary cash assistance and subject to federal work requirements²⁷
- **Second priority** is a child under the age of 9 who is at-risk
- **Third priority** is a child, birth to beginning of the school year for which the child is eligible for kindergarten, from a working family that is economically disadvantaged²⁸ and may include such a child's eligible siblings who are eligible to enter kindergarten through the summer before sixth grade, provided that the ELC uses local revenues first
- **Fourth priority** is a child of a parent who transitions from the work program into employment from birth through the summer before kindergarten
- **Fifth priority** is an at-risk child, ages 9 through 13. Such a child is given priority over other children if his or her sibling is enrolled in the School Readiness program under eligibility priorities 1, 2, or 3
- **Sixth priority** is a child younger than 13 years of age from a working family that is economically disadvantaged. Such a child is given priority over other children if his or her sibling is enrolled in the School Readiness program under eligibility priority 3
- **Seventh priority** is a child under age 13 whose parent transitions from the work program into employment
- **Eighth priority** is a child ages 3-5 years of age who has a current individual education plan with a Florida school district. Such a child is eligible until he or she is old enough for kindergarten admission
- **Last priority** is a child who is also concurrently enrolled in the Head Start program and the VPK Program²⁹

²⁵ 45 C.F.R. parts 98 and 99.

²⁶ 45 C.F.R. s. 98.20(a). Florida does not provide school readiness funding for children 13-18 years of age who are physically or mentally incapable of self-care or under court supervision. See Florida Office of Early Learning, *Child Care and Development Fund (CCDF) Plan FFY 2016-2018* (2016) at 57, available at http://www.floridaearlylearning.com/sites/www/Uploads/14-Draft-FY2016-2018%20CCDF%20Plan%20Preprint%20%2012-17-15_final_markup_SC_Comments_CLEAN_PDF_ADA.pdf; see also rule 6M-4.200(1), F.A.C.

²⁷Recipients of assistance under a state's Temporary Assistance for Needy Families Block Grant must meet Federal work requirements. These work requirements require a state to meet or exceed minimum rates of recipients participating in "work activities," e.g., employment, education, job search, community service, and vocational training. 42 U.S.C. s. 607(a)-(d). Under Florida law, the maximum number of hours a recipient of subsidized child care, who is not otherwise exempt from work activity, may be required to work is 40 hours per week. Section 445.024(2), F.S.

²⁸ "Economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level. Section 1002.81(7), F.S.

²⁹ Section 1002.87(1), F.S.

A child is considered to be “at risk” if, among other things, the child is in the custody of a parent who is a victim of domestic violence residing in a certified domestic violence center.³⁰

A child who is ineligible due to a parent’s job loss or cessation of education or job training will continue to receive School Readiness program services for at least three months to enable the parent to obtain employment.³¹

Each ELC administers the School Readiness program,³² the VPK Program,³³ and the state’s child care resource and referral network in its county or multicounty region.³⁴ There are currently 30 ELCs.³⁵ Each ELC is governed by a board of directors comprised of various stakeholders and community representatives. Three board members, including the chair, are appointed by the Governor.³⁶

In order to participate in the School Readiness program, each ELC must submit a School Readiness plan to OEL for approval.³⁷ The plan must include, but is not limited to:

- The ELC’s operations, including its membership and articles of incorporation and bylaws, if applicable.
- The minimum number of children to be served by care level.
- The procedures for implementing program requirements such as single point of entry, uniform waiting list, eligibility and enrollment, sliding fee scale, and payment rate.
- A detailed description of the ELC’s quality activities and services.
- A detailed budget outlining the estimated expenditures for state, federal, and local matching funds.
- A detailed accounting of all revenues and expenditures during the previous state fiscal year.³⁸
- Policies and procedures governing procurement, maintenance of tangible personal property, maintenance of records, information technology security, and disbursement controls.
- A description of the procedures for monitoring School Readiness program providers, including the process for responding to a parental complaint.
- Documentation that the coalition has solicited and considered comments regarding the proposed School Readiness plan from the local community.

An ELC with an approved School Readiness plan must implement a comprehensive system of School Readiness services which enhances the cognitive, social, and physical development of children to achieve the children’s performance standards.³⁹ Specific ELC requirements include, but are not limited, to:

- Establishing a uniform waiting list to track eligible children.
- Administering a child care resource and referral network for its service area.
- Establishing a regional Warm-Line.
- Establishing age-appropriate screening for children birth to 5 years.

³⁰At-risk children can also include children who are homeless or who may be experiencing abuse, neglect, abandonment or exploitation. See s. 1002.81(1), F.S. (definition of “at-risk child”).

³¹ Section 1002.87(6), F.S.

³²Part VI, ch. 1002, F.S.

³³Part V, ch. 1002, F.S.

³⁴ Section 1002.84, F.S.

³⁵Florida’s Office of Early Learning, *Early Learning Coalition Directory* (Revised May 7, 2013), available at <http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf>. Florida law permits the establishment of 31 or fewer ELCs. Section 1002.83(1), F.S.

³⁶ Section 1002.83(3), F.S.

³⁷ Section 1002.85(2), F.S.

³⁸ Section 1002.85(2)(a)-(i), F.S.

³⁹ Section 1002.84(1), F.S.

- Implementing age appropriate preassessment and postassessment of children, if specified in the coalition's plan.
- Determining child eligibility.
- Establishing a parent sliding fee scale.
- Complying with federal and state procurement requirements.
- Establishing proper information technology security controls.
- Monitoring School Readiness program providers.⁴⁰

ELCs are required to submit an annual report to OEL by October 1 of each year. The report must include information such as the total number of children served, details of expenditures by fund source, and an evaluation of its direct enhancement services.⁴¹

Effect of Proposed Changes

The bill revises the definition of an “at-risk child” to specify that a child is considered at risk if a certified domestic violence center verifies that the child’s custodial parent is a victim of domestic violence, rather than requiring the parent to reside in such a center.

The bill revises child eligibility priorities by requiring ELCs, after serving children in the first two priority categories, to prioritize services for children in subsequent categories based on their community needs assessments. Each ELC must include its identified priorities in its biennial School Readiness plan as part of its eligibility and enrollment processes.

The bill requires each ELC to conduct a community needs assessment and include the results in its plan. Each plan must also include a detailed description of quality improvement strategies used by the coalition to strengthen teaching practices and improve child outcomes and its procedures for the use of contracted slots, as applicable, based on the needs assessment.

Child Care Provider Eligibility and Responsibilities

Present Situation

In order to be eligible to deliver the School Readiness program, a provider must be:

- a licensed child care facility;
- a licensed or registered family day care home (FDCH);
- a licensed large family child care home (LFCCH);
- a public school or nonpublic school;
- a license-exempt faith-based child care provider;
- a before-school or after-school program; or
- an informal child care provider authorized in the state’s CCDF plan.⁴²

All School Readiness providers must meet basic health and safety for its premises and comply with the age-appropriate immunizations of children enrolled in the school readiness program. For licensed providers, compliance with the requirements for licensure meets these requirements. DCF or the local licensing agency verify compliance with the specified health and safety requirements. School Readiness registered family day care homes and providers not subject to licensure by the DCF must also meet these requirements as verified by inspection by DCF or the local licensing agency.⁴³In

⁴⁰ Section 1002.84, F.S.

⁴¹ Section 1002.84(18), F.S.

⁴² Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida Office of Early Learning, *Child Care and Development Fund (CCDF) Plan FFY 2016-2018* (2016) at 99, available at http://www.floridaearlylearning.com/sites/www/Uploads/14-Draft-FY2016-2018%20CCDF%20Plan%20Preprint%20%2012-17-15_final_markup_SC_Comments_CLEAN_PDF_ADA.pdf.

⁴³ Section 1002.88(1)(c), F.S.

addition, each child care facility, family day care home, and large family day care home must annually submit an affidavit of compliance with the requirement to report instances of child abuse, abandonment, or neglect.⁴⁴

Provider responsibilities include, but are not limited, to:

- Employing child care personnel who have satisfied background screening and training requirements.
- Providing instruction and activities to enhance the age-appropriate progress of each child to attain the child development standards adopted by OEL.
- Providing activities to foster brain development in infants and toddlers in an environment rich in language and music and visual, tactile, auditory, and linguistic stimulation and including 30 minutes of reading to children each day.
- Executing the standard statewide provider contract adopted by OEL.
- Implementing a character development program.
- Maintaining minimum general liability insurance coverage.
- Maintaining any required worker's compensation insurance and any required unemployment compensation insurance.
- Administering preassessments and postassessments that have been approved by the OEL, but only if the provider chooses to administer such assessments.⁴⁵

Effect of Proposed Changes

The bill requires School Readiness program providers, subject to appropriation, to participate in the program assessment adopted by OEL and implement quality improvement strategies identified in the ELC plan.

Funding for the School Readiness Program

Present Situation

The School Readiness program receives funding from a mixture of federal and state sources, including the federal CCDF block grant, the Federal Grants Trust Fund, the federal Temporary Assistance for Needy Families block grant,⁴⁶ and the state general revenue funds.⁴⁷ The Child Care Executive Partnership Program allows funding from the School Readiness program to be used for payment of matching child care funding for low-income working parents who are eligible for subsidized child care. State and federal funds are used as incentives for generating matching local funds from local governments, employers, charitable foundations, and other sources.⁴⁸

For FY 2017-18, a total of \$564.1 million was appropriated for the School Readiness program from state and federal funds, including \$140.6 million from the state's General Revenue Fund, \$370.7 million from the CCDF block grant, \$500,000 from Federal Grants Trust Fund, and \$96.6 million from the Welfare Transition Trust Fund.⁴⁹

⁴⁴Section 402.319(3), F.S.

⁴⁵ Section 1002.88(1), F.S.

⁴⁶ In 2011, the Florida Legislature created the Welfare Transition Trust Fund within the Florida Department of Education for use as a depository for receiving federal funds under the Temporary Assistance for Needy Families (TANF) Program. Section 1001.283, F.S.

⁴⁷ Specific Appropriation 84, s. 2, ch. 2017-70, L.O.F.

⁴⁸ Section 1002.94, F.S.

⁴⁹*Id.*

Effect of Proposed Changes

The bill includes implementation of the program assessment adopted by OEL as an allowable quality activity for purposes of awarding grants and providing financial support to providers. The bill also establishes a differential payment of up to 15 percent for each care level and unit of child care for a provider that scores above the minimum threshold on the program assessment for contracting purposes. The bill allows no more than 5 percent of the 15 percent to be provided to providers who submit valid and reliable data to the statewide information system in the domains of language and executive functioning using one of the OEL-identified child assessments.

B. SECTION DIRECTORY:

Section 1. Amends s. 1002.81, F.S.; revising the definition of "at-risk child."

Section 2. Amends s. 1002.82, F.S.; revising the duties of the Office of Early Learning; providing for the development of a program assessment for school readiness providers; providing program assessment requirements; providing for the identification of observation-based child assessments; revising the standard statewide contract for providers; providing that failing to meet certain measures for a specified period is cause for termination of a provider; requiring the office to coordinate with a specified office for an evaluation of certain accrediting associations; requiring the office to set a payment differential for certain providers; revising the requirement for an analysis of early learning activities throughout the state.

Section 3. Amends s. 1002.85, F.S.; revising the required contents of the school readiness program plan each early learning coalition must submit.

Section 4. Amends s. 1002.87, F.S.; revising the priority criteria for participation in the school readiness program.

Section 5. Amends s. 1002.88, F.S.; revising school readiness provider requirements for program participation; conforming cross-references.

Section 6. Amends s. 1002.89, F.S.; providing for the use of specified funds for a required assessment

Section 7. Providing an appropriation.

Section 8. Providing an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill appropriates for FY 2018-2019, the sum of \$6 million in nonrecurring funds from the Child Care and Development Block Grant Trust Fund to OEL to implement the program assessment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 24, 2018, the PreK-12 Quality Subcommittee adopted a strike all amendment and reported the bill favorably as a committee substitute. The strike all amendment:

- deletes an evaluation requirement for associations that accredit school readiness providers;
- replaces a 20 percent payment differential with a differential of up to 10 percent based on program assessment results; and
- specifies that a provider is not subject to termination for failure to meet quality measures if the provider has an active improvement plan and the ELC finds that the provider is essential to meeting capacity needs based on the community needs assessment.

On February 6, 2018, the PreK-12 Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute.

- The first amendment:
 - requires OEL to identify observation based assessments that meet specified requirements;
 - revises provision for termination for cause to also include failure to meet the standards;
 - revises requirements for program assessment to include frequency of program assessment;
 - provides a payment differential of up to 5% for providers who submit data on specified domains using the assessment identified by OEL; and

- requires, by July 1, 2019, the single statewide information system to enable analysis of child growth and program impacts and enable parents to monitor the development of their child.
- The second amendment clarifies the appropriated funds are nonrecurring funds.

The analysis is drafted to the bill as amended.

1 A bill to be entitled
2 An act relating to early learning; amending s.
3 1002.81, F.S.; revising the definition of "at-risk
4 child"; amending s. 1002.82, F.S.; revising the duties
5 of the Office of Early Learning; revising the
6 requirements for certain assessments; revising the
7 standard statewide contract for providers; providing
8 that failing to meet certain measures for a specified
9 period is cause for termination of a provider;
10 providing for the development of a program assessment
11 for school readiness providers; providing program
12 assessment requirements; requiring the office to set a
13 payment differential for certain providers; providing
14 requirements for such payment differential; revising
15 requirements for a certain single statewide
16 information system; revising the requirement for an
17 analysis of early learning activities throughout the
18 state; amending s. 1002.84, F.S.; conforming a cross-
19 reference; amending s. 1002.85, F.S.; revising the
20 required contents of the school readiness program plan
21 each early learning coalition must submit; amending s.
22 1002.87, F.S.; revising the priority criteria for
23 participation in the school readiness program;
24 amending s. 1002.88, F.S.; revising school readiness
25 provider requirements for program participation;

26 conforming cross-references; amending s. 1002.89,
 27 F.S.; providing for the use of specified funds for a
 28 required assessment; amending s. 1002.92, F.S.;
 29 conforming a cross-reference; providing an
 30 appropriation; providing an effective date.

31

32 Be It Enacted by the Legislature of the State of Florida:

33

34 Section 1. Paragraph (e) of subsection (1) of section
 35 1002.81, Florida Statutes, is amended to read:

36 1002.81 Definitions.—Consistent with the requirements of
 37 45 C.F.R. parts 98 and 99 and as used in this part, the term:

38 (1) "At-risk child" means:

39 (e) A child in the custody of a parent who is considered a
 40 victim of domestic violence and is receiving services through
 41 ~~residing in~~ a certified domestic violence center.

42 Section 2. Paragraphs (n) through (x) of subsection (2) of
 43 section 1002.82, Florida Statutes, are redesignated as
 44 paragraphs (p) through (z), respectively, present paragraphs
 45 (k), (m), and (n) of subsection (2) and paragraph (a) of
 46 subsection (5) are amended, and new paragraphs (n) and (o) are
 47 added to subsection (2) of that section, to read:

48 1002.82 Office of Early Learning; powers and duties.—

49 (2) The office shall:

50 (k) Identify observation-based child ~~Select~~ assessments

51 that are valid, reliable, and developmentally appropriate for
52 use at least three times a year ~~for use as preassessment and~~
53 ~~postassessment for the age ranges specified in the coalition~~
54 ~~plans.~~ The assessments must:

55 1. Provide interval level and criterion-referenced data
56 that measures equivalent levels of growth across the core
57 domains of early childhood development and that can be used for
58 determining developmentally appropriate learning gains.

59 2. Measure progress in the performance standards adopted
60 pursuant to paragraph (j).

61 3. Provide for appropriate accommodations for children
62 with disabilities and English language learners and be
63 administered by qualified individuals, consistent with the
64 developer's instructions.

65 4. Coordinate with the performance standards adopted by
66 the department under s. 1002.67(1) for the Voluntary
67 Prekindergarten Education Program.

68 5. Provide data in a format for use in the single
69 statewide information system to meet the requirements of
70 ~~paragraph (q) be designed to measure progress in the domains of~~
71 ~~the performance standards adopted pursuant to paragraph (j),~~
72 ~~provide appropriate accommodations for children with~~
73 ~~disabilities and English language learners, and be administered~~
74 ~~by qualified individuals, consistent with the publisher's~~
75 ~~instructions.~~

76 (m) Adopt by rule a standard statewide provider contract
 77 to be used with each school readiness program provider, with
 78 standardized attachments by provider type. The office shall
 79 publish a copy of the standard statewide provider contract on
 80 its website. The standard statewide contract shall include, at a
 81 minimum, contracted slots, if applicable, in accordance with the
 82 Child Care and Development Block Grant Act of 2014, 45 C.F.R.
 83 parts 98 and 99; quality improvement strategies, if applicable;
 84 program assessment requirements; and provisions for provider
 85 probation, termination for cause, and emergency termination for
 86 those actions or inactions of a provider that pose an immediate
 87 and serious danger to the health, safety, or welfare of the
 88 children. The standard statewide provider contract shall also
 89 include appropriate due process procedures. During the pendency
 90 of an appeal of a termination, the provider may not continue to
 91 offer its services. Any provision imposed upon a provider that
 92 is inconsistent with, or prohibited by, law is void and
 93 unenforceable. Provisions for termination for cause must also
 94 include failure to meet the minimum quality measures established
 95 under paragraph (n) for a period of up to 5 years, unless the
 96 coalition determines that the provider is essential to meeting
 97 capacity needs based on the assessment under s. 1002.85(2)(j)
 98 and the provider has an active improvement plan pursuant to
 99 paragraph (n).
 100 (n) Adopt a program assessment for school readiness

101 program providers that measures the quality of teacher-child
 102 interactions, including emotional and behavioral support,
 103 engaged support for learning, classroom organization, and
 104 instructional support for children ages birth to 5 years. The
 105 program assessment must also include:

106 1. Quality measures, including a minimum threshold for
 107 contracting purposes and program improvement through an
 108 improvement plan.

109 2. Requirements for program participation, frequency of
 110 program assessment, and exemptions.

111 (o) No later than July 1, 2019, develop a differential
 112 payment program based on the quality measures adopted by the
 113 office under paragraph (n). The differential payment may not
 114 exceed a total of 15 percent for each care level and unit of
 115 child care for a child care provider. No more than 5 percent of
 116 the 15 percent total differential may be provided to providers
 117 who submit valid and reliable data to the statewide information
 118 system in the domains of language and executive functioning
 119 using a child assessment identified pursuant to paragraph (k).
 120 Providers below the minimum threshold for contracting purposes
 121 are ineligible for such payment.

122 (q)~~(n)~~ Establish a single statewide information system
 123 that each coalition must use for the purposes of managing the
 124 single point of entry, tracking children's progress,
 125 coordinating services among stakeholders, determining

126 eligibility of children, tracking child attendance, and
 127 streamlining administrative processes for providers and early
 128 learning coalitions. By July 1, 2019, the system, subject to ss.
 129 1002.72 and 1002.97, shall:

130 1. Allow a parent to monitor the development of his or her
 131 child as the child moves among programs within the state.

132 2. Enable analysis at the state, regional, and local level
 133 to measure child growth over time, program impact, and quality
 134 improvement and investment decisions.

135 (5) By January 1 of each year, the office shall annually
 136 publish on its website a report of its activities conducted
 137 under this section. The report must include a summary of the
 138 coalitions' annual reports, a statewide summary, and the
 139 following:

140 (a) An analysis of early learning activities throughout
 141 the state, including the school readiness program and the
 142 Voluntary Prekindergarten Education Program.

143 1. The total and average number of children served in the
 144 school readiness program, enumerated by age, eligibility
 145 priority category, and coalition, and the total number of
 146 children served in the Voluntary Prekindergarten Education
 147 Program.

148 2. A summary of expenditures by coalition, by fund source,
 149 including a breakdown by coalition of the percentage of
 150 expenditures for administrative activities, quality activities,

151 nondirect services, and direct services for children.

152 3. A description of the office's and each coalition's
 153 expenditures by fund source for the quality and enhancement
 154 activities described in s. 1002.89(6)(b).

155 4. A summary of annual findings and collections related to
 156 provider fraud and parent fraud.

157 5. Data regarding the coalitions' delivery of early
 158 learning programs.

159 6. The total number of children disenrolled statewide and
 160 the reason for disenrollment.

161 7. The total number of providers by provider type.

162 8. The number of school readiness program providers who
 163 have completed the program assessment required under paragraph
 164 (2)(n); the number of providers who have not met the minimum
 165 threshold for contracting established under to paragraph (2)(n);
 166 and the number of providers that have an active improvement plan
 167 based on the results of the program assessment under paragraph
 168 (2)(n).

169 ~~9.8.~~ The total number of provider contracts revoked and
 170 the reasons for revocation.

171 Section 3. Subsection (4) of section 1002.84, Florida
 172 Statutes, is amended to read:

173 1002.84 Early learning coalitions; school readiness powers
 174 and duties.—Each early learning coalition shall:

175 (4) Establish a regional Warm-Line as directed by the

176 office pursuant to s. 1002.82(2)(t) ~~s. 1002.82(2)(r)~~. Regional
 177 Warm-Line staff shall provide onsite technical assistance, when
 178 requested, to assist child care facilities and family day care
 179 homes with inquiries relating to the strategies, curriculum, and
 180 environmental adaptations the child care facilities and family
 181 day care homes may need as they serve children with disabilities
 182 and other special needs.

183 Section 4. Paragraphs (c) and (d) of subsection (2) of
 184 section 1002.85, Florida Statutes, are amended, and paragraph
 185 (j) is added to that subsection, to read:

186 1002.85 Early learning coalition plans.—

187 (2) Each early learning coalition must biennially submit a
 188 school readiness program plan to the office before the
 189 expenditure of funds. A coalition may not implement its school
 190 readiness program plan until it receives approval from the
 191 office. A coalition may not implement any revision to its school
 192 readiness program plan until the coalition submits the revised
 193 plan to and receives approval from the office. If the office
 194 rejects a plan or revision, the coalition must continue to
 195 operate under its previously approved plan. The plan must
 196 include, but is not limited to:

197 (c) The coalition's procedures for implementing the
 198 requirements of this part, including:

- 199 1. Single point of entry.
- 200 2. Uniform waiting list.

- 201 3. Eligibility and enrollment processes and local
 202 eligibility priorities for children pursuant to s. 1002.87.
 203 4. Parent access and choice.
 204 5. Sliding fee scale and policies on applying the waiver
 205 or reduction of fees in accordance with s. 1002.84(8).
 206 6. Use of preassessments and postassessments, as
 207 applicable.
 208 7. Payment rate schedule.
 209 8. Use of contracted slots, as applicable, based on the
 210 results of the assessment required under paragraph (j).
 211 (d) A detailed description of the coalition's quality
 212 activities and services, including, but not limited to:
 213 1. Resource and referral and school-age child care.
 214 2. Infant and toddler early learning.
 215 3. Inclusive early learning programs.
 216 4. Quality improvement strategies that strengthen teaching
 217 practices and increase child outcomes.
 218 (j) An assessment of local priorities within the county or
 219 multi-county region based on the needs of families and provider
 220 capacity using available community data.
 221 Section 5. Subsections (1), (2), (3), and (7) of section
 222 1002.87, Florida Statutes, are amended to read:
 223 1002.87 School readiness program; eligibility and
 224 enrollment.—
 225 (1) Each early learning coalition shall give priority for

226 participation in the school readiness program as follows:

227 (a) Priority shall be given first to a child younger than
 228 13 years of age from a family that includes a parent who is
 229 receiving temporary cash assistance under chapter 414 and
 230 subject to the federal work requirements.

231 (b) Priority shall be given next to an at-risk child
 232 younger than 9 years of age.

233 (c) Subsequent priority shall be given, based on the early
 234 learning coalition's local priorities identified under s.

235 1002.85(2)(j), to children who meet the following criteria: next

236 ~~to~~

237 1. A child from birth to the beginning of the school year
 238 for which the child is eligible for admission to kindergarten in
 239 a public school under s. 1003.21(1)(a)2. who is from a working
 240 family that is economically disadvantaged, and may include such
 241 child's eligible siblings, beginning with the school year in
 242 which the sibling is eligible for admission to kindergarten in a
 243 public school under s. 1003.21(1)(a)2. until the beginning of
 244 the school year in which the sibling is eligible to begin 6th
 245 grade, provided that the first priority for funding an eligible
 246 sibling is local revenues available to the coalition for funding
 247 direct services.

248 ~~2.(d) Priority shall be given next to~~ A child of a parent
 249 who transitions from the work program into employment as
 250 described in s. 445.032 from birth to the beginning of the

251 school year for which the child is eligible for admission to
 252 kindergarten in a public school under s. 1003.21(1)(a)2.

253 ~~3.(e) Priority shall be given next to~~ An at-risk child who
 254 is at least 9 years of age but younger than 13 years of age. An
 255 at-risk child whose sibling is enrolled in the school readiness
 256 program within an eligibility priority category listed in
 257 paragraphs (a) and (b) and subparagraph (c)1.~~(e)~~ shall be given
 258 priority over other children who are eligible under this
 259 paragraph.

260 ~~4.(f) Priority shall be given next to~~ A child who is
 261 younger than 13 years of age from a working family that is
 262 economically disadvantaged. ~~A child who is eligible under this~~
 263 ~~paragraph whose sibling is enrolled in the school readiness~~
 264 ~~program under paragraph (c) shall be given priority over other~~
 265 ~~children who are eligible under this paragraph.~~

266 ~~5.(g) Priority shall be given next to~~ A child of a parent
 267 who transitions from the work program into employment as
 268 described in s. 445.032 who is younger than 13 years of age.

269 ~~6.(h) Priority shall be given next to~~ A child who has
 270 special needs, has been determined eligible as a student with a
 271 disability, has a current individual education plan with a
 272 Florida school district, and is not younger than 3 years of age.
 273 A special needs child eligible under this paragraph remains
 274 eligible until the child is eligible for admission to
 275 kindergarten in a public school under s. 1003.21(1)(a)2.

276 ~~7.(i) Notwithstanding paragraphs (a)–(d), priority shall~~
 277 ~~be given last to~~ A child who otherwise meets one of the
 278 eligibility criteria in paragraphs (a) and (b) and subparagraphs
 279 (c)1. and 2. ~~–(d)~~ but who is also enrolled concurrently in the
 280 federal Head Start Program and the Voluntary Prekindergarten
 281 Education Program.

282 (2) A school readiness program provider may be paid only
 283 for authorized hours of care provided for a child in the school
 284 readiness program. A child enrolled in the Voluntary
 285 Prekindergarten Education Program may receive care from the
 286 school readiness program if the child is eligible according to
 287 the eligibility priorities and criteria established in
 288 subsection (1) ~~this section.~~

289 (3) Contingent upon the availability of funds, a coalition
 290 shall enroll eligible children, including those from its waiting
 291 list, according to the eligibility priorities and criteria
 292 established in subsection (1) ~~this section.~~

293 (7) If a coalition disenrolls children from the school
 294 readiness program, the coalition must disenroll the children in
 295 reverse order of the eligibility priorities and criteria listed
 296 in subsection (1) beginning with children from families with the
 297 highest family incomes. A notice of disenrollment must be sent
 298 to the parent and school readiness program provider at least 2
 299 weeks before disenrollment to provide adequate time for the
 300 parent to arrange alternative care for the child. However, an

301 at-risk child may not be disenrolled from the program without
 302 the written approval of the Child Welfare Program Office of the
 303 Department of Children and Families or the community-based lead
 304 agency.

305 Section 6. Paragraphs (h) through (q) of subsection (1) of
 306 section 1002.88, Florida Statutes, are redesignated as
 307 paragraphs (i) through (r), respectively, present paragraphs (m)
 308 and (o) of subsection (1) are amended, and new paragraph (h) is
 309 added to subsection (1) of that section, to read:

310 1002.88 School readiness program provider standards;
 311 eligibility to deliver the school readiness program.—

312 (1) To be eligible to deliver the school readiness
 313 program, a school readiness program provider must:

314 (h) Participate in the program assessment under s.
 315 1002.82(2)(n).

316 (n)~~(m)~~ For a provider that is an informal provider, comply
 317 with the provisions of paragraph (m) ~~paragraph (l)~~ or maintain
 318 homeowner's liability insurance and, if applicable, a business
 319 rider. If an informal provider chooses to maintain a homeowner's
 320 policy, the provider must obtain and retain a homeowner's
 321 insurance policy that provides a minimum of \$100,000 of coverage
 322 per occurrence and a minimum of \$300,000 general aggregate
 323 coverage. The office may authorize lower limits upon request, as
 324 appropriate. An informal provider must add the coalition as a
 325 named certificateholder and as an additional insured. An

326 informal provider must provide the coalition with a minimum of
 327 10 calendar days' advance written notice of cancellation of or
 328 changes to coverage. The general liability insurance required by
 329 this paragraph must remain in full force and effect for the
 330 entire period of the provider's contract with the coalition.

331 (p)~~(e)~~ Notwithstanding paragraph (m) ~~paragraph (l)~~, for a
 332 provider that is a state agency or a subdivision thereof, as
 333 defined in s. 768.28(2), agree to notify the coalition of any
 334 additional liability coverage maintained by the provider in
 335 addition to that otherwise established under s. 768.28. The
 336 provider shall indemnify the coalition to the extent permitted
 337 by s. 768.28.

338 Section 7. Paragraph (b) of subsection (6) of section
 339 1002.89, Florida Statutes, is amended to read:

340 1002.89 School readiness program; funding.—

341 (6) Costs shall be kept to the minimum necessary for the
 342 efficient and effective administration of the school readiness
 343 program with the highest priority of expenditure being direct
 344 services for eligible children. However, no more than 5 percent
 345 of the funds described in subsection (5) may be used for
 346 administrative costs and no more than 22 percent of the funds
 347 described in subsection (5) may be used in any fiscal year for
 348 any combination of administrative costs, quality activities, and
 349 nondirect services as follows:

350 (b) Activities to improve the quality of child care as

351 described in 45 C.F.R. s. 98.51, which shall be limited to the
 352 following:

353 1. Developing, establishing, expanding, operating, and
 354 coordinating resource and referral programs specifically related
 355 to the provision of comprehensive consumer education to parents
 356 and the public to promote informed child care choices specified
 357 in 45 C.F.R. s. 98.33.

358 2. Awarding grants and providing financial support to
 359 school readiness program providers and their staff to assist
 360 them in meeting applicable state requirements for the program
 361 assessment required under s. 1002.82(2)(n), child care
 362 performance standards, implementing developmentally appropriate
 363 curricula and related classroom resources that support
 364 curricula, providing literacy supports, and providing continued
 365 professional development and training. Any grants awarded
 366 pursuant to this subparagraph shall comply with ss. 215.971 and
 367 287.058.

368 3. Providing training, technical assistance, and financial
 369 support to school readiness program providers, staff, and
 370 parents on standards, child screenings, child assessments, child
 371 development research and best practices, developmentally
 372 appropriate curricula, character development, teacher-child
 373 interactions, age-appropriate discipline practices, health and
 374 safety, nutrition, first aid, cardiopulmonary resuscitation, the
 375 recognition of communicable diseases, and child abuse detection,

376 prevention, and reporting.

377 4. Providing, from among the funds provided for the
 378 activities described in subparagraphs 1.-3., adequate funding
 379 for infants and toddlers as necessary to meet federal
 380 requirements related to expenditures for quality activities for
 381 infant and toddler care.

382 5. Improving the monitoring of compliance with, and
 383 enforcement of, applicable state and local requirements as
 384 described in and limited by 45 C.F.R. s. 98.40.

385 6. Responding to Warm-Line requests by providers and
 386 parents, including providing developmental and health screenings
 387 to school readiness program children.

388 Section 8. Paragraph (a) of subsection (3) of section
 389 1002.92, Florida Statutes, is amended to read:

390 1002.92 Child care and early childhood resource and
 391 referral.—

392 (3) Child care resource and referral agencies shall
 393 provide the following services:

394 (a) Identification of existing public and private child
 395 care and early childhood education services, including child
 396 care services by public and private employers, and the
 397 development of a resource file of those services through the
 398 single statewide information system developed by the office
 399 under s. 1002.82(2)(p) ~~s. 1002.82(2)(n)~~. These services may
 400 include family day care, public and private child care programs,

401 the Voluntary Prekindergarten Education Program, Head Start, the
 402 school readiness program, special education programs for
 403 prekindergarten children with disabilities, services for
 404 children with developmental disabilities, full-time and part-
 405 time programs, before-school and after-school programs, vacation
 406 care programs, parent education, the temporary cash assistance
 407 program, and related family support services. The resource file
 408 shall include, but not be limited to:

- 409 1. Type of program.
- 410 2. Hours of service.
- 411 3. Ages of children served.
- 412 4. Number of children served.
- 413 5. Program information.
- 414 6. Fees and eligibility for services.
- 415 7. Availability of transportation.

416 Section 9. For the 2018-2019 fiscal year, the sum of \$6
 417 million in nonrecurring funds from the Child Care and
 418 Development Block Grant Trust Fund is appropriated to the Office
 419 of Early Learning to implement the program assessment required
 420 by s. 1002.82(2)(n), Florida Statutes.

421 Section 10. This act shall take effect July 1, 2018.