

STORAGE NAME: h0751.tfs

DATE: February 17, 1999

**HOUSE OF REPRESENTATIVES
SELECT COMMITTEE ON
TRANSFORMING FLORIDA SCHOOLS
ANALYSIS**

BILL #: HB 751

RELATING TO: Educational Accountability

SPONSOR(S): Representative Diaz de la Portilla

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) SELECT COMMITTEE ON TRANSFORMING FLORIDA SCHOOLS
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

This bill addresses a wide array of issues concerning educational accountability. The bill provides for the following:

- Shortened time frame for the State Board of Education to intervene in districts which have low performing schools.
- Opportunity Scholarships for students in failing schools to attend an eligible private school, sectarian or nonsectarian, of their choosing.
- Opportunity for parents of students in failing schools to choose a higher performing public school within the district or in an adjoining district.
- Enhanced management information systems to collect student and school performance data via electronic transfer.
- Student assessment program which measures annual learning gains of each student and provides data for school accountability and recognition decision making.
- Annual assessments of student academic performance based on Sunshine State Standards in grades 3 through 10.
- School Performance Grade Categories which identify a school's level of performance and progress.
- School Improvement Ratings which identify each school's performance as having improved, remained the same, or declined.
- School Performance Grade Category and Improvement Rating Reports.
- Increased budgetary authority for schools designated as making excellent progress.
- Elimination of the Florida Commission on Education Reform and Accountability.
- Deregulation of schools designated as making excellent progress.
- Earlier intervention by the school boards for schools in danger of not meeting state standards for adequate progress.
- School recognition awards to be based on student learning gains and other criteria.
- Supplemental Academic Instruction Categorical Fund to provide supplemental academic instruction to students in kindergarten through 12th grade.

The estimated cost for expanding the statewide student assessment program is \$18.6 million. The cost for enhancements to the management information system is indeterminate. Funding for the Supplemental Academic Instruction Categorical is subject to legislative appropriation. The Governor's budget recommends \$313 million for this categorical for 1999-2000. The Opportunity Scholarship Program is fiscally neutral, as the appropriated education dollars follow the participant.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Authority To Enforce School Improvement

The State Board of Education has the authority to intervene in the operation of a school district when one or more schools in the district have failed to make adequate progress for 3 consecutive school years. The state board is authorized to recommend several actions to school boards to ensure that students in low performing districts are well served. One of those recommendations is to allow parents of students in the low performing school to send their child to another district school of their choice.

There are only four schools in Florida that are currently identified as critically low performing based on both 1996-97 and 1997-98 school performance data and state board-adopted criteria: They are as follows: Spencer Bibb Elementary School in Escambia County, A.A. Dixon Elementary School in Escambia County, Shanks High School in Gadsden County, and Orlo Vista Elementary School in Orange County.

School Choice: Public Dollars for Private Provision of Educational Services

There are currently programs in place within the State which provide public dollars for payment of educational services provided by private entities:

- Florida Resident Access Grant (FRAG) established in s. 240.605, F.S., provides annual access grants to students to attend an independent nonprofit college or university. Students must meet certain eligibility requirements for FRAG.
- Section 230.23161(8), F.S., authorizes and strongly encourages school districts to contract with a private provider for the provision of educational programs to youths placed with the Department of Juvenile Justice. Recent survey results indicate that private providers account for 37% of the educational services delivered to students in juvenile justice facilities.

Section 228.057, F.S., provides for the public school parental choice program. This program requires each school board to develop a controlled open enrollment program in addition to existing choice programs such as magnet schools, alternative schools, special programs, advanced placement, and dual enrollment. The school district's public school parental choice plan must include a process that allows parents to declare school preferences, a process that encourages placement of siblings within the same school, a lottery procedure to determine school assignment, availability of transportation, and a process that promotes strong parental involvement.

Private Schools

Section 229.808, F.S., defines a nonpublic (private) school as "an individual, association, copartnership, or corporation or a department, division or section of such an organization, which designates itself as an educational center which includes kindergarten or a higher grade . . . below college level . . ." Private elementary and secondary schools in Florida are not licensed, approved, accredited or regulated by the state, but, they are required to make their existence known to the Department of Education and respond to an annual survey designed to make information about them available to the public. Each person who establishes, purchases or otherwise becomes an owner of a private school must, within 5 days of assuming ownership, file with the Florida Department of Law Enforcement (FDLE), a complete set of fingerprints for a criminal background check. The owner of a private school may require school employees to file a complete set of fingerprints with FDLE.

In the 1997-98 school year there were 1,607 known private schools of which 19 were specific exceptionalty schools; 925 were K-8 elementary schools; 112 were 9-12 secondary schools; and 551 were K-12 schools.

Private schools may be accredited by one of several accrediting associations, such as Southern Association of Colleges and Schools (SACS), Florida Catholic Conference (FCC), or Florida Association of Christian Colleges & Schools (FACCS). These accrediting associations have required standards in several areas like the following: admission policies, financial status, salaries and working conditions, record keeping, transportation, length of school year, school size, class size, teacher training and experience, physical plant and equipment, academic programs and media, standardized testing and assessment, health and safety, and discipline.

Relevant Constitutional Provisions

The First Amendment to the Constitution of the United States

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

Article I, Section 3 of the Constitution of the State of Florida

“There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety. No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect, or religious denomination or in aid of any sectarian institution.”

Article IX, Section 1 of the Constitution of the State of Florida

“The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.”

Relevant Case Law

1947: In *Everson v. Board of Education* the U.S. Supreme Court held that a state may reimburse parents for the cost of transporting their children to and from religious schools.

1972: In AG072-246, the Florida Attorney General determined that the Duval County School Board could provide instructional materials purchased solely with school district funds to private or parochial schools for the benefit of their students without violating Article I, Section 3 of the Florida Constitution.

1993: In *Zobrest v. Catalina Foothills School District* the U.S. Supreme Court held that the state should provide a sign-language interpreter to a deaf student attending a Catholic high school.

1997: In *Agostini v. Felton* the U.S. Supreme Court upheld a federally funded program to provide remedial instruction by public school teachers at religious schools.

1998: In June of 1998 the Wisconsin Supreme Court upheld the nation's first private school choice program against legal challenge (*Jackson v. Benson, Wisc. S.Ct. #97-*

0270). In November of 1998 the United States Supreme Court declined to review the Wisconsin Supreme Court decision. Wisconsin's private school choice plan was challenged on a number of constitutional grounds:

Establishment Clause of the U.S. Constitution:

The court held the plan did not violate the Establishment Clause "because it has a secular purpose, it will not have the primary effect of advancing religion, and it will not lead to excessive entanglement between the State and participating sectarian private schools." The court noted that "eligibility . . . is determined by neutral, secular criteria that neither favor nor disfavor religion, and aid is made available to both religious and secular beneficiaries on a nondiscriminatory basis," that the plan "places on equal footing options of public and private school choice, and vests power in the hands of parents to choose where to direct the funds allocated for their children's benefit." The court found no excessive entanglement because "the program does not involve the State in any way with the (private) schools' governance, curriculum, or day-to-day affairs. The State's regulation of participating private schools, while designed to ensure that the program's educational purposes are fulfilled, does not approach the level of constitutionally impermissible involvement."

Wisconsin Uniformity Clause:

Responding to arguments that the legislature was prohibited from spending public education funds for private education purposes, the court held that while the uniformity clause "requires the legislature to provide the opportunity for all children in Wisconsin to receive a free uniform basic education," this "provides not a ceiling but a floor upon which the legislature can build additional opportunities for school children in Wisconsin."

Wisconsin Public Purpose Doctrine:

The court held that "education constitutes a valid public purpose (and) that private schools may be employed to further that purpose." The court concluded that "the statutory controls applicable to private schools coupled with parental choice sufficed to ensure that the public purpose was met."

Federal and State Equal Protection Rights:

Pointing out that all participating private schools must comply with federal antidiscrimination provisions and are required to select students on a random basis, the court held that "on its face, the (plan) is race-neutral . . . it allows a group of students, chosen without regard to race, to attend schools of their choice."

Management Information Systems

The Commissioner must develop and implement an integrated information system for educational management. The system must be able to support the management decisions to be made in each division of the department and at the school and district levels.

Student Assessment Program

Purpose

The primary purpose of the statewide assessment program is to provide information needed for the improvement of public schools. The program must be designed to do the following:

- Identify the educational strengths and needs of the student.

- Assess how well educational goals and performance standards are met at the school, district, and state levels.
- Provide information to aid in the evaluation and development of educational programs and policies.

Statewide Assessment Program

The student achievement testing program must be administered at designated times at the elementary, middle, and high school levels to measure proficiency in reading, writing, mathematics, and other content areas. The tests are criterion-referenced.

The testing program is designed so that all 11th grade students take the High School Competency Test. A student must earn a passing score or have been exempted from each part of this test in order to qualify for a regular high school diploma.

District Testing Programs

Each district administers a nationally normed test in grades 4 and 8.

School Testing Programs

Public schools administering achievement tests must prepare an analysis of the resultant data after each test administration.

Annual Reports

The Commissioner prepares annual reports which must include the descriptions of the performance of students at both low levels and exemplary levels, as well as the performance of students scoring in the middle 50 percent of the test population.

School Performance

Pursuant to ss.299.053, 229.0535, and 229.592, F.S., State Board rule 6A-1.09981 adopted in November of 1998, outlines a classification system for schools based on School Performance Levels. There are five School Performance Levels: School Performance Level 1 being the lowest performing designation and School Performance Level 5 being the highest performing designation.

Implementation and bases for the school performance levels are as follows:

- In the fall of 1999, school performance levels will be based on 1997-98 student achievement data including students' HSCT scores, Florida Writes! scores, and norm-referenced assessment scores.
- In the fall of 2000, school performance levels will be based on 1998-99 and 1999-2000 assessment criteria, a combination of students' FCAT scores and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.

Oversight of School Improvement and Accountability

The Florida Commission on Education Reform and Accountability (the Commission) consists of the following 23 members:

- The Commissioner of Education, who serves as co-chair.
- The Lieutenant Governor, who serves as co-chair.
- Four members appointed by the Governor. Three members must be representatives of the business community and the fourth must be a teacher.
- Six members appointed by the President of the Senate. The members must include three members of the Senate, a teacher, a parent of a child enrolled in a Florida public school, and a dean of a Florida college of education.

- Six members appointed by the Speaker of the House of Representatives. The members must include three members of the House, a vocational educator, a parent of a child enrolled in a Florida public school, and a school board member.
- Five members appointed by the Commissioner of Education. The members must include a school superintendent, a school principal, a teacher, an expert in testing and measurement, and a parent of a child in a Florida public school.

The Commission serves as an advisory body to oversee the development, establishment, implementation, and maintenance of the statewide system of school improvement and accountability. The Commission makes annual recommendations for changes and improvements in this system to the Commissioner of Education and to the Legislature.

The Commissioner is responsible for implementing and maintaining a system of school improvement and accountability based upon the recommendations of the Commission.

Deregulated Schools

The 1998 Legislature authorized a pilot project for Citrus, Leon, Palm Beach, Pinellas, Seminole, and Walton school districts to deregulate up to two high schools, two middle schools and two elementary schools. Deregulated schools are exempted from all statutes of the Florida School Code except those pertaining to civil rights, public records, and student health, safety, and welfare.

Deregulated schools must continue to be nonsectarian in programs, admission policies, and employment practices. They are funded in the same manner as other public schools.

Assistance and Intervention

The school board must develop a 3 year plan of increasing individualized assistance and intervention for each school that does not meet or make adequate progress. The board must notify the Florida Commission on Education Reform and Accountability and the State Board of Education by the end of 3 consecutive years in the event any school does not make adequate progress toward meeting state performance goals.

Florida School Recognition Program

The Florida School Recognition Program was created in 1997 to provide financial awards to schools that sustain high performance. A school district must incorporate a performance incentive program in its employee salary structure to participate in the program. The program must contain the following criteria for the initial identification of eligible schools:

- improvement in the school's student achievement data,
- statewide student achievement data,
- readiness for postsecondary education data,
- dropout rates, and
- attendance rates.

Schools must apply for final recognition and financial awards based on the following criteria:

- school climate, including rates of school violence and crime,
- indicators of innovation in teaching and learning,
- indicators of successful challenging school improvement plans, and
- parent, community, and student involvement in learning.

In the 1998-99 General Appropriations Act, the Legislature appropriated \$5,390,000 for the Florida School Recognition Program (specific appropriation 7A).

Pupil Progression

Each school must develop and implement an academic improvement plan to include provisions for remedial instruction through one or more of the following activities:

- summer school coursework,
- extended day services,
- parent tutorial programs,
- contracted academic services,
- exceptional education services, or
- suspension of curriculum other than reading, writing and mathematics.

Any student who exhibits deficiency in reading skills in grades 1 through 3, must be given intensive reading instruction. If the student's reading deficiency is not remedied by the end of grade 2 or grade 3, the student must be retained.

Any student who exhibits deficiency in reading skills at the beginning of grades 2, 3 and 4, must be given intensive reading instruction. The student must continue to be given the intensive reading instruction until the deficiency is remedied. If it is not remedied by the end of grade 5, the student may be retained.

(There is some confusion caused by the conflict with the two statutory alternatives to be implemented if a student's reading deficiency is not remedied.)

Supplemental Academic Instruction

Students that participate in summer school in grades kindergarten through 8 are funded in the K-8 summer school categorical; Specific appropriation 115 of the 1998-99 GAA provided \$83 million for this purpose. Funds provided in this categorical are for summer instruction and may be expended for basic supplemental instruction during the 180-day term.

In the 1998-99 school year, districts had the flexibility to use funds in the K-8 summer school categorical and the public school technology categorical for purposes of either categorical in the amounts determined by the local school boards to best meet the needs of the students.

Students in grades 9 through 12 basic who receive summer school instruction are funded on a full-time equivalent (FTE) basis in the Florida Education Finance Program.

B. EFFECT OF PROPOSED CHANGES:

Authority to Enforce School Improvement

The bill revises intervention authority by providing that the State Board of Education may intervene in the operation of a school district when one or more schools in the district have failed to make adequate progress for **any 2** school years. School districts must first intervene and provide assistance when a school is in danger of failing.

Opportunity Scholarship Program

The Opportunity Scholarship Program is created. The bill provides for opportunity scholarship eligibility, school district obligations, private school eligibility, program participation obligation, funding and payment, liability, and rulemaking.

Opportunity Scholarship Eligibility

A public school student's parent or guardian may request an opportunity scholarship for the child to attend a private school, according to the following provisions:

- the student has spent the prior school year at a public school that has been designated "F," failing to make adequate progress, and that school has had two school years of low performance; or the student has been assigned to such school for at least one school year.
- the student is a Florida resident
- the student has obtained acceptance in a private school eligible for the program, and the parent has notified the school district requesting an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

The Opportunity Scholarship remains in force until the student graduates from high school. However, the student's parent or guardian may choose to return the student to an eligible public school upon reasonable notice to the department.

School District Obligations

For each student enrolled in or assigned to a school designated "F" for two school years, the school district must do the following:

- timely notify the student's parent or guardian of all options, and
- offer the student's parent or guardian an opportunity to enroll the child in the public school within the district closest to the student's residence designated a performance grade category "C" or higher.

If a parent or guardian of an eligible child chooses to enroll *and* transport the student to a public school that has available space in an adjacent school district, that adjacent district must accept and report the student for purposes of funding in the Florida Education Finance Program (FEFP).

The school district must provide locations and times for students participating in the Opportunity Scholarship Program to take all required statewide assessments.

Private schools may provide, or may contract with a private provider or with the school district to provide, special education services for students with disabilities whose parents have chosen by use of an Opportunity Scholarship option to attend their school.

School districts are responsible for transportation costs of students whose parents or guardians choose to enroll their child in a higher performing public school within the district. The district may use state categorical transportation funds or public school choice incentive funds for this purpose.

Private School Eligibility

To be eligible to participate in the Opportunity Scholarship Program, a private school, sectarian or nonsectarian, must do the following:

- Except for the first year of implementation, notify the department and local school district of its intent to participate in the Opportunity Scholarship Program by May 1 of the school year proceeding the school year in which it intends to participate. The notice must specify the grade levels and services available for the program.
- Comply with federal antidiscrimination provisions.
- Meet state and local health and safety laws and codes.
- Determine, on a random and religious-neutral basis, which students to accept. (Preference may be given to siblings of students already accepted under the program).

- Be subject to instruction, curriculum, and attendance criteria adopted by a nonpublic accrediting body and be satisfactory to the parent or guardian as meeting the educational needs of the student.
- Comply with all state statutes relating to private schools.
- Accept the Opportunity Scholarship amount provided by the state as full tuition and fees for each student.
- Agree not to compel any Opportunity Scholarship student to profess a specific ideological belief, to pray, or to worship.

Obligation of Program Participation

In order for a student to remain eligible in the Opportunity Scholarship Program, all of the following provisions must be met:

- The student must remain in attendance throughout the school year, unless excused by the school for illness or good cause.
- The student must comply fully with the school's code of conduct.
- The student's parent or guardian must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or good cause.
- The student's parent or guardian must ensure that the student takes all required statewide assessments. The student may take the required tests at a location and time provided by the school district.

Opportunity Scholarship Funding and Payment

The *maximum* Opportunity Scholarship granted is equivalent to the base student allocation multiplied by the weighted cost factor for the educational program provided for the student multiplied by the district cost differential. In addition, the calculated amount must include the per student share of instructional materials, technology, and other categorical funds as provided for the scholarships in the General Appropriations Act.

The *amount* of the Opportunity Scholarship that a parent receives will be the calculated amount described above or the amount of the private school's tuition and fees, whichever is less. (Eligible fees include textbook fees, lab fees, and other related instructional fees, including transportation).

The school district must report all students attending a private school under this program separately from those students reported for purposes of the FEFP.

Following annual notification on July 1 of the number of participants from each district, the department must transfer from the school districts' appropriated funds the calculated amount from the FEFP and authorized categorical accounts for each participant to a separate account for the Opportunity Scholarship Program.

The Comptroller must make Opportunity Scholarship payments in four equal amounts no later than August 1, November 1, February 1, and April 1 of each school year. Payments must be made to the student's parent or guardian and are subject to verification of admission acceptance or continued enrollment and attendance of the student at the private school. The check will be sent directly to the private school and restrictively endorsed by the parent to the private school.

Liability

No liability will arise on the part of the state based on any grant or use of an Opportunity Scholarship.

Rulemaking

The State Board of Education may adopt rules to implement the Opportunity Scholarship Program. These rules must include penalties for noncompliance of the school district obligations and the program participant obligations.

The regulatory authority of the state, its officers or any school district to impose additional regulation of private schools beyond those reasonably necessary to enforce requirements of the Opportunity Scholarship Program is not expanded.

Management Information Systems

The integrated information system for educational management must be designed to collect, via electronic transfer, all student and school performance data needed to determine which schools and school districts are meeting state performance standards. The system must also be capable of producing data for comprehensive annual reports on school and district performance.

Student Assessment Program

Purposes

The primary purposes of the statewide assessment program are to: 1) provide information needed to improve the public schools by maximizing student learning gains, and 2) *inform parents* of the educational progress of their public school children.

The student assessment program must be designed to do the following:

- Assess the annual learning gains of each student toward achieving Sunshine State Standards appropriate for the student's grade level.
- Provide data for making decisions regarding school accountability and recognition,
- Identify the educational strengths and needs of students and the readiness of students to be promoted or to graduate with a standard high school diploma.
- Assess how well educational goals are met at the school, district, and state levels.
- Provide information to aid in the evaluation and development of educational programs and policies.
- Provide information on the performance of Florida's students compared with others across the United States.

Statewide Assessment Program

The student achievement testing program of the statewide assessment program must be administered **annually in grades 3 through 10** to measure student proficiency in reading, writing, mathematics, and other content areas. The tests are to be a combination of *norm-referenced* and criterion-referenced material.

The Commissioner of Education is to recommend to the State Board of Education a date to discontinue the high school competency test in lieu of a passing score, for purposes of high school graduation, on the Florida Comprehensive Assessment Test (FCAT).

District Testing Programs

All school districts must participate in the state assessment system which requires the annual testing of children in grades 3 through 10 and is designed to measure annual student learning and school performance. The districts must also report assessment results as required by the enhanced management information system.

School Testing Programs

Student performance data must be used in developing objectives of the school improvement plan, evaluation of instructional and administrative personnel, assignment

of staff, allocation of resources, acquisition of instructional materials and technology, and promotion and assignment of students into educational programs.

Annual Reports

The Commissioner must prepare annual reports that include the descriptions of the performance of all schools participating in the assessment program, including their *major student populations*. The reports must also include the median scores of all eligible students who scored *at or in the lowest 25th percentile* of the state in the prior school year.

School Performance Grade Categories

School Performance Grade Category Designations are created ("school grade"). Beginning with the 1998-99 school year, the annual report must identify schools as being in one of the following grade categories, as defined by State Board rule:

- "A," schools making excellent progress.
- "B," schools making above average progress.
- "C," schools making satisfactory progress.
- "D," schools making less than satisfactory progress.
- "F," schools failing to make adequate progress.

The timeframes for the school grades are based on one school year of performance. Implementation and bases for the school grades are as follows:

- In the 1998-99 and 1999-2000 school years, a school's grade will be determined by students' FCAT scores and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.
- Beginning with the 2000-2001 school year, a school's grade will be based on a combination of students' achievement scores, the learning gains of the students, and other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.
- Beginning with the 2001-2002 school year and thereafter, a school's grade will be based on student learning gains as measured by the annual student assessments in grades 3 through 10, and on other appropriate performance data, including, but not limited to: attendance and dropout rates, school discipline data, and student readiness for college.

For purposes of implementing the Opportunity Scholarship Program, a school identified as critically low performing based on both 1996-97 and 1997-98 school performance data and state board-adopted criteria, and that receives a school grade of "F" based upon 1998-99 school performance data is considered to have failed to make adequate progress for 2 years. All other schools that receive a school grade of "F" based on 1998-99 school performance data are considered to have failed to make adequate progress for 1 year.

Student assessment data used in determining a school grade must include: 1) the median scores of all eligible students enrolled in the school, and 2) the median scores of all eligible students enrolled in the school who have scored at or in the lowest 25th percentile in the state the prior school year.

The state board must adopt appropriate criteria for each school performance grade category. The criteria must give added weight to student achievement in reading. Schools designated as "C," making satisfactory progress, must demonstrate that

adequate progress has been made by the lowest quartile of students in the school as well as by the overall student population.

School Improvement Ratings

Beginning with the 1999-2000 school year, schools will be given an improvement rating. The annual report must identify each school's performance as having improved, remained the same, or declined. The improvement rating is based on a comparison of the current year's and prior year's student and school performance data. Schools that improve at least one grade are eligible for school recognition awards.

School Performance Grade Category and Improvement Rating Reports

School Performance Grade Category and Improvement Rating Reports are created ("school report cards"). School report cards must be published annually by the Department of Education and the school district. They must be in an easy-to-read format. Parents and guardians are entitled to a school report card for the school in which their child is enrolled.

Statewide Assessments

Statewide assessments must comply with the following criteria:

- They must be capable of measuring a student's mastery of Sunshine State Standards for that grade level and above.
- They must be capable of measuring the annual progress of each student in mastering the Sunshine State Standards.
- They must include measures in reading and mathematics in every grade level and measures for writing in grades 4, 8, and 10.
- They must include a norm-referenced subtest.

Annual assessments that do not contain performance items shall be administered no earlier than March of each school year. Subtests that contain performance items may be given earlier than March, if they provide valid data on comparisons of student learning from year to year.

Assessments must be implemented statewide no later than the spring of the 2000-2001 school year.

Increased Budgetary Authority

Beginning in the 1999-2000 school year, schools graded as "A," making excellent progress, or schools that improve at least two grade levels, must be given greater authority over the allocation of their total budget including: FEFP funding, state categoricals, lottery funds, grants, and local funds.

Oversight of School Improvement and Accountability

The Florida Commission on Education Reform and Accountability is eliminated. The Commissioner of Education is responsible for implementing and maintaining a system of school improvement and education accountability. The Commissioner is required to report to the Legislature and recommend changes in state policy necessary to foster this improvement and accountability.

Deregulated Schools

Schools designated as "A," making excellent progress **must** be given deregulated status. Schools that have improved at least two school grades *may* be given deregulated status. Deregulated schools are exempted from all statutes of the Florida School Code except those pertaining to civil rights, public records, and student health, safety, and welfare.

Assistance and Intervention

The school board must develop a **2-year** plan of increasing individualized assistance and intervention for each school *in danger* of not meeting state standards or making adequate progress. The definition of a school in danger of not meeting state standards is a school that receives a grade of "D," making less than satisfactory progress.

The school board must notify the Commissioner and the State Board of Education by the end of **2 years** of any school that fails to make adequate progress. School districts must provide intervention and assistance to schools in danger of being designated as "F," failing to make adequate progress.

Florida School Recognition Program

The Florida School Recognition Program is revised to provide greater autonomy in addition to financial awards to schools that sustain high performance. The program must add school grade criteria and student learning gains in its initial eligibility criteria. Criteria for the final recognition and financial awards are eliminated.

Pupil Progression

School boards may not assign a student to a grade level based solely upon the student's age or other factors that constitute social promotion. They are directed to allocate remedial and supplemental instructional resources first to students who fail to meet achievement performance levels required for promotion.

Any student who exhibits deficiency in reading skills in grades 1 through 3, must be given intensive reading instruction. If the student's reading deficiency is not remedied by the end of the 4th grade, the student must be retained.

Supplemental Academic Instruction Categorical Fund

The Supplemental Academic Instruction Categorical Fund is created to provide supplemental instruction to students in kindergarten through grade 12. The following provisions apply to the distribution and use of the funds:

- They are to be allocated annually to each school district based on the amount provided in the GAA.
- They are in addition to the funds appropriated on the basis of full-time equivalent (FTE) student membership in the FEFP.
- They are only to be used to provide supplemental academic instruction to students enrolled in the K-12 program.
- The instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term.

Beginning with the 1999-2000 school year, FTE funding in the FEFP for instruction beyond the regular 180-day school year will only be provided for students enrolled in special support level III, IV and V programs for exceptional students, English for Speakers of Other Languages (ESOL), and residential programs operated by the Department of Juvenile Justice.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

- a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

Yes, the bill authorizes the State Board of Education to adopt rules to implement Opportunity Scholarships. However, the rulemaking authority is restricted. The bill restricts other areas of rulemaking authority that had formerly been granted without restriction.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, the bill requires school districts to comply with notification and offering requirements to parents of students who qualify for an Opportunity Scholarship. Districts must also report Opportunity Scholarships separately from those students reported in the FEFP. Students and parents or guardians of students who qualify for Opportunity Scholarships are required to comply with attendance and participation requirements outlined in the bill.

- (3) any entitlement to a government service or benefit?

Yes, the bill represents a covenant that no student be compelled against the wishes of the parent or guardian to remain in a failing school. Upon the choice of such parent or guardian, the student is entitled to attend a higher performing public school or to receive an Opportunity Scholarship.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Because the bill establishes new policy on school improvement and accountability, the Florida Commission on Education Reform and Accountability is eliminated. The Commissioner of Education will make recommendations to the Legislature for any changes in state policy necessary to foster school improvement and educational accountability.

- (2) what is the cost of such responsibility at the new level/agency?

There will be savings of \$381,000 to the State resulting from the elimination of 4 staffing positions and travel expenses for the Commission.

- (3) how is the new agency accountable to the people governed?

For the next four years, the Commissioner of Education is directly accountable to the people of the State of Florida because he is an elected official. Beginning in fall of 2002, the Office of the Commissioner of Education becomes an appointed position and is accountable to the Governor.

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, parents of eligible children who choose to send their child to an eligible public school in an adjacent district must provide for the transportation costs of that child.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, parents or guardians of students who are enrolled in or assigned to a public school that has had two years of low performance may choose to send their child to a higher performing public school within the district or in an adjacent district, or the parent or guardian may use an Opportunity Scholarship to send their child to an eligible private school, sectarian or nonsectarian, of their choosing.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

The bill provides additional service options through the Opportunity Scholarship Program. The parent or guardian of an eligible student determines which eligible educational program, public or private, best meets the needs of their child.

- (2) Who makes the decisions?

The parent or guardian of an eligible student decides which eligible educational program, public or private, their child will attend.

- (3) Are private alternatives permitted?

Yes, private schools, sectarian or nonsectarian, are eligible to participate in the Opportunity Scholarship Program.

- (4) Are families required to participate in a program?

No, the program is limited to only those students who are enrolled in or assigned to a public school that has failed to make adequate progress for two years. Once students are eligible for the program, their parent or guardian decides *if* they wish to participate.

- (5) Are families penalized for not participating in a program?

No.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(Note: The bill changes the public education offerings for students who are enrolled in or have been assigned to public schools that have failed to make adequate progress for two years.)

- (1) parents and guardians?

Parent and guardians of eligible students determine where their child will attend school.

- (2) service providers?

Private schools have the option of participating in the Opportunity Scholarship Program.

- (3) government employees/agencies?

Public schools have the ability of retaining students in their program by ensuring that students enrolled in their schools make adequate progress.

D. STATUTE(S) AFFECTED:

Amends ss. 20.15, 229.0535, 229.512, 229.555, 229.565, 229.57, 229.58, 229.591, 229.592, 229.595, 230.23, 231.29, 231.2905, 232.245, 228.053, 228.054, 233.17, 236.013, 236.685, 239.101, 239.229, and 240.529, F.S.

Repeals ss. 229.593 and 229.594, F.S.

Reenacts ss. 24.121, 120.81, 228.053, 228.054, 228.056, 228.0565, 228.301, 229.551, 230.03, 230.2316, 231.085, 231.24, 231.36, 231.600, 232.2454, 232.246, 232.248, 232.2481, 233.09, 233.165, 233.25, 236.08106, 236.685, 239.101, 239.229, 240.118, and 240.529, F.S. to incorporate cross references.

Creates ss. 229.0537 and 236.08104, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 229.0535, F.S., to revise authority to enforce school improvement, shorten the time frame for the State Board of Education to intervene in districts which have low performing schools, and delete provisions for public school choice to conform to the choice offerings created in section 2 of the bill.

Section 2: Creates s. 229.0537, F.S., the Opportunity Scholarship Program, as described above.

Section 3: Amends s. 229.512(14), (15), (16), and (17), F.S., revising provisions relating to the authority of the Commissioner of Education to implement a program of school improvement and education accountability designed to provide all students the opportunity to make adequate learning gains in each year of school, as described above.

Section 4: Amends s. 229.555, F.S., the comprehensive management information system, as described above.

Section 5: Amends s. 229.565(1), F.S., to require the State Board of Education to approve student performance standards in key academic subject areas and grade levels, and to eliminate the requirement that the Commissioner of Education designate program categories and grade levels for which performance standards are to be approved.

Section 6: Amends s. 299.57, F.S., relating to the student assessment program:

- Amends the purposes of the statewide assessment system, the design of the statewide assessment program, the district testing program requirements, the school testing program requirements, and the annual reports, as described above.
- Provides for school performance grade category designations, school improvement ratings, and school performance grade category and improvement rating reports, as described above.
- Outlines the requirements for the statewide assessment system as described above including outlining requirements for the times of test administration

and the establishment of school calendars to not conflict with the testing and measurement of student learning.

- Provides for certain local assessments by the school districts.
- Provides for the State Board of Education to adopt rules to implement the provisions of the section.

Section 7: Amends s. 229.58, F.S., to remove a reference to the Florida Commission on Education Reform and Accountability, and provide greater budget allocation authority for schools graded as "A," making excellent progress.

Section 8: Amends s. 229.591, F.S., as follows:

- Adds conforming language to implement changes in Art. IX of the State Constitution as amended by voters in the 1998 general election.
- Adds requirements in the Florida system for school improvement and accountability to provide that parents or guardians are not required to send their children to schools that fail to make adequate progress.
- Revises state education goals to provide that communities and schools collaborate in a statewide comprehensive school readiness program.
- Conforms language on annual learning gains to the requirements of student performance goals.
- Clarifies language to base education programs on student performance data and require education programs to strive to eliminate achievement gaps by improving the learning of all students.
- Clarifies language to require teachers and staff to demonstrate the performance needed to maximize learning among all students.
- Adds goal language for schools to provide safe environments and adult Floridians to prepare their children for success in school.

Section 9: Amends s. 229.592, F.S., as follows:

- Removes references to the Florida Commission on Education Reform and Accountability.
- Clarifies language relating to waivers.
- Deletes requirements of the annual identification of the allocation and uses of Education Enhancement Trust Funds in annual reports by schools and school districts.
- Adds to Exceptions to Law to provide for deregulated status for schools designated as making excellent progress or schools that have improved at least two performance grade categories.
- Corrects cross references and deletes obsolete language.

Section 10: Repeals s. 229.593, F.S., which created the Florida Commission on Education Reform and Accountability.

Section 11: Repeals s. 229.594, F.S., relating to the powers and duties of the Florida Commission on Education Reform and Accountability.

Section 12: Amends s. 229.595(5), F.S., to conform language relating to the implementation of the state system of educational accountability for school-to-work transition, and remove a reference to the Florida Commission on Education Reform and Accountability.

Section 13: Amends s. 230.23(5)(c) and (g), (7)(b), (16), (17), (18) and (19), F.S., relating to powers and duties of the school boards, as follows:

- Revises provisions relating to compensation and salary schedules.
- Clarifies language relating to "instructional materials."
- Revises school board duties regarding the implementation and enforcement of school improvement and accountability to require use of student achievement and other performance data.
- Removes references to the Florida Commission on Education Reform and Accountability.
- Shortens the time frame for the school board to provide intervention and assistance to schools not meeting standards, as described above.
- Adds conforming language to require school report cards to be included in required public disclosure.
- Adds conforming language to require school boards to adopt policies to give schools making excellent progress more autonomy and to implement the Opportunity Scholarship Program.

Section 14: Amends s. 231.29(3)(a), F.S., to revise the assessment procedure for school district instructional, administrative, and supervisory personnel. Beginning with full implementation of annual learning gains, such assessments must be based primarily on student performance.

Section 15: Amends s. 231.2905(2), F.S., the Florida School Recognition Program, to give greater autonomy to schools that sustain high performance, remove requirement for school districts to incorporate a performance incentive into employee salary structure in order to participate in the program, add student learning gains to the initial criteria requirements, delete criteria for the basis of final recognition and financial awards, and add requirements that the program utilize school performance grade category designations.

Section 16: Amends s. 232.245, F.S., relating to pupil progress and remedial instruction. Conforms the specific performance levels to those defined by the Commissioner, clarifies that no student may be assigned to a grade level solely based on age and other factors that constitute social promotion, revises provisions relating to student academic improvement plans and directs school boards to allocate remedial and supplemental instruction resources first to students who fail to meet achievement performance levels, limits the Commissioner's authority to adopt rules for pupil progression, requires that a student must be retained by the end of grade 4 if reading deficiency is not remedied, and deletes conflicting requirements.

Section 17: Amends s. 228.053, F.S., to correct cross references relating to waiver requests for developmental research schools.

Section 18: Amends s. 228.054(2)(3), F.S., to correct cross references relating to the Joint Developmental Research School Planning, Articulation, and Evaluation Committee.

Section 19: Amends s. 233.17(3), F.S., to correct cross references relating to the term of adoption of instructional materials.

- Section 20: Amends s. 236.685(6), F.S., to correct cross references relating to educational funding accountability.
- Section 21: Amends s. 20.15(6), F.S., to remove a reference to the Florida Commission on Education Reform and Accountability.
- Section 22: Creates s. 236.08104, F.S., the Supplemental Academic Instruction Categorical Fund, as described above.
- Section 23: Amends s. 236.013(2)(c), F.S., relating to the FEFP. Eliminates certain provisions relating to calculations of the equivalent of a full-time student, and revises provisions relating to membership in programs scheduled for more than 180 days.
- Section 24: Amends s. 239.101(7), F.S., to correct cross references relating to career education.
- Section 25: Amends s. 239.229(1), F.S., to correct cross references relating to vocational standards.
- Section 26: Amends s. 240.529(1), F.S., to correct cross references relating to the approval of teacher education programs.
- Section 27: Reenacts ss. 24.121(5)(b), (c), and (d), 120.81(1)(b), 228.053(3) and (8), 228.054(2)(e), 228.056(9)(e) and (f), 228.0565(6)(b), (c), and (d), 228.301(1), 229.551(1)(c) and (3), 230.03(4), 230.2316(4)(b), 231.085, 231.24(3)(a), 231.36(3)(e) and (f), 231.600(1), 232.2454(1), 232.246(5)(a) and (b), 232.248, 232.2481(1), 233.09(4), 233.165(1)(b), 233.25(3)(b), 236.08106(2)(a) and (c), 236.685(6), 239.101(7), 239.229(1) and (3), 240.118(4), and 240.529(1), F.S., to incorporate and update amendments to sections or subdivisions of the Florida Statutes included in the bill.
- Section 28: Provides for severability.
- Section 29: Provides an effective date of upon becoming law, except as otherwise specifically provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

\$12 million for development and field testing of additional tests required for expansion of statewide student assessments.

Indeterminate amount for enhancements to management information system.

2. Recurring Effects:

\$6.6 million for annual administration of student assessments.

\$381,000 savings from elimination of the Florida Commission on Education Reform and Accountability.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Local school districts may have increased transportation costs for students opting for higher performing public schools in the district.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Parents or guardians of eligible students who choose to send their child to an eligible public school in an adjacent school district must provide for the transportation costs of that student.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Expanded Student Assessment Programs and Computer Systems

The expansion of the statewide assessment program is estimated to cost \$18.6 million. The cost for additional requirements placed upon the management information system to collect, via electronic transfer, all student and performance data required is indeterminate.

Opportunity Scholarship Program

The Opportunity Scholarship Program is *revenue neutral* to the State.

Local school districts may have increased transportation costs in order to provide transportation to public school students whose parents choose to send the student to another public school within the district.

Supplemental Academic Instruction Categorical

Funding for the Supplemental Academic Instruction Categorical Fund is subject to legislative appropriation. The Governor's budget recommends \$313 million for 1999-2000.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON SELECT COMMITTEE ON TRANSFORMING FLORIDA SCHOOLS:

Prepared by:

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