

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 7069	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Education	73	Y's 36	N's
SPONSOR(S):	Appropriations Committee; Education Committee; Diaz, M.; and others	GOVERNOR'S ACTION:	Pending	
COMPANION BILLS:	CS/CS/CS/HB 15, CS/HB 833, CS/CS/CS/HB 549, CS/CS/HB 773, CS/HB 1111, CS/CS/HB 1331, CS/CS/SB 1552, SB 2516, HB 5101, HB 5105, CS/CS/HB 7101, CS/CS/HB 7057			

SUMMARY ANALYSIS

CS/HB 7069 passed the House and subsequently passed the Senate on May 8, 2017. The bill contains portions of HB 5101, HB 5105, CS/CS/HB 7101, CS/CS/HB 7057, CS/CS/CS/HB 15, CS/HB 833, CS/CS/CS/HB 549, CS/CS/HB 773, CS/HB 1111, CS/CS/HB 1331, CS/CS/SB 1552, SB 2516, CS/HB 127, CS/CS/HB 293, HB 655, HB 6015, CS/CS/HB 989, CS/HB 827, HB 1139, CS/HB 1131, HB 67, CS/HB 79, and HB 1229.

The bill:

- extends the Best and Brightest Teacher Scholarship Program through the 2019-2020 school year, revises scholarship award amounts, revises eligibility criteria beginning with the 2020-2021 school year, and provides additional bonus awards for teachers rated highly effective and effective through the 2019-2020 school year;
- establishes the Best and Brightest Principal Scholarship Program to award qualifying principals a scholarship amount and provide certain administrative flexibilities;
- establishes the Schools of Hope program to encourage traditional public schools within the state and charter operators throughout the country with a proven track record of student success in low-income areas to replicate their model and serve students from persistently low-performing schools;
- creates the Schools of Excellence program to provide administrative flexibilities to certain schools;
- expedites school improvement by requiring school districts to provide principals with greater autonomy, enter into a memorandum of understanding with the teacher's union regarding the recruitment and retention of teachers at "D" or "F" schools, and select and implement a turnaround plan once a school earns two consecutive school grades of "D" or a grade of "F;" eliminating the hybrid turnaround option; including a district-operated charter school as a turnaround option; and requiring the Commissioner of Education to assign a community assessment team the first time a school earns a grade of "D" or "F";
- fosters the development of civic literacy throughout the K-20 education system by authorizing the Governor to designate the month of September as American Founder's Month; establishing civic literacy as a priority of the K-20 education system; requiring the Just Read, Florida! Office to develop curricular programming to help build student background knowledge and literacy skills; and requiring public postsecondary students to demonstrate civic literacy;
- streamlines the temporary certificate application process;
- establishes a mentorship-based certification pathway;
- revises provisions related to charter schools and expands eligibility for virtual education options;

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DATE: May 19, 2017

- reduces state testing, pushes back testing dates, and provides for paper-based tests in certain grades;
- requires state testing results to be timely provided to teachers and parents in an easy-to-read format;
- requires district-required testing results to be provided to teachers within 1 week;
- expands eligibility for the Gardiner Scholarship Program and authorizes additional expenditures;
- expressly authorizes students to possess and use sunscreen on campus without a prescription;
- provides for permitted absences for treatment of autism spectrum disorder;
- requires school districts to provide instruction to students in residential health care facilities;
- revises the way funds are provided to school districts, including by:
 - requiring school districts to share discretionary millage revenue with charter schools;
 - establishing a Safe Schools funding allocation;
 - modifying eligibility criteria and funding methodology for the high-growth district program; and
 - modifying the sparsity supplement and certain funding allocations;
- redefines “eligible student” for purposes of the College-preparatory Boarding Academy Pilot Program;
- requires certain students who transfer to a private school to count towards a school’s graduation rate;
- includes concordant scores in calculating an alternative school’s school improvement rating;
- exempts students who meet certain requirements from the personal fitness exam;
- allows a blended learning course to satisfy the online course required for high school graduation;
- provides for third party analysis and reporting of student learning growth data;
- makes use of the student learning growth formula in an educator’s performance evaluation optional;
- revises provisions for identifying and supporting students with a substantial reading deficiency;
- deletes the requirement that the instructional materials allocation be used to purchase digital materials;
- extends early warning system coverage to include students in kindergarten through grade 8;
- requires 20 minutes of consecutive free-play recess per day for K through 5 students;
- establishes provisions related to shared use agreements for public school playground facilities;
- makes the middle grades career and education planning course optional;
- revises eligibility criteria for participation in the minority teacher education scholars program;
- creates the Committee on Early Childhood Development to develop a proposal on certain milestones;
- establishes the Early Childhood Music Education Incentive Pilot Program; and
- allows designees of certain superintendents to participate on a children’s services board.

The bill includes an appropriation of \$413,950,000 in recurring General Revenue Funds and \$5 million in nonrecurring General Funds.

Subject to the Governor’s veto powers, the effective date of this bill is July 1, 2017, except as otherwise provided.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Directory

CS/HB 7069 is an omnibus educational reform bill that contains provisions from 23 bills that have been heard, deliberated, and passed by House and Senate committees and, in several cases, by the House or Senate. The analyses on the substantive provisions in the bill may be found at each corresponding page number:

Provision	Page
Best and Brightest Teacher Scholarship Program	3
Best and Brightest Principal Scholarship Program	6
School Improvement	9
Schools of Hope	14
Schools of Excellence	19
Early Warning Systems	22
Charter Schools: Applications & Contracts; High-Performing Schools & Systems; Facilities; etc.	23
Charter School Capital Outlay	31
Equity in School Funding (Title I)	33
State Assessments: Reduction; Format; Windows; Reporting; Publication	34
Student Learning Growth: Analysis; Application	43
Educator Certification: Mentorship-Based Pathway; Temporary Certification Applications	44
Teacher Training, Certification, and Endorsement in Reading	52
Reading Instruction and Intervention	56
Civic Literacy	62
Student Eligibility for Virtual Instruction	66
Gardiner Scholarship Program	67
High School Graduation Requirements: Online Course Requirement; Physical Education	69
School Attendance: Treatment of Autism Spectrum Disorder	71
Instructional Personnel Employment Contracts	72
High-Growth District Capital Outlay Assistance Grant Program	73
Provisions from Other Bills	74

Best and Brightest Teacher Scholarship Program

Present Situation

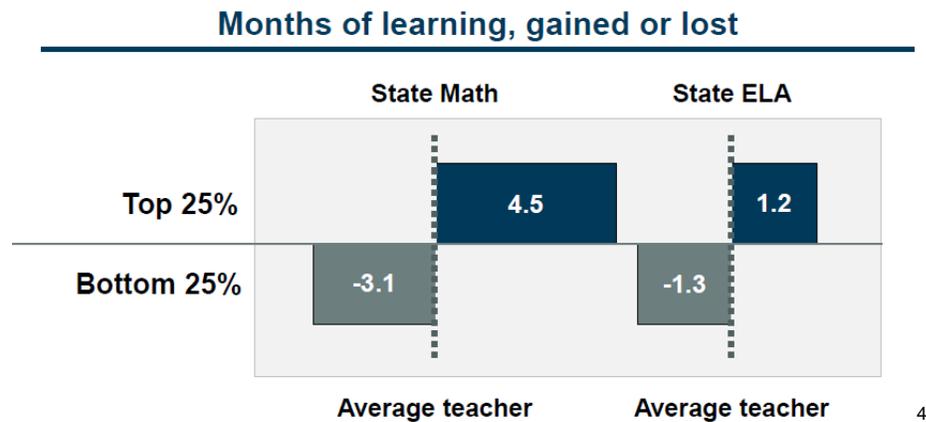
Internationally renowned public education systems, such as those in Finland and Singapore, recruit, develop, and retain the leading academic talent, most of who graduated near the top of their collegiate class. However, in the United States, only 23% of all teachers, and only 14% of teachers in high-poverty schools, come from the top third of college graduates.¹

Research shows the importance of a teacher's high cognitive ability in the classroom, as there is a correlation between a teacher's academic achievement (including undergraduate GPA, college entrance test scores, and college selectivity) and their effectiveness² and because "[a] very good

¹ The Council for the Accreditation of Education Preparation, *Recruitment and Selection In Educator Preparation*, at 6 (2011), available at <http://caepnet.org/~media/Files/caep/accreditation-resources/recruitment-and-selection.pdf>.

² National Bureau of Economic Research, *Teacher Applicant Hiring and Teacher Performance: Evidence From DC Public Schools* (2016) at 23, available at <http://www.nber.org/papers/w22054>; Sharon Kukla-Acevedo, *Do Teacher Characteristics Matter? New Results on the Effects of Teacher Preparation on Student Achievement*, 28 ECON. OF ED. REV. 49, at 53 (2007); BOYD ET AL, *The Narrowing Gap in New York City Teacher Qualifications and Its Implications for Student Achievement in High-Poverty Schools*, 27 J. OF POL'Y ANALYSIS & MGMT. 793 (2008). Attaining certification from the National Board for Professional Teaching Standards is not

teacher as opposed to a very bad one can make as much as a full year's difference in learning growth for students."³



Moreover, to improve the quality of teacher candidates, new national teacher preparation program accreditation standards have increased the entrance requirements for undergraduate GPAs and test scores of teacher candidates.⁵ The standards progressively increase average test scores for incoming teacher preparation program cohorts to the top half of a school's student body.⁶

With these trends in mind, the Best and Brightest Teacher Scholarship Program was established to attract teachers with high cognitive ability and retain those teachers who demonstrated they were highly effective at improving student outcomes.

In 2015, the Legislature established the "Best and Brightest Teacher Scholarship Program" in the General Appropriations Act and appropriated \$44,022,483 to fund the program.⁷ In 2016, the Legislature codified the program in statute and appropriated \$49,000,000 to continue it for the 2016-2017 school year.⁸ Under the program, teachers who are rated "highly effective"⁹ and who scored at or above the 80th percentile nationally on either the SAT or the ACT at the time the assessment was taken can be provided a payment of up to \$10,000. First-year teachers who do not yet have an evaluation can qualify if they scored at or above the 80th percentile on the SAT or ACT at the time the assessment was taken.

To demonstrate eligibility for an award, a teacher must submit to the school district, no later than November 1, an official record of his or her SAT or ACT score demonstrating that the teacher scored at or above the 80th percentile based upon the national percentile ranks in effect when the teacher took the assessment. Once a teacher is deemed eligible, including a teacher deemed eligible for the 2015-16 school year, the teacher remains eligible as long as he or she remains employed by the school

associated with raising student achievement data in Florida. See Douglas Harris and Tim Sass, *The Effects of NBPTS-Certified Teachers on Student Achievement*, 28 J. OF POL'Y ANALYSIS AND MGM'T 55, at77 (2009).

³ Dan Goldhaber, *Teacher Pay Reforms: The Political Implications of Recent Research* (Washington, DC: Center for American Progress, at 4 (2009) , available at http://www.americanprogress.org/issues/2006/12/pdf/teacher_pay_report.pdf.

⁴ Bellwether Education Partners, *Ensuring Effective Teachers For All Students: hearing before the House PreK-12 Quality Subcommittee* (Jan. 11, 2017) (citing Bill & Melinda Gates Foundation, *Gathering Feedback for Teaching* (2011)).

⁵ CAEP Accreditation Handbook, Council for the Accreditation of Education Preparation, at 34 (Mar. 2016) (http://caepnet.org/~/_/media/CAEP%20Accreditation%20Handbook_March%202016.pdf?la=en).

⁶ See *id.* These thresholds correspond approximately to the 70-75th percentiles. See National Council on Teacher Quality, *Understanding our Selection Criteria Standard* (2016) at 7, available at http://www.nctq.org/dmsView/NCTQ_-_Standard_1_How_Programs_Stack_Up.

⁷ Specific Appropriation 99A, s. 2, ch. 2015-232, L.O.F.

⁸ Section 25, ch. 2016-62, L.O.F., creating s. 1012.731, F.S. The section of law will expire on July 1, 2017.

⁹ As determined by the district evaluation system pursuant to s. 1012.34, F.S.

district as a classroom teacher at the time of the award and receives an annual performance evaluation rating of “highly effective.”

By December 1, each school district, charter school governing board, and the Florida School for the Deaf and Blind must submit to the DOE the number of eligible teachers who qualify for the award. By February 1, the DOE must disburse funds to each school district for each eligible teacher to receive the award. By April 1, each school district, charter school governing board, and the Florida School for the Deaf and the Blind must provide payment of the award to each eligible teacher. If the number of eligible teachers exceeds the total appropriated amount, then the DOE must prorate the per teacher award amount.¹⁰

As of February 2, 2017, 7,188 teachers have been identified as qualifying for an award for 2016, which is a 35 percent increase from the 5,334 recipients in 2015, and represents about 3.8% of the 188,322 certificated classroom teachers statewide.¹¹

Best and Brightest Teacher Scholarship Awards		
	2015 Recipients	2016 Recipients
State Total	5,334	7,188
Award Amount	\$8,248/per award	\$6,816/per award ¹²

Although a larger number of elementary schools have at least one Best and Brightest teacher than any other school type, high school teachers make up the highest percentage of scholarship award recipients.¹³

School Type	Best and Brightest 2016	
	# Schools	# Teachers
Elementary	901	2,014
Middle	363	1,249
High	439	3,192
Combination/Other	198	642
Not Reported	10	14
Total	1,911	7,111¹⁴

The statutory authority for the program is set to expire on July 1, 2017.¹⁵

¹⁰ Section 25, ch. 2016-62, L.O.F.

¹¹ Email, Florida Department of Education, Government Relations (Feb. 2, 2017).

¹² Email, Staff of the House of Representatives PreK-12 Appropriations Subcommittee (Dec. 21, 2016).

¹³ Email, Florida Department of Education, Government Relations (Feb. 2, 2017).

¹⁴ Although there were 7,188 classroom teachers who were identified for a 2016 Best and Brightest scholarship award, a small percentage of teachers reported as eligible by their school districts could not be located in the DOE’s staff database for purposes of this statistical analysis. A number of factors could cause a record for the Best and Brightest program not to match the staff database, such as misspelled names, teachers on leave during the staff reporting window, name changes due to marriage or divorce, or other similar reasons. Email, Florida Department of Education (Feb. 20, 2017).

¹⁵ Section 1012.731(8), F.S.

Effect of Proposed Changes

The bill extends the Best and Brightest Teacher Scholarship Program through July 1, 2020, and revises eligibility criteria beginning with the 2020-2021 school year by:

- lowering the qualifying assessment score threshold from the 80th percentile to the 77th percentile based on the National Percentile Ranks in effect when the classroom teacher took the assessment;
- recognizing other national, standardized assessments that measure cognitive ability in lieu of the SAT or ACT;
- allowing an assessment score in the 71st percentile or higher to qualify if the applicant earned a baccalaureate degree with a designation of *cum laude* or higher; and
- allowing teachers to satisfy the highly effective rating requirement based solely on their value-added score calculated by the DOE.

The bill identifies the LSAT, GRE, GMAT, and MCAT as additional assessments on which classroom teachers can earn qualifying scores. The percentile requirements in the bill apply the same to these assessments as to the SAT and ACT. Allowing a teacher to use his or her VAM score to meet the “highly effective” requirement prevents subjective district evaluation criteria from affecting the teacher’s eligibility for a scholarship award.

Best and Brightest Teacher Eligibility Requirements Under the Bill

Achieved a composite score at or above the 77th percentile on the SAT, ACT, LSAT, GRE, GMAT, or MCAT; **or**

Achieved a qualifying test score on a recognized assessment between the 71st and 76th percentile and earned a baccalaureate degree with a Latin honor designation of *cum laude* or higher

and

Has a district performance evaluation rating of “highly effective”; **or**

Is rated highly effective based solely on the state-calculated VAM score

The bill provides a scholarship amount of \$6,000 for each qualifying classroom teacher. In addition, through the 2019-2020 school year, the bill establishes yearly bonuses of \$1,200 for each classroom teacher rated highly effective and up to \$800 for each classroom teacher rated effective.

Best and Brightest Principal Scholarship Program

Present Situation

A school’s principal is the most critical influence on the school’s ability to recruit and retain the most effective teachers.¹⁶ A quality school principal can reduce teacher burnout and increase retention rates, even in challenging school settings, by “providing recognition and support to teachers, working with staff to meet curriculum standards, and encouraging professional collaboration.”¹⁷ It follows that principals have a significant effect in improving education outcomes for students, including at schools with a high-poverty student population.¹⁸

¹⁶ See Claire Robertson-Kraft and Nate Bronstein, *Delaware Talent Co-operative: Final Report*, at 26 (2015) (on file with committee staff).

¹⁷ Sean Kelly and Laura Northrop, *Early Career Outcomes for the “Best and the Brightest”: Selectivity, Satisfaction, and Attrition in the Beginning Teacher Longitudinal Survey*, 52 AM. ED. RESEARCH J. 624, at 650 (2015); Susanna Loeb and Michelle Reininger, *Public Policy and Teacher Labor Markets: What We Know and Why it Matters*, The Education Policy Center at Michigan State University, 2004, at 47.

¹⁸ Rand Corporation, *School Leadership Interventions Under the Every Student Succeeds Act: Evidence Review*, at 25 (2016), available at http://www.rand.org/content/dam/rand/pubs/research_reports/RR1500/RR1550-2/RAND_RR1550-2.pdf.

Currently, the distribution of teachers who qualify for a Best and Brightest scholarship award is more heavily concentrated in non-Title I schools than in Title I schools.¹⁹

	Best and Brightest 2017		State Teacher Distribution
	Number Qualifying for Best and Brightest	Percent Qualifying for Best and Brightest	
Non-Title I Schools	5,150	72%	52%
Title I Schools	1,946	27%	48%
N/A	15	0%	0%
Total	7,111	100%	100%

The law prohibits school districts from assigning more than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools graded “D” or “F”²⁰ and authorizes district-determined salary supplements for teachers assigned to Title I schools and schools rated “D” or “F.”²¹ However, these provisions appear to have little effect on placing highly effective teachers with strong academic credentials in Title I schools.

“School administrators” include school principals, school directors, career center directors, and assistant principals.²² Among other things, school principals are responsible for:

- fully supporting the authority of classroom teachers and school bus drivers regarding student discipline and conduct;
- providing instructional leadership in the development, revision, and implementation of a school improvement plan;
- making the necessary provisions to ensure accurate and timely compliance with statutory reporting requirements;
- the management and care of instructional materials; and
- facilitating parental involvement in their child’s education and providing information to parents regarding their child’s educational progress and available educational choices.²³

When filling instructional positions²⁴ at the school level, the district school superintendent must consider nominations received from school principals of the respective schools in the school district. The superintendent then must make recommendations to the district school board regarding each position to be filled and the persons to fill such positions. The school board has discretion to approve or reject any of the superintendent’s recommendations.

Before transferring a classroom teacher from one school to another, the superintendent must consult with the principal of the receiving school and allow the principal to review the teacher’s records, student

¹⁹ Email, Florida Department of Education, Government Relations (Feb. 2, 2017). A school’s Title I status is determined by the school district based on the number of students who qualify for certain federal assistance programs, such as free or reduced price lunch. *See* 20 U.S.C. s. 6313(a)(5) and (b)(1).

²⁰ *See* s. 1012.2315(2)(a), F.S.

²¹ *See* s. 1012.22(1)(c)5.c., F.S.

²² *See* s. 1012.01(3), F.S. Administrative personnel are K-12 personnel who perform management activities such as developing and executing broad policies for the school district. Administrative personnel include district-based instructional and non-instructional administrators, as well as school administrators who perform administrative duties at the school-level. *Id.*

²³ Section 1001.54, F.S.

²⁴ Instructional personnel include classroom teachers; staff who provide student personnel services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists; and education paraprofessionals under the direct supervision of instructional personnel. Section 1012.01(2), F.S.

performance results,²⁵ and interview the teacher. If a principal believes students would not benefit from the placement he or she may request an alternative placement subject to the approval by the superintendent.²⁶ However, the superintendent must accept the principal's decision to refuse placement or transfer of instructional personnel if the instructional personnel has a performance evaluation rating of needs improvement or unsatisfactory.²⁷

These restrictions on personnel-related decision making can make it difficult for a principal to effectively and efficiently operate a school, particularly where a school is in significant need of improvement. Principals who have additional autonomy to establish favorable working conditions and a positive school climate can attract effective teachers, reduce teacher turnover, and improve morale.²⁸

In 2016, the Legislature established the Principal Autonomy Pilot Program Initiative (PAPPI) within the DOE to provide the principal of a participating school with increased autonomy and authority regarding allocation of resources and staffing to improve student achievement and school management.²⁹ School district participation in PAPPI is voluntary, and only open to school districts in Broward, Duval, Jefferson, Madison, Palm Beach, Pinellas and Seminole Counties. School districts seeking to participate in PAPPI must submit a principal autonomy proposal to the State Board of Education (SBE) for approval. A participating school must have earned at least two school grades of "D" or "F" during the previous three school years, and a participating principal must have earned a highly effective rating on the prior year's performance evaluation.³⁰

The program exempts participating schools from the K-20 Education Code and state board rules implementing such provisions, with some exceptions.³¹ In addition, a principal at a participating school may select qualified instructional personnel for placement at the school and refuse placement or transfer of instructional personnel by the district school superintendent, in any case.³² The principal also has greater budgeting authority to allocate resources to help improve student achievement.³³

Effect of Proposed Changes

The bill creates the Best and Brightest Principal Scholarship Program. Under the program, a principal may receive a scholarship award, as determined in the General Appropriations Act, if:

- he or she has served as principal at the school for at least the last 2 consecutive school years; and
- the faculty at his or her school has a ratio of best and brightest teachers to other classroom teachers that is at the 80th percentile or higher, statewide, for that school type (elementary, middle, high, or combination).

By requiring a principal to have been at the school for at least 2 years to qualify, the principal will have demonstrated his or her influence on recruiting and retaining the most qualified teachers.

Further, because teacher effectiveness is essential to closing the achievement gap, including at schools with a high-poverty student population, the bill specifies that a greater award amount must be provided to a qualifying principal who is assigned to a Title I school.

²⁵ As measured by the instructional personnel's performance evaluation. Section 1012.28(6), F.S.

²⁶ Section 1012.27(1)(b), F.S.

²⁷ Section 1012.28(6), F.S.

²⁸ Brenda Iasevoli, *Study Highlights Importance of Principals in Teacher-Retention Efforts*,

http://blogs.edweek.org/edweek/teacherbeat/2016/09/principals_hold_the_key_to_ret.html?cmp=eml-eb-popweek+09302016 (last visited Feb. 15, 2017).

²⁹ Chapter 2016-223, L.O.F. *Codified at* ss. 1012.28(8), and 1011.6202, F.S.

³⁰ Section 1011.6202(2)(a)1. and 2., F.S.

³¹ *See* s. 1011.6202(3), F.S.

³² Section 1012.28(8)(a), F.S.

³³ Section 1012.28(8)(b), F.S.

The bill requires each school district, by December 1 each year, to provide the name and master school identification (MSID) number of each school in the district to which a teacher eligible for a Best and Brightest Teacher Scholarship Program award is assigned. The district must also provide the name of the school principal of each eligible teacher's school if he or she has served as the school's principal for at least 2 consecutive school years, including the current school year. This will allow the DOE to identify qualifying principals for the purpose of disbursing monetary awards.

By February 1 each year, the DOE must identify qualifying principals and disburse funds to each school district for each eligible principal to receive the award. By April 1, each school district, charter school governing board, and the Florida School for the Deaf and the Blind must provide payment of the award to each eligible principal.

In addition to the monetary award, the bill requires school districts to provide a principal designated as best and brightest with the same autonomy principals participating in PAPPI have concerning budgetary and personnel decisions.

The bill specifies that the term "school district," for purposes of the Best and Brightest Principal Program, includes the Florida School for the Deaf and the Blind and charter school governing boards.

School Improvement

Differentiated Accountability

Present Situation

"Differentiated accountability" (DA) references the escalating interventions and supports that must be provided to schools earning school grades of "D" or "F" under Florida's statewide accountability system in order to help them improve student performance.³⁴ The SBE is responsible for holding all school districts and public schools accountable for student performance through a state system of school improvement and education accountability that assesses student performance by school, identifies schools that are not meeting accountability standards, and institutes appropriate measures for enforcing improvement.

The state system of school improvement and education accountability must:

- provide for uniform accountability standards;
- provide assistance of escalating intensity to schools not meeting accountability standards;
- direct support to schools in order to improve and sustain performance;
- focus on the performance of student subgroups; and
- enhance student performance

School districts must be held accountable for improving the academic performance of all students and for identifying and improving schools that fail to meet accountability standards.

The academic performance of all students has a significant effect on the state school system. The SBE must equitably enforce the accountability requirements of the state school system and may impose state requirements on school districts in order to improve the academic performance of all districts, schools, and students.

The DOE must annually identify each public school in need of intervention and support to improve student academic performance. All schools earning a grade of "D" or "F" are schools in need of intervention and support.

³⁴ See s. 1008.33, F.S.; rule 6A-1.099811, F.A.C.

The SBE must adopt a differentiated matrix of intervention and support strategies for assisting public schools identified as in need of intervention. The intervention and support strategies must address student performance and may include improvement planning, leadership quality improvement, educator quality improvement, professional development, curriculum alignment and pacing, and the use of continuous improvement and monitoring plans and processes. In addition, the SBE may prescribe reporting requirements to review and monitor the progress of the schools. The rule must define the intervention and support strategies for school improvement for schools earning a grade of “D” or “F” and the roles for the district and department. The rule must differentiate among schools earning consecutive grades of “D” or “F,” or a combination thereof, and provide for more intense monitoring, intervention, and support strategies for these schools.

The SBE must apply the most intense intervention and support strategies to schools earning an “F.” Within a year after receiving the first “F,” the school district must implement a differentiated matrix of intervention and support strategies, select a turnaround option, and submit a plan for implementing the turnaround option to the DOE.

Of Florida’s approximately 3,500 public schools, 461 (13 percent) are currently subject to DA requirements.³⁵ As of the 2015-2016 school year, 115 schools have been in DA status, meaning they have earned a “D” or “F” for more than 3 consecutive years.³⁶

2015-2016 Schools in DA for More than 3 Years			
# of Years in DA	# Schools	Avg % Scoring Lvl 3+ ELA assessment	Avg % Scoring Lvl 3+ Math assessment
4	54	33.9%	33.3%
5+	61	24.7%	28.6%
Total	115	29.30%	30.95%

Although intensive interventions and supports are provided by school districts and the DOE under the law, many schools fail to make sufficient improvement to demonstrate that their students are being adequately served. This highlights lax provisions in the law that allow school districts to maintain operation of low-performing schools, even for up to 10 years.³⁷ The plan must be approved by the SBE. Upon approval, the turnaround option must be implemented in the following school year. A school that earns a grade of “D” for 3 consecutive years must implement the district-managed turnaround option.

Turnaround options include:

- converting the school to a district-managed turnaround school;
- reassigning students to another school and monitor the progress of each reassigned student;
- closing the school and reopening the school as one or more charter schools, each with a governing board that has a demonstrated record of effectiveness;
- contracting with an outside entity that has a demonstrated record of effectiveness to operate the school; or
- implementing a hybrid of the above turnaround options or other turnaround models that have a demonstrated record of effectiveness.

A school earning a grade of “F” must have a planning year followed by 2 full school years to implement the initial turnaround. Implementation of the turnaround option is no longer required if the school improves by at least one letter grade during the planning year.

³⁵ Florida Department of Education, *Turning Around Low Performing Schools: hearing before the House PreK-12 Quality Subcommittee* (Jan. 25, 2017).

³⁶ Email, Florida Department of Education, Office of Government Relations (Mar. 22, 2017).

³⁷ Northwestern Middle School has received a “D” or “F” for the last 10 school years. *See id.*

A school earning a grade of “F” or 3 consecutive grades of “D” that improves its letter grade must continue to implement strategies identified in its school improvement plan pursuant to s. 1001.42(18)(a). The department must annually review implementation of the school improvement plan for 3 years to monitor the school’s continued improvement. The department must annually review implementation of the school improvement plan for 3 years to monitor the school’s continued improvement.

If a school with an “F” or 3 consecutive grades of “D” does not improve by at least one letter grade after 2 full years of implementing the turnaround option, the school district must select a different option and submit another implementation plan to the department for state board approval. Implementation of the new plan must begin the school year following the implementation period of the existing turnaround option, unless the SBE determines that the school is likely to improve a letter grade if additional time is provided to implement the existing turnaround option.

In *Citizens for Strong Schools v. Florida State Board of Education et al.*,³⁸ the trial court stated that “[t]here can be little doubt that allowing a school to remain in F status for an extended period of time raises serious issues regarding the constitutional acceptance of such an event. While the Department of Education’s hands may be tied by the legislation that it is required to follow, the Legislature is not similarly situated.” While “the State cannot be held liable for ineffective operational, control, and supervisory decisions at the local level, the court would be concerned about how long the Legislature would tolerate a local school board’s ineffectual operation that involves the presence of long term “F” schools.”³⁹ “This is especially true since the . . . evidence shows that an “F” school can be turned around without additional resources being provided.”⁴⁰

Effect of Proposed Changes

The bill requires school districts to respond more quickly to provide interventions and supports for struggling schools. Under the bill, an educational emergency exists if one or more schools in a school district earns a grade of “D” or “F.” Once an educational emergency exists, the district must negotiate a memorandum of understanding with its teacher union to provide students at the school with effective teachers and administrators. In addition, the commissioner must assign a community assessment team to review the performance of these schools and identify strategies to address the school’s low performance. The team is made up of a department representative, parents, business representatives, educators, representatives of local governments, and community activists. The bill requires the team to make recommendations based on effective intervention and support strategies identified by the commissioner⁴¹ for incorporation into the school’s improvement plan.

If a school earns two consecutive grades of “D” or a grade of “F,” it must immediately implement a differentiated matrix of intervention and support strategies and, by September 1, provide the DOE with the memorandum of understanding it must execute as a result of the educational emergency. The school district must also submit a district managed turnaround plan to the SBE by October 1.

The bill also revises requirements related to the matrix of intervention and support strategies to include curriculum alignment across grade levels to improve background knowledge in social studies, science, and the arts.

³⁸ Case No. 16-2862, (Fla. 1st DCA 2016).

³⁹ *Citizens for Strong Schools v. Fla. St. Bd. of Ed. et al.*, Case No. 16-2862, (Fla. 1st DCA 2016).

⁴⁰ *Id.* “The Court also concludes that local school boards, pursuant to their constitutional responsibility to ‘operate, control and supervise’ schools and to ‘determine the rate of school district taxes’ in support of schools, are ‘part of the state system of public education’ and play a very important role in delivering education in Florida. To the extent that Plaintiffs complain about particular levels of student performance or the availability of resources in particular schools, those are matters within the authority of local school boards.” *Id.* at 14.

⁴¹ The Commissioner of Education is required to report intervention and support strategies used by school districts whose students in both the highest and lowest quartiles exceed the statewide learning growth for students in those quartiles. *See* s. 1008.345(5)(b), F.S.

Upon approval by the SBE, the school district must implement the plan for the remainder of the year and continue implementation for the next full school year. The SBE may allow an additional year of implementation if the SBE determines the school is likely to improve to a “C” or higher after the first full school year of implementation. If the school’s grade does not improve to a “C” or higher after the additional year (its fourth consecutive grade below a “C”), or after the first full year of implementation if an additional year is not granted, the school must select from the following turnaround options:

- reassign students to another school and monitor the progress of each student;
- close the school and reopen as one or more charter schools with a governing board that has a demonstrated record of effectiveness; or
- contract with an outside entity that has a demonstrated record of effectiveness to operate the school. The outside entity may include a district-managed charter school in which all instructional personnel are not employees of the school district but are employees of an independent governing board composed of members who did not participate in the review or approval of the charter.

The bill deletes the option to implement a hybrid of multiple turnaround options, which has generally consisted of district-managed turnaround with an external operator. A school currently implementing a turnaround option plan will be able to complete its turnaround option plan and may receive additional time to implement the plan if the state board determines the school is likely to improve to a “C.”

	Current Law	Proposed Changes
When must a school submit a turnaround plan?	The year following a grade of “F” or third consecutive grade of “D.”	The year following a grade of “F” or two consecutive grades of “D.”
What turnaround options are available?	<ul style="list-style-type: none"> • District managed turnaround (chosen by 96% of schools); • Close and reassign the students; (chosen by 1.3% of schools) • Close and reopen as a charter school; • Contract with an outside entity; or • Hybrid Option (chosen by 2.7% of schools). 	District managed turnaround must be used as the first option and may not be used as any subsequent option. <ul style="list-style-type: none"> • Close and reassign the students; • Close and reopen as a charter school; • Contract with an outside entity, which may include a district-managed charter school.
How long can a school continue to fail?	10 years.	7 years.

Under the bill, a school is required to implement a district-managed turnaround plan if it earns two consecutive grades of “D” (2015-2016 and 2016-2017) or a grade of “F” (2016-2017).

School Improvement Planning

Present Situation

With the exception of charter schools that earn a grade of “A”, “B” or “C,”⁴² all Florida public schools must have a school improvement plan that is developed and implemented by the school’s advisory council.⁴³ If a school has a significant gap in achievement on statewide, standardized assessments⁴⁴ by

⁴² Section 1002.33(9)(n), F.S., requiring a school improvement plan for charter schools earning a grade of “D” or “F.”

⁴³ Sections 1001.42(18)(a) and 1001.452(2), F.S. SACs are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S.

one or more student subgroups;⁴⁵ has not significantly increased the percentage of students passing statewide, standardized assessments;⁴⁶ has not significantly increased the percentage of students demonstrating learning gains as determined using the school grade calculation⁴⁷ who passed statewide, standardized assessments; or has significantly lower graduation rates for a subgroup when compared to the state's graduation rate,⁴⁸ the school's improvement plan must include strategies for improving those results.⁴⁹

For non-charter schools earning a “D” or “F” in the most recent grades release and schools that improved from an “F” to a “C” or higher within the last three years, development and implementation of the plan is based on a form developed by the DOE.⁵⁰ In such cases, the plan must be submitted through the Continuous Improvement Management System (CIMS).⁵¹ The DOE reviews, approves, and also monitors implementation of the plan.⁵² Schools that earn a “D” three years in a row or that earn an “F” are assigned a community assessment team, which reviews the school's performance data to determine causes for the low performance, including the role of school, area, and district administrative personnel.⁵³

Effect of Proposed Changes

To reduce paperwork and time associated with school improvement planning, the bill eliminates the requirement that schools with a grade above a “D” develop and implement a school improvement plan, except for schools that must implement strategies to address a deficiency enumerated above.

Charter School Requirements

Present Situation

Charter schools that earn a grade of “D” or “F” must develop a school improvement plan, which must be approved by the sponsor.⁵⁴ Corrective actions are required for charter schools earning three consecutive grades of “D,” two consecutive grades of “D” followed by a grade of “F,” or two nonconsecutive grades of “F” within a three-year period. Such a charter school may choose to:

- contract for educational services to be provided directly to students, instructional personnel, and school administrators;
- contract with an outside entity with a track record of effectiveness to operate the school;
- hire a new director or principal who has authority to hire new staff; or
- voluntarily close the school.⁵⁵

⁴⁴ Statewide, standardized assessments include statewide, standardized assessments for English language arts (grades 3-10) and mathematics (grades 3-8); end-of-course assessments for Algebra I, Algebra II, Geometry, Biology I, Civics, and U.S. History; the Statewide Science Assessment (grades 5 and 8), and their associated alternate assessments for students with significant cognitive disabilities. *See* s. 1008.22(3), F.S.

⁴⁵ Subgroups include economically disadvantaged students, students from major racial/ethnic groups, students with disabilities, and students with limited English proficiency. 20 U.S.C. s. 6311(b)(2)(C)(v)(II).

⁴⁶ A Level 3, Level 4, or Level 5 constitutes a passing score on statewide, standardized assessments. Section 1008.34(1)(a), F.S.

⁴⁷ *See* s. 1008.34(3)(b), F.S.

⁴⁸ Section 1008.34(3)(b)2.a., F.S.

⁴⁹ Section 1001.42(18)(a)1., F.S.

⁵⁰ *See* Florida Department of Education, *Form DA-2 Checklist for Focus and Priority Schools* (Dec. 2014), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-04620> (incorporated by reference in rule 6A-1.099811, F.A.C.).

⁵¹ CIMS is a web application developed by the DOE's Bureau of School Improvement to provide district and school teams with an online platform for collaborative planning and problem solving as well as a public site for stakeholders to access approved plans. Florida Department of Education, Bureau of School Improvement, *Welcome to CIMS*, <https://www.floridacims.org/> (last visited Aug. 17, 2016).

⁵² Florida Department of Education, Bureau of School Improvement, *Frequently Asked Questions: SIP*, <https://www.floridacims.org/faqs?category=sip> (last visited Sept. 8, 2016).

⁵³ Section 1008.345(6)(d), F.S.

⁵⁴ Section 1002.33(9)(n)1., F.S.

⁵⁵ Section 1002.33(9)(n)2.a., F.S.

The charter school must implement the corrective action in the school year following receipt of a third consecutive grade of “D,” a grade of “F” following two consecutive grades of “D,” or a second nonconsecutive grade of “F” within a 3-year period.⁵⁶ Corrective actions are no longer required if the charter school improves by at least one letter grade; however, the school must continue to implement its school improvement plan.⁵⁷ If a charter school does not improve by at least one letter grade after two full school years of implementing a corrective action, the school must choose another action.⁵⁸

A charter school’s contract is automatically terminated if the school earns two consecutive grades of “F,” unless the charter school:

- is established to turn around the performance of a district public school;
- serves a student population the majority of which resides in a school zone served by a district public school that earned a grade of “F” in the year before the charter school opened and the charter school earns at least a grade of “D” in its third year of operation; or
- is granted a waiver of termination by the SBE.⁵⁹

A sponsor may terminate, at any time, a charter school that is required to implement a school improvement plan or corrective actions; however, this discretionary authority does not extend to charter schools that meet an exception to mandatory termination.⁶⁰

The director and a representative of a charter school that is required to implement a school improvement plan or corrective action must annually appear before the sponsor to report the progress of the corrective strategies being implemented by the school.⁶¹

Effect of Proposed Changes

The bill requires corrective actions be taken by a charter school if the school earns three consecutive grades below a “C” and requires the corrective action be implemented in the school year following the third consecutive “C.” The bill provides that corrective actions are no longer required if the charter school grade improves to a “C” or higher. The bill permits an exception to a “double ‘F’” termination for a charter school that serves a majority of students who are zoned for a school that earns two consecutive grades of “D” or a grade of “F.”

Schools of Hope

Effect of Proposed Changes

The bill provides for the establishment of schools of hope to provide students in areas of persistently low-performing schools with a unique, high-quality education option designed to close the opportunity gap and increase student achievement. The bill defines a persistently low-performing school as a school that has earned three consecutive school grades below a “C.”

The bill defines a school of hope as a charter school operated by a hope operator to serve students from one or more persistently low-performing schools; is located within the attendance zone of the

⁵⁶ Section 1002.33(9)(n)2.b., F.S.

⁵⁷ Section 1002.33(9)(n)2.d., F.S.

⁵⁸ Section 1002.33(9)(n)2.c. and e., F.S. Implementation of the new corrective action must begin in the school year following the implementation period of the existing corrective action. The sponsor may waive corrective actions if it determines that the charter school is likely to improve its grade if additional time is given to implement the school improvement plan. The sponsor may also extend the implementation period for a corrective action based upon a similar standard. The sponsor may not waive or extend corrective actions if the charter school earns a second consecutive grade of “F” while in corrective action. *Id.* Unless an exception applies, such a charter school must be terminated by the sponsor. Section 1002.33(9)(n) 4, F.S.

⁵⁹ Section 1002.33(9)(n)4., F.S.

⁶⁰ Section 1002.33(9)(n)6., F.S.

⁶¹ Section 1002.33(9)(n)5., F.S.

persistently low-performing school or within a five mile radius of the school, whichever is greater; and is a Title I eligible school. The bill defines hope operators as nonprofit organizations that operate three or more charter schools with a record of serving students from low-income families and receives the designation from the SBE. In determining hope operator status, the SBE must determine whether the past performance of the operator meets or exceeds the following criteria:

- Student achievement results which must exceed the district and state averages in the state in which the school operates
- College attendance rates at all schools currently operated by the entity which must exceed 80 percent
- The percent of students enrolled at all schools currently operated by the entity eligible for a free or reduced price lunch which must exceed 70 percent
- The operator is in good standing with the authorizer in each state in which it operates
- The audited financial statements of the operator are free of material exceptions and going concern issues
- Other outcome measures determined by the SBE

A hope operator may also qualify if the operator:

- was awarded a U.S. Department of Education Charter School Program Grant for Replication and Expansion of High-Quality Charter Schools within the past 3 years;
- receives funds through the National Fund of the Charter School Growth Funds; or
- is selected by a district school board as part of the turnaround process requirements under the bill.

Once measurable criteria is established by the SBE, any operator seeking status as a hope operator must meet the criteria in order to qualify. The bill authorizes initial hope operator status to be valid for up to 5 years. If a hope operator seeks renewal of its status, renewal is solely based on the academic and financial performance of all schools established in Florida by the hope operator since its initial designation.

The bill requires that a hope operator submit a notice of intent in order to open a school of hope in the school district where a persistently low-performing school has been identified.

The bill requires the notice of intent to include:

- an academic focus and plan;
- a financial plan;
- the goals and objectives for increasing student achievement for student from low-income families;
- a completed or planned community outreach plan;
- the organizational history of working with students with similar demographics;
- the grade levels to be served and enrollment projections;
- the proposed location proposed for the school and its proximity to the persistently low-performing school; and
- a staffing plan.

The school district must enter into a performance based agreement with a hope operator within 60 days of receiving a notice of intent. The performance based agreement must:

- incorporate the notice of intent;
- identify the location proposed for the school and its proximity to the persistently low-performing school.
- enumerate the grades to be served each year of the agreement and whether the school will serve children in school readiness or prekindergarten;
- describe the plan of action and specific milestones for student recruitment and enrollment of students from persistently low-performing schools, including enrollment preferences and procedures for conducting transparent admissions lotteries. Students from persistently low-

performing schools are exempt from any enrollment lottery to the extent permitted by federal grant requirement;

- establish the current incoming baseline standard of student academic achievement, the outcomes to be achieved and the method of measurement that will be used;
- describe the methods of involving parents and expected levels for the involvement;
- describe the grounds for termination, including failure to meet the requirements for student performance, generally accepted standards of fiscal management or material violation of the terms of the agreement. The nonrenewal or termination of a performance based agreement must comply with the requirements of s. 1002.33(8);
- allow the hope operator to open additional schools to serve students zoned for a persistently low-performing school;
- provide for an initial term of at least five years. The agreement must be renewed, unless the school fails to meet the requirements for student performance, the generally accepted standards of fiscal management or the school materially violates the law or terms of the agreement;
- require transportation of students to conform to statutory guidelines. The governing body of the school may provide transportation through an agreement with the district school board, a private provider or parents. Transportation cannot be a barrier to equal access for student residing in a reasonable distance of school;
- require that any agreement to borrow or secure funds from a source other than the state or school district must indemnify the state and school district from any and all liability;
- provide that any financial agreement entered into by the hope operator is not an obligation of the state or school district and is payable only from funds pledged by such agreement; and
- prohibit the pledge of credit or taxing power of the state or school district.

The bill requires a school district that fails to enter into a performance based agreement within 60 days to reduce the charter school administrative fee to one percent for all charter schools operating in the district. Upon successful execution of the performance based agreement, the district may resume withholding the full administrative fee but may not recover previous lost fees. The bill allows an aggrieved charter school to recover attorney's fees and costs in actions to recover withheld administrative fees.

The bill requires that disputes between hope operators and school districts regarding performance based agreements be submitted to a magistrate that is agreed to by both parties. If the parties are unable to agree, the dispute will be submitted to a qualified magistrate appointed by the Commissioner of Education. The bill requires the magistrate to hold hearings and make recommendations to the SBE, which may not alter the statutory provisions of performance agreements. The final decision of the SBE may be appealed to the First District Court of Appeals. The bill permits the hope operator to recover attorney's fees and cost if the SBE determines the district acted unlawfully with regard to the performance agreement.

The bill requires the SBE to:

- publish an annual list of persistently low-performing schools;
- adopt a standard notice of intent and performance based agreement to be used by hope operators and school boards;
- resolve disputes between a hope operator and a school district arising from a performance-based agreement or a contract, including the appointment of a special magistrate to hold hearings and render decisions regarding disputes; and
- provide students in persistently low-performing schools with a public school that meets accountability standards.

The bill addresses the conditions that allow a school to persistently fail to meet the needs of its students, while recognizing a school district's authority to operate, control, and supervise schools within the district, by requiring a school district with a persistently low-performing school to enter into a performance based agreement with a hope operator who has submitted a notice of intent. However, the

SBE, in the exercise of its supervisory authority, may contract with a hope operator if the school district fails to do so. Unlike *Duval County School Board*,⁶² the bill authorizes the SBE to exercise its supervisory authority only when a school district fails to fulfill its constitutional duty. If the SBE enters into a performance based agreement with a hope operator, the district must transfer to the school of hope the proportionate share of state funds allocated from the FEFP.

The bill provides hope operators with the following statutory authority:

- allows a school of hope to be designated as a local educational agency for the purposes of receiving federal funds;
- provides that, for the purpose of tort liability, the operator, school of hope and its employees or agent are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions. The sponsor is not liable for civil damages under state law for the employment actions or personal injury, property damage or death resulting from an act or omission of an operator, the school of hope and its employees or agents (this does not apply to any for-profit entity contracted by the charter school or by the charter school's governing body);
- allows a school of hope to be either a private or public employer and provides that employees of a public employer must be compulsory members of the Florida Retirement System;
- allows a hope operator to employ staff that do not meet the educator certification requirements, so long as the school disqualifies staff from employment in any position that requires direct contact with students if the staff member is statutorily disqualified for such employment; and
- allows calculation for class size compliance to be the average at the school level.

The bill provides that schools of hope are exempt from chapters 1000-1013 of the Florida Statutes and all board polices, except statutes pertaining to:

- the student assessment program and school grading;
- student progression and graduation;
- services to students with disabilities
- civil rights and discrimination;
- student health, safety and welfare;
- public meetings and records public inspection and criminal and civil penalties;
- public records; and
- code of ethics for public officers and employees.

The bill provides that a school of hope must utilize facilities which comply with the Florida Building Code except for the State Requirements for Educational Facilities. Schools of hope that utilize school district facilities must comply with the State Requirements for Educational Facilities only if the school district and hope operator have entered into a mutual management plan for the reasonable maintenance of such facilities. The mutual management plan must have a provision requiring the district school board to maintain the school facilities in the same manner as its other public schools within the district.

The local governing authority cannot impose any local building requirements or site-development restrictions that are addressed by and more stringent than those found in the State Requirements for Educational Facilities of the Florida Building Code. The local governing authority must treat school of hope equitably in comparison to similar requirements, restrictions, and site planning processes imposed upon public schools. The local municipality is the agency with jurisdiction for inspection of a facility and issuance of a certificate of occupancy or use. If in an unincorporated area, the authority is placed with the county governing authority. If an official or employee of the local governing authority refuses to comply with this paragraph, the aggrieved school has the right to bring an action in circuit court to enforce its rights by injunction.

⁶² In *Duval County School Board v. State Board of Education*, 998 So. 2d 641 (Fla. 1st DCA 2008), several school districts challenged s. 1002.335 F.S., which created an independent state-level entity that could directly authorize the creation of charter schools. School districts could retain exclusive authority to sponsor charter schools if approved by the state board. The court found that the law was facially unconstitutional because it created a parallel system of free public education outside the control of locally elected school boards.

The bill provides that facilities of a school of hope are exempt from a number of taxes, fees and assessments. The bill also provides that a number of existing community and state facilities may provide space to schools of hope.

The bill requires each district to annually provide a list of its underutilized, vacant or surplus property and facilities to the DOE. A hope operator operating a school of hope may utilize an underutilized, vacant, or surplus educational facility at no cost or at a mutually agreed cost not to exceed \$600 per student. The hope operator cannot sell or dispose of the facility without written permission from the school district. The bill defines underutilized, vacant, or surplus property as an entire, or portion of, a property that is not fully used (or used irregularly or intermittently) by the school district for instructional or program use.

Schools of Hope Funding

The bill provides that a school of hope is funded in the same manner as other charter schools and traditional schools. A school of hope is considered a charter school for purposes of charter capital outlay, but may not use the funds to purchase real property or construct school facilities. In addition, the bill provides a school of hope with priority in the DOE's Public Charter School Grant Program competitions.

The bill establishes the Schools of Hope Program within the DOE to provide a school of hope funds for the following eligible expenditures:

- Preparing teachers, school leaders, and specialized instructional support personnel, including costs associated with:
 - providing professional development; and
 - hiring and compensating teachers, school leaders, and specialized instructional support personnel for services beyond the school day and year.
- Acquiring supplies, training, equipment, and educational materials including developing and acquiring instructional materials.
- Providing one-time, startup costs associated with providing transportation to students to and from the charter school.
- Carrying out community engagement activities, which may include paying the cost of student and staff recruitment.
- Providing funds to cover the nonvoted ad valorem millage that would otherwise be required for schools and the required local effort funds when the state board enters into an agreement with a hope operator.

The program must also provide financial awards for up to 25 traditional public schools that are required to submit a turnaround plan to the SBE. Based upon the strength of an eligible school's plan, including its focus on evidence-based interventions and wrap-around services, the school can receive up to \$2,000 per student. The bill defines wrap-around services to include tutorial and after-school programs, student counseling, nutrition education, parental counseling, and adult education.

At a minimum, the turnaround plan for an eligible school must:

- establish wrap-around services that develop family and community partnerships;
- establish clearly defined and measurable high academic and character standards;
- increase parental involvement and engagement in the child's education;
- describe how the school district will identify, recruit, retain, and reward instructional personnel;
- identify a knowledge-rich curriculum that the school will use that focuses on developing a student's background knowledge; and
- provide professional development that focuses on academic rigor, direct instruction, and creating high academic and character standards.

The bill authorizes the SBE to waive performance pay schedule and personnel evaluation requirements to help a school in the program to implement its turnaround plan. The bill requires the SBE to prioritize awards for plans that are based on whole school transformation and are developed in consultation with the school's principal. The SBE must also annually report on the implementation of the program and provide summarized academic performance reports of each participating school.

The bill establishes the Schools of Hope Revolving Loan Program within the DOE. The purpose of the program is to provide assistance to charter schools to meet school building construction and to pay for expenses related to starting up a new charter school. The fund will be composed of legislatively appropriated funding, repaid loan funding, and interest earned. The bill requires that all repayments of principal and interest be returned to the loan fund and made available for loans to other applicants.

The bill limits funds provided through the program to 25 percent of the total cost of the project. The total cost of the project must be calculated based on 80 percent of the cost per student station multiplied by the capacity of the facility. The interest rate on loans from the fund may be used to defray the costs of administration. The rate must be the lower of the rate paid on monies held in the fund or a rate equal to 50 percent of the statewide maximum bond interest rate authorized pursuant to state law.

A hope operator that has been designated by the state board and has executed a performance based agreement shall receive a loan for projects that are located in the attendance area of a persistently low-performing school or within a five mile radius and primarily serve students from low-performing schools.

The bill allows the department to select a third-party administrator to administer the program and report annually to the department. However, the department must continue to administer the program until a third-party administrator is selected. The department must post on its website the projects that have received loans, the geographic distribution of the projects, the status of the projects, the costs of the program, and student outcomes.

Funds appropriated for the program which but are not disbursed by June 30 of the fiscal year in which they are appropriated may be carried forward for up to 5 years after the effective date of the original appropriation.

Schools of Excellence

Present Situation

Recognizing High-Performing Schools: School Grades and School Recognition

One function of Florida's statewide accountability system is to identify and recognize schools that perform well based on school quality metrics established in law. Initially implemented in 1999 as the A+ Plan for Education,⁶³ Florida's system has evolved and increased accountability for schools and educators by using student achievement and learning gains data from statewide, standardized assessments and other measures of school quality to assign schools grades on an A through F scale. The School Recognition Program was established to financially reward high-performing schools as indicated by the school grades.⁶⁴

⁶³ See ch. 1999-398, L.O.F.; Florida Department of Education, *Evaluation and Reporting, Florida School Recognition Program*, Frequently Asked Questions, <http://www.fldoe.org/accountability/accountability-reporting/fl-school-recognition-program/FAQ.stml> (last visited Mar. 13, 2017).

⁶⁴ Section 3, ch. 1997-212, L.O.F.

School Grades

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.⁶⁵ School grades are also used to determine whether a school must select or implement a turnaround option⁶⁶ or whether a school is eligible for school recognition funds as appropriated by the Legislature.⁶⁷

The annual reports must identify schools as having one of the following grades:

- "A," for schools making excellent progress – 62% or higher of total points
- "B," for schools making above average progress – 54% to 61% of total points
- "C," for schools making satisfactory progress – 41% to 53% of total points
- "D," for schools making less than satisfactory progress – 32% to 40% of total points
- "F," for schools failing to make adequate progress – 31% or less of total points⁶⁸

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. Middle and high school models include additional components beyond the basic model.⁶⁹ Combination school models include the additional components for the grades served (e.g., a school serving grades K through 12 would include the additional components for the middle and high school models).

School Grades Models							
Basic/Elementary (700 Points)			Middle School (Basic +200 Points)		High School (Basic+300 Points)		
English Language Arts	Mathematics	Science	Civics EOC Assessment	Acceleration Success	U.S. History EOC Assessment	Graduation Rate	Acceleration Success
Achievement (0% to 100%)	Achievement (0% to 100%)	Achievement (0% to 100%)	Achievement (0% to 100%)	Percentage of students who pass high school EOC assessments & industry certifications	Achievement (0% to 100%)	Overall, 4-year graduation rate	Percent of students eligible to earn college credit through AP, IB, AICE, dual enrollment, or earn industry certification
Learning Gains (0% to 100%)	Learning Gains (0% to 100%)					(0% to 100%)	
Learning Gains of Low 25% (0% to 100%)	Learning Gains of Low 25% (0% to 100%)			(0% to 100%)			(0% to 100%) ⁷⁰

Schools with a combination of grade groups (combination schools), such as K-8 or 6-12, have a school grades calculation that is based on the components that are applicable based on the grade groups served by the school. By example, a school that serves students in K-8 would have a school grade calculation based on the basic model plus the middle grades components but not the high school components, for a total of 900 possible points.

A school's grade must include only those components for which at least 10 students have complete data. If a school does not meet the 10-student threshold for a component, it will receive a school grade based only on the remaining components.⁷¹

⁶⁵ Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

⁶⁶ See s. 1008.33(4), F.S.

⁶⁷ See s. 1008.26, F.S.

⁶⁸ Section 1008.34(2), F.S.; rule 6A-1.09981(4)(d), F.A.C.

⁶⁹ See s. 1008.34(3)(b), F.S.; rule 6A-1.09981(4)(a)-(c), F.A.C.

⁷⁰ Other assessments used to measure college readiness, such as the Postsecondary Education Readiness Test and the College Level Examination Program, are not included in the Acceleration Success component of the school grading formula.

School Recognition

The Florida School Recognition Program was created in 1997 to recognize the “outstanding faculty and staff in highly productive [public] schools.”⁷² The program provides public recognition and financial awards to schools sustaining high student performance or schools that demonstrate exemplary improvement in student performance.⁷³ Funds were first awarded to eligible schools in the 1999-2000 school year.⁷⁴

Public schools, including charter schools, that receive a school grade of “A,” improve at least one letter grade from the prior year, or improve more than one letter grade and sustain the improvement the following year are eligible for awards.⁷⁵ In addition, alternative schools that maintain a “commendable” rating or improve at least one improvement-rating level are also eligible for awards.⁷⁶

Financial awards may be used for:

- Nonrecurring bonuses for faculty and staff;
- Nonrecurring expenditures for educational equipment or materials; or
- Temporary personnel to assist in maintaining and improving student performance.⁷⁷

Although the law provides recognition in the form of publicly reported school grades and financial incentives through the School Recognition Program, the law does not provide consistently, highly successful schools any relief from prescriptive state- or district-level regulations that may hinder a school from implementing additional, effective practices that further improve student outcomes.

Effect of Proposed Changes

The bill establishes the Schools of Excellence Program to provide administrative flexibility to the state’s highest performing schools.

The bill requires the SBE to designate a school as a School of Excellence when the school’s percentage of possible points earned in its school grades calculation is in the 80th percentile or higher for schools within the same grade group (elementary schools, middle schools, high schools, or combination schools) for 2 of the last 3 school years. In order to qualify, the school must have data for each school grades component for its grade group.

Under the bill, a school retains its designation as a School of Excellence for 3 years so long as it does not receive a school grade lower than a “B” during that span. The school may renew its designation for another 3 years if it remains in the 80th percentile or higher for 2 of the 3 years and does not receive a grade lower than a “B” in any of the years. The bill provides that a School of Excellence that receives a grade lower than “B” may not continue to be designated as a School of Excellence and loses its administrative flexibility during the remainder of the 3-year period.

The bill provides the following administrative flexibilities to a School of Excellence:

⁷¹ See s. 1008.34(3)(a), F.S.

⁷² Section 3, ch. 1997-212, L.O.F., initially codified at s. 231.2905 (1), F.S., redesignated in 2002 as s. 1008.36 (1), F.S.

⁷³ Section 1008.36(2), F.S.; Florida Department of Education, Accountability Reporting, *Florida School Recognition Program: Frequently Asked Questions*, <http://www.fldoe.org/how-do-i/evaluation-reporting.shtml> (last visited Mar. 13, 2017).

⁷⁴ *Id.*

⁷⁵ Section 1008.36(2) and (3), F.S. A school that serves any combination of students in kindergarten through grade 3 that does not receive a school grade because its students are not tested and not included in the school grading system receives the school grade designation of a K-3 feeder pattern school, if at least 60 percent of the students in the K-3 school are scheduled to be assigned to the graded school. Section 1008.34(3)(a)2., F.S.

⁷⁶ Section 1008.341(2), F.S. Alternative schools have the option of receiving a school improvement rating. There are 3 ratings: commendable, maintaining, and unsatisfactory. *Id.*

⁷⁷ Section 1008.36(5), F.S.

- Exemption from any provision in law or rule that expressly requires a minimum period of daily or weekly instruction in reading
- The same autonomy over personnel and budgetary decisions for the school's principal as provided to principals participating in the Principal Autonomy Pilot Project Initiative
- Exemption from district-set starting and stopping times for the school day
- Calculation for compliance with maximum class size at the school level rather than the classroom level

In addition, the bill allows a teacher to substitute 1 school year of employment at a School of Excellence for 20 inservice points toward the renewal of their professional certificate.⁷⁸ The provision allows the teacher to earn up to 60 inservice points out of the 120 points required to renew a professional educator certificate at the end of the 5-year certification cycle. The bill provides that the principal of a School of Excellence may still require instructional personnel to participate in professional development implemented by the school.

Early Warning Systems

Present Situation

Currently, schools with a 6th, 7th or 8th grade class must implement an early warning system (EWS) to identify students who need additional support to improve academic performance. The EWS must include the following early warning indicators:

- Attendance below 90 percent
- One or more suspensions
- Course failure in English language arts or math
- A Level 1 score on the statewide, standardized assessment in English language arts or math.
- Additional indicators deemed appropriate by the school district.

The schools' child study team or a school-based team must convene to determine appropriate intervention strategies when a student exhibits two or more early warning indicators. The school must provide 10 days' written notice of the meeting to the parent. The notice must include the meeting's purpose, time and location and provide the parent the opportunity to participate.⁷⁹

Schools with a 6th, 7th or 8th grade class must include data and information in its school improvement plan regarding the schools early warning system. The information must include:

- a list of the early warning indicators used;
- the number of students who have two or more early warning indicators;
- the number of students in each grade that exhibits each early warning indicator; and
- a description of all intervention strategies used to improve academic performance of students identified by the early warning system.

The school must also describe in its school improvement plan the strategies used by the school to implement the instructional practices for middle grades emphasized by the district's professional development system.⁸⁰

Effect of Proposed Changes

The bill expands the use of an EWS from schools with a 6th, 7th or 8th grade class to schools that serve any students in kindergarten through grade 8.

⁷⁸ See text accompanying notes 234-237, *infra*, for the requirements for renewal of a professional educator certificate.

⁷⁹ Section 1001.42(18)(b), F.S.

⁸⁰ Section 1001.42(18)(a), F.S.

The bill clarifies that the EWS indicator that identifies a course failure in English language arts or math must be for any grading period and includes a substantial reading deficiency for a kindergarten through grade 3 student as an EWS indicator.

The bill requires a school-based team, rather than a “child study team,” to be responsible for monitoring EWS data and to implement appropriate intervention strategies for a student who exhibits two or more early learning indicators unless the student is already being served by an intervention program. The team may include a school psychologist. Because not all schools are required to implement a school improvement plan, the bill eliminates the requirement that a school’s improvement plan include middle grades EWS data and related information.⁸¹

Charter School Applications

Present Situation

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”⁸² The charter exempts the school from many regulations applicable to traditional public schools to encourage the use of innovative learning methods.⁸³ One of the guiding principles of charter schools is to “meet high standards of student achievement while providing parents flexibility to choose among diverse educational opportunities within the state’s public school system.”⁸⁴

An application for a new charter school may be made by an individual, teachers, parents, and a group of individuals, a municipality or a legal entity organized under Florida law.⁸⁵ The school must be operated by a FCS institution, municipality or nonprofit organization. While a charter school must be a public or nonprofit entity, it may be managed by a for-profit education management organization.⁸⁶ A district school board may sponsor a charter school in the county over which the district school board has jurisdiction.⁸⁷

A person or entity seeking to open a charter school must submit an application using the model application form prepared by the DOE.⁸⁸ A sponsor must receive and review all charter school applications using an evaluation instrument developed by the DOE. The deadline for submission of charter school applications is August 1 of each year for schools to be opened the following year. An applicant may submit a draft charter school application on or before May 1 with an application fee of \$500. If a draft application is timely submitted, the sponsor must review and provide feedback as to material deficiencies in the application by July 1. The applicant then has until August 1 to resubmit a revised and final application. The sponsor may approve the draft application.⁸⁹

Effect of Proposed Changes

The bill revises the date a sponsor must receive all charter school applications from August 1, to February 1, beginning in 2018, for a charter school to open 18 months later or at a time agreed to by the applicant and the sponsor.

⁸¹ Early warning system is already a component of the school improvement plan for schools with a grade of “D” or “F.” See Florida Department of Education, *Form SIP-1, School Improvement Plan* (Dec. 2014), available at https://www.flrules.org/gateway/readRefFile.asp?refId=4622&filename=SIP-1_2014-15.pdf (incorporated by reference in rule 6A-1.099811, F.A.C.).

⁸² Section 1002.33(5)(a), (6)(h), (7) and (9)(a), F.S.

⁸³ Section 1002.33(2)(b)3. and (16), F.S.

⁸⁴ Section 1002.33(2)(a)1., F.S.

⁸⁵ Section 1002.33(3)(a), F.S.

⁸⁶ Section 1002.33(12)(i), F.S.

⁸⁷ Section 1002.33(5)(a)1., F.S.

⁸⁸ Section 1002.33(6)(a), F.S.

⁸⁹ Section 1002.33(6)(b), F.S.

The bill removes the provision allowing a charter school applicant to submit a draft application to a sponsor for review.⁹⁰ The bill increases the amount of time the sponsor has to approve or deny an application from 60 to 90 days.

Charter School Contracts

Present Situation

Once an application is approved, the major issues involving the operation of a charter school, which are outlined in current law, must be considered in advance and written into the charter. The DOE, through state board rule, created a standard charter contract in consultation with both school districts and charter schools.

Effect of Proposed Changes

The bill requires the sponsor and the charter school governing board to use the standard charter contract which incorporates the approved application and any addenda approved with the application. The parties may negotiate the terms of the contract, but any term or condition of a proposed contract that differs from the standard contract shall be presumed a limitation on charter school flexibility. The sponsor must notify a charter school if it intends not to renew a contract and provide the charter school with a hearing.

Other Provisions Relating to Charter Schools

The bill also:

- clarifies when the controlled open enrollment process applies to charter schools;
- clarifies that charter schools and their governing boards are subject to the same waiver of sovereign immunity in tort actions as the state, state agencies and or subdivisions and expressly prohibits this provision for any for-profit entity contracted by the charter school or its governing body;
- revises the definition of “public school prekindergarten provider” to include a charter school; and
- removes the requirement that an eligible dual enrollment program be located and chartered in Florida and revises eligibility requirements for postsecondary institutions to participate in dual enrollment by requiring that the institution be accredited by any regional or national accrediting agency recognized by the U.S. DOE rather than only the Commission of Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools.

High-Performing Charter Schools

Present Situation

A high-performing charter school is a charter school that during each of the three previous years:

- earned at least two school grades of “A” and no school grade below “B;”
- has received an unqualified opinion on each annual financial audit; and
- has not received an annual financial audit that reveals a financial emergency condition.⁹¹

⁹⁰Note: The number of draft applications submitted declined from 43 in 2014 to 22 in 2015, *see* Annual Authorizer Reports, *available at* <http://www.fldoe.org/schools/school-choice/charter-schools/authorizers/annual-authorizer-reports.stml>.

⁹¹ Section 1002.331(1), F.S. A financial emergency condition includes failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes or make employer contributions to social security or pensions; or failure for one pay period to pay wages, salaries, and retirement benefits owed. Section 218.503(1), F.S. A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a

A high-performing charter school may, in any school district in the state, submit an application to establish a new charter school that replicates its educational program. The application must indicate that the charter school is “high-performing” and include the commissioner’s eligibility letter.⁹² Such applications may only be denied under certain circumstances.⁹³ A high-performing charter school may only establish one charter school a year. A subsequent application to establish a charter school may only be submitted when each charter school established through replication achieves high-performing charter school status.⁹⁴

If the sponsor denies an application submitted by a high-performing charter school, the sponsor must, within 10 calendar days after such denial, state in writing the specific reasons supporting the denial and must provide the letter of denial and supporting documentation to the applicant and to the DOE. The applicant may appeal the sponsor's denial of the application directly to the SBE.⁹⁵

Effect of Proposed Changes

The bill allows a high-performing charter school to establish more than one charter school a year only if it chooses to operate in and serve students from a persistently low-performing school.

The bill provides a high-performing charter school whose application has been denied a hearing by requiring that an appeal of such denial be brought before the Charter School Appeals Commission. The commission will make a recommendation to the SBE in accordance with current law.

High-Performing Charter Schools Systems

Present Situation

A high-performing charter school system is an entity that:

- operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- operated a system of charter schools in which at least 50 percent of the charter schools were high-performing charter schools and no charter school earned a school grade of “D” or “F” in any of the previous 3 school years regardless of whether the entity currently operates the charter school, with specified exceptions; and
- did not receive a financial audit that revealed one or more of the financial emergency conditions for any charter school assumed or established by the entity in the most recent 3 fiscal years for which such audits are available.⁹⁶

A high-performing charter school system may replicate its high-performing charter schools using the current application process outlined in law.⁹⁷

deteriorating financial condition. Section 1002.331(1)(c), F.S. A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1), F.S. Section 1002.345(1)(a)3., F.S.

⁹² Section 1002.331(3)(a), F.S.

⁹³ Section 1002.33(6)(b)3.b., F.S.

⁹⁴ Section 1002.331(3)(b), F.S.

⁹⁵ Section 1002.33(6)(b)3.c., F.S.

⁹⁶ Section 1002.332(1)(b), F.S.

⁹⁷ Section 1002.332(2), F.S.

Effect of Proposed Changes

The bill clarifies that a high-performing charter school system may replicate a school in any district in the state and establishes a streamlined standard application form for replicating charter schools by a high-performing charter school system.

The bill requires the standard application form for replicating charter schools by a high-performing charter system to:

- contain goals and objectives for improving and measuring student learning, including the expected amount of student yearly academic improvement, methods for evaluating success and the specific results to be attained through instruction;
- contain an annual financial plan for each year requested by the charter for operation of the school for up to 5 years;
- disclose the name of each applicant, governing board member and all proposed education services providers, the name and sponsor of any charter school operated by each applicant, each governing board member and each proposed education services provider that has closed and the reasons for the closure and the academic and financial history of such charter schools, which the sponsor shall consider in deciding whether to approve or deny the application.

The bill requires the review, approval, denial and appeals process for high-performing replication applications to comply with current processes in law.

Charter School Cooperatives

Present Situation

The law authorizes charter schools to enter into cooperative agreements with other charter schools to provide planning and development, direct instructional services, and contracts with charter school governing boards to provide personnel administrative services, payroll services, human resource management, evaluation and assessment services, teacher preparation, and professional development.⁹⁸

Effect of Proposed Changes

The bill deletes the list of specific services that cooperative agreements may provide and instead allows charter schools to enter into cooperative agreements to further any educational, operational or administrative purposes in which participating charter schools share common interests. This change expands the ability of charter schools to collaborate and pool resources for shared objectives.

Charter School Funding

Present Situation

Charter schools are funded through the Florida Education Finance Program (FEFP) the same as traditional public schools based on the number of students. Each charter school reports student enrollment to its sponsor⁹⁹ for inclusion in the district's report of student enrollment.¹⁰⁰ The following chart summarizes how a charter school's share of FEFP funds is determined:

⁹⁸ Section 1002.33(13), F.S.

⁹⁹ A sponsor can be a district school board that approves the charter and holds the contract. Section 1002.33(5)(a)1., F.S.

¹⁰⁰ Section 1002.33(17)(a)-(b), F.S. To reflect any changes in enrollment, the charter school's funding is recalculated during the school year, based upon the October and February FTE enrollment surveys. *See s. 1002.33(17)(b), F.S.*

Calculating a Charter School's Share of FEFP Funds¹⁰¹
Sum of the school district's operating funds from the FEFP as provided in s. 1011.62, F.S., and the General Appropriations Act, including the district's gross state and local funds, discretionary lottery funds, and funds from the district's current operating discretionary tax levies.
÷ The total funded weighted full-time equivalent (FTE) students in the district.
x The weighted FTE students for the charter school.

A charter school is also entitled to receive its proportionate share of categorical funds included in the FEFP for students who qualify for the categorical.¹⁰² Categorical funds must be spent for specified purposes, which include student transportation, safe schools, supplemental academic instruction, research-based reading, instructional materials, digital classrooms, classroom supplies and class-size reduction operating funds.¹⁰³ Sponsors are prohibited from requiring charter schools to adopt the school district's reading curriculum as a condition of receiving the research-based reading allocation.¹⁰⁴

Effect of Proposed Changes

The bill authorizes a nonprofit organization or municipality that operates a charter school to use unrestricted surplus or unrestricted net assets from that school for K-12 educational purposes in other schools they operate in the district. The bill also deletes language regarding federal funds that conflicts with federal requirements for the distribution of such funds.

Charter School Sponsor Services and Fees

Present Situation

A sponsor must provide various administrative services to charter schools in their district including contract management; FTE and student achievement data reporting; exceptional student education program administration; eligibility and reporting for federal school lunch programs; test administration, including payment of the costs of state- or school district-required assessments; processing of teacher certification data and student information services.¹⁰⁵ As compensation for services provided, a sponsor may withhold an administrative fee of up to 5 percent of each charter school's total operating funds, based upon weighted FTE students.¹⁰⁶ A sponsor may only withhold the administrative fee for the first 250 students enrolled in each charter school.¹⁰⁷ A sponsor may withhold a 5 percent administrative fee for the first 500 students enrolled within a system of charter schools if the system:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and

¹⁰¹ Section 1002.33(17)(b) and (c), F.S.

¹⁰² Section 1002.33(17)(b), F.S.

¹⁰³ See, e.g., s. 1011.62(1)(f), F.S. (supplemental academic instruction); s. 1011.62(6), F.S. (general categoricals), s. 1011.67, F.S. (instructional materials), s. 1011.62(12), F.S. (digital classrooms); s. 1011.68, F.S. (student transportation), s. 1011.685, F.S. (class size reduction), and s. 1012.71, F.S. (Florida Teachers Classroom Supply Assistance Program).

¹⁰⁴ Section 1002.33(17)(b), F.S.

¹⁰⁵ Section 1002.33(20)(a)1., F.S. See also, *Florida Attorney General Opinion, AGO 2013-04, stating that the administrative fee includes costs to administer state district assessments, available at <http://www.myfloridalegal.com/ago.nsf/Opinions/D20AD30420BB793B85257B3C0052B3A6>.*

¹⁰⁶ Section 1002.33(20)(a)2., F.S.

¹⁰⁷ Section 1002.33(20)(a)2., F.S. When a charter school's enrollment exceeds 250 students, it must reserve an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld for capital outlay purposes. *Id.*

- does not contract with a for-profit service provider for management of school operations.¹⁰⁸

If the system meets these criteria and also qualifies for high-performing charter school system status, it may receive a reduction in the administrative fees from 5 percent to 2 percent for enrollments up to and including 500 students per system.¹⁰⁹ The total administrative fee for high-performing charter schools is up to 2 percent for enrollment up to and including 250 students per school.¹¹⁰

When 75 percent or more of the students enrolled in the charter school are exceptional students, including gifted students, the 5 percent administrative fee is calculated based upon unweighted FTE students.¹¹¹ For virtual charter schools, the sponsor may withhold a fee of up to 5 percent of the school's total operating funds; however, the fee must be used to cover the cost of sponsor-provided services and for implementation of the school district's digital classrooms plan.¹¹² Sponsors are prohibited from imposing additional fees or surcharges for services provided.¹¹³

Effect of Proposed Changes

The bill specifies language regarding administrative fees for charter schools, high-performing charter schools and charter school systems and removes the restrictions on eligible expenditures of the funds resulting from the difference between the total calculated amount of administrative fees and the amount the district may withhold.

The bill also requires charter schools to annually complete and submit a survey to rate the timeliness and effectiveness of administrative services provided by sponsors. The Department of Education must develop and administer the survey, compile the results by district and include them in the annual authorizer report.

Public Information on Charter Schools

Present Situation

The DOE must annually provide a statewide analysis and comparison of charter school students and traditional public school students, as measured by the statewide assessment program and information reported in each school's annual progress report.¹¹⁴ The DOE's analysis compares the overall performance of charter school and traditional public school students and that of student subgroups, e.g., demographics, low income and students with disabilities. Comparison data must also be broken down by the following grade groupings:

- Grades 3 through 5
- Grades 6 through 8 and
- Grades 9 through 11.¹¹⁵

The report contains 77 separate comparisons of student achievement. In 65 of the 77 comparisons, students enrolled in charter schools demonstrated higher rates of grade level performance. In addition, the achievement gap was lower for charter school students in 20 of the 22 comparisons.¹¹⁶

¹⁰⁸ Section 1002.33(20)(a)4., F.S. When the enrollment within a system of charter schools exceeds 500 students, an amount of total operating funds equal to the difference between the total administrative fee calculation and the actual amount withheld may only be used for instructional, administrative, or capital outlay purposes. Section 1002.33(20)(a)5., F.S.

¹⁰⁹ Section 1002.33(20)(a)4. and 6., F.S.

¹¹⁰ Section 1002.33(20)(a)3., F.S.

¹¹¹ Section 1002.33(20)(a)2., F.S.

¹¹² Section 1002.33(20)(a)8., F.S.

¹¹³ Section 1002.33(20)(a)7., F.S.

¹¹⁴ Section 1002.33(23), F.S.

¹¹⁵ Section 1002.33(21)(b)3.a., F.S.

¹¹⁶ Florida Department of Education, *Student Achievement in Florida's Charter Schools: A Comparison of the Performance of Charter School Students with Traditional Public School Students*, at v (March 2017), available at

Effect of Proposed Changes

The bill removes the provision that charter school student performance data be compared to student performance data of traditional public schools. This is because the original reporting requirement applied only to charter schools that had at least 10 students with test scores but fewer than the 30 students necessary for a school grade (based on state law prior to 2014). This population of charter schools now receives a school grade,¹¹⁷ rendering the original purpose of the report moot.

Local Educational Agency Status

Present Situation

A system of charter schools may serve as a local education agency (LEA)¹¹⁸ if the governing board adopts and files a resolution with its sponsor and the DOE in which the governing board accepts the full responsibility for all LEA requirements and the system of charter schools:

- includes both conversion charter schools and nonconversion charter schools;
- has all schools located in the same county;
- has a total enrollment exceeding the total enrollment of at least one school district in the state;
- has the same governing board; and
- does not contract with a for-profit service provider for management of school operations.¹¹⁹

Effect of Proposed Changes

The bill revises LEA eligibility status by removing the requirements that a system of charter schools include both conversion charter schools and nonconversion charter schools and the system does not contract with a for-profit service provider for management of school operations. The bill also allows a charter school system's governing board to be designated as an LEA for purposes of receiving federal funds for all schools within a school district that are established under a turnaround option pursuant to s. 1008.33 and are under the jurisdiction of the governing board.

School Grades and School Improvement Ratings

Present Situation

School grades are used to explain a school's performance in a familiar, easy-to-understand manner for parents and the public.¹²⁰ School grades are also used to determine whether a school must select or implement a turnaround option¹²¹ or whether a school is eligible for school recognition funds as appropriated by the Legislature.¹²²

http://www.fldoe.org/core/fileparse.php/7778/urlt/Charter_Student_Achievement_Report_1516.pdf.

¹¹⁷ See s. 1, ch. 2014-23, L.O.F. (revising requirements for issuance of a school grade so that any school with data from at least 10 students for a given school grades component would receive a grade).

¹¹⁸ Under federal law, a local educational agency is a "public board of education or other public authority legally constituted within a state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a state, or for a combination of school districts or counties as are recognized in a state as an administrative agency for its public elementary schools or secondary schools." 34 C.F.R. s. 303.23.

¹¹⁹ Section 1002.33(25), F.S.

¹²⁰ Section 1008.34(1), F.S. If there are fewer than 10 eligible students with data for a component, the component is not included in the calculation. Section 1008.34(3)(a), F.S.

¹²¹ Section 1008.33(4), F.S.

¹²² Section 1008.26, F.S.

An alternative school may opt for a school improvement rating instead of a school grade.¹²³ The school improvement rating is calculated using student learning gains on statewide, standardized English language arts and Math assessments for all eligible students who are enrolled in the school and who have assessment scores or comparable scores for the preceding school year.¹²⁴ Schools that improve their ratings by at least one level or maintain a “commendable” rating are eligible for school recognition awards.¹²⁵ The school improvement rating identifies an alternative school as having one of the following ratings:

- **Commendable:** a significant percentage of the students attending the school are making learning gains
- **Maintaining:** a sufficient percentage of the students attending the school are making learning gains
- **Unsatisfactory:** an insufficient percentage of the students attending the school are making learning gains¹²⁶

Current law requires that the student performance data for eligible students attending alternative schools that provide dropout prevention and academic intervention are included in the calculation of the home school's grade.¹²⁷ Likewise, student performance data for eligible students in Exceptional Student Education (ESE) Centers are included in the calculation of the home school grade.¹²⁸

Effect of Proposed Changes

The bill requires a high school to include in its graduation rate a student who transfers from the high school to a private school with which the school district has a contractual relationship.

The bill also allows the use of concordant scores, in addition to assessment scores or comparable scores, in determining an alternative school's school improvement rating.

Charter School Facilities

Present Situation

Current law prohibits local governing authorities from adopting or imposing any local building requirements or site-size criteria that are addressed by and more stringent than those found in the State Requirements for Education Facilities (SREF) of the Florida Building Code.¹²⁹ In addition, any facility or portion of a facility, used to house a charter school is exempt from ad valorem taxes, and specified entities, including a library, community service, museum, performing arts, theatre, cinema, church, FCS institution, college, and university may provide space to charter schools within their facilities under their preexisting zoning and land use designations.¹³⁰

Effect of Proposed Changes

The bill clarifies that the entities listed above may provide space to charter schools, and the charter school shall not have to obtain any special exception, rezoning, or land use change. The bill also specifies that a local governing authority may not adopt or impose any student enrollment or occupant load requirements that are more stringent than those addressed by the SREF.

¹²³ School improvement ratings, which do not include an academic achievement component but instead focus on learning gains, are offered to alternative schools because the students at these schools are often enrolled in more than one school within the school year. All alternative students' learning gains scores are included in either the alternative school or home school accountability report.

¹²⁴ Section 1008.341(3), F.S.

¹²⁵ Section 1008.341(2), F.S. (flush left provisions at the end of the subsection).

¹²⁶ Section 1008.341(2)(a)-(c), F.S.

¹²⁷ Section 1008.34(3)(d)1., F.S.

¹²⁸ Section 1008.3415, F.S.

¹²⁹ Section 1002.33(18)(a), F.S.

¹³⁰ Section 1002.33(18)(c), F.S.

College-Preparatory Boarding Academy

Present Situation

In 2011, the Legislature created the College-Preparatory Boarding Academy Pilot Program for the purpose of providing unique educational opportunities to dependent or at-risk children who are academic underperformers but who have the potential to progress from at-risk to college-bound.¹³¹

An “eligible student” is a student who:

- is a resident of the state and entitled to attend school in a participating school district;
- is at risk of academic failure;
- is currently enrolled in grade 5 or 6;
- is from a family whose gross income is at or below 200 percent of the federal poverty guidelines;
- is eligible for benefits or services funded by Temporary Assistance for Needy Families (TANF) or Title IV-E of the Social Security Act; and
- meets at least one of the following additional risk factors:
 - The child is in foster care or has been declared an adjudicated dependent by a court
 - The student’s head of household is not the student’s custodial parent
 - The student resides in a household that receives a housing voucher or has been determined eligible for public housing assistance
 - A member of the student’s immediate family has been incarcerated
 - The child is covered under the terms of the state’s Child Welfare Waiver Demonstration project with the United States Department of Health and Human Services¹³²

Effect of Proposed Changes

The requirement that a student be currently enrolled in grade 5 or 6 limits the operator from enrolling students in another grade level, even if a space is available. The bill revises this requirement and allows any student currently enrolled in grades 5-12 to be eligible to enter the program, if the operator determines that a seat is available.

Charter School Capital Outlay

Present Situation

Funding for charter school capital outlay is primarily provided by state funds when such funds are appropriated in the General Appropriations Act. Section 1013.62, Florida Statutes, describes charter school eligibility for capital outlay funding, how such funds must be allocated, and allowable capital outlay funding uses.

To be eligible for charter school capital outlay funding, a charter school must:

- have been in operation for at least three years and:
 - be governed by a governing board established in Florida for three or more years which operates both charter schools and conversion charter schools within the state;
 - be part of an expanded feeder chain¹³³ with an existing charter school in the district that is currently receiving charter school capital outlay funds;

¹³¹ Section 1002.3305(1), F.S.

¹³² Section 1002.3305(2)(b), F.S.

¹³³ A charter school may be considered a part of an expanded feeder chain under s. 1013.62, F.S., if it either sends or receives a majority of its students directly to or from a charter school that is currently receiving capital outlay funding pursuant to Section 1013.62, F.S. Rule 6A-2.0020 (1), F.A.C.

- be accredited by the Commission on Schools of the Southern Association of Colleges and Schools; or
- serve students in facilities that are provided by a business partner for a charter school-in-the-workplace;
- have an annual audit that does not reveal any of the financial emergency conditions provided in s. 218.503(1), Florida Statutes, for the most recent fiscal year for which such audit results are available;
- have satisfactory student achievement based upon the state accountability standards applicable to charter schools;
- have received final approval from its sponsor pursuant to s. 1002.33, Florida Statutes, for operation during that fiscal year; and
- serve students in facilities that are not provided by the charter school sponsor.¹³⁴

Capital outlay funds may be used by a charter school's governing board for the:

- purchase of real property;
- construction of school facilities;
- purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- purchase of vehicles to transport students to and from the charter school;
- renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer;
- purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications;¹³⁵
- payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities; and
- purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.¹³⁶

Beginning in Fiscal Year 2016-2017, charter schools receive a weight of 1.0 per FTE student, with an additional weight for schools that meet one or both of the following criteria:

- 75 percent or more of the school's students are eligible for free or reduced-price lunch
- 25 percent or more of the school's students are students with disabilities

Schools that meet only one of the above criteria receive capital outlay funding weighted at 1.25. Schools that meet both criteria receive capital outlay funding weighted at 1.5. Eligible schools that do not meet either of the criteria receive capital outlay funding weighted at 1.0.

In the most recent five fiscal years, the Legislature appropriated the following charter school capital outlay funds:

¹³⁴ Section 1013.62(1)(a), F.S. A conversion charter school, i.e., a charter school created by the conversion of an existing public school to charter status, is not eligible for capital outlay funding if it operates in facilities provided by its sponsor at no charge or for a nominal fee or if it is directly or indirectly operated by the school district. Section 1013.62(1)(d), F.S.

¹³⁵ Enterprise resource software applications must be "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support schoolwide administration or state-mandated reporting requirements." Section 1013.62(2)(f), F.S.

¹³⁶ Section 1013.62(3)(a)-(h), F.S.

Fiscal Year	Appropriation	Total Charter Schools Funded
2012-13	\$55.2 million ¹³⁷	432
2013-14	\$90.6 million ¹³⁸	473
2014-15	\$75.0 million ¹³⁹	487
2015-16	\$50.0 million ¹⁴⁰	535
2016-17	\$75.0 million ¹⁴¹	556

In addition to the appropriated state funds for charter school capital outlay, the law authorizes, but does not require, school districts to share the discretionary 1.5 mills revenue with charter schools.¹⁴² At least three school districts, Franklin, Sarasota, and Sumter, have shared revenue generated from the discretionary 1.5 millage with charter schools within their districts¹⁴³; however, it is unknown the extent school districts currently share such revenue as the Department of Education does not collect this data.

Effect of Proposed Changes

The bill specifies that both district schools and charter schools are eligible for the revenue generated from the discretionary 1.5 millage authorized by state law. The bill also provides that charter school capital outlay funding consists of both revenue from the discretionary millage and state funds when such funds are appropriated.

The bill revises eligibility requirements for charter school capital outlay funds by specifying that the school must be accredited by a regional accrediting association as defined in state board rule, rather than by the Commission on Schools of the Southern Association of Colleges and Schools only. The bill also establishes a calculation methodology for the DOE to use to determine the amount of the discretionary 1.5 millage revenue a school district must distribute to each eligible charter school.

The bill adds as allowable uses of capital outlay funds the purchase or lease of computer hardware necessary for gaining access to electronic content or to serve purposes specified in the charter schools and non-charter public schools digital classrooms plan. Charter schools are also aligned with non-charter public schools to allow payment of the cost of the opening day collection for the library media center of a new school.

Equity in School Level Funding

Present Situation

Title I, Part A of the Elementary and Secondary Education Act, provides financial assistance to LEAs and schools with high numbers or high percentages of children from low-income families to help ensure that all children meet challenging state academic standards. Federal funds are currently allocated through four statutory formulas that are based primarily on census poverty estimates and the cost of education in each state.¹⁴⁴

¹³⁷ Specific Appropriation 16, s. 2, ch. 2012-118, L.O.F.

¹³⁸ Specific Appropriation 18, s. 2, ch. 2013-40, L.O.F.

¹³⁹ Specific Appropriation 25, s. 2, ch. 2014-51, L.O.F.

¹⁴⁰ Specific Appropriation 18, s. 2, ch. 2015-232, L.O.F.

¹⁴¹ Specific Appropriation 19, s. 2, ch. 2016-66, L.O.F.

¹⁴² Section 1011.71(2), F.S.

¹⁴³ Florida Department of Education Office of Funding and Financial Reporting, Source: Survey of Florida District School Boards, December 2011; Report Prepared May 17, 2012.

¹⁴⁴ U.S. Department of Education, *Improving Basic Programs Operated by Local Educational Agencies (Title I, Part A)*, available at <https://www2.ed.gov/programs/titleiparta/index.html?exp=0>.

In the 2014-2015 school year, Florida school districts received approximately \$858 million in Title I funds. Of the \$858 million, 48 percent was reserved at the district level for district-wide activities and administration. In the 2014-2015 school year, at more than half of all Florida school districts, a larger percentage of Title I Part A dollars were reserved at the district level for administration and district-wide activities than was allocated to participating public schools. Also, more money was allocated to Title I schools than was reserved at the district level at 75% of all LEAs with no “D” and “F” schools.¹⁴⁵

Effect of Proposed Changes

The bill requires school districts to provide Title I funds directly to all eligible schools and limits the amount of Title I funds that a district may withhold as follows:

- One percent for parent involvement
- A necessary and reasonable amount for administration not to exceed eight percent
- A reasonable and necessary amount to provide:
 - homeless programs;
 - delinquent and neglected programs;
 - prekindergarten programs and activities;
 - private school equitable services; and
 - transportation for foster care children to their school of origin or choice program.

The bill also provides that, after providing Title I funds to schools above the 75 percent poverty threshold, the district shall distribute all remaining Title I funds to all eligible schools in accordance with federal law and regulation. The threshold for identifying eligible schools may not exceed the threshold established by a school district for the 2016-2017 school year or the statewide percentage of economically disadvantaged students, as determined annually. Schools may participate in district-wide or district sponsored initiatives by paying a proportionate share of Title I funds to the school district. The bill enables school-level administrators to determine the best use of the funds to serve the students at their schools.

Of the 7 percent of Title I funds that must be set aside for school improvement, 95 percent must be awarded to districts through either a formula or competitive approach or some combination thereof. The remaining 5 percent would be used primarily to support DA regional activities as it is, currently.¹⁴⁶

¹⁴⁵ Email, Florida Department of Education, Governmental Relations (April 10, 2017).

¹⁴⁶ See 20 U.S.C. s. 6303(a).

Title I, Part A, Allocation of District Funds		
	CURRENT	PROPOSED
STATE LEVEL	1% for DOE administration and approximately 7% for school improvement set-asides.	1% for DOE administration and approximately 7% for school improvement set-asides.
REQUIRED (DISTRICT LEVEL)	1% for Parent Involvement	1% for Parent Involvement <i>in addition to the 1% the district must reserve under federal law for allocations to eligible schools for parent involvement.</i>
	A necessary and reasonable amount for administration, homeless programs, and neglected and delinquent programs. Amounts determined by the district.	A necessary and reasonable amount for administration but not to exceed 8%, homeless programs, neglected and delinquent programs. Amounts determined by the district.
	Equitable services and benefits for eligible private school students, teachers, and parents.	Equitable services and benefits for eligible private school students, teachers, and parents.
	Formula calculation over which districts have no discretion.	Formula calculation over which districts have no discretion.
DISCRETIONARY (DISTRICT LEVEL)	Professional development and other authorized activities such as summer programs, extended day, preschool, salary incentives, migrant services, transportation for children in foster care, instructional coaches, reading coaches, graduation coaches, behavior coaches, software, curriculum, academic coaches and other district-wide programs. Allocations for programs that are more cost-effectively provided at the district level rather than the school level.	<i>Prekindergarten programs and activities, and transportation for foster care children to their school of origin or choice program. The type of programs and amount spent on such programs is determined by the district.</i>
DISCRETIONARY (SCHOOL LEVEL)	Allocations to schools – based on poverty data, schools must be ranked and served in order of their poverty levels. Schools where more than 75% of the students live in poverty <u>must</u> be allocated funds using the highest per pupil allocation (PPA). Schools at or below 75% may have lower PPAs, but never higher than the PPA for schools over 75%.strictly based on the poverty ranking. Districts identify eligible schools (below 75%) based on the percent of economically disadvantaged students.	Allocations to schools – based on poverty data, schools must be ranked and served in order of their poverty levels. Schools where more than 75% of the students live in poverty <u>must</u> be allocated funds using the highest per pupil allocation (PPA). Schools at or below 75% may have lower PPAs, but never higher than the PPA for schools over 75%.strictly based on the poverty ranking. Districts identify eligible schools (below 75%) based on the percentage of economically disadvantaged students. <i>The threshold for identify schools may not exceed the criteria established by the district for the 2016-2017 school year or the statewide percentage of economically disadvantaged students.</i>
	OTHER PROGRAMS AND ACTIVITIES	Professional development and other authorized activities such as summer programs, extended day, salary incentives, migrant services, instructional coaches, reading coaches, graduation coaches, behavior coaches, software, curriculum, academic coaches. <i>The type of programs and amount spent on such programs is determined by the school.</i>

Statewide, Standardized Assessments

Present Situation

Assessments and Assessment Schedules

Florida's statewide assessment program is used to measure the extent to which students have mastered Florida's Next Generation Sunshine State Standards (NGSSS).¹⁴⁷ It includes statewide, standardized grade level assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Algebra II, Geometry, Biology I, Civics, and U.S. History; the Statewide Science Assessment (grades 5 and 8);¹⁴⁸ and alternate assessments for students with significant cognitive disabilities.¹⁴⁹ The grade-level English language arts (ELA) and mathematics assessments and Algebra I, Geometry, and Algebra II EOC assessments are referred to as the Florida Standards Assessments (FSA). EOC assessments count as 30 percent of a student's final course grade.¹⁵⁰

Results from the assessments are used to calculate school grades and school improvement ratings¹⁵¹ and determine student readiness for promotion to 4th grade and high school graduation.¹⁵² In addition, school districts use student performance data from the assessments in the performance evaluations for instructional personnel and school administrators.¹⁵³

Florida and federal law both require that all public school students annually participate in statewide, standardized ELA and mathematics assessments beginning in the 3rd grade.¹⁵⁴ Federal law requires that students participate in a standardized science assessment at least once in grades 3 through 5, 6 through 9, and 10 through 12.¹⁵⁵ The requirements for students in Florida are as follows:¹⁵⁶

- ELA
 - Grades 3-10: annual participation in the FSA-ELA
- Math
 - Grades 3-8: annual participation in the mathematics FSA
 - High school:
 - Algebra I EOC and Geometry assessments
 - (If enrolled) Algebra II EOC assessment
- Science
 - Grades 5 and 8: Statewide Science Assessment
 - High school: Biology I EOC assessment
- Social Studies
 - Middle school: Civics EOC assessment
 - High school: U.S. History EOC assessment

¹⁴⁷ 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>.

¹⁴⁸ Sections 1008.22(3), 1003.4156, and 1003.4282, F.S. Retake administrations are offered for the Grade 10 FSA ELA and Algebra I EOC assessment. Florida Department of Education, Division of Public Schools, *2016-17 Statewide Assessment Schedule Revisions and 2017-18 Preliminary Schedule Release*, Memorandum (August 1, 2016), available at <http://info.fldoe.org/docushare/dsweb/Get/Document-7699/dps-2016-125.pdf>.

¹⁴⁹ See s. 1008.22(3), F.S.

¹⁵⁰ Sections 1003.4156(1)(c)-(d) and 1003.4282(3), F.S.

¹⁵¹ See ss. 1008.34 and 1008.341, F.S.

¹⁵² See ss. 1008.25(5) and 1003.4282(3)(a) and (b), F.S.

¹⁵³ See s. 1012.34(3)(a)1., F.S.; rules 6A-5.030(2)(a), F.A.C.

¹⁵⁴ See s. 1008.22(3)(a); 20 U.S.C. s. 6311(b)(2)(v)(I).

¹⁵⁵ See 20 U.S.C. s. 6311(b)(2)(B)(v)(II).

¹⁵⁶ See s. 1008.22(3)(a) and (b), F.S.

By August of each year, the Commissioner of Education must publish a uniform assessment calendar on the DOE website that includes assessment and reporting schedules for the next 2 school years.¹⁵⁷ Results for all statewide, standardized assessments, including EOC assessments, must be made available no later than the week of June 8. School districts must administer the assessments in accordance with the assessment schedule established by the commissioner.¹⁵⁸

The assessment calendar consists of testing windows, or the range of dates during which districts and schools may choose to administer a given assessment.¹⁵⁹ Inside of the state window, districts establish their own windows during which the district will administer a given assessment.

Spring 2017 Assessments (Regular Administration)¹⁶⁰	
February 27-March 3, 2017	Grades 4-7 English Language Arts – Writing
February 27-March 10, 2017	Grades 8-10 English Language Arts – Writing
March 27-April 7, 2017	Grade 3 English Language Arts – Reading
April 10-May 12, 2017	Grades 4-10 English Language Arts – Reading Grades 3-8 Mathematics
April 17-May 12, 2017	Algebra I, Geometry, Algebra II EOC Assessments
April 17-May 19, 2017	Biology I, Civics, U.S. History EOC Assessments
May 1-5, 2017	Grades 5 & 8 Science

Computer-Based Testing

The law has required the gradual transition to computer-based assessments beginning with the 2015-2016 school year.¹⁶¹ Currently, all assessments, except the 3rd grade ELA assessment, the writing portion of the ELA assessment for grades 4 through 7, and the grades 5 and 8 science assessments, are administered on computers. The 3rd grade ELA assessment will be administered as a computer-based test beginning with the 2017-2018 school year.¹⁶² A student may take a paper-based assessment if indicated by his or her individual education plan as a necessary accommodation.¹⁶³ Windows for EOC assessments are longer than windows for comprehensive, grade-level tests to allow more flexibility for middle schools and high schools to administer the assessments.¹⁶⁴

Use of computer-based testing provides for a shorter scoring process but requires a longer testing window based on the available facilities and testing devices at each participating school. The writing portion of the ELA assessment includes hand scoring by human graders. This requires the window to open earlier than other assessment windows so that scores can be calculated in time to meet statutory deadlines.¹⁶⁵ The 3rd grade ELA assessment is also administered earlier so that decisions related to 4th grade promotion can be made prior to the completion of the school year.

Graduation Requirements

To graduate from high school with a standard high school diploma, a student must successfully complete 24 course credits and participate in EOC assessments for Algebra I, Geometry, Biology, and

¹⁵⁷ Section 1008.22(7)(b), F.S.

¹⁵⁸ Section 1008.22(7)(a), F.S.

¹⁵⁹ Florida Department of Education, *2016-2017 Uniform Statewide Assessment Calendar* (2016), available at <http://fldoe.org/core/fileparse.php/5663/urlt/K12UniformAssessmentCalendar16-17.doc>.

¹⁶⁰ Florida Department of Education, *Florida Statewide Assessment Program 2016-2017 Schedule* (2016), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-7514/dps-2015-175a.pdf>.

¹⁶¹ See s. 1008.22(3)(d)1., F.S. See also Florida Department of Education, *Florida's Transition to Computer-Based Testing for Statewide Assessments 2014-18* (2016), available at <https://info.fldoe.org/docushare/dsweb/Get/Document-7048/dps-2014-81b.pdf>.

¹⁶² See *id.* The grade 3 ELA assessment does not include a separate writing component.

¹⁶³ Florida Department of Education, *Computer-based Testing*, <http://www.fldoe.org/accountability/assessments/k-12-student-assessment/computer-based-testing.stml> (last visited Mar. 13, 2017).

¹⁶⁴ Email, Florida Department of Education, Bureau of K-12 Student Assessment (Nov. 3, 2016).

¹⁶⁵ *Id.*

U.S. History. Students must also participate in 9th and 10th grade statewide, standardized assessments for ELA. Students must pass the Algebra I EOC assessment and the 10th grade statewide, standardized ELA assessment, or earn a concordant or comparative score on the SAT, ACT, or PERT, as applicable, to graduate.

Other Requirements

In addition, school districts must participate in national and international comparison assessments, such as the National Assessment of Educational Progress (NAEP),¹⁶⁶ Trends in International Mathematics and Science Study, Program for International Student Assessment, Progress in International Reading Literacy Study, and International Computer and Information Literacy Study.¹⁶⁷ All Students with disabilities, except for students with an approved medical complexity or extraordinary exemption waiver, must participate in the statewide, standardized assessments.¹⁶⁸ Students with significant cognitive disabilities may be eligible to take the Florida Standards Alternate Assessment, which measures student academic performance on the state's academic standards using access points.¹⁶⁹

Reporting Student Assessment Results

The law requires that state assessment contracts entered into or renewed after April 14, 2015, must provide for a student's performance on state assessments to be provided to the student's teachers and parents by the end of the school year, unless the Commissioner of Education determines that extenuating circumstances exist and reports the circumstances to the SBE.¹⁷⁰ The law also requires that assessment and reporting schedules must provide the earliest possible reporting of student assessment results to school districts.¹⁷¹

The law does not specify what information must be included when assessment results are provided to teachers or parents; however, sample reports are currently provided on the DOE website.¹⁷² The report for the 3rd grade ELA assessment includes the achievement level the student earned on the assessment, the number of points possible and points earned in each "reporting category," and the percentage of students in the school, district, and state at each achievement level for the assessment.¹⁷³

Effect of Proposed Changes

The bill reduces state assessment requirements by eliminating the Algebra II EOC assessment. As a result, students seeking a Scholar Designation on their high school diploma will no longer be required to pass the assessment beginning with the 2017-2018 school year.

¹⁶⁶ 20 U.S.C. s. 6311(a)(1)(B). Federal Title I funds are contingent upon a state's participation in the NAEP, which is administered through the National Center for Education Statistics, the primary federal entity for collecting and analyzing state related to education in the U.S. National Center for Education Statistics, *About Us*, <https://nces.ed.gov/about/> (last visited Mar. 17, 2017).

¹⁶⁷ See s. 1008.22(2), F.S.

¹⁶⁸ See ss. 1008.212 and 1008.22(10), F.S.

¹⁶⁹ See s. 1008.22(3)(c)4., F.S.; rule 6A-1.09430(1), F.A.C.; see also Florida Department of Education, Division of Public Schools and Bureau of Exceptional Education and Student Services, *Statewide Assessment for Students with Disabilities*, Technical Assistance Paper 2010-92 (July 15, 2010). Access points provide students with significant cognitive disabilities access to the Florida Standards at reduced levels of complexity.

¹⁷⁰ See ss. 7 and 15, ch. 2015-6, L.O.F., codified at s. 1008.22(3)(g)2., F.S.

¹⁷¹ Section 1008.22(7)(a), F.S.

¹⁷² Florida Department of Education, *Understanding the New Score Report*, <http://fldoe.org/accountability/assessments/fsa-report.stml> (last visited Mar. 13, 2017).

¹⁷³ See e.g., Florida Department of Education, *The Florida Standards Assessment English Language Arts Grade 3 Score Report* (2016), available at <http://fldoe.org/core/fileparse.php/5651/urlt/3ELATemplate.pdf>.

The bill requires that the statewide, standardized ELA and mathematics assessments for grades 3 through 6 be delivered in a paper-based format beginning with the 2017-2018 so that all such assessments are paper-based by the 2018-2019 school year. Consistent with this transition schedule, the bill also deletes a provision requiring the grade 3 assessment to be delivered in a computer-based format beginning with the 2017-2018 school year.

The bill revises the timeline for administering statewide, standardized assessments as follows:

- The grade 3 statewide, standardized ELA assessment and the writing portion of the statewide, standardized ELA assessments for grades 4 through 10 must be administered within a 2-week assessment window that opens no earlier than April 1 each year.
- Any other paper-based statewide, standardized assessment must be administered within a 2-week assessment window that opens no earlier than May 1 each year.
- Any other computer-based statewide, standardized assessment must be administered within a 4-week assessment window that opens no earlier than May 1 each year.

The bill requires school districts to administer the assessments associated with a May 1 assessment window no earlier than 4 weeks before the last day of school for the district. In effect, this will require the last 4 weeks of a school district's school year to overlap with the May 1 assessment windows to the extent necessary for all assessments in the district to be administered. This does not require the last 4 weeks of the school year to start with the May 1 assessment window; rather, school districts will have the flexibility to adjust their last day of school to provide sufficient time, based upon the district's capacity and needs, to administer these assessments within their respective assessment windows.

The bill requires that assessment results for the grade 3 statewide, standardized ELA assessment be made available no later than May 31. The bill moves the date by which all other statewide assessment results must be made available from the week of June 8 to no later than June 30 of each year in order to allow time for scoring to be completed under the later assessment windows in the bill.

The bill moves the date by which the commissioner must post the uniform assessment calendar to the DOE website from August to January of each year. This will provide school districts additional time to establish their respective assessment calendars for the next two school years.

The bill requires that the results of the statewide, standardized ELA and mathematics assessments, including retakes, be reported in an "easy-to read and understandable" format and delivered in time to provide useful, actionable information to students, parents, and to each student's current teacher and the student's teacher of record for the subsequent school year. In any case, each school district must provide the report within 1 week after receiving the results from the DOE. The report must include, at a minimum:

- a clear explanation of the student's performance on the applicable assessments;
- information identifying the student's areas of strength and areas in need of improvement;
- specific actions that may be taken, and the available resources that may be used, by the student's parent to assist the student based on his or her areas of strength and areas in need of improvement;
- longitudinal information, if available, on the student's progress in each subject area based on previous statewide, standardized assessment data;
- comparative information showing the student's score compared to other students in the school district, in the state or, if available, in other states; and
- predictive information, if available, showing the linkage between the scores attained by the student on the statewide, standardized assessments and the scores he or she may potentially attain on nationally recognized college entrance examinations.

High School State Assessments

Present Situation

The *Every Student Succeeds Act (ESSA)*¹⁷⁴ is a federal law that reauthorized and substantially revised the *Elementary and Secondary Education Act of 1965 (ESEA)*. ESSA is the successor to the *No Child Left Behind Act of 2001 (NCLB)*.¹⁷⁵ Like its predecessors NCLB and ESEA, the goal of ESSA is to improve elementary and secondary education in public schools by conditioning the receipt of federal funds on the implementation of federal requirements. In order to receive Title I funds under ESSA, states must implement a statewide accountability system for K-12 public schools. ESSA also offers competitive and noncompetitive grant funds for teacher and school leader development, family engagement, student support, weighted per-pupil funding, and the development of innovative student progression systems and assessment formats.

ESSA requires each state receiving Title I funds to submit a plan that includes:

- **challenging academic standards** for reading or language arts (ELA) and math;¹⁷⁶
- **high quality assessments** in ELA, math, and science;¹⁷⁷
- **long-term goals** for all students and student subgroups¹⁷⁸ in the state, including measurements of interim progress toward meeting the goals;¹⁷⁹
- **multiple indicators** of student success and school quality,¹⁸⁰ including:
 - academic achievement as measured by statewide assessments in ELA and math;
 - a 4-year graduation rate for high schools;
 - for elementary and middle schools, student growth or another academic indicator;
 - progress of English learners¹⁸¹ (EL) toward English proficiency; and
 - an additional indicator of school quality or student success;
- **annual meaningful differentiation** (i.e., levels of performance) based on the system's indicators;¹⁸² and
- **identification of schools**, based on annual meaningful differentiation that requires comprehensive support and improvement or targeted support for specific student subgroups.¹⁸³

ESSA also requires each state and each local school district to annually publish a report card that provides information on student success, school quality, per-pupil funding, the progress of ELs toward English proficiency, and, for the state, progress toward its long-term goals.¹⁸⁴

These states must also implement high quality standardized assessments for all students, including:

- annual ELA and math assessments for all students in grades 3-8;
- at least one ELA and one math assessment in high school; and
- at least one science assessment during grades 3 through 5, 6 through 9, and 10 through 12.¹⁸⁵

¹⁷⁴ Pub. L. No. 114-95, 129 Stat. 1802 (Dec. 10, 2015); 20 U.S.C. s. 6301 *et seq.*

¹⁷⁵ Pub. L. No. 107-110, 115 Stat. 1425 (Jan. 8, 2002).

¹⁷⁶ 20 U.S.C. s. 6311(b)(1).

¹⁷⁷ 20 U.S.C. s. 6311(b)(2).

¹⁷⁸ For purposes of statewide accountability systems, student subgroups include economically disadvantaged students, students from major racial and ethnic groups, children with disabilities, and English learners. 20 U.S.C. s. 6311(c)(2).

¹⁷⁹ 20 U.S.C. s. 6311(c)(4)(A).

¹⁸⁰ 20 U.S.C. s. 6311(c)(4)(B).

¹⁸¹ An English learner is between 3 to 21 years old; is enrolled or preparing to enroll in an elementary or secondary school; was not born in the U.S. or has a native language other than English; and has difficulties in speaking, reading, writing, or understanding the English language such that the student cannot meet the state's academic standards, cannot achieve in a classroom with instruction in English, or does not have the opportunity to participate fully in society. *See* 20 U.S.C. s. 7801(20).

¹⁸² 20 U.S.C. s. 6311(c)(4)(C).

¹⁸³ 20 U.S.C. s. 6311(c)(4)(D).

¹⁸⁴ *See* 20 U.S.C. s. 6311(h)(1) and (2).

¹⁸⁵ 20 U.S.C. s. 6311(b)(2).

With respect to high school assessments, ESSA states that “[n]othing in this paragraph shall be construed to prohibit a local education agency [at the state’s discretion and upon state approval] from administering a locally selected assessment in lieu of the State-designated” high school ELA, math, or science assessments.¹⁸⁶ However, any such assessment must:¹⁸⁷

- be approved by the state;
- be nationally recognized;
- be aligned to the state’s academic standards;
- address the depth and breadth of such standards;
- be equivalent in its content coverage, difficulty, and quality to the state assessments;
- provide comparable, valid, and reliable data on academic achievement, as compared to the state assessment, for all students and for each subgroup of students, with results expressed in terms consistent with the state’s academic achievement standards (i.e., Level 1, Level 2, etc.);
- meet the same technical requirements as the state assessments; and provide unbiased, rational, and consistent differentiation between schools within the state in order to meet the requirements of the state accountability system.

Some states, including Wisconsin and Wyoming, have submitted plans to use the ACT as the high school assessment for accountability purposes.¹⁸⁸ However, the U.S. Department of Education, as part of the peer review process for approving state plans, notified both states that they cannot receive approval to use the assessment until they submit substantial additional evidence, including documentation of independent alignment studies to show the assessments are aligned to the states’ standards, to support its use.¹⁸⁹ The U.S. Department of Education also asked for additional evidence to show that different student subgroups would not be disadvantaged in taking the ACT and that accommodations for students with disabilities are appropriate, effective, do not alter the construct being assessed, and allow meaningful interpretations of results and comparison of scores.¹⁹⁰

Effect of Proposed Changes

The bill requires the commissioner to contract for an independent study to determine whether the SAT and ACT may be administered in lieu of the grade 10 statewide, standardized ELA assessment and the Algebra I EOC assessment consistent with the provisions of ESSA. The commissioner must submit a report with the results of the review and any recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the SBE by January 1, 2018.

Publication of Assessment Items

Present Situation

All examination and assessment instruments, including work papers and developmental materials, are confidential and exempt from disclosure under Florida’s public records laws.¹⁹¹ Provisions governing access, maintenance, and destruction of such instruments and materials are prescribed in rule by the SBE.¹⁹²

¹⁸⁶ See 20 U.S.C. s. 6311(b)(2)(H).

¹⁸⁷ 20 U.S.C. s. 6311(b)(2)(H)(i)-(v).

¹⁸⁸ Catherine Gewertz, *Approval Deferred on ACT for Accountability in Wyo., Wis.*, EDUCATION WEEK (Feb. 7, 2017), available at <https://www.edweek.org/ew/articles/2017/02/08/approval-deferred-on-act-for-accountability-in.html>.

¹⁸⁹ See Letter from Ary Amerikaner, Deputy Assistant Secretary U.S. Department of Education, to Jillian Balow, State Superintendent of Public Instruction, Wyoming Department of Education (Dec. 2, 2016), available at

<https://www2.ed.gov/admins/lead/account/nclbfinalassess/wy5.pdf>; Letter from Ann Whalen, Senior Advisor to the Secretary, U.S. Department of Education, to Tony Evers, State Superintendent, Wisconsin Department of Public Instruction (Jan. 13, 2017), available at <https://www2.ed.gov/admins/lead/account/nclbfinalassess/wi6.pdf>.

¹⁹⁰ *Id.*

¹⁹¹ See s. 1008.23 F.S.

¹⁹² See rule 6A-10.042, F.A.C.

Per general practice, once a test or test item is released, the test items may not be reused in order to maintain assessment validity.¹⁹³

From 2005 to 2007, the DOE released FCAT assessments as follows:

- Grades 4, 8, and 10 Reading and Mathematics in 2005;
- Grades 3, 7, 9 and 10 Reading and Mathematics in 2006;
- Grades 5 and 6 Reading and Mathematics, and Grade 8 Science; and
- for the FCAT Writing and FCAT 2.0 Writing assessment, the DOE released the prompts and student responses.¹⁹⁴

According to the DOE, budgetary constraints ended the practice beginning in 2008.¹⁹⁵ In order to reduce costs, the DOE licenses FSA test items from the current test developer, American Institutes for Research, and does not have ownership of or copyright authority over the items.¹⁹⁶ This practice is becoming commonplace among states.¹⁹⁷ Some texts used in state assessment questions are taken from the public domain and can be freely published; however, others are copyrighted texts that the DOE does not have authority to publish.¹⁹⁸

Effect of Proposed Changes

The bill requires the Commissioner of Education to 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. When published, each assessment must have been administered during the most recent school year. By publishing the assessments on the website, the DOE would provide public access to view assessments administered during the previous school year.

The bill 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. The bill requires the DOE, as part of the next procurement of assessments, to solicit cost proposals for publication of assessments.

The bill requires the DOE to publish materials on its website to help the public interpret the published assessment information.

Because test items cannot be repeated for purposes of assessment validity, the DOE would be required to procure additional test items to replace the items it has authority to publish.¹⁹⁹ This would require renegotiation of current assessment contracts for the development of test items owned by the DOE. Thereafter, the DOE would be required to purchase sufficient test items to replace assessments that are published in accordance with the bill.

The bill does not authorize or require the publication or release of individual student assessment files.

¹⁹³ Florida Department of Education, Agency Analysis of 2016 House Bill 549 p. 3 (Feb. 7, 2017).

¹⁹⁴ *Id* at 2-3.

¹⁹⁵ Florida Department of Education, Testimony by the Assistant Deputy Commissioner for the Division of Accountability, Research, and Measurement before the House PreK-12 Quality Subcommittee (Mar. 20, 2017).

¹⁹⁶ Florida Department of Education, Agency Analysis of 2017 House Bill 549, p. 3 (Feb. 7, 2017).

¹⁹⁷ *Id* at 3.

¹⁹⁸ *Id* at 3.

¹⁹⁹ *See id* at 3.

Student Learning Growth

Present Situation

In recent years, several states have adopted the use of value-added models as part of their education accountability systems.²⁰⁰ Value-added models are used to measure the causal effect teachers, and in some cases schools, have on student learning growth by controlling for differences in student backgrounds. Such models are generally based on standardized assessment scores and have been the favored model used by economists to measure the impact teacher quality has on student academic and economic outcomes.²⁰¹ Value-added models, when used alongside other measures of teacher performance, significantly improve the ability of teacher evaluation systems to identify the most effective teachers.²⁰²

Florida's value-added model (VAM) is used to objectively measure student learning growth on the:

- statewide, standardized English language arts assessment in grades 4-10;
- statewide, standardized math assessment in grades 4-8; and
- Algebra I end-of-course assessment.²⁰³

Student learning growth, as measured by VAM, comprises at least one third of a teacher's performance evaluation if the teacher is assigned a class associated with one of the assessments for which VAM data is calculated.²⁰⁴ The DOE must calculate VAM scores for these teachers, and school districts must use the scores in the student performance portion of their evaluations.²⁰⁵

VAM establishes the expected learning growth for each student, called a predicted score. Florida's VAM model bases each student's predicted score on the typical learning growth seen among students who share characteristics, called covariates, that are statistically controlled for in the model. The covariates used in Florida's student learning growth formula are:

- up to two prior years of achievement scores;
- students with disabilities SWD status;
- English Language Learner status;
- gifted status;
- attendance;
- the number of subject-relevant courses in which the student is enrolled;
- mobility, i.e., the number of school transitions a student makes in the same school year;
- difference from modal age in grade, i.e., the student's age in relation to what is normal for students enrolled in that grade (as an indicator of retention);
- class size (which is a continuous measure counting the number of students linked to the educator); and
- homogeneity of entering test scores of students in the class (which identifies variations in the achievement levels of students in a class when first assigned to the educator).²⁰⁶

²⁰⁰ David Morganstein & Ron Wasserstein, *ASA Statement on Using Value-Added Models for Educational Assessment* 1 STATISTICS & PUB. POL'Y 108 (2014).

²⁰¹ Raj Chetty, John Friedman, and Jonah Rockoff, *Discussion of the American Statistical Association's Statement (2014) on Using Value-Added Models for Educational Assessment* (2014), available at <http://amstat.tandfonline.com/doi/pdf/10.1080/2330443X.2014.956906?needAccess=true>.

²⁰² Bellwether Education Partners, *Ensuring Effective Teachers For All Students: hearing before the House PreK-12 Quality Subcommittee* (Jan. 11, 2017) (citing Bill & Melinda Gates Foundation, *Gathering Feedback for Teaching* (2011)).

²⁰³ See rule 6A-5.0411, F.A.C. The Commissioner of Education adopted the committee's recommended value-added model (VAM) student learning growth formula for FCAT Reading and Mathematics assessments in June 2011. See Florida Department of Education, *Florida's Value Added Model* (2011) at 11, available at <http://www.fldoe.org/core/fileparse.php/7566/urlt/0075073-presentationvalue-addedmodel.pdf>.

²⁰⁴ Section 1012.34(3)(a), F.S.

²⁰⁵ See s. 1012.34(2) and (8), F.S.

²⁰⁶ Rule 6A-5.0411(3)(a)3., F.A.C. The law specifies student attendance, disability, and English proficiency as variables that must be considered in formula development. Section 1012.34(7)(a), F.S.

The VAM score represents the amount, on average, that students taught by a given teacher performed above or below their predicted level of performance. A positive score indicates that the teacher's students performed better than expected; a negative score indicates that the teacher's students performed worse than expected; and a score of "0" indicates that the teacher's students performed no better or worse than expected based on the factors accounted for in the model.²⁰⁷

A VAM score provides an objective view of the impact a teacher has on a student's learning. Other evaluation components, including teacher observations and other indicators chosen by the district, incorporate subjective measures of a teacher's quality and can be influenced by collective bargaining. This can lead to instances where teachers who are rated highly effective based on their DOE-calculated VAM score are nonetheless rated effective or lower on their performance evaluation due to the more subjective, district-determined portions of their evaluation.

Some states, such as Tennessee, have robust data systems and information on value-added data that help the public, teachers, and administrators understand what the data means with respect to teacher performance, school performance, and student growth.²⁰⁸ These systems allow teachers and school administrators to align instruction with student needs and identify trends in student growth. This information can play a significant role in equitable teacher distribution.²⁰⁹

Effect of Proposed Changes

The bill requires that a third party, independent of the assessment developer, analyze student learning growth data calculated using the commissioner-approved formula and provide access to a data visualization tool that enables teachers to understand and evaluate the data and school administrators to improve instruction, evaluate programs, allocate resources, plan professional development, and communicate with stakeholders. The bill also makes the use of student learning growth data in educator personnel evaluations optional.

Educator Certification

Present Situation

Teacher Certification

In order for a person to serve as an educator in a traditional public school, charter school, virtual school, or other publicly operated school, the person must hold a certificate issued by the DOE.²¹⁰ Persons seeking employment at a public school as a school supervisor, principal, teacher, library media specialist, counselor, athletic coach, or in another instructional capacity must be certified.²¹¹ The purpose of certification is to require school-based personnel to "possess the credentials, knowledge, and skills necessary to allow the opportunity for a high-quality education in the public schools."²¹²

²⁰⁷ Jeffrey Solochek, *How does Florida's VAM work (in English)?*, Tampa Bay Times, February 26, 2014, <http://www.tampabay.com/blogs/gradebook/how-does-floridas-vam-work-in-english/2167478> (last visited Apr. 29, 2016). See rule 6A-5.0411, F.A.C.

²⁰⁸ See Tennessee Department of Education, *Tennessee Value-Added Assessment System*, <http://www.tn.gov/education/topic/tvaas> (last visited Apr. 19, 2017).

²⁰⁹ See SAS Institute, Inc., *TVAAS: What's New in 2016* (2016), available at <https://tvaas.sas.com/support/TVAAS-WhatsNew2016.pdf>.

²¹⁰ Sections 1012.55(1) and 1002.33(12)(f), F.S.

²¹¹ Sections 1002.33(12)(f) (charter school teachers) and 1012.55(1), F.S. District school boards and charter school governing boards are authorized to hire non-certified individuals who possess expertise in a given field to serve in an instructional capacity. Rule 6A-1.0502, F.A.C.; ss. 1002.33(12)(f) and 1012.55(1)(c), F.S. Occupational therapists, physical therapists, audiologists, and speech therapists are not required to be certified educators. Rule 6A-1.0502(10) and (11), F.A.C.

²¹² Section 1012.54, F.S.; see rule 6A-4.001(1), F.A.C.

The DOE issues three types of educator certificates:

- **Professional Certificate.** The professional certificate is Florida's highest type of full-time educator certification.²¹³ The professional certificate is valid for five years and is renewable.²¹⁴
- **Temporary Certificate.** The temporary certificate covers employment in full-time positions for which educator certification is required.²¹⁵ The temporary certificate is valid for three years and is nonrenewable.²¹⁶
- **Athletic Coaching Certificate.** The athletic coaching certificate covers full-time and part-time employment as a public school's athletic coach.²¹⁷ DOE issues two types of athletic coaching certificates – one is valid for five years and may be issued for subsequent five-year periods while the other is valid for three years and may be issued only once.²¹⁸ The five-year certificate requires satisfaction of certain specialization requirements established in rule.²¹⁹

In addition, school districts are authorized to issue adjunct teaching certificates to part-time teachers who have expertise in the subject area to be taught. An adjunct teaching certificate is valid through the term of the annual contract between the educator and the school district.²²⁰

To be eligible for an educator certificate, a person must:²²¹

- be at least 18 years of age;
- sign an affidavit attesting that the applicant will uphold the U.S. and State Constitutions;
- earn a bachelor's or higher degree from an accredited institution of higher learning²²² or from a nonaccredited institution identified by the DOE as having a quality program resulting in a bachelor's or higher degree;²²³
- submit to fingerprinting and background screening and not have a criminal history that requires the applicant's disqualification from certification or employment;
- be of good moral character; and
- be competent and capable of performing the duties, functions, and responsibilities of a teacher.

In addition, each applicant must submit an application and the required fee to the DOE.²²⁴ Although most of the application process is conducted electronically, certain portions of the process, like notifications of deficiencies in an application and supporting documentation, are sent through

²¹³ Rule 6A-4.004(2), F.A.C.

²¹⁴ Section 1012.56(7)(a), F.S.; *see* rule 6A-4.0051(3)(c), F.A.C. (validity period is expressed as 5 years from July 1 of the school fiscal year). DOE also issues a nonrenewable 5-year professional certificate that allows an applicant with a bachelor's degree in the area of speech-language impairment to complete a master's degree in speech-language impairment. Section 1012.56(7)(c), F.S.; rule 6A-4.004(3), F.A.C.

²¹⁵ Rule 6A-4.004(1)(a)2., F.A.C.

²¹⁶ Section 1012.56(7), F.S. (flush-left provisions at end of subsection; validity period is expressed in school fiscal years); rule 6A-4.004(1)(a), F.A.C. DOE also issues a nonrenewable temporary certificate, which is valid for 2 years, in the area of speech-language impairment. Sections 1012.56(7)(c) and 1012.54, F.S.; rule 6A-4.001(1), F.A.C.

²¹⁷ Section 1012.55(2), F.S.

²¹⁸ Rule 6A-4.004(4), F.A.C. (validity periods expressed in school fiscal years).

²¹⁹ *See* rule 6A-4.0282, F.A.C.

²²⁰ Section 1012.57(1) and (4), F.S. An additional annual certification and an additional annual contract may be awarded by the district at its discretion only if the adjunct teacher is rated effective or highly effective during each year of teaching under the adjunct certification. Section 1012.57(4), F.S.

²²¹ Section 1012.56(2)(a)-(f), F.S.

²²² Section 1012.56(2)(c), F.S.; rule 6A-4.003(1), F.A.C. (approved accrediting agencies); *see also* 34 C.F.R. ss. 602.1-602.50; U.S. Department of Education, *Regional and National Institutional Accrediting Agencies*, https://www2.ed.gov/admins/finaid/accred/accreditation_pg6.html#NationallyRecognized (last visited Mar. 9, 2017) (list of accrediting agencies approved by the U.S. Department of Education).

²²³ Section 1012.56(2)(c), F.S.; rule 6A-4.003(2), F.A.C. (criteria for approval of nonaccredited institutions of higher learning). For initial certification, an applicant must attain at least a 2.5 overall grade point average on a 4.0 scale in the applicant's major field of study. Section 1012.56(2)(c), F.S.

²²⁴ Section 1012.56(1), F.S.; *see* s. 1012.59, F.S. The fee for initial certification is \$75 per subject area. Rule 6A-4.0012(1)(a)1. and 2., F.A.C.

conventional postal delivery services which can delay the process. These notices are expected to be fully electronic by November of 2017.²²⁵

To receive a temporary certificate, an applicant must:

- meet the basic eligibility requirements for certification;²²⁶
- obtain full-time employment in a position that requires a Florida educator certificate by a school district or private school that has a DOE-approved professional education competence demonstration program;²²⁷ and
- do one of the following:
 - demonstrate mastery of subject area knowledge (e.g., passage of the appropriate subject area test);²²⁸ or
 - complete the required degree or content courses specified in state board rule for subject area specialization²²⁹ and attain at least a 2.5 grade point average on a 4.0 scale in the subject area courses.²³⁰

An educator who is employed under a temporary certificate must demonstrate mastery of general knowledge within one calendar year after employment in order to remain employed in a position that requires a certificate.²³¹ If the educator is employed under contract, the calendar year deadline for demonstrating mastery of general knowledge may be extended through the end of the school year.²³² A temporary certificate is valid for 3 years and is nonrenewable.²³³

An applicant seeking a professional certificate must:

- meet the basic eligibility requirements for certification;²³⁴
- demonstrate mastery of general knowledge;²³⁵
- demonstrate mastery of subject area knowledge;²³⁶ and
- demonstrate mastery of professional preparation and education competence.²³⁷

A professional certificate is valid for five years and is renewable.²³⁸

Pathways to a professional certificate include:

- successfully completing an approved teacher preparation program at a postsecondary educational institution in Florida or a teacher preparation program from an out-of-state accredited or DOE-approved institution and achieving a passing score on the Professional

²²⁵ Telephone interview with Bureau Chief, Florida Department of Education, Bureau of Educator Certification (Feb. 23, 2017).

²²⁶ Section 1012.56(2)(a)-(f) and (7)(b), F.S.

²²⁷ Section 1012.56(1)(b), F.S.; rule 6A-4.004(1)(a)2., F.A.C.

²²⁸ Section 1012.56(7)(b), F.S.; Florida Department of Education, *Subject Area Knowledge*, http://www.fldoe.org/edcert/mast_sub.asp (last visited April 28, 2016).

²²⁹ Section 1012.56(7)(b), F.S. The degree and content requirements are specified in ch. 6A-4, F.A.C.

²³⁰ Section 1012.56(2)(c), F.S.; see Florida Department of Education, *Certificate Types and Requirements*, <http://www.fldoe.org/teaching/certification/general-cert-requirements/index.shtml> (last visited Mar. 9, 2017).

²³¹ Section 1012.56(7), F.S. (flush-left provisions at end of subsection).

²³² *Id.*

²³³ *Id.*

²³⁴ Section 1012.56(2)(a)-(f), F.S.; see *supra* text accompanying notes 12-15.

²³⁵ Section 1012.56(2)(g) and (3), F.S.; Florida Department of Education, *General Knowledge*, http://www.fldoe.org/edcert/mast_gen.asp (last visited Mar. 9, 2017).

²³⁶ Section 1012.56(2)(h) and (5), F.S.

²³⁷ Section 1012.56(2)(i) and (6), F.S.; Florida Department of Education, *Professional Preparation and Education Competence*, http://www.fldoe.org/edcert/mast_prof.asp (last visited Mar. 9, 2017) [hereinafter *Professional Preparation and Education Competence*].

²³⁸ Sections 1012.56(7)(a) and 1012.585, F.S.; rule 6A-4.0051(1), F.A.C. See *supra* text accompanying note 5.

Education Test (PET), Subject Area Examination (SAE), and General Knowledge Test (GKT) required by state board rule;²³⁹

- successfully completing a competency-based professional development certification program offered by a school district or an educator preparation institute (EPI) and passing the PET, SAE, and GKT;²⁴⁰
- completing 15 semester hours in professional preparation courses specified in state board rule²⁴¹ or completing the Professional Training Option for Content Majors;²⁴² completing requirements for practical experience in teaching;²⁴³ completing an approved professional education competence demonstration program;²⁴⁴ and passing the PET, SAE, and GKT;²⁴⁵
- providing documentation of a valid professional standard teaching certificate issued by another U.S. state or by the National Board Professional Teaching Standards (NBPTS);²⁴⁶
- providing documentation of a valid professional standard teaching certificate issued by the American Board for Certification of Teacher Excellence (ABCTE) and completing an approved professional education competence demonstration program;²⁴⁷ or
- completing two semesters of part-time or full-time college teaching experience at an accredited community college, state university, or private college or university that awards associate's or higher degrees or at a nonaccredited institution of higher education identified by the DOE as having a quality program and passing the SAE and PET.²⁴⁸

In 2016, the law was amended to allow an individual to earn a professional certificate covering grades 6 through 12 in a Science, Technology, Engineering, or Mathematics (STEM) subject without having to complete coursework associated with professional preparation and education competence, if the individual:

- meets the basic eligibility requirements for certification;
- demonstrates mastery of general knowledge;
- holds a master's or higher degree in science, technology, engineering, or mathematics;
- passes the PET and the SAE for the correlated educator certificate;
- teaches a high school course in the subject area of the advanced degree; and
- is rated highly effective under the school district's performance evaluation system based in part on student performance as measured by a statewide standardized assessment or an Advanced Placement, Advance International Certificate of Education, or International Baccalaureate examination.²⁴⁹

²³⁹ Section 1012.56(6)(a) and (b), F.S.; *see s.* 1004.04, F.S.; rule 6A-4.003(1) and (4), F.A.C. (accreditation of teacher education programs). The Professional Education Test is part of the Florida Teacher Certification Examinations. Rule 6A-4.0021(8), F.A.C.

²⁴⁰ Section 1012.56(6)(g)-(h), F.S.; *see ss.* 1004.85 and 1012.56(8), F.S.; rule 6A-5.066(2)(b)1.d. and (c)1.d., F.A.C.

²⁴¹ Section 1012.56(6)(f), F.S.; rule 6A-4.006(2)(a), F.A.C. Separate professional preparation course requirements are established for certification in Agriculture (grades 6-12). Rule 6A-4.006(3)(a), F.A.C.

²⁴² The Professional Training Option for Content Majors authorizes an approved teacher preparation program at a postsecondary institution in Florida to allow students who do not major in education but do major or minor in a content area (*e.g.*, English major) to satisfy professional preparation course requirements. Rule 6A-5.066(3), F.A.C.

²⁴³ *Professional Preparation and Education Competence*, *supra* note 90; *see* rules 6A-4.002(5) and 6A-4.006(2)(b), F.A.C.

²⁴⁴ Section 1012.56(6)(f), F.S. Each school district must, and a state-supported public or private school may, establish a professional education competence demonstration program that allows the district's or school's instructional staff to demonstrate mastery of professional preparation and education competence through a performance evaluation plan, which documents the staff's classroom application and instructional performance. *See s.* 1012.56(8)(b), F.S.

²⁴⁵ Section 1012.56(6)(f), F.S.

²⁴⁶ Section 1012.56(6)(c)-(d), F.S.; *see* rule 6A-4.002(1)(i)-(j), F.A.C.

²⁴⁷ Section 1012.56(6)(d), F.S.; rule 6A-4.002(1)(j), F.A.C.; *Professional Preparation and Education Competence*, *supra* note 90.

²⁴⁸ Section 1012.56(6)(e), F.S. A non-accredited institution of higher learning is approved as having a quality program if the institution meets one of the following criteria: is accepted for certification purposes by the state department of education where the institution is located; holds a certificate of exemption pursuant to s. 1005.06, F.S.; is a newly created Florida public college or university that offers a bachelor's or higher degree program; is located outside the U.S. and awards a degree that is the equivalent to a bachelor's or higher degree awarded by an accredited or approved institution in the U.S.; or the degree from the institution was accepted by an accredited or approved institution either in transfer or as a basis for admission into the graduate program which resulted in the conferral of a higher degree. Rule 6A-4.003(2), F.A.C.

²⁴⁹ Chapter 2016-117, L.O.F.

Several of the pathways allow a temporary certificate holder to complete the general knowledge and professional preparation and education competence requirements for a professional certificate while serving as a classroom teacher. These include the college coursework option, EPIs, district professional development certification and education competency programs (professional development certification program), professional training option programs, and the STEM secondary certification pathway. Data from the DOE show that 35 percent of temporary certificate holders do not complete the requirements for a professional certificate by the end of their 3-year temporary certificate.²⁵⁰

A professional certificate must be renewed every five years.²⁵¹ An educator must submit an application,²⁵² pay a fee,²⁵³ and earn at least six college credits or 120 inservice points to renew professional certification.²⁵⁴ At least three college credits or 60 inservice points must be earned in each subject area for which renewal is sought.²⁵⁵ The renewal period may be extended to include two successive renewal periods up to 10 years to enable educators who are certified in three or more subject areas to earn the required credits or inservice points in each subject area.²⁵⁶ In addition to credits or inservice points required in the subject area, credits or inservice points may be earned in courses in clinical educator training, literacy and computational skills acquisition, exceptional student education, child development, drug abuse, child abuse, limited English proficiency, dropout prevention, and other topics.²⁵⁷

State board rule includes special provisions for teachers of limited English proficient students, teachers of students with disabilities and teachers of reading.²⁵⁸ The law allows a professional certificate holder to use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in teaching reading in excess of six semester hours during one certificate validity period toward renewal of the professional certificate during the subsequent validity periods.²⁵⁹ Temporary certificate holders may use college credits or inservice points earned through training in teaching students of limited English proficiency or students with disabilities and training in teaching reading toward renewal of the teacher's first professional certificate; however, the training must not have been included within the degree program, and the temporary and professional certificates must be issued for consecutive school years.²⁶⁰

Applicants for renewal of a professional certificate must earn at least one college credit or the equivalent amount of inservice points in the area of instruction for teaching students with disabilities.²⁶¹

²⁵⁰ Florida Department of Education, *Pathways to the Professional Certificate: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

²⁵¹ Section 1012.585(2)(a), F.S.

²⁵² Rule 6A-4.0051(3)(b), F.A.C. The DOE processes certification renewals for individuals who are not employed by district school boards. Section 1012.585(1)(b), F.S. District school boards are responsible for processing certificate renewals for school district employees. Section 1012.585(1)(a), F.S.

²⁵³ The fee for a certification renewal is \$75. Rules 6A-4.0051(3)(b), F.A.C. and 6A-4.0012(1)(a)1.

²⁵⁴ Section 1012.585(3)(a), F.S. Applicants may combine college credits and inservice points to meet this requirement. One semester hour of college credit is equivalent to 20 inservice points. Rule 6A-4.0051(1)(a)2., F.A.C. College credits must be earned at an accredited or state board-approved institution. Inservice points must be earned through participation in state board-approved school district inservice activities. Rule 6A-4.0051(1)(a), F.A.C.; see rule 6A-4.003(1) and (2), F.A.C. (list of approved accrediting agencies and guidelines for nonaccredited approved institutions).

²⁵⁵ Section 1012.585(3)(a), F.S.

²⁵⁶ Section 1012.585(3)(c), F.S.; rule 6A-4.0051(2)(c), F.A.C.

²⁵⁷ Section 1012.585(3)(a), F.S.

²⁵⁸ Rule 6A-4.0051(5), F.S.

²⁵⁹ Section 1012.585(3)(d)1., F.S.

²⁶⁰ Section 1012.585(3)(d)2., F.S.

²⁶¹ Section 1012.585(4), F.S. This required training may not add to the total hours required by the DOE for continuing education or inservice training. *Id.*

Certification in subject areas may also be renewed by earning a passing score on the corresponding Florida-developed subject area test or standardized examination specified in state board rule.²⁶² Certification by NBPTS is deemed to meet certification renewal requirements for the life of the certificate, in the corresponding certification subject area.²⁶³

Teacher Preparation

There are various teacher preparation programs that individuals may use to receive the training needed to attain teaching credentials, including:²⁶⁴

- **Initial Teacher Preparation programs** are “traditional” teacher preparation programs that require candidates to demonstrate mastery of subject area knowledge in one or more specific subject areas(s), mastery of general knowledge, and mastery of professional preparation and education competence. Such programs result in qualification for a professional educator certificate.²⁶⁵
- **Educator Preparation Institutes** are alternative certification programs offered by postsecondary institutions and private providers for baccalaureate degree holders. These programs provide professional preparation for career-changers and recent college graduates who do not already possess a Professional Educator Certificate and require mastery of general knowledge, mastery of subject area knowledge and mastery of professional preparation and education competence.
- **District Professional Development Certification and Education Competency Programs** are cohesive, competency-based professional preparation certification programs offered by Florida public school districts, by which a school district’s instructional staff can satisfy the mastery of professional preparation and education competence requirements. In addition to completing the district program, candidates must demonstrate mastery of general knowledge and subject area knowledge.

Professional Development

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.²⁶⁶

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.²⁶⁷ 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.²⁶⁸ 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

²⁶² Section 1012.585(3)(b), F.S. For the purposes of renewing a professional certificate, passage of a subject area examination is equivalent to three semester hours of college credit. Rule 6A-4.0051(1)(b), F.A.C.

²⁶³ Section 1012.585(2)(b), F.S.; rule 6A-4.0051(1)(c), F.A.C.

²⁶⁴ Florida Department of Education, *Educator Preparation*, <http://www.fldoe.org/teaching/preparation> (last visited Mar. 9, 2017). See also rule 6A-5.066, F.A.C.

²⁶⁵ Rule 6A-5.066, F.A.C.

²⁶⁶ Section 1012.98(1), F.S.

²⁶⁷ Section 1012.98(4)(a), F.S. The web-based statewide performance support system can be accessed at <https://www.floridaschoolleaders.org>.

²⁶⁸ *Id.*

engagement, and meeting identified school needs.²⁶⁹ 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.²⁷⁰

Each school district is required to develop a professional development system in consultation with teachers, teacher-educators of FCS institutions and state universities, business and community representatives, and local education foundations, consortia, and professional organizations.²⁷¹ The system must:

- be approved by the DOE, with all substantial revisions thereto also approved by the DOE;
- be based on analyses of student achievement data and instructional strategies and methods that support rigorous, relevant, and challenging curricula for all students;
- provide in-service activities with follow-up support appropriate to accomplish district-level and school-level improvement goals and standards;
- include a master plan for inservice activities, which must be aligned to and support school-based inservice plans and school improvement plans and be approved annually by the district school board;
- include inservice activities for school administrative personnel that address updated skills necessary for instructional leadership and effective school management;
- provide for systematic consultation with regional and state personnel designated to provide technical assistance and evaluation of local professional development programs;
- provide for delivery of professional development by distance learning and other technology-based delivery systems to reach more educators at lower costs;
- provide for the continuous evaluation of the quality and effectiveness of professional developmental programs in order to eliminate ineffective programs and strategies and expand effective ones; and
- for middle grades, emphasize:
 - interdisciplinary planning, collaboration, and instruction;
 - alignment of curriculum and instructional materials to the state academic standards; and
 - use of small learning communities; problem-solving, inquiry-driven research and analytical approaches for students; strategies and tools based on student needs; competency-based instruction; integrated digital instruction; and project-based instruction.²⁷²

A district school board may contract with independent entities for professional development services and inservice education if the district school board can demonstrate to the Commissioner of Education that, through such a contract, a better product can be acquired or its goals for education improvement can be better met.²⁷³

Teacher Mentoring and Induction

Teacher induction programs “aim to improve the performance and retention of new hires and to enhance the skills and prevent the loss of new teachers with the ultimate goal of improving student’s growth and learning.”²⁷⁴ Data show that recent concerns over staffing shortages are primarily related to retaining new teachers rather than recruiting them, as beginning teachers leave the profession at a higher clip than experienced ones or teachers who retire.²⁷⁵ Beginning teachers who leave the profession often report a lack of adequate administrative support as a motivating factor.²⁷⁶ This has led

²⁶⁹ Section 1012.98(11), F.S.

²⁷⁰ Section 1012.98(7), F.S.

²⁷¹ Section 1012.98(4)(b), F.S.

²⁷² Section 1012.98(4)(b), F.S.

²⁷³ Section 1012.98(9), F.S.

²⁷⁴ Richard Ingersoll, *Beginning Teacher Induction: What the Data Tell Us*,

http://www.edweek.org/ew/articles/2012/05/16/kappan_ingersoll.h31.html (last visited Mar. 6, 2017).

²⁷⁵ *See id.*

²⁷⁶ *Id.*

to a significant portion of the teacher workforce consisting more of beginning teachers as well as an increase in participation in teacher induction programs.²⁷⁷ However, there is great variation in the quality of induction opportunities offered to new teachers between states and school districts.²⁷⁸

Generally, teacher induction has a positive effect on retaining new teachers. Further, participation in certain activities is correlated with higher rates of retention, including having a peer mentor in the subject area and having common planning time.²⁷⁹

Florida law has no provisions related to new teacher induction other than requiring the assignment of a peer mentor as part of a district program.²⁸⁰ Although a peer mentor must hold a valid professional certificate, have at least 3 years of teaching experience in prekindergarten through grade 12, and have a rating of effective or highly effective on the prior year's performance evaluation,²⁸¹ the law does not expressly establish mentor training and mentoring activities requirements.

Effect of Proposed Changes

To help districts recruit and retain new teachers, the bill enhances requirements for the peer mentor component of a district program and establishes a mentorship and induction-based pathway to a professional educator certificate. Under the bill, a temporary certificate holder who completes a DOE-approved district program and who has a highly effective district performance evaluation rating will receive a professional certificate without having to sit for additional coursework or take the PET.

The bill requires that the mentorship and induction component of a district's professional development certification program, at a minimum, provide weekly opportunities for mentoring and induction activities, including:

- common planning time;
- ongoing professional development targeted to a mentee teacher's needs;
- opportunities to observe other teachers;
- co-teaching experiences; and
- reflection and follow-up discussions.

The bill requires the mentorship and induction activities to be provided during the teacher's first year in the program and may be provided until the teacher attains his or her professional certificate. The bill requires that a principal who is rated highly effective must be provided flexibility in selecting professional development activities for the mentorship and induction component so long as they are approved by the DOE.

The bill allows charter schools and charter management organizations to offer a DOE-approved professional development certification program.

The bill requires the DOE to adopt standards for the approval of professional development certification programs, including standards for the teacher mentorship and induction component, by December 31, 2017. The standards for the teacher mentorship and induction component must include:

- program administration and evaluation;
- mentor roles, selection, and training;

²⁷⁷ See *id.*

²⁷⁸ See *id.* See also The New Teacher Center, *Support from the Start: A 50-State Review of Policies on New Educator Induction and Mentoring* (2016) at iii-iv, available at <https://newteachercenter.org/wp-content/uploads/2016ExecSummaryStatePolicies.pdf>.

²⁷⁹ See RICHARD INGERSOLL, *Beginning Teacher Induction: What the Data Tell Us*, http://www.edweek.org/ew/articles/2012/05/16/kappan_ingersoll.h31.html (last visited Mar. 6, 2017).

²⁸⁰ See s. 1012.56(8)(a)3., F.S.

²⁸¹ *Id.* School district personnel evaluation systems differentiate among four levels of performance: Highly Effective; Effective; Needs improvement (or Developing for instructional personnel in their first 3 years of employment who need improvement); and Unsatisfactory. Section 1012.34(2)(e), F.S.

- beginning teacher assessment and professional development; and
- teacher content knowledge and practices aligned to the Florida Educator Accomplished Practices.

Each school district, charter school, or charter management organization, wishing to provide a professional development certification program must submit its program, including the teacher mentorship and induction component, to the DOE for approval no later than June 30, 2018. Beginning January 1, 2019, a teacher may not satisfy requirements for a professional certificate through a professional development certification program unless the program has been approved by the DOE. As a result, teachers can complete the requirements for a professional certificate based on current program requirements through December 31, 2018, at the latest.

The bill allows participation in a district program as a mentor or a mentee to count toward a teacher's inservice specialization requirements for renewal of a professional certificate. The bill also requires each district professional development system to provide inservice activities and support targeted to the individual needs of teachers participating in the district program.

The bill requires professional development activities designed to implement the School Community Professional Development Act to provide training to mentors as part of the district program. The training must include components on teacher development, peer coaching, time management, and other related topics as determined by the DOE. The bill requires model professional development programs disseminated by the DOE to include effective mentorship activities to new teachers and training to mentors.

The bill streamlines the temporary certificate application process by requiring the DOE to electronically issue a temporary certificate to a qualifying applicant within 14 calendar days after it receives a request from the applicant's employing school district or private school. The DOE must also electronically provide an official statement of status of eligibility at the time the certificate is issued. The statement must include each method by which an applicant can complete the qualifications for a professional certificate. In addition, the bill requires the DOE to electronically notify a temporary certificate holder, at least 1 year in advance, the date that his or her certificate will expire. The notification must include the methods by which the certificate holder can complete the requirements for a professional certificate.

The bill requires the SBE to adopt rules that would add another year to a temporary certificate if the certificate holder is rated effective or highly effective based solely on a student learning growth model adopted by the Commissioner of Education.

Teacher Training, Certification, and Endorsement in Reading Instruction

Present Situation

Just Read, Florida! Office

In 2001, Florida Governor Jeb Bush established the Just Read, Florida! initiative, which aimed at helping students become successful, independent readers.²⁸² The Legislature formally created the Just Read, Florida! Office (Office) within the Department of Education in 2006.²⁸³

The Office must:

- Train highly effective reading coaches.
- Create multiple designations of effective reading instruction, with accompanying credentials, which encourage all teachers to integrate reading instruction into their content areas.

²⁸² Exec. Order No. 01-260 (2001).

²⁸³ Section 8, ch. 2006-74, L.O.F.

- Train K-12 teachers and school principals on effective content-area-specific reading strategies. For secondary teachers, emphasis shall be on technical text. These strategies must be developed for all content areas in the K-12 curriculum.
- Provide parents with information and strategies for assisting their children in reading in the content area.
- Provide technical assistance to school districts in the development and implementation of district plans for use of the research-based reading instruction allocation and annually review and approve such plans.²⁸⁴
- Review, evaluate, and provide technical assistance to school districts' implementation of the K-12 comprehensive reading plan.
- Work with the Florida Center for Reading Research to provide information on research-based reading programs and effective reading in the content area strategies.
- Periodically review the Sunshine State Standards for reading at all grade levels.
- Periodically review teacher certification examinations, including alternative certification exams, to ascertain whether the examinations measure the skills needed for research-based reading instruction and instructional strategies for teaching reading in the content areas.
- Work with initial teacher preparation programs to integrate research-based reading instructional strategies and reading in the content area instructional strategies into teacher preparation programs.
- Administer grants and perform other functions as necessary to meet the goal that all students read at grade level.²⁸⁵

Certification and Endorsement

Each educator certificate has subject area “coverage”--a designation on the certificate that indicates the field in which the educator has content knowledge (e.g., Mathematics, grades 6-12). An “endorsement” is a “rider” shown on an educator certificate that signifies the educator has knowledge of instructional strategies that target particular levels, stages of development, or circumstances (e.g., Reading Endorsement or Endorsement in English for Speakers of Other Languages).

To add subject area coverage or an endorsement to a professional certificate or temporary certificate, an educator must submit an application and the required fee and complete requirements as specified in state board rule.

The specialization requirements for a K-12 reading certification are:

- a master’s or higher degree with a graduate major in reading; or
- a bachelor’s or higher degree with 30 semester hours in reading to include the following areas:
 - Six semester hours in foundations of reading instruction to include the elementary and secondary levels.
 - Six semester hours in diagnosis of reading disabilities and techniques of corrective or remedial reading.
 - Three semester hours in educational measurement.
 - Three semester hours in literature for children or adolescents.
 - Three semester hours in methods of teaching language arts at the elementary or secondary level.
 - Three semester hours in administration and interpretation of instructional assessments with instructional strategies and materials based upon scientifically based reading research for the prevention and remediation of reading difficulties.
 - Three semester hours in a supervised reading practicum to obtain practical experience in increasing the reading performance of a student(s) with the prescription and utilization of

²⁸⁴ Requirements relating to district reading plans are found in s. 1011.62(9), F.S.

²⁸⁵ Section 1001.215, F.S.

appropriate strategies and materials based upon scientifically based reading research to address the prevention, identification, and intervention of reading difficulties.²⁸⁶

The specialization requirements for a reading endorsement are a bachelor's or higher degree with certification in an academic, degreed vocational, administrative, or specialty class coverage and 15 semester hours in reading coursework, based upon scientifically based reading research with a focus on both the prevention and remediation of reading difficulties, to include the following:

- Six semester hours in understanding reading as a process of student engagement in both fluent decoding of words and construction of meaning.
- Three semester hours in the administration and interpretation of instructional assessments to include screening, diagnosis, and progress monitoring with purposes of prevention, identification, and remediation of reading difficulties.
- Three semester hours in understanding how to prescribe, differentiate instruction, and utilize appropriate strategies and materials based upon scientifically based reading research in order to address the prevention, identification, and remediation of reading difficulties in order to increase reading performance.
- Three semester hours in a supervised practicum to obtain practical experience in increasing the reading performance of a student(s) with the prescription and utilization of appropriate strategies and materials based upon scientifically based reading research to address the prevention, identification, and remediation of reading difficulties.²⁸⁷

Teacher Preparation

The uniform core curricula for teacher preparation programs must include content in scientifically based reading instruction contained in the reading endorsement competencies adopted by the SBE.²⁸⁸ The reading endorsement competencies include five major components:

- Competency 1: Foundations of Reading Instruction
- Competency 2: Application of Research-Based Instructional Practices
- Competency 3: Foundations of Assessment
- Competency 4: Foundations and Applications of Differentiated Instruction
- Competency 5: Demonstration of Accomplishment (Culminating Practicum)

Students at an initial teacher preparation program who are a candidate in prekindergarten-primary (age 3-Grade 3), elementary (K-6), reading (K-12) and exceptional student education (K-12) certification programs must be prepared in reading endorsement competencies 1 through 4.²⁸⁹ Candidates in educator preparation institutes and district professional development certification programs must be prepared in only competencies 1 and 2.²⁹⁰

Effect of Proposed Changes

The bill requires the Office to identify proven reading instruction and intervention programs²⁹¹ that incorporate explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and incorporate decodable or phonetic instructional strategies. The bill specifies that reading intervention includes evidence-based strategies frequently used to remediate reading deficiencies and includes individual instruction, multisensory approaches, tutoring, and mentoring.

²⁸⁶ Rule 6A-4.0291, F.A.C.

²⁸⁷ Rule 6A-4.0292, F.A.C.

²⁸⁸ See ss. 1004.04(2)(b)3. and 1004.85(3)(a)c., F.S. See also rules 6A-4.0163 and 6A-5.066(1)(hh)4., F.A.C.

²⁸⁹ Rule 6A-5.066(1)(hh)4.a., F.A.C.

²⁹⁰ Rule 6A-5.066(1)(hh)4.b., F.A.C.

²⁹¹ The bill defines "reading interventions" as evidence-based strategies frequently used to remediate reading deficiencies and include individual instruction, tutoring, or mentoring that target specific reading skills and abilities.

The bill also requires the Office to work with the Lastinger Center for Learning at the University of Florida to develop training for teachers, reading coaches, and principals on integrating content knowledge-rich texts from other core subject areas into reading instruction and evidence-based reading strategies.

The bill requires the uniform core curricula used by teacher preparation programs and educator preparation institutes to include scientifically researched and evidence-based reading instructional strategies that improve reading performance for all students, including explicit, systematic, and sequential approaches to teaching phonemic awareness, phonics, vocabulary, fluency, and text comprehension and multisensory intervention strategies. The Office must assist teacher preparation programs and educator preparation institutes with this requirement.

The bill requires the Office to review teacher certification and alternative certification requirements, as well as examinations, to determine whether skills needed for evidence-based reading instruction are measured.

By July 1, 2018, and at least once every five years thereafter, the DOE must review specialization and coverage area requirements in the elementary, reading, and exceptional student educational areas. At the conclusion of each review, the department must recommend to the SBE changes to the specialization and coverage area requirements based upon any instructional or intervention strategies identified by the DOE that are proven to improve student reading performance.

The bill requires an applicant for renewal of an identified professional certificate with a beginning validity date of July 1, 2020, or thereafter to complete a minimum of 2 college credit hours (equivalent to 40 inservice points or 40 hours) in the use of explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies. The training must be provided by approved Florida teacher preparation programs or school district professional development programs.

The bill limits the training that may satisfy certification renewal requirements for teachers who hold a certificate in an area that involves reading instruction or intervention for K-6 students. However, the bill specifies that scientifically researched, knowledge-based reading literacy including explicit, systematic, and sequential approaches to reading instruction, developing phonemic awareness, and implementing multisensory intervention strategies may be applied to any specialization area.

The bill provides that inservice points earned through participation in professional growth components in a school district's plan for inservice educational training may not be used to satisfy specialization requirements for renewal, but may be used to satisfy nonspecialization requirements. The bill eliminates the authority to use credit or points earned for service as a trainer or as a part of a committee or council towards the fulfillment of the credit requirements.

The bill requires each school district's professional development system to provide training to reading coaches, classroom teachers, and school administrators in effective methods of identifying characteristics of conditions such as dyslexia and other causes of diminished phonological processing skills; incorporating instructional techniques into the general education setting which are proven to improve reading performance for all students; and using predictive and other data to make instructional decisions based on individual student needs. All elementary grades instructional personnel must be provided access to sufficient training so they can meet certification or endorsement requirements established by the state board with respect to reading instruction and intervention.

Reading Instruction and Intervention

Present Situation

Intervention and Instruction

The law requires school districts to identify students with deficiencies in reading. For kindergarten through grade 3, students who exhibit a “substantial reading deficiency” based upon locally determined or statewide assessments or through teacher observations must be given intensive reading instruction immediately following the identification of the deficiency.²⁹² Each student who does not achieve a Level 3 or above on the statewide, standardized English Language Arts (ELA) assessment (administered in grades 3 through 10) must be evaluated to determine the nature of the student’s difficulty, the areas of academic need, and strategies for providing academic supports to improve the student’s performance.²⁹³

Within the first 30 days of the school year, each school must administer a statewide kindergarten screening to each kindergarten student in the school district.²⁹⁴ The screening must provide objective data concerning each student’s readiness for kindergarten and progress in attaining VPK performance standards.²⁹⁵ The screener administered by the department will be developed by Renaissance Learning, Inc.²⁹⁶

Students who do not meet school district or state requirements for satisfactory performance in ELA and mathematics must be covered by a federally required plan such as an individual education plan (IEP), a schoolwide system of progress monitoring, or an individualized progress monitoring plan.²⁹⁷

District school boards must prioritize allocation of remedial and supplemental instruction resources first to students who are deficient in reading by the end of grade 3 and then to students who fail to meet performance levels required for promotion consistent with the district’s student progression plan.²⁹⁸

School districts have a variety of intervention options available to help students improve their academic performance, from instructional materials to intervention systems that allow teachers and schools monitor the progress of students and determine appropriate supports. The law requires districts to develop and implement a multi-tiered system of supports (MTSS), which utilizes a problem-solving process to identify and support student needs based upon available data, including attendance, behavior and discipline, statewide assessment, and progress monitoring data.²⁹⁹ The process must include parent involvement, student observation, review of data, vision and hearing screening to rule out sensory deficits, and evidence-based interventions implemented in the general education environment.³⁰⁰

Teachers typically administer interventions; however, at some schools, districts provide other staff, such as interventionists, to assist teachers in delivering the interventions. The timeline for administering interventions may vary by school level. OPPAGA’s 2015 study indicates that elementary schools often provide interventions during a dedicated time in the school day, whereas middle and high schools often provide interventions during intensive reading classes.³⁰¹

²⁹² Section 1008.25(5)(a), F.S. Students in kindergarten through 2nd grade do not participate in statewide, standardized assessments.

²⁹³ Section 1008.25(4)(a).

²⁹⁴ Section 1002.69, F.S.

²⁹⁵ *Id.*; s. 1002.67(1), F.S.

²⁹⁶ On January 9, 2017, the department issued an Intent to Award a contract to Renaissance Learning, Inc. to provide the kindergarten readiness screener. *See* Florida Department of Education, Bid No. ITN 2017-11 Intent to Award (Jan. 9, 2017).

²⁹⁷ Section 1008.25(4)(b), F.S.

²⁹⁸ Section 1008.25(3), F.S.

²⁹⁹ *See* Rules 6A-6.0331(1) and 6A-1.099811(2)(r), F.A.C.

³⁰⁰ Rule 6A-6.0331(a), F.S.

³⁰¹ *See id.*

A school district has discretion to retain a student at any grade level if, after implementing a progress monitoring plan for a student identified as having an academic deficiency, subsequent evaluations of the student indicate that the deficiency has not been remediated. Retention is mandatory for 3rd graders who score at Level 1 on the statewide, standardized ELA assessment, unless the student meets a good cause exemption.³⁰² Good cause exemptions exist for a student who:

- is limited English proficient and has had less than two years of instruction in an English for Speakers of Other Languages program;
- has a disability for which the IEP indicates that participation in the statewide assessment program is not appropriate;
- demonstrates an acceptable level of performance on an alternative standardized reading or ELA assessment approved by the state board;
- demonstrates, through a student portfolio, that he or she is performing at least at Level 2 on the statewide, standardized ELA assessment;
- has a disability, takes the statewide, standardized ELA assessment, and has an IEP or a Section 504 plan indicating that he or she has received intensive remediation in reading and ELA for more than two years but still demonstrates a deficiency and was previously retained in kindergarten, 1st grade, 2nd grade, or 3rd grade; or
- has received intensive remediation in reading and ELA for two or more years but still demonstrates a deficiency and who was previously retained in kindergarten, 1st grade, 2nd grade, or 3rd grade for a total of two years. Intensive reading instruction provided to a student so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for the student.³⁰³

A student who is retained in 3rd grade must be provided a teacher rated “highly effective” and intensive interventions in reading to remedy the student’s specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district’s summer reading camp, and appropriate teaching methodologies necessary to assist the student in becoming a successful reader, able to read at or above grade level, and ready for promotion to the next grade.³⁰⁴ Further, the school district must provide the student a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction which includes phonemic awareness, phonics, fluency, vocabulary, and comprehension and other strategies prescribed by the school district, which may include, but are not limited to:

- Integration of science and social studies content within the 90-minute block.
- Small group instruction.
- Reduced teacher-student ratios.
- More frequent progress monitoring.
- Tutoring or mentoring.
- Transition classes containing 3rd and 4th grade students.
- Extended school day, week, or year.³⁰⁵

Districts must establish at each school, when applicable, an intensive acceleration class for retained 3rd grade students who subsequently score Level 1 on the statewide, standardized ELA assessment. The class must focus on increasing a child’s reading and English Language Arts skill level at least two grade levels in one school year.³⁰⁶

³⁰² Section 1008.25(5)(a)-(b), F.S.

³⁰³ Section 1008.25(6)(b), F.S.

³⁰⁴ Section 1008.25(7)(b), F.S.

³⁰⁵ *Id.*

³⁰⁶ Section 1008.25(7)(b)5., F.S. This provision is obsolete, as the law now prohibits retaining a student more than once in third grade. *See s. 1008.25(6)(b)6., F.S.*

The class must:

- be provided to a student in grade 3 who scores Level 1 on the statewide, standardized English Language Arts assessment and who was retained in grade 3 the prior due to scoring Level 1;
- have a reduced teacher-student ratio;
- provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 academic standards in other core subject areas;
- use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year; and
- provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

Each district school board must annually report to the parent of each student, in a format determined by the board, the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The evaluation of each student's progress must be based upon the student's classroom work, observations, tests, district and state assessments, and other relevant information. The student's results on each statewide assessment test must be provided to the parent.³⁰⁷

The law requires school districts to hire reading coaches (also referred to as literacy coaches) for schools determined to have the greatest need. Reading coaches who are funded using the district's Research-Based Reading Instruction Allocation must be hired as a full-time coach.³⁰⁸

All schools utilizing reading coaches must implement the Just Read, Florida! reading/literacy coach model. The model requires that coaches support and provide initial and ongoing professional development to teachers in:

- each of the major reading components,³⁰⁹ as needed, based on an analysis of student performance data;
- administration and analysis of instructional assessments; and
- providing differentiated instruction and intensive intervention.

In addition, reading coaches must, among other things:

- model effective instructional strategies for teachers;
- train teachers in data analysis and using data to differentiate instruction;
- provide daily support to classroom teachers;
- work with teachers to ensure that research-based reading programs (comprehensive core reading programs, supplemental reading programs and comprehensive intervention reading programs) are implemented with fidelity;
- help lead and support reading leadership teams at their school(s);
- continue to increase their knowledge base in best practices in reading instruction, intervention, and instructional reading strategies;
- work with all teachers in the school they serve, prioritizing their time to those teachers, activities, and roles that will have the greatest impact on student achievement, namely coaching and mentoring in classrooms;
- work frequently with students in whole and small group instruction in the context of modeling and coaching in other teachers' classrooms; and
- spend limited time administering or coordinating assessments.³¹⁰

³⁰⁷ Section 1008.25(8)(a), F.S.

³⁰⁸ Rule 6A-6.053(6)(e), F.A.C.

³⁰⁹ The major components include phonemic awareness; phonics; vocabulary development; reading fluency, including oral reading skills; and reading comprehension. Rule 6A-6.0331(6)(d)1., F.A.C.

³¹⁰ Rule 6A-6.053(6)(e), F.A.C.

Currently, an individual may be hired as a reading coach if he or she has a minimum of a bachelor's degree and advanced coursework or professional development in reading. The reading coach must be endorsed or K-12 certified in the area of reading; however, the law still allows individuals to be hired as a reading coach if they are working toward their reading certification or endorsement by completing a minimum of two reading endorsement competencies of 60 inservice hours each or six semester hours of college coursework in reading per year.

Instructional Materials

By July 1 each year and before instructional materials funds may be released to the school district, the district's superintendent must certify to the commissioner that the district school board has approved a comprehensive staff development plan that supports fidelity of implementation of instructional materials programs. The report must verify that training was provided and that the materials are being implemented as designed.³¹¹

Funding for instructional materials is provided annually by the Legislature in the General Appropriations Act. Up to 50 percent of the annual allocation provided in the General Appropriations Act for instructional materials may be used by school districts to purchase materials not on the state-adopted list, including library and reference books and nonprint materials, and for the repair and renovation of textbooks and library books. The remainder of the allocation must be used to purchase "digital or electronic instructional materials that align with state standards included on the state-adopted instructional materials list."³¹² Instructional materials funds available after March 1 may be used to purchase hardware for student instruction.³¹³ In any year in which the total instructional materials allocation for a school district has not been expended or obligated prior to June 30, the district school board must carry forward the unobligated amount and must add that amount to the next year's allocation.³¹⁴

Materials purchased by a school district that are not on the state-adopted list or otherwise made available in a classroom might not undergo any adoption review or public review process.³¹⁵

Reading and Supplemental Academic Instruction Allocations

In 1999, the Legislature created the Supplemental Academic Instruction (SAI) Categorical Fund as part of the A+ Education Plan³¹⁶ for the purpose of assisting school districts in providing supplemental instruction to students in kindergarten through grade 12.³¹⁷

The SAI categorical funds are allocated annually to each school district in the amount provided in the General Appropriations Act. These funds are provided in addition to the funds appropriated on the basis of full-time equivalent (FTE) student membership in the FEFP and are included in the total funds for each district. For Fiscal Year 2016-2017, each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment must use these funds, together with the funds provided in the district's research-based reading instruction allocation, to provide an additional hour of instruction for intensive reading instruction³¹⁸. After this requirement has

³¹¹ Section 1011.67(2), F.S.

³¹² Sections 1006.28(1)(a)1. and 1006.40(3), F.S. Materials not on the state adopted list include library books, reference books, and non-print materials. Section 1006.40(3)(b)., F.S.

³¹³ Section 1011.62(6)(b)5., F.S.

³¹⁴ Section 1006.40(7), F.S.

³¹⁵ E.g., novels that are included in a recommended or required reading list or checked out of the school library by the classroom teacher or a student.

³¹⁶ Section 23, ch. 99-398, L.O.F.

³¹⁷ Florida House of Representatives, Council for Lifelong Learning, Supplemental Academic Instruction Fact Sheet (Sept. 2001) available at

<http://archive.flsenate.gov/data/publications/2002/house/reports/EdFactSheets/fact%20sheets/supplementalacademicinstruction.pdf>.

³¹⁸ Section 1011.62(1)(f), F.S.

been met, school districts may use these funds for: modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, class size reduction, extended school year, intensive skills development in summer school, and other methods for improving student achievement.

In addition to the SAI categorical fund, school districts may use funds from the research-based reading instruction allocation to provide comprehensive reading instruction to students in kindergarten through grade 12.³¹⁹ The funds must be used to provide a system of comprehensive reading instruction to K-12 students, which may include providing:³²⁰

- an additional hour per day of intensive reading instruction to students in the 300 lowest-performing elementary schools by teachers and reading specialists who are effective in teaching reading;
- intensive intervention during the school day and in the required extra hour for students identified as having a reading deficiency through K-5 reading intervention teachers;
- highly qualified reading coaches to specifically support teachers in making instructional decisions based on student data, and improve teacher delivery of effective reading instruction, intervention, and reading in the content area based on student need;
- professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text;
- summer reading camps for all K-2 students who demonstrate a reading deficiency and students in grades 3-5 who score at Level 1 on the statewide, standardized reading assessment or ELA assessment;
- supplemental instructional materials grounded in scientifically based reading research; and
- intensive interventions for K-12 students who have been identified as having a reading deficiency or who are reading below grade level.

School districts must annually submit a K-12 comprehensive reading plan for the specific use of the allocation to the Office,³²¹ which reviews and approves the district's plan.³²² School districts have flexibility in developing their plans and are encouraged to offer reading intervention through innovative methods.³²³ One hundred percent of the research-based reading instruction allocation must be used to implement a school district's approved plan.³²⁴

For the 2016-2017 fiscal year, school districts with one or more of the 300 lowest-performing elementary schools based on the statewide, standardized ELA assessment were required to use at least \$15 million of the research-based reading instruction allocation³²⁵ for the required additional hour of intensive reading instruction.

Effect of Proposed Changes

Intervention and Instruction

The bill requires district school boards, when allocating remedial and supplemental instruction resources, to give the highest priority to students in kindergarten through grade 3 who have a substantial reading deficiency, instead of just those students in grade 3. The bill requires that data from the kindergarten screening, along with other available data, be used to identify students in need of intervention and support.

³¹⁹ Section 1011.62(9), F.S.

³²⁰ *Id.* at (9)(c).

³²¹ Section 1011.62(9)(d), F.S. *See also* Rule 6A-6.053, F.A.C.

³²² *Id.*

³²³ *Id.*

³²⁴ *Id.*

³²⁵ Specific Appropriations 7 and 9, s. 2, ch. 2016-66, L.O.F. The amount of \$115,000 was allocated to each district and the remaining balance allocated based on each district's proportion of the total K-12 based funding. *Id.*

The bill requires that students in kindergarten through grade 3 who are identified as having a substantial reading deficiency be provided an individual progress monitoring plan, a federal plan (such as an IEP), or both if necessary, and eliminates the requirement that a student be covered by a schoolwide progress monitoring plan. The bill does not prohibit or otherwise preclude the use of a schoolwide plan; however, once a student is identified as having a substantial reading deficiency, instructional strategies and goals must be developed based on the individual student's needs. Such students must be provided intensive, explicit, systematic, and multisensory reading interventions immediately following identification of the substantial deficiency. The SBE must identify in rule guidelines for determining whether a student in kindergarten through grade 3 has a substantial reading deficiency.

The bill prohibits schools from waiting until a student receives a failing grade at the end of the grading period to identify the deficiency and initiate interventions. Consequently, schools should increase the use of predictive data to guide instructional strategies, encourage consistent evaluation of student progress in response to instruction in the general classroom setting, and provide more frequent communication with parents on the progress of their child.

The bill requires that the interventions school districts provide to students who are retained in 3rd grade include evidence-based, explicit, systematic, and multisensory instruction in phonemic awareness, phonics, fluency, vocabulary, and comprehension. Beginning July 1, 2020, retained 3rd grade students must be taught by a teacher who holds a reading certification or endorsement. This is in addition to the current requirement that the teacher be rated "highly effective."

The bill also deletes duplicative language regarding good cause exemptions for retained third-grade students and requires intensive interventions for any student with a substantial reading deficiency who may be promoted using a good cause exemption. Students who have been retained for a total of two years between kindergarten and grade three and who have received intensive reading intervention for 2 or more years but still demonstrate a reading deficiency remain eligible for a good cause exemption. No student may be retained more than once in grade 3.

The bill expands the intensive acceleration course currently provided to retained 3rd graders to also include students who were previously retained in kindergarten, 1st grade, or 2nd grade. The intensive acceleration reading course must include:

- uninterrupted reading instruction for the majority of the school contact time each day and opportunity to master the grade 4 NGSSS in other core subject areas through content-rich texts;
- small group instruction;
- reduced teacher-student ratios;
- the use of explicit, systematic, and multisensory reading interventions, including intensive language and vocabulary instruction and use of a speech-language therapist if necessary, that has proven results in accelerating student reading achievement within the same school year; and
- a read at home plan.

The bill requires school districts to assist schools and teachers with implementing explicit, systematic, and multisensory reading instruction and intervention strategies for students promoted to 4th grade with a good cause exemption.

Instructional Materials

Beginning July 1, 2021, each district school superintendent must certify to the commissioner, prior to the release of instructional material funds, that the district's K-5 core and supplemental intervention reading materials incorporate the instructional and intervention strategies identified by the Office. The

certification requirement applies to core reading materials starting with the next English language arts instructional materials adoption cycle, which will occur in 2020.³²⁶

The bill requires all of the instructional materials allocation funds to be used on state-adopted list by repealing the requirement that at least 50 percent of the annual allocation amount be used to purchase digital or electronic instructional materials.

Reading and Supplemental Academic Instruction Allocations

The bill revises SAI and reading allocation provisions regarding the extra hour of reading at the 300 lowest-performing elementary schools by:

- codifying the program in statute, rather than relying on annual reauthorization. The program was established for three years beginning in the 2012-2013 fiscal year but has been extended annually in the implementing bill since the 2015-2016 fiscal year;
- expanding the program to allow schools that improve performance to the extent that they are no longer on the most current list of 300 lowest-performing schools to maintain the program for two additional academic years;
- expanding the requirements of the program to include a 60-hour summer school component;
- codifying the methodology for calculating the allocation of SAI funds, which includes funds for the “extra hour of reading” requirement; and
- requiring school districts to delineate the implementation design and reading intervention strategies for the program as part of their comprehensive reading plan.

Civic Literacy

Present Situation

Required Instruction

Florida law requires each district school board to provide instruction regarding the history, significance, and principles of the Declaration of Independence and the Constitution of the United States, flag education, and the arguments in support of adopting our republican form of government.³²⁷ The law also requires districts to provide a character-development program in kindergarten through grade 12. Each school district must develop or adopt a curriculum for its K-12 character-development program and submit it to the DOE for approval.³²⁸ The curriculum must “stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation.”³²⁹ For grades 9-12, the character-development program must include instruction on:

- developing leadership skills, interpersonal skills, organization skills, and research skills;
- creating a resume;
- developing and practicing the skills necessary for employment interviews;
- managing stress and expectations; and
- developing skills that enable students to become more resilient and self-motivated.³³⁰

³²⁶ Florida Department of Education, *Florida Instructional Materials Adoption Schedule for Adoption Years 2015-2016 through 2019-2020* (Feb. 3, 2015), available at <http://www.fldoe.org/core/fileparse.php/5574/urlt/AdoptionCycle.pdf>.

³²⁷ Section 1003.42(2)(a)-(d), F.S.

³²⁸ Section 1003.42(2)(s), F.S.

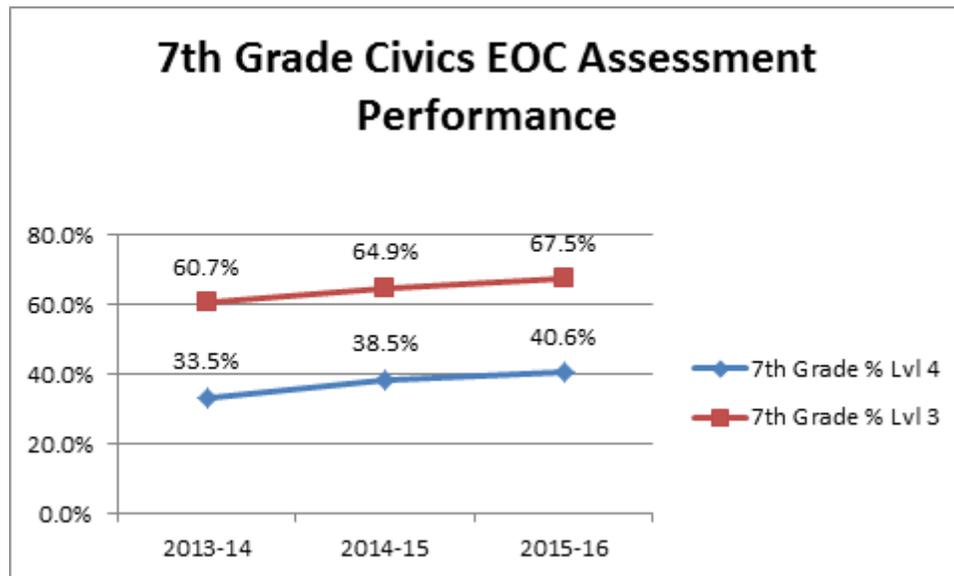
³²⁹ *Id.*

³³⁰ *Id.*

Currently, Florida's NGSSS for social studies include civics content in kindergarten through grade 8 and in grades 9 through 12.³³¹ The standards were initially adopted after a review process in 2008 and then revised in 2014 by the SBE.³³²

Each middle grades student must successfully complete three middle school or higher courses in social studies in order to be promoted to high school.³³³ One semester of the three courses must be in civics. Students enrolled in the civics course must take the statewide Civics EOC assessment. The Civics EOC assessment, which was administered initially in the 2012-2013 school year, counts toward 30 percent of the student's course grade; however, students are not required to pass the assessment in order to be promoted. Results from the assessment are included in the school grades calculation for middle schools.³³⁴

The percentage of 7th grade students achieving a Level 3 (passing score) or a Level 4 on the Civics EOC assessment has steadily increased since the 2013-14 school year.³³⁵



In addition to the middle grades civics requirement, each public high school student must earn a one-half course credit each in U.S. Government and economics, including financial literacy, and one credit each in World History and U.S. History.³³⁶ Like middle grades Civics, the U.S. History course includes an EOC assessment that counts as 30 percent of a student's final course grade.³³⁷

³³¹ See CPALMS, *Browse and Search Standards*, <http://www.cpalms.org/Public/search/Standard> (last visited Feb. 27, 2017) (providing the Next Generation Sunshine State Standards for each subject area, by grade level).

³³² See rule 6A-1.09401, F.A.C. See also Lou Frey Institute, *Civic Education in Florida: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

³³³ Section 1003.4156(1)(c), F.S.

³³⁴ See ss. 1003.4156(1)(c), 1008.34(3)(b)1.i., F.S.

³³⁵ Florida Department of Education, PK-12 Education Information Portal: *Civics EOC*, <https://edstats.fldoe.org/SASPortal/public> (last visited Feb. 27, 2017).

³³⁶ Section 1003.4282(3)(d), F.S.

³³⁷ *Id.*

Although the law provides for civics-related academic standards and promotion and graduation requirements, there is no postsecondary civics course requirement in Florida.³³⁸ Currently, students entering postsecondary education at a FCS or State University System (SUS) institution must complete at least one social sciences course as part of the general education core course requirement.³³⁹ The six courses that students can select to satisfy the social sciences requirement include:

- American History;
- Government;
- Economics;
- Anthropology;
- Sociology; and
- Psychology.³⁴⁰

Of the FCS and SUS students who took a general education core course in social sciences in the 2014-2015 school year, only 16 percent took Government. The most popular social sciences course was Psychology, in which 35 percent of the students enrolled.³⁴¹ Currently, only nine states have postsecondary civics education requirements, including Texas, Oklahoma, Utah, Arkansas, California, Georgia, Massachusetts, Missouri, and Nevada.³⁴²

Without a postsecondary requirement for demonstrating competence in civics, little data exists on the effectiveness of K-12 civics instruction and accountability initiatives.

Background Knowledge

Research has shown that a student's background knowledge—the prior knowledge students need to master new ideas—is positively correlated with his or her ability to comprehend text, remember new concepts, and solve problems.³⁴³ This is because a person with a broad depth of background knowledge and a knowledge-related vocabulary can successfully make the necessary inferences to understand texts, express viewpoints, and apply knowledge.³⁴⁴ Generally, the earlier children develop a large vocabulary, the greater their reading comprehension will be in later grades. Because developing a vocabulary is a gradual process, it must begin in early grades to put students in a position for reading success.³⁴⁵

Studies have shown that K-3 teachers spend only 16 minutes on social studies each day, with daily science instruction receiving 19 minutes. The difference in time spent on instruction in literacy skills as

³³⁸ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

³³⁹ See s. 1007.25(3), F.S.

³⁴⁰ See rule 6A-14.0303(1)(e), F.A.C. (establishing FCS general core course options for social sciences); Florida Board of Governors Regulation 8.005(1)(e) (establishing SUS general core course options for social sciences).

³⁴¹ Office of Program Policy Analysis and Government Accountability, *OPPAGA Research on Postsecondary Civics Education: hearing before the House PreK-12 Quality Subcommittee* (Feb. 15, 2017), available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2909&Session=2017&DocumentType=Meeting%20Packets&FileName=pkq%202-15-17.pdf>.

³⁴² See *id.*

³⁴³ Daniel Wilingham, *How Knowledge Helps*, <http://www.aft.org/periodical/american-educator/spring-2006/how-knowledge-helps> (last visited Feb. 28, 2017).

³⁴⁴ See Doug Lemov, *How Knowledge Powers Reading*, <http://www.ascd.org/publications/educational-leadership/feb17/vol74/num05/How-Knowledge-Powers-Reading.aspx> (last visited Feb. 28, 2017). See also E.D. Hirsch, Jr., *Building Knowledge: The Case for Bringing Content into the Language Arts Block and for a Knowledge-Rich Curriculum Core for all Children*, <http://www.aft.org/periodical/american-educator/spring-2006/building-knowledge> (last visited Feb. 28, 2017).

³⁴⁵ See *id.*

compared to science and social studies instruction has been associated with students' decreased reading comprehension.³⁴⁶

Average Number of Minutes per Day Spent Teaching Each Subject in Self-Contained Classes, by Grades		
	Grades K-3	Grades 4-6
Reading/Language Arts	89 mins.	83 mins.
Mathematics	54 mins.	61 mins.
Science	19 mins.	24 mins.
Social Studies	16 mins.	21 mins.

Only teachers who indicated they teach reading/language arts, mathematics, science and social studies to one class of students were included in these analyses.

347

Some districts, such as the Washington D.C. public school system, have adopted English language arts scope and sequence guides to help integrate information-rich texts covering social studies, science, and literary content in order to gradually develop a broad base of student knowledge.³⁴⁸ The State of New York has adopted a model Core Knowledge Language Arts curriculum to help local districts increase background knowledge and literacy skills for students in kindergarten through grade 2.³⁴⁹ Students in New York classrooms that participated in a 3-year pilot program using the curriculum were shown to have greater gains in reading, science, and social studies than students in comparison schools.³⁵⁰

Effect of Proposed Changes

The bill designates the month of September as “American Founders’ Month” and authorizes the Governor to issue a proclamation urging public and private organizations within the state to celebrate the month. The bill encourages all public schools in the state to coordinate instruction related to the nation’s founding fathers with “American Founders’ Month.”

The bill revises the statutory priorities for Florida’s K-20 education system under s. 1000.03, F.S., to expressly state that it is a priority of the system to prepare students to become “civically engaged and knowledgeable adults who make positive contributions to their community.”

To help increase background knowledge and literacy skills, the bill requires the 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 attainment of the NGSSS in social studies, science, and the arts.

The bill also requires that, beginning with the 2018-2019 school year, students who enter a FCS or SUS institution for the first time demonstrate competency in civic literacy. Competency may be demonstrated either by completion of a civic literacy course or by passing an assessment adopted in

³⁴⁶ Knowledge Matters Campaign, *Restoring Wonder and Excitement to the Classroom* (2012) at 5, available at <http://knowledgematterscampaign.org/wp-content/uploads/2016/03/WhyKnowledgeMatters-1.pdf>.

³⁴⁷ *Id* at 5.

³⁴⁸ See, e.g., District of Columbia Public Schools, *Scope and Sequence: Fifth Grade* (2014), available at <http://dcps.dc.gov/sites/default/files/dc/sites/dcps/publication/attachments/SY14-15%20ELA%20Grade%205%20SAS.pdf>.

³⁴⁹ New York State Education Department, *New York State ELA Curriculum*, <https://www.engageny.org/english-language-arts> (last visited Feb. 28, 2017).

³⁵⁰ The Core Knowledge Foundation, *The NYC Core Knowledge Early Literacy Pilot* (2012) at 13, available at http://www.coreknowledge.org/mimik/mimik_uploads/documents/712/CK%20Early%20Literacy%20Pilot%203%2012%2012.pdf.

state board rule or in Board of Governors (BOG) regulation depending on the type of institution in which the student is enrolled. The chair of the SBE and the chair of the BOG, or their respective designees, must jointly appoint a faculty committee to:

- develop a new course in civic literacy or revise an existing general education core course in American Government or American History to include civic literacy; and
- establish course competencies and identify outcomes that include, at a minimum:
 - an understanding of the basic principles of American democracy and how they are applied in our nation’s republican form of government;
 - an understanding of the U.S. Constitution;
 - knowledge of the founding documents and how they have shaped the nature and functions of our institutions of self-governance; and
 - an understanding of landmark Supreme Court cases and their impact on law and society.

The assessment must be an existing assessment that measures competencies consistent with the minimum course competencies under the bill.

Student Eligibility for Virtual Instruction

Present Situation

Florida law establishes a variety of options to make virtual instruction accessible to K-12 students. These options include:

- full-time or part-time enrollment in a school district virtual instruction program (VIP),³⁵¹
- full-time enrollment in a virtual charter school;³⁵²
- enrollment in individual virtual courses offered by school districts and approved by DOE,³⁵³ and
- full-time or part-time enrollment in the Florida Virtual School (FLVS) or school district FLVS franchises³⁵⁴

Student enrollment in a full-time or part-time school district VIP, a full-time virtual charter school or a school district virtual course offering is open to any student residing in the district who:³⁵⁵

- attended a Florida public school during the prior year and was enrolled and reported for funding during the October and February Florida Education Finance Program (FEFP) surveys;
- is the dependent child of a member of the U.S. military who, within 12 months of the parent’s permanent change of station order, transferred to Florida from another state or from a foreign country;
- was enrolled in a school district VIP or a full-time FLVS program during the prior school year;
- has a sibling who is currently enrolled in a school district VIP and the sibling was enrolled in such program at the end of the prior school year;
- is eligible to enter kindergarten or first grade; or
- is eligible to enter grades 2 through 5 and is enrolled full-time in a school district VIP, virtual charter school or FLVS.³⁵⁶

FLVS or a district FLVS franchise may provide full-time and part-time instruction for K-12 students. However, students in kindergarten through grade 5 must meet at least one of the eligibility criteria listed above to access part-time instruction in such programs.³⁵⁷

³⁵¹ Section 1002.45, F.S.

³⁵² Sections 1002.33(1) and 1002.45(1)(d), F.S.

³⁵³ Section 1003.498, F.S.

³⁵⁴ Sections 1002.37 and 1002.45(1)(a)1. and (c)1., F.S.

³⁵⁵ Sections 1002.45(5) and 1002.455(2), F.S.

³⁵⁶ Section 1002.455(2), F.S.

³⁵⁷ Section 1002.37(8)(a), F.S.

Consequently, students in 2nd through 5th grades are not eligible for enrollment in part-time virtual instruction unless they were enrolled in public school in the prior year or are dependent children of military personnel, or have a sibling currently enrolled in a VIP and the sibling was enrolled at the end of the prior year.³⁵⁸

Effect of Proposed Changes

The bill provides that all K-12 students, including home education and private school students, are eligible for full-time and part-time virtual instruction programs including:

- full-time or part-time enrollment in a school district VIP;
- full-time enrollment in a virtual charter school;
- enrollment in individual virtual courses offered by school districts and approved by the DOE; and,
- full-time or part-time enrollment in the FLVS or school district FLVS franchises.

This change will open various virtual education options that are not currently available to students who did not attend public school in the prior year, as follows:

- Students in 6th through 12th grades may enroll in full-time school district VIP programs
- Students in 2nd through 5th grades may enroll in part-time FLVS or district FLVS franchises
- Students in 2nd through 12th grades may enroll in part-time school district VIP
- Students in 2nd through 12th grades may enroll in school district virtual course offerings

Most notably, this change gives students in 2nd through 5th grades who did not attend public school in the prior year the ability to enroll in part-time virtual instruction, whereas under current law, these students have no such options.

Gardiner Scholarship Program

Present Situation

The Gardiner Scholarship Program (GSP) provides parents of eligible students with disabilities more flexibility to customize their child's education.³⁵⁹ Funds are distributed to qualified³⁶⁰ Scholarship Funding Organizations (SFOs) to establish accounts for eligible students.³⁶¹ Parents can use funds from their account to choose from a variety of approved items for their student including, but not limited to: specialized services, curriculum, instructional materials, tuition and contracted services.³⁶²

A student participating in the GSP must meet the requirements for regular school attendance by enrolling in:

- a parochial, religious or denominational school;
- a private school supported in whole or in part by tuition charges or by endowments or gifts; or
- a home education program.³⁶³

The parent of a student, who is a resident of this state, may request and receive an account if the student:

- is 3- or 4-years-old or eligible to enroll in kindergarten through 12th grade in a public school in this state;
- has one of the following disabilities: autism spectrum disorder, cerebral palsy, Down syndrome, an intellectual disability, Phelan-McDermid syndrome, Prader-Willi syndrome, spina bifida, muscular dystrophy, is identified as a high-risk child or Williams syndrome,³⁶⁴ and

³⁵⁸ Section 1002.455(2), F.S.

³⁵⁹ Section 1002.385(1), F.S.

³⁶⁰ Section 1002.385(2)(e), F.S.

³⁶¹ Section 1002.385, F.S.

³⁶² Section 1002.385(5), F.S.

³⁶³ Section 1003.01(13)(b)-(d), F.S.

- has an IEP written in accordance with rules of the SBE or has received a diagnosis of one of the above disabilities from a licensed physician or a licensed psychologist.³⁶⁵

The parent of a student with a disability who does not have an IEP or who seeks a reevaluation of an existing IEP may request an IEP meeting and evaluation from the school district in order to obtain or revise a matrix of services.³⁶⁶

Parents must apply to an eligible SFO to participate in the program by February 1, before the school year in which the student wishes to participate or an alternative date set by the SFO.³⁶⁷ The scholarship is provided on a first-come, first-served basis.³⁶⁸

A student is not eligible for the program:

- while enrolled in a public school;
- while enrolled in a Department of Juvenile Justice school commitment program;
- while receiving a scholarship from the Florida Tax Credit (FTC) Scholarship Program or the McKay Scholarship Program; or
- while receiving any other educational scholarship pursuant to chapter 1002.³⁶⁹

Program funds must be used to meet the individual educational needs of the student. Program funds may be spent for the following purposes:

- Instructional materials and curriculum
- Specialized services by approved providers, including but not limited to, applied behavior analysis, speech language pathologist, occupational therapy, physical therapy and services provided by listening and spoken language specialists
- Enrollment in, or tuition and fees for enrollment in a home education program, an eligible private school or postsecondary education institution or a program offered by the institution, a private tutoring program or virtual education programs or courses
- Fees for nationally standardized, norm-referenced achievement tests, Advanced Placement examinations, industry certification examinations, assessments related to postsecondary education or other assessments
- Contributions to the Stanley G. Tate Florida Prepaid College Program or the Florida College Savings Program
- Contracted services provided by a public school or school district, including classes, tuition, and fees for part-time tutoring services provided by an individual who has a valid Florida educator's certificate, an adjunct teaching certificate or has demonstrated mastery of subject area knowledge
- Fees for specialized summer or after-school education programs
- Fees for transition services provided by job coaches
- Fees for an annual evaluation utilized by home education students
- Tuition and fees associated with programs offered by Voluntary Pre-Kindergarten education and school readiness providers³⁷⁰

Entities eligible to provide specialized services or educational programs include:

- a provider approved by the Agency for Persons with Disabilities, a health care practitioner or a provider approved by the DOE to offer specialized instructional services for children with disabilities;³⁷¹

³⁶⁴ Section 1002.385(2)(d), F.S.

³⁶⁵ Section 1002.385(3)(a), F.S.

³⁶⁶ Section 1002.385(7)(a)1., F.S.

³⁶⁷ Section 1002.385(3)(b), F.S.

³⁶⁸ Section 1002.385(12)(b), F.S.

³⁶⁹ Section 1002.385(4), F.S.

³⁷⁰ Section 1002.385(5)(m), F.S.

³⁷¹ Section 1002.385(2)(a), F.S. See list of eligible providers at <http://www.fldoe.org/schools/school-choice/k-12-scholarship-programs/gardiner/>.

- a postsecondary educational institution including a FCS institution; a state university; a school district technical center; a school district adult general education center; an independent college or university eligible to participate in the William L. Boyd, IV Florida Resident Access Grant Program or an accredited, independent postsecondary educational institution which is licensed to operate in this state;³⁷² and
- a private school that is located in this state, offers education to students in any grade from kindergarten to grade 12, meets all the requirements of a private school operating in Florida and meets all the requirements of a private school participating in the McKay Scholarship Program or the FTC Program.³⁷³

Eligible providers may not share, refund or rebate any money from a student's GSP account with the parent or participating student.³⁷⁴

Effect of Proposed Changes

The bill expands access to the GSP by including dual sensory impaired as a qualified disability and expands the eligible uses of funds to include fees for services provided by:

- members of the Professional Association of Therapeutic Horsemanship International; and
- a therapist certified by the Certification Board of Music Therapists or credentialed by the Art Therapy Credentials Boards.

The bill increases accountability by:

- prohibiting parents, students or a provider of services from billing an insurance company, Medicaid or any other agency for the same services that are paid using GSP funds;
- providing that a private school may not be eligible to participate in the program if its financial reports have consecutive years of material exceptions;
- defining "inactive" to mean that no eligible expenditures have been made from the scholarship account and requiring that payments from the state into the account stop if the account has been inactive for two consecutive fiscal years. When an SFO verifies eligible expenditures have been made from the account, payments may resume based on available funds; and
- closing a scholarship account and reverting funds to the state (becoming available for other eligible students) if the account has been inactive for three consecutive years.

Additionally, the bill clarifies that, beginning with the 2017-2018 fiscal year, for students with a matrix, the GSP scholarship amount must be based on that matrix.

High School Graduation Requirements

Present Situation

The law requires that a student successfully complete 24 credits in core-curricula and extracurricular courses in order to graduate from high school with a standard high school diploma.³⁷⁵

For grades 9 through 12, core curricula courses are those subjects that are measured by state assessment at any grade level and courses that are specifically identified by name in state law as required for high school graduation but are not measured by state assessments.³⁷⁶ Core courses are: English language arts, mathematics, science, and social studies.³⁷⁷ The remaining required courses are

³⁷² Section 1002.385(2)(f), F.S.

³⁷³ Section 1002.385(2)(g), F.S.

³⁷⁴ Section 1002.385(5), F.S.

³⁷⁵ See s. 1008.4282(3)(a)-(g), F.S.

³⁷⁶ Section 1003.01(14), F.S.

³⁷⁷ See s. 1008.4282(3)(a)-(d), F.S.

extracurricular courses, which include but are not limited to, physical education, fine arts, performing fine arts, career education, and courses that may result in college credit.³⁷⁸

*Core and Extracurricular Course and Credit Requirements*³⁷⁹

Course	Credit
English Language Arts (ELA) ELA I, II, III, and IV	4
Mathematics -One credit in Algebra I, one credit in Geometry, and two additional credits. -A student who earns an industry certification for which there is a statewide college credit articulation agreement may substitute the certification for one of the two additional credits. Substitution may occur for up to 2 credits, with the exception of Algebra I and Geometry.	4
Science -One credit in Biology I and 2 credits in equally rigorous courses -A student who earns an industry certification for which there is a statewide college credit articulation agreement may substitute the certification for one of the two equally rigorous courses.	3
Social Studies -One credit in United States History; one credit in World History; one-half credit in U.S. Government, and one-half credit in Economics, which must include Financial Literacy.	3
Fine Arts, Performing Arts, Speech and Debate, or Practical Arts -The practical arts course must incorporate artistic content and techniques of creativity, interpretation, and imagination. Eligible courses are identified in the Course Code Directory. ³⁸⁰	1
Physical Education -Must include the integration of health.	1
Electives -Must include opportunities for students to earn college credit, including industry-certified career programs or courses that lead to college credit.	8
Online Course Requirement ³⁸¹ -One of the courses within the 24 credits must be completed through online learning.	Determined based upon the course completed.

An online course provided by the Florida Virtual School, a virtual instruction provider approved by the SBE, or a high school or an online dual enrollment course taken in 6th, 7th or 8th grade fulfill the online

³⁷⁸ Section 1003.01(15), F.S.

³⁷⁹ Section 1003.4282(3), F.S.

³⁸⁰ The Course Code Directory requires that programs and courses funded through the Florida Education Finance Program (FEFP) and courses or programs for which students may earn elective or required credit toward high school graduation must be listed in the Course Code Directory (CCD). Rule 6A-1.0944, F.A.C.

³⁸¹ Section 1003.4282(4), F.S. A school district may not require a student to take the online course outside the school day or in addition to a student's courses for a given semester. This subsection does not apply to a student who has an individual education plan under s. 1003.57, F.S., which indicates that an online course would be inappropriate or to an out-of-state transfer student who is enrolled in a Florida high school and has 1 academic year or less remaining in high school. *Id.*

course requirement.³⁸² A school board or charter school governing board may offer the following options to satisfy the online course requirement:

- Completion of a course where the student earns a nationally recognized industry certification in information technology or passage of the information technology certification exam without enrolling in the corresponding course
- Passage of an online content assessment, without enrollment in or completion of the corresponding course, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes

The law allows a student to satisfy the physical education course credit requirement by completing two seasons of a varsity or junior varsity sport; however, the student must still pass a personal fitness exam in order to satisfy the requirement.

Effect of Proposed Changes

The bill removes passage of an online content assessment, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes, as an option to fulfill the online course requirement. The bill provides a student the option of taking either an online course or a blended learning course to satisfy the requirements for a standard high school diploma.

The bill also allows a student who completes 2 seasons of a varsity or junior varsity sport to satisfy the physical education requirements without having to pass a personal fitness exam.

School Attendance

Present Situation

State law directs district school boards to establish attendance policies defining excused or unexcused absences or tardiness. Specific criteria for determining whether an absence or tardiness is excused or unexcused are determined by the district school board.³⁸³ The parent of a student who is absent from school must justify the absence, and the absence is evaluated based on the school board's attendance policies.³⁸⁴ If a student is continually sick and repeatedly absent from school, state law requires the student to be under a physician's supervision in order for the absences to be excused. In such cases, the physician's excuse justifies absences beyond the maximum number of days permitted under the district school board's attendance policy.³⁸⁵

State law and state board rule also authorize a public school to grant permission to students, in accordance with the school district's rules, to be absent from school for religious instruction, religious holidays or because religious tenets forbid secular activity during the school day.³⁸⁶

Effect of Proposed Changes

The bill:

- requires district school boards to adopt student absence policies regarding student appointments to receive autism spectrum disorder therapy, including but not limited to, applied behavioral analysis, speech therapy and occupational therapy;

³⁸² Section 1003.4282(4)(a), F.S.

³⁸³ Section 1003.24, F.S. (flush-left provisions at end of section).

³⁸⁴ Section 1003.26, F.S.

³⁸⁵ Section 1003.24(4), F.S.

³⁸⁶ Sections 1002.20(2)(c) and 1003.21(2)(b), F.S.; rule 6A-1.09514(1) and (2), F.A.C.

- allows a parent to request and be granted permission for a student’s absence resulting from an appointment to receive therapy provided by a licensed health care practitioner or a certified behavior analyst for the treatment of autism spectrum disorder; and
- allows a student who is continually sick and repeatedly absent to satisfy nonattendance requirement by being under the supervision of a licensed health care practitioner or a certified behavior analyst for the treatment of autism spectrum disorder.

The term “licensed” is defined in law as any permit, registration, certificate or license, including a provisional license, issued by the Department of Health.³⁸⁷

The term “health care practitioner” is defined in law as any person licensed under chapter 457 (acupuncture); chapter 458 (medical practice); chapter 459 (osteopathic medicine); chapter 460 (chiropractic medicine); chapter 461 (podiatric medicine); chapter 462 (naturopathy); chapter 463 (optometry); chapter 464 (nursing); chapter 465 (pharmacy); chapter 466 (dentistry); chapter 467 (midwifery); part I (speech-language pathology), part II (nursing home administration), part III (occupational therapy), part V (respiratory therapy), part X (dietetics and nutrition practice), part XIII (athletic trainers), or part XIV (orthotics, prosthetics and pedorthics) of chapter 468; chapter 478 (electrolysis); chapter 480 (massage practice); part III (clinical laboratory personnel) or part IV (medical physicists) of chapter 483; chapter 484 (dispensing of optical devices and hearing aids); chapter 486 (physical therapy); chapter 490 (psychological services) or chapter 491 (clinical, counseling and psychotherapy services).³⁸⁸

A “certified behavior analyst” is a person who is certified under the Florida Behavior Certification Program in accordance with s. 393.17, F.S.³⁸⁹

Instructional Personnel Employment Contracts

Present Situation

Instructional personnel provide direct instructional services or direct instructional support to K-12 students. Instructional personnel include classroom teachers;³⁹⁰ staff who provide student personal services, e.g., guidance counselors, social workers, career specialists, and school psychologists; librarians and media specialists; other instructional staff, e.g., learning resource specialists and education paraprofessionals under the direct supervision of instructional personnel.³⁹¹

Three types of contracts are used to employ instructional personnel in Florida – continuing contracts, professional service contracts and annual contracts. Holding a continuing contract or professional service contract is often referred to as having tenured status.³⁹²

An annual contract is an employment contract for a period of no longer than one school year that a district school board may choose to award or not award without cause.³⁹³ As of July 1, 2011, instructional personnel under an annual contract and personnel hired thereafter may only be employed on an annual contract basis. The first annual contract for newly hired instructional personnel is a one-year probationary contract, which may be terminated without cause or from which the employee may

³⁸⁷ Section 456.001(5), F.S.

³⁸⁸ Section 456.001(4), F.S.

³⁸⁹ Rule 59A-26.001, F.A.C.

³⁹⁰ Classroom teachers include substitute teachers. Section 1012.01(2)(a), F.S.

³⁹¹ Section 1012.01(2), F.S.

³⁹² See s. 1012.33(3)(d), F.S. (2010). Tenure is an employment policy which limits a public school district’s ability to terminate the employment of instructional personnel. See 67B Am. Jur. 2d Schools s. 195; see also s. 1012.33(3), F.S. Tenure usually takes the form of a continuous or automatically renewing employment contract. Tenured instructional personnel may only be dismissed for specified reasons after statutorily required hearings. See *Board of Regents v. Roth*, 408 U.S. 564 (1972); 67B Am. Jur. 2d Schools s. 211.

³⁹³ Section 1012.335(1)(a), F.S.

resign without breach of contract. “Newly hired instructional personnel” include employees new to the profession or employees with experience who are new to the school district.³⁹⁴

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee:

- is certified;
- has been recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board; and
- has not received two consecutive unsatisfactory evaluations, two unsatisfactory evaluations within a three-year period or three consecutive evaluations of needs improvement or any combination of needs improvement and unsatisfactory.³⁹⁵

Effect of Proposed Changes

The bill reiterates that a school district must issue contracts on an annual basis and may not:

- award an annual contract to instructional personnel based on a contingency or condition that is not expressed in law by the Legislature; or
- alter or limit its authority to award or not award an annual contract to instructional personnel as provided in s. 1012.335, F.S.

These provisions only apply to collective bargaining agreements entered into or renewed by a district school board on or after this law is enacted.

High Growth District Capital Outlay Assistance Grant Program

Present Situation

The High Growth District Capital Outlay Grant Program was created in 2005³⁹⁶ to provide funding to construct new student stations for school districts that meet the following criteria:³⁹⁷

- The district must have levied the full 1.5 mills of nonvoted discretionary capital outlay millage authorized in s. 1011.71(2) for each of the past 4 fiscal years
- Fifty percent of the revenue derived from the maximum nonvoted discretionary capital outlay millage for the past 4 fiscal years, when divided by the district’s growth in capital outlay FTE students over this period, produces a value that is less than the average cost per student station calculated pursuant to s. 1013.64(6)(b)1., and weighted by statewide growth in capital outlay FTE students in elementary, middle, and high schools for the past 4 fiscal years
- The district must have equaled or exceeded twice the statewide average of growth in capital outlay FTE students over this same 4-year period
- The Commissioner of Education must have released all funds allocated to the district from the Classrooms First Program, and these funds were fully expended by the district as of February 1 of the current fiscal year
- The total capital outlay FTE students of the district is greater than 15,000 students

The High Growth District Capital Outlay Grant Program has never been implemented. The legislation establishing the program, ch. 2005-209, L.O.F., appropriated \$30 million for the program, but the Governor vetoed that appropriation.³⁹⁸ The program has not subsequently been funded.

³⁹⁴ Section 1012.335(1)-(2), F.S. For the purpose of awarding annual contracts, the term “instructional personnel” does not include substitute teachers. Section 1012.335(1)(b), F.S.

³⁹⁵ Section 1012.335(2)(c), F.S.

³⁹⁶ Chapter 2005-209, Laws of Florida

³⁹⁷ Section 1013.738 (2), F.S.

³⁹⁸ Chapter 2005-209, Laws of Florida

Effect of Proposed Changes

The bill modifies the qualification requirements and funding methodology for the High Growth District Capital Outlay Assistance Grant Program. Under the bill, in order to qualify for the program, a school district must:

- levy the maximum nonvoted discretionary millage for the prior 5 years;
- receive revenue from a current voted school capital outlay sales surtax or a portion of the local government infrastructure surtax;
- have funds from the nonvoted discretionary capital outlay millage that, when divided by the district's capital outlay FTE students, are less than the statewide average maximum potential funds per capital outlay FTE student for the most recent fiscal year;
- have equaled or exceeded the greater of one percent average growth or twice the statewide average growth in capital outlay FTE students of the prior 5-year period; and
- have more than 24,000 total capital outlay FTE students.

The bill also modifies the program allocation methodology to require that, for each eligible district, the DOE:

- sum the revenue from the maximum potential nonvoted discretionary capital outlay millage and the revenue from the voted sales surtax and divide it by the capital outlay FTE students;
- determine the amount that must be added to the funds per capital outlay FTE to produce the statewide average value per capital outlay FTE for the identified revenues; and, if necessary,
- prorate district awards to the level of the appropriation.

Other Provisions

The bill also:

- Revises the way funds are provided to school districts by:³⁹⁹
 - repealing section 1003.52(21), Florida Statutes, requiring the DOE to provide or contract for services to the Florida School for Boys in Okeechobee;
 - codifying the sparsity supplement calculation used to compute the sparsity supplement for eligible districts with a FTE student membership of between 20,000 and 24,000, by dividing the total number of full-time equivalent students in all programs by the number of permanent senior high school centers in the district, not in excess of four (rather than three as used for other districts);
 - repealing the requirement of submitting a digital classrooms plan and authorizes the use of these funds for items on the eligible services list authorized by the Universal Service Administration Company E-rate program,⁴⁰⁰ computer and device hardware, associated operating system software, and professional development to enhance the use of technology for digital instructional strategies;
 - codifying the safe schools allocation funding formula and the use of the safe schools allocation; and
 - revising Standard Student Attire Incentive Program to allow plaids, stripes, or other multi-color options by removing the specific requirement of solid-colored clothing and fabrics for pants, skirts, shorts, or similar clothing and short- or long-sleeved shirts with collars;
 - codifying the prohibition on a school district seeking a positive allocation adjustment to its FEFP funding in the current fiscal year because of an under allocation for a prior fiscal year caused by district error;
 - modifying the small, isolated high schools provision of the FEFP by expanding its application to elementary schools and establishing the criteria by which elementary schools may qualify;
 - authorizing the DOE to recalculate the ESE Guaranteed Allocation for each school district throughout the school year based on the student membership surveys to ensure school

³⁹⁹ See Staff of the Florida House of Representatives, *Legislative Bill Analyses for HB 5101 and HB 5103* (2017) (analyzing identical and similar provisions under the bill); See also Staff of the Florida Senate, *Legislative Bill Analysis for SB 2516*.

⁴⁰⁰ <http://www.usac.org/sl/applicants/beforeyoubegin/eligible-services-list.aspx>

- districts receive their appropriate share of the ESE Guaranteed Allocation based on actual enrollment;
- aligning provisions in state law concerning calculating capital outlay membership with the actual capital outlay full-time equivalent membership calculation;
- revises the federally connected student supplement to allow for recalculation throughout the year based on actual student membership and the tax-exempt valuation from the most recent assessment roll;
- limits the time frame for VPK providers to amend prior fiscal year student enrollments no later than September 30 of the subsequent fiscal year;
- renames the ACT Aspire assessment to the preliminary ACT;
- revises the eligibility requirements for the Minority Teacher Education Scholar Program by removing a requirement that students enrolled in an approved teacher education program must be in their junior year to be eligible for the award, and requires that the student may not have earned more than 18 credit hours of upper-division education courses;⁴⁰¹
- expressly requires that a school board member be permitted to visit a district school and a charter school governing board member be permitted to visit any charter school governed by the board at any time on any day, with or without an escort and without advance notice;
- establishes provisions to facilitate the shared use of public school facilities;⁴⁰²
- creates the Committee on Early Childhood Development to develop a proposals on certain early learning milestones;⁴⁰³
- establishes the 3-year Early Childhood Music Education Incentive Pilot Program in the Department of Education to assist selected school districts in implementing comprehensive music education programs for students in kindergarten through grade 2;⁴⁰⁴
- removes the option for school districts receiving an exceptional student with a disability, who is placed in a residential facility, to decline to provide or contract for educational instruction;⁴⁰⁵
- removes the \$2,000 and \$3,000 yearly teacher bonus limits for the IB and AP assessments, the \$3,000 CAPE industry certification teacher bonus limit, the \$500 half-credit yearly AICE teacher bonus limit, and the \$2,000 yearly AICE teacher bonus limit;⁴⁰⁶
- requires K through 5 students at traditional public schools to be provided at least 100 minutes of supervised, safe, and unstructured free-play recess each week so that there are at least 20 consecutive minutes of free-play per day;
- deletes the requirement for middle grade students to complete a course in career and education planning (schools may still offer the course to middle grades students); and
- defines “secondary education” to mean grades 9 through 12.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁴⁰¹ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 1139* (2017).

⁴⁰² See Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 1131* (2017).

⁴⁰³ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 1229* (2017).

⁴⁰⁴ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 1365* (2017); cf. Specific Appropriation 108, s. 2, SB 2500 (2017).

⁴⁰⁵ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for HB 655* (2017).

⁴⁰⁶ See Staff of the Florida House of Representatives, *Legislative Bill Analysis for CS/HB 827* (2017).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost savings to teachers who participate in a professional development certification program because they would not be required to enroll in additional college coursework or take the Professional Education Test to earn their professional certificate.

D. FISCAL COMMENTS:

The bill appropriates \$413,950,000 in recurring General Revenue Funds and \$5 million in non-recurring General Revenue Funds to implement the provisions of the bill as follows:

- \$233,950,000 in recurring funds to implement the Best and Brightest Teacher and Principal Scholarship Programs;
- \$30 million in recurring funds to implement the Gardiner Scholarship Program;
- \$10 million in recurring funds and \$5 million in nonrecurring funds to implement the bill's provisions relating to statewide student assessments; and
- The remainder of the funds, \$140 million, will be used to implement the remaining provisions of the bill, including the provisions relating to schools of hope. The funds may not be used for the Early Childhood Music Education Incentive Pilot Program or the Committee on Early Grade Success.