

By Senator Lee

23-1051-98

See HB

1                                   A bill to be entitled  
2           An act relating to school attendance; amending  
3           s. 228.041, F.S.; clarifying definition of the  
4           term "home education program"; amending s.  
5           229.808, F.S.; providing that definition of the  
6           term "nonpublic school" does not include home  
7           education program for purpose of survey  
8           requirements; amending s. 232.01, F.S.,  
9           relating to school attendance; clarifying  
10          provisions relating to state or school district  
11          control of home education programs; amending s.  
12          232.02, F.S.; providing that private tutoring  
13          may be used to meet regular school attendance  
14          requirements; revising provisions relating to  
15          home education programs; clarifying inspection  
16          of portfolio; providing for parental selection  
17          of method of evaluation; revising process for  
18          reporting and submitting written evaluation and  
19          test results to superintendent; creating s.  
20          232.0202, F.S.; providing requirements for  
21          private tutoring programs; amending s. 232.021,  
22          F.S.; providing that attendance reporting  
23          requirements do not apply to home education  
24          programs; amending ss. 232.425, 240.116,  
25          240.321, 240.40202, 240.40205, and 240.40206,  
26          F.S.; correcting cross references and  
27          conforming provisions; providing an effective  
28          date.

29  
30 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Subsection (34) of section 228.041, Florida  
2 Statutes, is amended to read:

3           228.041 Definitions.--Specific definitions shall be as  
4 follows, and wherever such defined words or terms are used in  
5 the Florida School Code, they shall be used as follows: shall  
6 be used as follows:

7           (34) HOME EDUCATION PROGRAM.--A home education program  
8 is sequentially progressive instruction of a student directed  
9 ~~in his or her home~~ by his or her parent or guardian in order  
10 to satisfy the requirements of ~~ss. s-~~232.01 and 232.0201.

11           Section 2. Subsection (2) of section 229.808, Florida  
12 Statutes, is amended to read:

13           229.808 Annual nonpublic school survey.--

14           (2) For the purpose of organizing, maintaining, and  
15 updating this database, each nonpublic school shall annually  
16 execute and file a database survey form on a date designated  
17 by the Department of Education which shall include a notarized  
18 statement ascertaining that the owner of the nonpublic school  
19 has complied with the provisions of subsection (3). For the  
20 purpose of this section, "owner" means any individual who is  
21 the chief administrative officer of a nonpublic school. For  
22 the purpose of this section, a "nonpublic school" is defined  
23 as an individual, association, copartnership, or corporation,  
24 or department, division, or section of such organization,  
25 which designates itself as an educational center which  
26 includes kindergarten or a higher grade or as an elementary,  
27 secondary, business, technical, or trade school below college  
28 level or any organization which provides instructional  
29 services which meet the intent of s. 232.02 or which gives  
30 preemployment or supplementary training in technology or in  
31 fields of trade or industry or which offers academic,

1 literary, or vocational training below college level, or any  
2 combination of the above, including an institution which  
3 performs the functions of the above schools through  
4 correspondence or extension, except those licensed under the  
5 provisions of chapter 246. This definition shall not include  
6 home education programs conducted in accordance with s.  
7 232.0201. ~~"Owner" means any individual who is the chief~~  
8 ~~administrative officer of a nonpublic school.~~

9 Section 3. Paragraph (b) of subsection (1) of section  
10 232.01, Florida Statutes, is amended to read:

11 232.01 School attendance.--

12 (1)

13 (b) Any child who has attained the age of 6 years on  
14 or before September 1 of the school year and who has been  
15 enrolled in a public school or who has attained the age of 6  
16 years on or before September 1 and has satisfactorily  
17 completed the requirements for kindergarten in a nonpublic  
18 school from which the district school board accepts transfer  
19 of academic credit, or who otherwise meets the criteria for  
20 admission or transfer in a manner similar to that applicable  
21 to other grades, shall progress according to the district's  
22 pupil progression plan. However, nothing in this section shall  
23 authorize the state or any school district to oversee or  
24 exercise control over the curricula or academic programs of  
25 nonpublic schools or home education programs.

26 Section 4. Section 232.02, Florida Statutes, is  
27 amended, and subsection (4) of said section is renumbered as  
28 section 232.0201, Florida Statutes, and amended, to read:

29 232.02 Regular school attendance.--Regular attendance  
30 is the actual attendance of a pupil during the school day as  
31 defined by law and regulations of the state board. Regular

1 attendance within the intent of s. 232.01 may be achieved by  
2 attendance in:

- 3 (1) A public school supported by public funds;  
4 (2) A parochial, religious, or denominational school;  
5 (3) A private school supported in whole or in part by  
6 tuition charges or by endowments or gifts; ~~or~~  
7 (4) A home education program that meets the  
8 requirements of s. 232.0201; or  
9 (5) A private tutoring program that meets the  
10 requirements of s. 232.0202.

11 232.0201 Home education programs.--

12 (1)(4) Regular attendance as defined in s. 232.02 may  
13 be achieved by attendance in a home education program as  
14 defined in s. 228.041., provided that at least one of the  
15 following conditions is met:

16 ~~(a) The parent holds a valid regular Florida~~  
17 ~~certificate to teach the subjects or grades in which~~  
18 ~~instruction is given and complies with any other requirements~~  
19 ~~prescribed by law or rules of the state board; or~~

20 (b) The parent or guardian is not required to does not  
21 hold a valid regular Florida certificate to teach, and  
22 complies with the following requirements:

23 (a) The parent or guardian shall notify ~~Notifies~~ the  
24 superintendent of schools of the county in which the parent or  
25 guardian resides of her or his intent to establish and  
26 maintain a home education program. The notice shall be in  
27 writing, signed by the parent or guardian, and shall include  
28 the names, addresses, and birthdates of all children who shall  
29 be enrolled as students in the home education program. The  
30 notice shall be filed in the superintendent's office within 30  
31 days of the establishment of the home education program. A

1 written notice of termination of the home education program  
2 shall be filed in the superintendent's office within 30 days  
3 of said termination.

4 ~~(b)2.~~ The parent or guardian shall maintain ~~Maintains~~  
5 a portfolio of records and materials. The portfolio shall  
6 consist of the following:

- 7 1. A log of educational activities which is,made  
8 contemporaneously with the instruction and,which designates  
9 by title any the reading materials used,and  
10 2. Samples of any writings, worksheets, workbooks, or  
11 ~~and~~ creative materials used or developed by the student.

12  
13 The portfolio shall be preserved by the parent or guardian for  
14 2 years and shall be made available for inspection by the  
15 superintendent, or the superintendent's agent, upon 15 days'  
16 written notice. Nothing in this section shall require the  
17 superintendent to inspect the portfolio.

18 ~~(c)3.~~ The parent or guardian shall provide ~~Provides~~  
19 for an annual educational evaluation in which is documented  
20 the pupil's demonstration of educational progress at a level  
21 commensurate with her or his ability. The parent or guardian  
22 shall select the method of evaluation and shall file a copy of  
23 the evaluation ~~shall be filed~~ annually with the  
24 superintendent's district school board office in the county in  
25 which the pupil resides. The annual educational evaluation  
26 shall consist of one of the following:

- 27 1.a. A teacher selected by the parent or guardian  
28 shall evaluate the pupil's educational progress upon review of  
29 the portfolio and discussion with the pupil. Such teacher  
30 shall hold a valid regular Florida certificate to teach  
31 academic subjects at the elementary or secondary level. ~~The~~

1 ~~teacher shall submit a written evaluation to the school~~  
2 ~~superintendent;~~

3 2.b. The pupil shall take any nationally normed  
4 student achievement test ~~used by the district and administered~~  
5 ~~by a certified teacher. Such test results shall be reported to~~  
6 ~~the school superintendent;~~

7 3.c. The pupil shall take a state student assessment  
8 test used by the school district and administered by a  
9 certified teacher. ~~Such test results shall be reported to the~~  
10 ~~school superintendent;~~

11 4.d. The pupil shall be evaluated by an individual  
12 holding a valid, active license pursuant to the provisions of  
13 s. 490.003(7) or (8). ~~Such results shall be reported to the~~  
14 ~~school superintendent; or~~

15 5.e. The pupil shall be evaluated with any other valid  
16 measurement tool as mutually agreed upon by the school  
17 superintendent of the district in which the pupil resides and  
18 the pupil's parent or guardian. ~~Such results shall be reported~~  
19 ~~to the superintendent.~~

20 (2) The school superintendent shall review and accept  
21 the results of the annual educational evaluation of the pupil  
22 in a home education program. If the pupil does not  
23 demonstrate educational progress at a level commensurate with  
24 her or his ability, the superintendent shall notify the parent  
25 or guardian, in writing, that such progress has not been  
26 achieved. The parent or guardian shall have 1 year from the  
27 date of receipt of the written notification to provide  
28 remedial instruction to the pupil. At the end of the 1-year  
29 probationary period, the pupil shall be reevaluated as  
30 specified in paragraph (1)(c) ~~this subparagraph~~. Continuation  
31 in a home education program shall be contingent upon the pupil

1 demonstrating educational progress commensurate with her or  
2 his ability at the end of the probationary period.

3 (3) A home education program shall be excluded from  
4 meeting the requirements of a school day as defined in s.  
5 228.041.

6 Section 5. Section 232.0202, Florida Statutes, is  
7 created to read:

8 232.0202 Private tutoring programs.--Regular  
9 attendance as defined in s. 232.02 may be achieved by  
10 attendance in a private tutoring program if the person  
11 tutoring the student meets the following requirements:

12 (1) Holds a valid Florida certificate to teach the  
13 subjects or grades in which instruction is given.

14 (2) Keeps all records and makes all reports required  
15 by the state and district school board and makes regular  
16 reports on the attendance of students in accordance with the  
17 provisions of s. 232.021.

18 (3) Requires students to be in actual attendance for  
19 the minimum length of time prescribed by s. 228.041(16).

20 Section 6. Section 232.021, Florida Statutes, is  
21 amended to read:

22 232.021 Attendance records and reports required.--All  
23 officials, teachers, and other employees in public, parochial,  
24 denominational, and private schools, including private tutors,  
25 shall keep all records and shall prepare and submit promptly  
26 all reports that may be required by law and by regulations of  
27 state and district boards. Such records shall include a  
28 register of enrollment and attendance and all such persons  
29 named above shall make such reports therefrom as may be  
30 required by the state board. The enrollment register shall  
31 show the absence or attendance of each child enrolled for each

1 school day of the year in a manner prescribed by the state  
2 board. The register shall be open for the inspection by the  
3 designated school representative or the superintendent of the  
4 district in which the school is located. Violation of the  
5 provisions of this section shall be a misdemeanor of the  
6 second degree, punishable as provided by law. This section  
7 shall not apply to home education programs provided in s.  
8 232.0201.

9 Section 7. Paragraph (c) of subsection (3) and  
10 subsection (4) of section 232.425, Florida Statutes, are  
11 amended to read:

12 232.425 Student standards for participation in  
13 interscholastic extracurricular student activities;  
14 regulation.--

15 (3)

16 (c) An individual home education student is eligible  
17 to participate at a public school, and may develop an  
18 agreement to participate at a nonpublic school, in the  
19 interscholastic extracurricular activities of that school,  
20 provided the following conditions are met:

21 1. The home education student must meet the  
22 requirements of the home education program pursuant to s.  
23 232.0201 ~~232.02(4)~~.

24 2. During the period of participation at a school, the  
25 home education student must demonstrate educational progress  
26 as required in paragraph (b) in all subjects taken in the home  
27 education program by a method of evaluation agreed upon by the  
28 parent or guardian and the principal which may include: review  
29 of the student's work by a certified teacher chosen by the  
30 parent; grades earned through correspondence; grades earned in  
31 courses taken at a community college, university, or trade



1 school; standardized test scores above the 35th percentile; or  
2 any other method designated in s. 232.0201 ~~232.02(4)~~.

3           3. The home education student must meet the same  
4 residency requirements as other students in the school at  
5 which he or she participates.

6           4. The home education student must meet the same  
7 standards of acceptance, behavior, and performance as required  
8 of other students in extracurricular activities.

9           5. The student must register with the school his or  
10 her intent to participate in interscholastic extracurricular  
11 activities as a representative of the school before the  
12 beginning date of the season for the activity in which he or  
13 she wishes to participate. A home education student must be  
14 able to participate in curricular activities if that is a  
15 requirement for an extracurricular activity.

16           6. A student who transfers from a home education  
17 program to a public school before or during the first grading  
18 period of the school year is academically eligible to  
19 participate in interscholastic extracurricular activities  
20 during the first grading period provided the student has a  
21 successful evaluation from the previous school year, pursuant  
22 to subparagraph 2.

23           7. Any public school or nonpublic school student who  
24 has been unable to maintain academic eligibility for  
25 participation in interscholastic extracurricular activities is  
26 ineligible to participate in such activities as a home  
27 education student until the student has successfully completed  
28 one grading period in home education pursuant to subparagraph  
29 2. to become eligible to participate as a home education  
30 student.

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1           (4) The student standards for participation in  
2 interscholastic extracurricular activities must be applied  
3 beginning with the student's first semester of the 9th grade.  
4 Each student must meet such other requirements for  
5 participation as may be established by the school district;  
6 however, a school district may not establish requirements for  
7 participation in interscholastic extracurricular activities  
8 which make participation in such activities less accessible to  
9 home education students than to other students. Except as set  
10 forth in paragraph (3)(c), evaluation processes or  
11 requirements that are placed on home education student  
12 participants may not go beyond those that apply under s.  
13 232.0201 ~~232.02~~ to home education students generally.

14           Section 8. Paragraph (b) of subsection (7) of section  
15 240.116, Florida Statutes, is amended to read:

16           240.116 Articulated acceleration.--

17           (7)

18           (b) The dual enrollment program for home education  
19 students consists of the enrollment of an eligible home  
20 education secondary student in a postsecondary course  
21 creditable toward an associate degree, a vocational  
22 certificate, or a baccalaureate degree. To participate in the  
23 dual enrollment program, an eligible home education secondary  
24 student must:

25           1. Provide proof of enrollment in a home education  
26 program pursuant to s. 232.0201 ~~232.02(4)~~.

27           2. Be responsible for his or her own instructional  
28 materials and transportation unless provided for otherwise.

29           Section 9. Paragraph (a) of subsection (2) of section  
30 240.321, Florida Statutes, is amended to read:

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1           240.321 Community college district board of trustees;  
2 rules for admissions of students.--The board of trustees shall  
3 make rules governing admissions of students. These rules  
4 shall include the following:

5           (2) Admission to associate degree programs is subject  
6 to minimum standards adopted by the State Board of Education  
7 and shall require:

8           (a) A high school diploma, a high school equivalency  
9 diploma as prescribed in s. 229.814, previously demonstrated  
10 competency in college credit postsecondary coursework, or, in  
11 the case of a student who is home educated, a signed affidavit  
12 submitted by the student's parent or legal guardian attesting  
13 that the student has completed a home education program  
14 pursuant to the requirements of s. 232.0201 ~~232.02(4)~~.  
15 Students who are enrolled in a dual enrollment or early  
16 admission program pursuant to s. 240.116 and secondary  
17 students enrolled in college-level instruction creditable  
18 toward the associate degree, but not toward the high school  
19 diploma, shall be exempt from this requirement.

20           Section 10. Paragraph (b) of subsection (1) of section  
21 240.40202, Florida Statutes, is amended to read:

22           240.40202 Florida Bright Futures Scholarship Program;  
23 student eligibility requirements for initial awards.--

24           (1) To be eligible for an initial award from any of  
25 the three types of scholarships under the Florida Bright  
26 Futures Scholarship Program, a student must:

27           (b) Earn a standard Florida high school diploma or its  
28 equivalent as described in s. 232.246 or s. 229.814 unless:

29           1. The student is enrolled full time in the early  
30 admission program of an eligible postsecondary education  
31

1 institution or completes a home education program according to  
2 s. 232.0201 ~~232.02(4)~~; or

3           2. The student earns a high school diploma from a  
4 non-Florida school while living with a parent or guardian who  
5 is on military or public service assignment away from Florida.

6           Section 11. Subsection (1) of section 240.40205,  
7 Florida Statutes, as amended by chapter 97-379, Laws of  
8 Florida, is amended to read:

9           240.40205 Florida Academic Scholars award.--

10           (1) A student is eligible for a Florida Academic  
11 Scholars award if the student meets the general eligibility  
12 requirements for the Florida Bright Futures Scholarship  
13 Program and the student:

14           (a) Has achieved a 3.5 weighted grade point average as  
15 calculated pursuant to s. 240.40202, or its equivalent, in  
16 high school courses that are adopted by the Board of Regents  
17 and recommended by the State Board of Community Colleges as  
18 college-preparatory academic courses; and

19           (b) Has attained at least the score identified by  
20 rules of the Department of Education on the combined verbal  
21 and quantitative parts of the Scholastic Aptitude Test, the  
22 Scholastic Assessment Test, or the recentered Scholastic  
23 Assessment Test of the College Entrance Examination, or an  
24 equivalent score on the American College Testing Program; or

25           (c) Has attended a home education program according to  
26 s. 232.0201 ~~232.02(4)~~ during grades 11 and 12 or has completed  
27 the International Baccalaureate curriculum but failed to earn  
28 the International Baccalaureate Diploma, and has attained at  
29 least the score identified by rules of the Department of  
30 Education on the combined verbal and quantitative parts of the  
31 Scholastic Aptitude Test, the Scholastic Assessment Test, or

1 the recentered Scholastic Assessment Test of the College  
2 Entrance Examination, or an equivalent score on the American  
3 College Testing Program; or

4 (d) Has been awarded an International Baccalaureate  
5 Diploma from the International Baccalaureate Office; or

6 (e) Has been recognized by the merit or achievement  
7 programs of the National Merit Scholarship Corporation as a  
8 scholar or finalist.

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10 Effective with the 1998-1999 school year, a student must  
11 complete a program of community service work, as approved by  
12 the district school board or the administrators of a nonpublic  
13 school, which shall include a minimum of 75 hours of service  
14 work and require the student to identify a social problem that  
15 interests him or her, develop a plan for his or her personal  
16 involvement in addressing the problem, and, through papers or  
17 other presentations, evaluate and reflect upon his or her  
18 experience.

19 Section 12. Paragraph (c) of subsection (1) of section  
20 240.40206, Florida Statutes, as amended by chapter 97-379,  
21 Laws of Florida, is amended to read:

22 240.40206 Florida Merit Scholars award.--

23 (1) A student is eligible for a Florida Merit Scholars  
24 award if the student meets the general eligibility  
25 requirements for the Florida Bright Futures Scholarship  
26 Program and the student:

27 (c) Has attended a home education program according to  
28 s. 232.0201 ~~232.02(4)~~ during grades 11 and 12 or has completed  
29 the International Baccalaureate curriculum but failed to earn  
30 the International Baccalaureate Diploma, and has attained at  
31 least the score identified by rules of the Department of

1 Education on the combined verbal and quantitative parts of the  
2 Scholastic Aptitude Test, the Scholastic Assessment Test, or  
3 the recentered Scholastic Assessment Test of the College  
4 Entrance Examination, or an equivalent score on the American  
5 College Testing Program.

6 Section 13. This act shall take effect upon becoming a  
7 law.

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HOUSE SUMMARY

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12 With respect to school attendance: clarifies definition  
13 of the term "home education program"; provides that  
14 nonpublic school survey requirements and certain  
15 attendance reporting requirements do not apply to home  
16 education programs; clarifies provisions relating to  
17 state or school district control of home education  
18 programs; provides that private tutoring may be used to  
19 meet regular school attendance requirements; and revises  
20 certain requirements relating to home education programs.

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