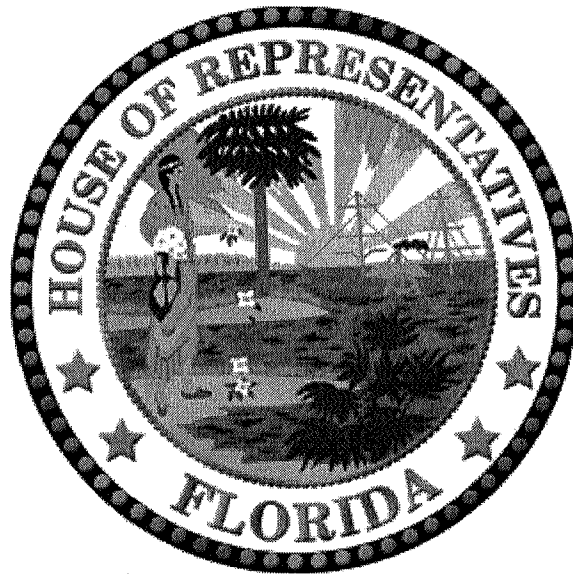


Florida House of Representatives



Meeting Packet

March 4, 2008

1:00 p.m.—4:00 p.m.

212 Knott

Committee on K - 12

Speaker

Marco Rubio

Chair

Anitere Flores



The Florida House of Representatives

Schools & Learning Council

Committee on K-12

Marco Rubio
Speaker

Anitere Flores
Chair

Meeting Agenda

Tuesday, March 4, 2008

212 Knott

1:00 p.m. – 4:00 p.m.

- I. Opening Remarks by Chair Flores**
- II. Roll Call**
- III. Consideration of the following:**
 - **Language for a Proposed Council Bill relating to Florida Teachers Lead Program**
 - **HB 251 Public Secondary Schools by Representative Jordan**
 - **HB 519 Public School Utilization by Representative Jordan**
 - **Language for a Proposed Council Bill relating to Public School Curricular Standards (Enhanced Curricular Sunshine State Standards)**
- IV. Closing Comments / Meeting Adjourned**

BILL

Redraft - B

YEAR

1 A bill to be entitled
 2 An act relating to the Florida Teachers Lead Program;
 3 amending s. 1012.71, F.S.; revising requirements for use
 4 of program funds by classroom teachers; providing for
 5 disbursement of funds to school districts; specifying
 6 means for providing a classroom teacher with his or her
 7 proportionate share of program funds and providing that
 8 funds received are not subject to collective bargaining;
 9 providing for retroactive effect; providing requirements
 10 for accounting of expenditures and reimbursement of funds
 11 under certain conditions; providing an effective date.

12

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

14

15 Section 1. Section 1012.71, Florida Statutes, is amended
 16 to read:

17 (Substantial rewording of section. See
 18 s. 1012.71, F.S., for present text.)

19 1012.71 The Florida Teachers Lead Program.--

20 (1) For purposes of the Florida Teachers Lead Program, the
 21 term "classroom teacher" means a certified teacher employed by a
 22 public school district or a public charter school in that
 23 district on or before September 1 of each year whose full-time
 24 or job-share responsibility is the classroom instruction of
 25 students in prekindergarten through grade 12, including full-
 26 time media specialists and guidance counselors serving students
 27 in prekindergarten through grade 12, who are funded through the
 28 Florida Education Finance Program. A "job-share" classroom

BILL

Redraft - B

YEAR

29 | teacher is one of two teachers whose combined full-time
 30 | equivalent employment for the same teaching assignment equals
 31 | one full-time classroom teacher.

32 | (2) The Legislature, in the General Appropriations Act,
 33 | shall determine funding for the Florida Teachers Lead Program.
 34 | The funds appropriated are for classroom teachers to purchase,
 35 | on behalf of the school district or charter school, classroom
 36 | materials and supplies for the public school students assigned
 37 | to them and may not be used to purchase equipment. The funds
 38 | appropriated shall be used to supplement the materials and
 39 | supplies otherwise available to classroom teachers. From the
 40 | funds appropriated for the Florida Teachers Lead Program, the
 41 | Commissioner of Education shall calculate an amount for each
 42 | school district based upon each school district's proportionate
 43 | share of the state's total unweighted FTE student enrollment and
 44 | shall disburse the funds to the school districts by July 15.

45 | (3) From the funds allocated to each school district for
 46 | the Florida Teachers Lead Program, the district school board
 47 | shall calculate an identical amount for each classroom teacher,
 48 | which is that teacher's proportionate share of the total amount
 49 | allocated to the district. A job-share classroom teacher may
 50 | receive a prorated share of the amount provided to a full-time
 51 | classroom teacher. The district school board and each charter
 52 | school board shall provide each classroom teacher with his or
 53 | her total proportionate share by September 1 of each year by any
 54 | means determined appropriate by the district school board or
 55 | charter school board, including, but not limited to, direct
 56 | deposit, check, debit card, or purchasing card, notwithstanding

BILL

Redraft - B

YEAR

57 any law to the contrary. Expenditures under the program are not
 58 subject to state or local competitive bidding requirements.
 59 Funds received by a classroom teacher do not affect wages,
 60 hours, or terms and conditions of employment and, therefore, are
 61 not subject to collective bargaining. Any classroom teacher may
 62 decline receipt of or return the funds without explanation or
 63 cause. This subsection shall apply retroactively to July 1,
 64 2007.

65 (4) Each classroom teacher must sign a statement
 66 acknowledging receipt of the funds, keep receipts for no less
 67 than 4 years to show that funds expended meet the requirements
 68 of this section, and return any unused funds to the district
 69 school board at the end of the regular school year. Any unused
 70 funds that are returned to the district school board shall be
 71 deposited into the school advisory council account of the school
 72 at which the classroom teacher returning the funds was employed
 73 when that teacher received the funds or deposited into the
 74 Florida Teachers Lead Program account of the school district in
 75 which a charter school is sponsored, as applicable.

76 (5) The statement must be signed and dated by each
 77 classroom teacher before receipt of the Florida Teachers Lead
 78 Program funds and shall include the wording: "I, (name of
 79 teacher) , am employed by the County District School
 80 Board or by the Charter School as a full-time classroom
 81 teacher. I acknowledge that Florida Teachers Lead Program funds
 82 are appropriated by the Legislature for the sole purpose of
 83 purchasing classroom materials and supplies to be used in the
 84 instruction of students assigned to me. In accepting custody of

BILL

Redraft - B

YEAR

85 these funds, I agree to keep the receipts for all expenditures
 86 for no less than 4 years. I understand that if I do not keep the
 87 receipts, it will be my personal responsibility to pay any
 88 federal taxes due on these funds. If, pursuant to an annual
 89 financial audit, my receipts are not available or show
 90 expenditures for purposes not set forth in this section, I will
 91 promptly reimburse those funds to the district school board. I
 92 also agree to return any unexpended funds to the district school
 93 board at the end of the regular school year for deposit into the
 94 school advisory council account of the school where I was
 95 employed at the time I received the funds or for deposit into
 96 the Florida Teachers Lead Program account of the school district
 97 in which the charter school is sponsored, as applicable."

98 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

Florida Teachers Lead Program

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The draft language does not appear to implicate any of the principles.

B. EFFECT OF PROPOSED CHANGES:

Current Law

“The Florida Teachers Lead Program Stipend (Teachers Lead),” created in 1997, provides funds to classroom teachers¹ for the purchase of materials and supplies² for their students.

Funding for this program is determined by the Legislature in the General Appropriations Act. Once an appropriation is made, the Commissioner of Education calculates a prorated amount to be distributed to each school district based upon each district’s proportionate share of the total state preK-12 unweighted full-time equivalent student enrollment.³ School districts, in turn, determine the amount each classroom teacher receives by dividing the district’s total allocation by the number of classroom teachers. School districts must distribute the funds to the classroom teachers no later than September 30.⁴

In order for classroom teachers to receive the funds, they must sign a statement, the required contents of which are set forth in law, acknowledging receipt of the funds and agreeing to use the funds for the purchase of classroom materials and supplies only.⁵ The law further requires that, if a classroom teacher does not expend the funds before the end of the “regular school year,” the teacher must return the funds to the school board.⁶ The law does not authorize teachers to purchase materials after the regular school year ends and then reimburse themselves from the next school year’s Teacher Lead funds. To allow reimbursement from a subsequent year’s funds anticipates an appropriation in advance of legislative action. In addition, use of the funds for reimbursement for purchases made

¹ A “classroom teacher” means “[a] certified teacher[] employed by a public school district or a public charter school, on or before September 1 of each year, whose full-time or job-share responsibility is the classroom instruction of students in prekindergarten through grade 12, including full time media specialists and guidance counselors who serve students in prekindergarten through grade 12, who are funded from the Florida Education Finance Program.” s. 1012.71(6), F.S. A job-share classroom teacher is defined as two teachers whose combined full-time equivalent employment for the same teaching assignment equals one full-time classroom teacher.
Id.

² “Materials and supplies” is defined in the Financial and Program Cost Accounting and Reporting for Florida Schools (2001 Red Book) to mean “[a]mounts paid for items of an expendable nature that are consumed, worn out, or deteriorated in use, or items that lose their identity through fabrication or incorporation into different or more complex units or substances.” In a November 6, 2006, memorandum from the Commissioner of Education to the district school superintendents, the Commissioner advised that “all purchases of classroom equipment from these funds would be considered materials and supplies.” Whether such a determination was within the power and authority of the Commissioner is subject to debate.

³ Section 1012.71(1), F.S.

⁴ Section 1012.71(2), F.S.

⁵ Section 1012.71(3), F.S.

⁶ *Id.*

outside the “purchase window”⁷ is unlawful. More particularly, the statement signed by the classroom teacher in order to receive the funds provides, in pertinent part:

In accepting custody of *these funds*, I agree to keep receipts for all expenditures. I understand that if I do not keep receipts showing *these funds were spent* to purchase classroom materials and supplies for use with my students, it will be my personal responsibility to pay any federal taxes due on these funds. *I also agree to return any unused funds to the district school board at the end of the regular school year* (emphasis added)

“[T]he Legislature is conclusively presumed to have a working knowledge of the English language”⁸ and therefore capable of using the term “reimbursement” if a reimbursement program were intended. Also, courts must adhere to the plain meaning of words or phrases should legislative intent become an issue and, courts may not interpret a statute in a manner that would betray its express terms.⁹

The funds provided to each teacher are in addition to any other funds appropriated for public school operation. Teachers must keep receipts for all expenditures. The law does not state how long a teacher must keep the receipts. However, it is the teacher’s “personal responsibility [if audited by the Internal Revenue Service and unable to produce the expenditure receipts] to pay any federal taxes due on these funds.”¹⁰

Teachers Lead funds must be provided to each classroom teacher in addition to any other funds appropriated for public school operations. In other words, “These funds should not be used to supplant any other operational funds used to purchase classroom materials and supplies.”¹¹ This does not, however, in any way change the requirement that only “materials or supplies” are purchased.

Purchases made with the funds are not subject to state or local competitive bidding requirements.

Proposed Changes

This draft:

- Changes the name of the program from “The Florida Teachers Lead Program Stipend” to “The Florida Teachers Lead Program,” (Teachers Lead), thereby eliminating superfluous language.
- Expressly prohibits expenditure of Teachers Lead funds on equipment. Current law does not contemplate expenditure of “materials and supplies” money for equipment, despite a Technical Assistance Paper (TAP) issued by the Department of Education to the contrary.¹² The express prohibition is included in the draft in response to the TAP.
- Requires the Commissioner of Education to disburse the Teachers Lead funds to the school districts by July 15. According to Department of Education staff, the disbursements now occur

⁷ The “purchase window” is that time period between the distribution of the funds to the classroom teachers, which must occur “no later than September 30,” and the end of the regular school year when unspent funds must be returned to the school district.

⁸ *State Racing Commission v. McLaughlin*, 102 So.2d 574, 575 (Fla. 1958); *State v. Bradford*, 787 So.2d 811 (Fla. 2001).

⁹ *Silva v. Southwest Florida Blood Bank, Inc.*, 601 So.2d 1184, 1186 (Fla. 1992); *McLaughlin v. State*, 721 So.2d 1170, 1172 (Fla. 1998).

¹⁰ Section 1012.71(3), F.S.

¹¹ Memorandum dated November 6, 2006, from the Commissioner of Education to the district school superintendents.

¹² *Id.* In the memorandum (also known as a Technical Assistance Paper) the Commissioner advised that “all purchases of classroom equipment from these funds would be considered materials and supplies.” Whether such a determination was within the power and authority of the Commissioner is subject to debate.

in August. By disbursing the funds earlier to the school districts, school districts can in turn disburse the funds earlier to the classroom teachers.

- Changes the date by which the district school boards and charter school boards must disburse the Teachers Lead funds to the classroom teachers, from September 30 to September 1. This date comports with the date by which a “classroom teacher” must be employed in order to receive Teachers Lead funds.¹³
- Specifies that a district school board or charter school board may distribute the Teachers Lead funds to the classroom teachers by way of, for example, debit card, direct deposit, check, or purchasing card. Currently the Teachers Lead law is silent with regard to the method of distribution. Most school districts distribute the funds by check. This language clarifies the board’s existing authority to exercise control and discretion over its organization, operation, and administration of the Teachers Lead funds.¹⁴
- Limits to 4 years the amount of time that a classroom teacher must keep receipts for classroom materials and supplies purchased with Teachers Lead funds.¹⁵ Current law does not limit how long a teacher must retain receipts. Income Tax Regulations require that the Internal Revenue Service (IRS) assess a tax within 3 years after the tax return is filed with the IRS.¹⁶ By teachers keeping the receipts for 4 years, if audited by the IRS, they will have the necessary proof that the funds received were not income because the funds were appropriately spent on purchases of materials and supplies for their students. Classroom teachers, however, would no longer be required to keep receipts beyond that required by the IRS.
- Clarifies that Teachers Lead funds do not affect a classroom teacher’s wages, hours, or terms and conditions of employment and are therefore not subject to collective bargaining. Distribution of funds is a managerial function that falls within a “[b]oard’s responsibility to efficiently conduct its operations, including budgetary and revenue areas.”¹⁷
- Clarifies that a classroom teacher may decline receipt of or return the funds without explanation or cause.

C. SECTION DIRECTORY:

Section 1. Substantially rewords s. 1012.71, F.S., establishing the Florida Teachers Lead Program which, contingent upon funding by the Legislature, provides funds to classroom teachers for the purchase of materials and supplies for their students.

Section 2. Provides an effective date of upon becoming law.

¹³ Section 1012.71(6), F.S.; *see supra* note 1.

¹⁴ Provides a retroactive effective date for this provision as of July 1, 2007, which comports with the date the law was last amended to, among other things, include job-share teachers.

¹⁵ Under section 6501(a) of the Internal Revenue Code (Tax Code) [Title 26, Subtitle F, Chapter 66, Subchapter A] and section 301.6501(a)-1(a) of the Income Tax Regulations (Tax Regulations), the IRS is required to assess tax within 3 years after the tax return was filed with the IRS. Similarly, under 301.6501(a)-1(b) of the Tax Regulations no proceeding in court by the IRS without assessment for the collection of any tax can begin after the expiration of 3 years.

www.wwwebtax.com/audits/statute_of_limitations.htm

[www.law.cornell.edu/uscode/search/display.html?terms=6501\(a\)&url=/uscode/html/uscode26/usc_sec_26_00006501----000-.html](http://www.law.cornell.edu/uscode/search/display.html?terms=6501(a)&url=/uscode/html/uscode26/usc_sec_26_00006501----000-.html)

¹⁶ *Id.*

¹⁷ *In Re State Employment Relations Bd. v. Cleveland Heights-Univ. Heights Bd. of Ed.*, 14 Ohio Pub. Employee Rep. ¶1265 (OSERB 1997); *see also, Hillsborough Classroom Teachers Ass’n. v. Sch. Bd. of Hillsborough County*, 423 So.2d 969 (1st DCA 1982); *Fraternal Order of Police, Miami Lodge 20 v. City of Miami*, 609 So.2d 31, 33 (Fla. 1992).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This draft language does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

Not applicable

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

Not applicable

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 251**

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Committee on K-12
2 Representative(s) Jordan offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 1003.451, Florida Statutes, is created
7 to read:

8 1003.451 Junior Reserve Officers' Training Corps; military
9 recruiters; access to public school campuses.--

10 (1) A school district may not ban any branch of the United
11 States Armed Forces or the United States Department of Homeland
12 Security from establishing, maintaining, or operating a unit of
13 the Junior Reserve Officers' Training Corps at a public high
14 school in the district.

15 (2)(a) A school district shall allow a student attending a
16 public high school in the district to enroll in the Junior
17 Reserve Officers' Training Corps at another public high school
18 in the district unless:

19 1. The student's school offers the Junior Reserve
20 Officers' Training Corps for any branch of the United States
21 Armed Forces or United States Department of Homeland Security;

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

22 2. The student does not meet the Junior Reserve Officers'
23 Training Corps' minimum enrollment qualifications; or

24 3. Scheduling of the student's courses of study do not
25 allow the student to attend the Junior Reserve Officers'
26 Training Corps at another public high school in the district.

27 (b) This subsection does not require a school district to
28 provide transportation for a student to attend the Junior
29 Reserve Officers' Training Corps at another public high school
30 in the district.

31 (3)(a) A school district shall, as required in 20 U.S.C.
32 s. 7908(a)(3), grant military recruiters of the United States
33 Armed Forces and United States Department of Homeland Security
34 the same access to secondary school students, and to school
35 facilities and grounds, which the district grants to
36 postsecondary educational institutions or prospective employers
37 of students.

38 (b) A school district shall, as required in 20 U.S.C. s.
39 7908(a)(1), grant military recruiters access to the names,
40 addresses, and telephone listings of secondary school students,
41 except, the district shall comply with a student's or parent's
42 request under 20 U.S.C. s. 7908(a)(2) or s. 1002.22(3)(d) not to
43 release the student's information without prior written parental
44 consent.

45 (4) The State Board of Education shall enforce this
46 section under s. 1008.32.

47 (5) The State Board of Education may adopt rules under ss.
48 120.536(1) and 120.54 to administer this section.

49 Section 2. Section 1004.09, Florida Statutes, is created
50 to read:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

51 1004.09 Senior Reserve Officers' Training Corps; military
52 recruiters; access to community college and state university
53 campuses.--

54 (1) A community college or state university may not ban,
55 to the extent prohibited in 10 U.S.C. s. 983(a)(1), any branch
56 of the United States Armed Forces from establishing,
57 maintaining, or operating a unit of the Senior Reserve Officers'
58 Training Corps at the college or university.

59 (2)(a) A community college or state university shall, to
60 the extent required in 10 U.S.C. s. 983(b)(1), grant military
61 recruiters of the United States Armed Forces and United States
62 Department of Homeland Security the same access to the college's
63 or university's students, and to campus facilities and grounds,
64 which the college or university grants to other employers.

65 (b) A community college or state university shall, to the
66 extent required in 10 U.S.C. s. 983(b)(2), grant military
67 recruiters access to the names, addresses, telephone listings,
68 dates and places of birth, levels of education, academic majors,
69 degrees received, and most recent educational institutions
70 enrolled in by the college's or university's students.

71 Section 3. This act shall take effect July 1, 2008.

72

73

74

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

75
76 Remove the entire title and insert:

77 A bill to be entitled

78 An act relating to Reserve Officers' Training Corps
79 programs; creating s. 1003.451, F.S.; prohibiting a school
80 district from banning a Junior Reserve Officers' Training
81 Corps unit in certain schools; requiring a school district

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

82 to allow a student, under certain circumstances, to enroll
83 in the Junior Reserve Officers' Training Corps at another
84 school; specifying that a school district is not required
85 to provide transportation for a student enrolling in the
86 Junior Reserve Officers' Training Corps at another school;
87 requiring a school district to grant military recruiters
88 certain access to students, school facilities and grounds,
89 and certain student information; providing for
90 enforcement; providing for the adoption of rules by the
91 State Board of Education; creating s. 1004.009, F.S.;
92 prohibiting a community college or state university from
93 banning, to the extent prohibited by federal law, a Senior
94 Reserve Officers' Training Corps unit; requiring that a
95 community college or state university, to the extent
96 required by federal law, grant military recruiters certain
97 access to students, campus facilities and grounds, and
98 certain student information; providing an effective date.

1 A bill to be entitled
 2 An act relating to public secondary schools; creating s.
 3 1003.451, F.S.; prohibiting any school district or public
 4 secondary school from prohibiting ROTC units on campus,
 5 preventing a student from enrolling in an ROTC unit at
 6 another educational institution, or preventing military
 7 recruiters from having certain access to students;
 8 providing for enforcement; providing for the adoption of
 9 rules by the State Board of Education; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 1003.451, Florida Statutes, is created
 15 to read:

16 1003.451 Prohibiting school districts or schools from
 17 preventing ROTC access to campus; providing for enforcement by
 18 the State Board of Education.--

19 (1) A school district or public secondary school may not
 20 have a policy or practice that prohibits or in effect prevents:

21 (a) The maintaining, establishing, or operation of a unit
 22 of the Reserve Officer Training Corps of any branch of the
 23 United States Armed Forces at the school;

24 (b) A student at the school from enrolling in a unit of
 25 the Reserve Officer Training Corps at another educational
 26 institution; or

27 (c) Military recruiters from having the same access to the
 28 school's students as is provided by the school to postsecondary

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29 | educational institutions or to prospective employers of those
30 | students.

31 | (2) The State Board of Education shall enforce this
32 | section pursuant to s. 1008.32.

33 | (3) The State Board of Education shall adopt rules to
34 | administer this section.



35 | Section 2. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 251 Public Secondary Schools

SPONSOR(S): Jordan

TIED BILLS: IDEN./SIM. BILLS: SB 574

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on K-12		Gillespie 	Ahearn 
2) Schools & Learning Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

House Bill 251 prohibits a school district or public secondary (grades 6-12) school from preventing a Reserve Officer Training Corps (ROTC) unit from operating at the school, preventing students from enrolling in a ROTC unit at another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

The bill directs the State Board of Education to adopt rules and enforce the bill's provisions.

The bill raises several drafting issues (see III. COMMENTS).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: The bill prohibits school districts and public secondary schools from preventing the operation of ROTC units or from preventing students from enrolling in a ROTC unit at another educational institution.

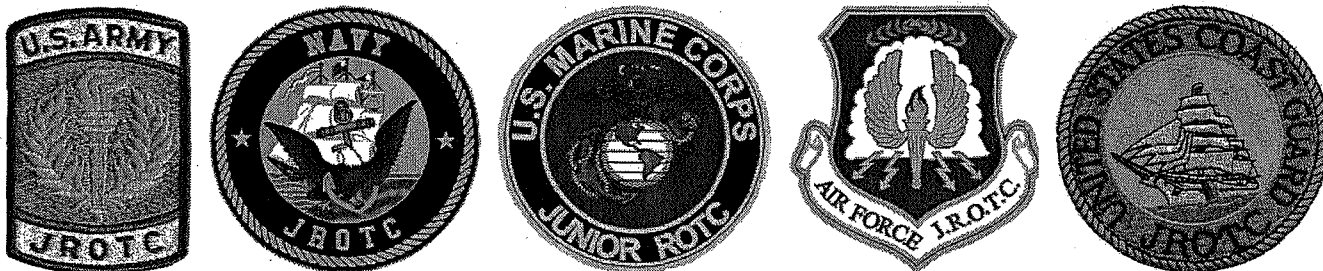
Empower Families: The bill prohibits school districts and public secondary schools from preventing students from enrolling in a ROTC unit at another educational institution.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Junior Reserve Officers' Training Corps

The U.S. Congress authorizes each military department to establish Junior Reserve Officers' Training Corps (JROTC) units at public and private secondary educational institutions that apply to the respective military department and meet federal standards and criteria.¹ The purpose of JROTC is "to instill in students ... the values of citizenship, service to the United States, and personal responsibility and a sense of accomplishment."² The U.S. Army, Navy, Marine Corps, and Air Force have each established JROTC programs. In addition, the first U.S. Coast Guard JROTC was established in 1991 at the Maritime and Science Technology Academy (MAST Academy) in Miami, Florida.



The U.S. Department of Defense has issued instructions for JROTC units.³ The instructions specify that, to enroll in a JROTC unit, students shall:

- Be selected by the JROTC instructor with the approval of the school principal or his or her representative;
- Maintain acceptable standards of academic achievement and an academic standing that warrants at least normal progression leading to graduation;
- Maintain acceptable standards of conduct as defined by the military department;
- Be in grade 8 or above, with certain exceptions; and

¹ 10 U.S.C. § 2031(a)(1).

² 10 U.S.C. § 2031(a)(2).

³ U.S. Department of Defense, *Junior Reserve Officers' Training Corps (JROTC) Program, Enclosure E2 (Procedures for the Establishment of JROTC at Schools), section E2.3 (Eligibility of Students), Instruction No. 1205.13, 9 (Feb. 6, 2006), available at <http://www.dtic.mil/whs/directives/corres/pdf/120513p.pdf> (last visited Feb. 29, 2008) [hereinafter *JROTC Instruction*].*

- Meet other qualifying participation criteria prescribed by the military department (for example, the U.S. Army JROTC requires participating students to be physically able to participate in the JROTC's physical education program.⁴)

The JROTC instructions also specify that students with disabilities who have an Individualized Education Plan (IEP) or Section 504 Accommodation Plan may enroll in a JROTC unit, even if the students are otherwise ineligible under these enrollment requirements.⁵

According to the Florida Department of Education (DOE), there are currently six ROTC Major Areas of Interest and 28 ROTC courses in the state's *Course Code Directory* for high schools to offer (9 for Air Force, 4 for Army, 4 for Navy, 4 for Marine Corps, and 7 for Coast Guard). Based on attendance data from the 2006-2007 school year, DOE reports that there were 31,590 students enrolled in ROTC classes in 286 schools in almost all districts throughout the state. The school districts not offering ROTC courses included Calhoun, Franklin, Glades, Hendry, Jackson, Lafayette, and Madison counties. In the 2006-2007 school year, there were no high school students who were dual enrolled in a community college ROTC course.⁶

Florida law allows students who complete 2 years in a ROTC class to simultaneously satisfy the one-credit graduation requirement in physical education and the one-credit graduation requirement in performing arts (total of two credits).⁷

In addition to JROTC programs, the military departments have also established ROTC units on college and university campuses. These programs are known as Senior ROTC.⁸

Military Recruitment on School Campuses

On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind (NCLB) Act of 2001*.⁹ Among its provisions, the NCLB act established several provisions regarding the access of military recruiters to students and student recruiting information:

- Access to student recruiting information.—Each school district receiving certain federal funds under the NCLB act must provide, on a request made by military recruiters, access to secondary school students' names, addresses, and telephone listings.
- Consent.—A secondary school student, or the parent of the student, may request that the student's name, address, and telephone listing not be released without prior written parental consent, and the school district shall notify parents of the option to make a request and shall comply with any request.
- Same access to students.—The school district must provide military recruiters with the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of the students.¹⁰

⁴ U.S. Army Cadet Command, *Junior Reserve Officers' Training Corps Program: Organization, Administration, Operation, Training, and Support, Cadet Command Regulation 145-2, section 3-11 (Enrollment Requirements) 17-18* (July 1, 2007), available at <https://www.usarmyjrotc.com/jrotcRes/downloads/CCR145-2.pdf> (last visited Jan. 28, 2008).

⁵ *JROTC Instruction*, *supra* note 3, at 9 (paragraph E2.3.3).

⁶ Florida Department of Education, *2008 Agency Bill Analysis of HB 251, 2* (Dec. 14, 2007).

⁷ Section 1003.428(2)(a)6., F.S.,

⁸ *See, e.g.*, 10 U.S.C. §§ 2101-2111b.

⁹ Public Law 107-110 (2002).

¹⁰ *Id.* at § 9528 (codified at 20 U.S.C. § 7908).

Implementing provisions of the federal *Family Educational and Privacy Rights Act (FERPA)*,¹¹ Florida law allows a public school to publicly release "directory information"¹² about its students, but requires the school to give public notice of the categories of information it designates as directory information and allow a reasonable period of time for a parent or student to inform the school in writing that the information should not be released.¹³

According to DOE, the level of access to public schools for military recruiters is determined at the local level.¹⁴ Some public schools restrict recruiters on campus to certain events, while other schools do not allow recruiters of any kind on campus. Many high schools require recruiters to have pre-scheduled appointments.¹⁵

Proposed Changes:

The bill prohibits a school district or public secondary (grades 6-12)¹⁶ school from preventing an ROTC unit from operating at the school, preventing students from enrolling in an ROTC unit at another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

The bill includes several drafting issues (**see III. COMMENTS**).

The bill directs the State Board of Education to enforce the bill's provisions under section 1008.32, F.S., which allows the state board to take the following actions if the state board determines that a district school board is unwilling or unable to comply with law or state board rule:

- Report to the Legislature that the school district is unwilling or unable to comply with law or state board rule and recommend action to be taken by the Legislature;
- Reduce the discretionary lottery appropriation until the school district complies with the law or state board rule;
- Withhold the transfer of state funds, discretionary grant funds, or any other funds specified as eligible for this purpose by the Legislature until the school district complies with the law or state board rule;
- Declare the school district ineligible for competitive grants; or
- Require monthly or periodic reporting on the situation related to noncompliance until it is remedied.

The bill requires the State Board of Education to adopt rules to administer the bill's provisions.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Creates section 1003.451, F.S., which prohibits school districts and schools from preventing an ROTC unit from operating at the school, preventing students from enrolling in an ROTC unit at

¹¹ 20 U.S.C. § 1232g(a)(5).

¹² Section 1002.22(2)(d), F.S., defines "directory information" as a student's "name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student."

¹³ Section 1002.22(3), F.S. (flush-left provisions following § 1002.22(3)(d)14., F.S.).

¹⁴ Florida Department of Education, *supra* note 6, at 2.

¹⁵ *Id.*

¹⁶ The Florida Secondary School Redesign Act (s. 1003.413(1), F.S.) specifies that "[s]econdary schools are schools that primarily serve students in grades 6 through 12."

another educational institution, or denying military recruiters the same access to students which is given to postsecondary educational institutions and prospective employers.

Section 2. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Florida Department of Education (DOE) estimates that the bill would require "increased workload expenses [for DOE] by an unknown amount to survey and identify districts that were in compliance and to enforce compliance for others."¹⁷ Accordingly, the fiscal impact is indeterminate but appears to be insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to DOE, the bill could create a negative fiscal impact on school districts if the bill requires the districts to incur the expense of transportation and additional planning to assure that students could complete required coursework by their scheduled graduation.¹⁸ If the bill is amended to clarify that school districts are not required to provide transportation for students enrolling in JROTC units at other schools (**see III. COMMENTS**), the bill's fiscal impact appears to be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of

¹⁷ Florida Department of Education, *supra* note 6, at 3.

¹⁸ *Id.*

February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill directs the State Board of Education to adopt rules to administer the bill's provisions. The state board's general grant of rulemaking authority is found in section 1001.02(1), F.S.:

The State Board of Education is the chief implementing and coordinating body of public education in Florida except for the State University System, and it shall focus on high-level policy decisions. It has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of law conferring duties upon it for the improvement of the state system of K-20 public education except for the State University System.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill prohibits a school district or public secondary school from preventing an ROTC unit from operating at the school. The bill does not distinguish whether it applies to Junior ROTC (secondary schools), Senior ROTC (postsecondary educational institutions), or both programs.

The bill also prohibits a school district or public secondary school from preventing students from enrolling in a ROTC unit at "another educational institution." This provision is unclear as to whether a school district or public secondary school would be required to:

- Permit a student to enroll in a Junior ROTC unit at a private school;
- Permit a student to enroll in a Senior ROTC unit at a community college or state university (through, for example, a dual-enrollment program);
- Permit a student to enroll in another school's Junior ROTC unit, even though the student's assigned school operates a Junior ROTC unit;
- Admit a student in a public school's Junior ROTC unit, even though the student does not otherwise meet the JROTC unit's enrollment criteria;
- Permit a student to transfer enrollment to another public school that operates a Junior ROTC; and
- Provide transportation between schools for students enrolling in a Junior ROTC unit in another school.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to public school utilization; amending s.
 3 1013.64, F.S.; establishing the Increased Utilization
 4 Program which shall be funded as a part of the Public
 5 Education Capital Outlay and Debt Service Trust Fund;
 6 providing a formula for allocation of funds to a school
 7 district that increases its FTE facility capacity;
 8 providing eligibility requirements and restrictions;
 9 amending s. 1003.03, F.S.; authorizing use of alternative,
 10 nontraditional school calendars for purposes of meeting
 11 constitutional class size maximums; providing an effective
 12 date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsection (7) is added to section 1013.64,
 17 Florida Statutes, to read:

18 1013.64 Funds for comprehensive educational plant needs;
 19 construction cost maximums for school district capital
 20 projects.--Allocations from the Public Education Capital Outlay
 21 and Debt Service Trust Fund to the various boards for capital
 22 outlay projects shall be determined as follows:

23 (7) (a) Beginning with the 2008-2009 fiscal year, there is
 24 established the Increased Utilization Program which shall be
 25 funded as a part of the Public Education Capital Outlay and Debt
 26 Service Trust Fund in an amount each year not to exceed 15
 27 percent of the total funds appropriated under paragraph (3) (a).
 28 These funds shall be allocated by the commissioner to any school

29 district according to the following formula: Any eligible school
 30 that increases its FTE facility capacity by at least 20 percent
 31 as a result of using an alternative, nontraditional calendar
 32 shall receive up to a maximum of \$250 per each FTE generated
 33 within the school.

34 (b) To be eligible, a district school board must submit a
 35 resolution to the commissioner by August 1 of each fiscal year,
 36 beginning August 1, 2008, of its intent to participate in the
 37 Increased Utilization Program, listing each of the schools
 38 eligible during the prior fiscal year. The information listed
 39 for each school must include the maximum FTE capacity for the
 40 year as contained in the Florida Inventory of School Houses in
 41 the Office of Educational Facilities and the increase
 42 attributable to the alternative, nontraditional calendar. To be
 43 eligible, each individual school's FTE must exceed the maximum
 44 facility capacity during the year by at least 20 percent.

45 (c) Each school district qualifying for funding under this
 46 subsection may be paid up to \$250 per each FTE generated per
 47 eligible school for a maximum of 5 years if funds are available.
 48 If funds are insufficient during any fiscal year, the
 49 commissioner shall determine the pro rata amount.

50 (d) Funds received by a school district through the
 51 Increased Utilization Program shall be exempt from repayment of
 52 any project outstanding pursuant to subsection (2).

53 (e) All funds accruing to a school district under this
 54 subsection shall be allocated to the schools generating the
 55 increased capacity and shall be expended on needed projects as
 56 recommended in a survey under the rules of the State Board of

57 Education.

58 (f) Overcrowding of a school or double session does not
 59 apply. In addition, students may not be assigned to
 60 instructional spaces contrary to the State Requirements for
 61 Educational Facilities.

62 Section 2. Paragraph (j) of subsection (3) of section
 63 1003.03, Florida Statutes, is amended to read:

64 1003.03 Maximum class size.--

65 (3) IMPLEMENTATION OPTIONS.--District school boards must
 66 consider, but are not limited to, implementing the following
 67 items in order to meet the constitutional class size maximums
 68 described in subsection (1) and the two-student-per-year
 69 reduction required in subsection (2):

70 (j) Use alternative, ~~year-round schools and other~~
 71 nontraditional calendars that do not adversely impact annual
 72 assessment of student achievement.

73 Section 3. This act shall take effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Public Education Capital Outlay and Debt Service Trust Fund:

Current law imposes a tax on the gross receipts from the retail delivery of utility services (*i.e.*, electricity and natural or manufactured gas) and a tax on the retail delivery of communications services (*e.g.*, telephone, cable television, mobile telephone, and pagers or beepers).¹ Funds collected from the gross receipts and communications services taxes are deposited in the Public Education Capital Outlay (PECO) and Debt Service Trust Fund.² These tax collections, together with funds generated from public education bonds, investment income, and educational capital outlay funds appropriated by the Legislature are used to finance capital projects of school districts, community colleges, and state universities.³

Nontraditional School Calendars:

Current law authorizes a district school board to adopt calendars for the operation of schools, including dates for the opening and closing of schools, school holidays, and vacation periods.⁴ School calendars must provide for the operation of all public schools for at least 180 days or the equivalent on an hourly basis,⁵ and, beginning with the 2007-2008 school year, dates for the opening of schools may not be earlier than 14 days before Labor Day each year.⁶

In order to meet the constitutional class-size maximums,⁷ current law requires a district school board to consider, among other strategies, the use of "year-round schools and other nontraditional calendars that do not adversely impact annual assessment of student achievement."⁸ For example, many schools that operate on a nontraditional calendar use a "track" system for student schedules. A "track" includes

¹ Section 203.01(1)(a), F.S.

² Sections 203.01(1)(c)2. & 1013.65(2)(a), F.S.

³ *Id.*

⁴ Section 1001.42(4)(f) & (g), F.S.

⁵ Section 1001.42(10)(a), F.S.

⁶ Section 1001.42(4)(f), F.S.

⁷ In 2002, the voters of Florida approved an amendment to the State Constitution requiring the reduction of class sizes by the 2010 school year so that the maximum number of students per public school classroom assigned to a teacher is:

- Eighteen students for prekindergarten through third grade;
- Twenty-two students for grades 4 through 8; and
- Twenty-five students for grades 9 through 12 (§ 1(a), Art. IX of the State Constitution).

To implement the constitutional amendment, the Legislature required a school district that does not comply with the maximum class sizes to reduce its average number of students per classroom by at least two students per year. The Legislature also specified how the averages are calculated:

- For fiscal years 2003-2004 through 2005-2006, the average number of students per classroom was calculated at the district level;
- For fiscal years 2006-2007 through 2007-2008, the average is calculated at the school level; and
- For fiscal year 2008-2009 and thereafter, the average is calculated at the individual classroom level (§ 1003.03(2)(b), F.S.)

⁸ Section 1001.03(3)(j), F.S.

a group of students assigned the same schedule. To maximize usage of education facilities, multiple tracks are scheduled so that certain tracks of students are attending school while others are on break.^{9,10} There are twelve schools in four school districts currently operating on nontraditional calendars:

**Schools Operating on Nontraditional Calendars
(2007-2008 School Year)**

School District	School
Brevard	Challenger 7 Elementary Gardendale Elementary
Broward	Colbert Elementary Gulfstream Middle Hallandale Elementary Lake Forest Elementary McNichol Middle Watkins Elementary
Charlotte	East Elementary Sallie Jones Elementary Charlotte Harbor
Polk	Valleyview Elementary

SOURCE: Florida Department of Education (2007).¹¹

Former Increased Utilization Account:

In 1990, the Legislature created the Increased Utilization Account within the PECO trust fund.¹² The account established a substantially similar program to the Increased Utilization Program created by the bill. The 1990 legislation established financial incentives for school districts to adopt modified school calendars (*i.e.*, extended school week or extended school year) beginning with the 1992-1993 fiscal year. One notable difference was that the 1990 legislation authorized up to 5 percent of PECO funds appropriated for school district capital projects to be allocated for incentive funding, while the bill authorizes up to 15 percent. In addition, the 1990 legislation limited the incentive funding to \$100 per increased FTE, while the bill limits the incentive funding to \$250 per increased FTE.¹³ According to the Department of Education, six school districts received incentive funding from the Increased Utilization Account during the years the account was active (1992-1996):

Increased Utilization Account (1992-1996)

School Year	Participating School Districts	Total Amount of Funding
1992-1993	Martin, Seminole, and Volusia	\$344,700
1993-1994	Orange, Seminole, and Volusia	\$808,800
1994-1995	No data available	No data available
1995-1996	Broward, Duval, Orange, Seminole, and Volusia	\$1,500,000

SOURCE: Florida Department of Education (2007).

⁹ Florida Department of Education, Bureau of Education Information & Accountability Services, *Statistical Brief, School District Calendars 2007-08, Series 2008-03B*, 7 (Aug. 2007), available at <http://www.fldoe.org/eias/eiaspubs/pdf/calendar.pdf> (last visited Feb. 29, 2008).

¹⁰ Florida Department of Education, Government Relations, *2008 Agency Bill Analysis of HB 519*, 2 (Jan. 15, 2008).

¹¹ Florida Department of Education, *supra* note 9, at 7.

¹² Section 12, ch. 90-241, L.O.F. (1990).

¹³ See former § 235.435(7), F.S. (2001).

The Legislature repealed the statutory authority for the Increased Utilization Account in 2002.¹⁴

Proposed Changes:

The bill creates the Increased Utilization Program. Under the program, the Commissioner of Education allocates up to 15 percent of the PECO funds appropriated for school district capital projects to provide incentive funding for schools to adopt alternative, nontraditional school calendars. A school district is eligible to receive incentive funding for one or more eligible schools that increase their facility capacities, over the prior year's capacities, by at least 20 percent as a result of using an alternative, nontraditional calendar. Incentive funding is limited to \$250 per FTE added to each eligible school's capacity.

If funds are available, a school district may receive incentive funding for each year—up to 5 years¹⁵—that an eligible school increases its capacity by at least 20 percent over the prior year's capacity. If funds are insufficient during a fiscal year, the Commissioner of Education is directed to determine the pro rata amount of the incentive funding.

To receive incentive funding, a district school board must submit a resolution to the Commissioner of Education by August 1 of each fiscal year. The resolution must include a list of eligible schools from the prior year, the maximum capacity of each school as listed in the Florida Inventory of School Houses (FISH),¹⁶ and the increase in capacity attributable to use of an alternative, nontraditional calendar.

The bill requires a school district to use the incentive funding for needed projects as recommended in a survey¹⁷ under rules¹⁸ of the State Board of Education.

The bill prohibits a school district from receiving the incentive funding for a school that increases its capacity through:

- Overcrowding;
- Implementing double sessions; or
- Assigning students to instructional spaces that do not comply with State Requirements for Educational Facilities.¹⁹

The bill clarifies that a school district receiving construction funds from the Special Facility Construction Account is not required to repay the incentive funds received under the Increased Utilization Program.²⁰

¹⁴ Section 1058, ch. 2002-387, L.O.F. (2002).

¹⁵ According to the Department of Education, the 1990 Increased Utilization Account, as implemented, prohibited a school district from receiving incentive funding for any one school for a cumulative total of 5 years. *See supra*, text accompanying note 12.

¹⁶ Florida Department of Education, Office of Educational Facilities, *Florida Inventory of School Houses (FISH) Reports*, at <http://www.fldoe.org/edfacil/fishreports.asp> (last visited Feb. 29, 2008).

¹⁷ Current law requires a district school board to conduct an educational plant survey at least once every 5 years. The survey must include at least an inventory of existing educational and ancillary plants; recommendations for existing educational and ancillary plants; recommendations for new educational or ancillary plants; the utilization of school plants based on an extended school day or year-round operation; and other information required by the Department of Education. Section 1013.31(1)(a), F.S.

¹⁸ Rule 6A-2.0010, F.A.C., incorporates by reference the *State Requirements for Educational Facilities 2007*, which, in section 3.1, details the requirements for educational plant surveys. Florida Department of Education, Office of Educational Facilities, *State Requirements for Educational Facilities 2007* (Feb. 12, 2008), available at <http://www.fldoe.org/edfacil/pdf/sref-rule.pdf> (last visited Feb. 29, 2008) [hereinafter *State Requirements for Educational Facilities*].

¹⁹ The construction specifications for public school education facilities are governed by the State Uniform Building Code for Public Educational Facilities Construction (ch. 1013, F.S.), the Florida Building Code, and the State Requirements for Educational Facilities adopted by the State Board of Education. *See State Requirements for Educational Facilities, supra* note 18; rule 6A-2.0010, F.A.C.

The bill clarifies that school districts may use "alternative," nontraditional calendars to meet constitutional class-size requirements.

The bill provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends section 1013.64, F.S., establishing the Increased Utilization Program, which provides incentive funding for schools to adopt alternative, nontraditional school calendars in order to maximize utilization of educational facilities.

Section 2. Amends section 1003.03, F.S., providing that school districts may use alternative, nontraditional calendars to comply with constitutional class-size requirements.

Section 3. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill earmarks 15 percent of the PECO funds appropriated for school district capital projects to provide incentive funding for schools to adopt alternative, nontraditional school calendars in order to maximize utilization of educational facilities.

2. Expenditures:

The Department of Education estimates that the state may realize a cost savings of almost \$600 million by establishing financial incentives for school districts to use alternative, nontraditional school calendars in order to maximize utilization of their educational facilities.²¹ The potential savings results from the state averting the need to build approximately 43 new schools.

(See D. FISCAL COMMENTS.)

Set Aside for Increased Utilization Program	
FY2007-2008 PECO for New School Construction – Includes University Lab Schools and All Funds Going to K-12	\$285,994,731
Transfer 15% to Increased Utilization Program	15%
Total Set Aside for Increased Utilization Program	\$42,899,210

²⁰ A school district that has urgent construction needs but lacks sufficient resources, and cannot reasonably anticipate sufficient resources within the next 3 years, may receive capital outlay funds from the Special Facility Construction Account. Section 1013.64(2)(a), F.S. According to the Department of Education, as a condition of receiving funds from the Special Facility Construction Account, a school district must pledge its capital outlay funds to repay the account. The bill clarifies that incentive funding received from the PECO Increased Utilization Program do not need to be repaid to the Special Facility Construction Account.

²¹ Florida Department of Education, *supra* note 10, at 3; Florida Department of Education, Office of Educational Facilities, *Cost Analysis of HB 519 (Rep. Jordan) (2008)*.

Assumptions	
Total Amount of Incentive Funding Per FTE	\$250
Total Number of Eligible Students (Total Funds in Increased Utilization Program / Per FTE Incentive Funding)	171,597
Average Size of Elementary School	800
Number of Schools (Total Number of Eligible Students / Average Size Elementary School)	214
20% of Students Who Would Relocate to New Facilities	20%
Cost to Avoid Building New Schools Methodology	
Total Number of Eligible Students (Total Funds in Increased Utilization Program / Per FTE Incentive Funding)	171,597
20% of Students Who Would Relocate to New Facilities	20%
Eligible Students (Total Number of Eligible Students x 20% of Students)	34,319
Average Size Elementary School	800
Number of Schools Avoided Being Built (Eligible Students / Average Size Elementary School)	43
July 2007 Student Station Cost Factor (Elementary)	\$18,676
Student Station Cost Factor (\$18,676) x Eligible Students (34,319)	\$640,948,512
Minus the 15% Transfer to Increased Utilization Program	(\$42,899,210)
Cost Savings from Avoiding Building New Elementary Schools	\$598,049,302

SOURCE: Florida Department of Education (2008).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Education observes the following:

Historically, new programs take time to implement. The Office of Educational Facilities (OEF) believes that the proposed program will take time to fully implement in order for the state to realize \$600 million in savings.

The Legislature may wish to consider adjusting the 15 percent set aside to a 5 percent set aside, and as the state gains experience with this incentive program, increase the

percentage as participation increases. Under this scenario, the state may realize a savings of \$200 million because there would not be a need to build 14 new schools.²²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Representative Jordan submitted the following sponsor statement:

House Bill 519 is filed as a solution/option to meet the constitutional class size requirements. I refer to it as the "Instructional Design Educational Alternative" (I.D.E.A.). It is an optional alternative for local districts. It DOES, however, offer incentives to those school districts that see the value of increased utilization of existing facilities. Schools that increase their traditional capacity by 20% will be eligible for a \$250.00 per student incentive for using an alternative calendar.

There is a continuing expectation of more efficiency and less expenditure for all facets of government. It is apparent that creative, futuristic, and pragmatic solutions must be explored and utilized if we are to comply with the class size mandate.

There is no question that every cost aspect of building new schools is increasing and will continue to do so. The resources our students need to be competitive in the market place of the new millennium are a significant challenge. To respond to this challenge, we must find new ways to cut the costs while increasing the quality of our service. Building new schools that are committed to an under-utilization formula is not affordable or cost-effective. Many school districts must also compete with residential and business growth for the remaining usable land. In many cases acreage that is available is becoming more expensive and environmentally complex. House Bill 519, I.D.E.A., takes advantage of the opportunity to utilize our existing school facilities in a way that maximizes their potential.

Example: Four schools utilizing a nontraditional calendar and increasing their capacity by 20% to 25% will serve the same student body as five schools operating under the traditional calendar.

House Bill 519 as recommended will have the equivalency of saving the need for FORTY-THREE new schools which is worth over SIX HUNDRED MILLION DOLLARS.

The \$250.00 per student incentive could be used in areas such as:

- Improving existing facilities
- Timely remedial instruction to students in need
- Increasing classroom/instructional support
- Maintenance and other operational requirements

Invest \$42,899,210 in House Bill 519 and receive \$640,948,512 in construction savings:
This is common sense.

If anyone has a more cost-effective, futuristic solution, I would certainly like to hear it.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to public school curricular standards;
3 amending s. 1003.41, F.S.; requiring the State Board of
4 Education to review the Sunshine State Standards and
5 replace them with enhanced curricular standards;
6 establishing requirements for the standards; providing
7 requirements for the adoption, review, and revision of the
8 standards; requiring evaluation of proposed standards;
9 providing for the adoption of rules; amending s. 1000.21,
10 F.S.; revising the systemwide definition of "Sunshine
11 State Standards"; amending s. 1001.03, F.S.; requiring the
12 State Board of Education to review and revise the Sunshine
13 State Standards; conforming provisions; amending s.
14 1001.41, F.S.; conforming provisions relating to district
15 school board adoption of standards and policies; amending
16 s. 1001.42, F.S.; restricting district school board
17 expenditure of legislative appropriations for purposes of
18 Florida Comprehensive Assessment Test (FCAT) preparation
19 and providing penalties for unlawful expenditures;
20 providing for the withholding of funds; amending ss.
21 1003.428 and 1003.43, F.S.; conforming provisions;
22 amending s. 1006.34, F.S.; specifying additional criteria
23 for evaluating instructional materials; amending s.
24 1006.40, F.S.; requiring instructional materials to align
25 to the standards; restricting expenditure of the
26 instructional materials allocation; authorizing certain
27 purchases; amending s. 1008.22, F.S.; revising

28 requirements and conforming provisions relating to the
 29 statewide assessment program; requiring the FCAT to assess
 30 students in social studies; providing for end-of-course
 31 assessments; requiring the content knowledge and skills
 32 assessed by the FCAT and end-of-course assessments to
 33 align to the Sunshine State Standards; deleting a
 34 requirement for retaking the FCAT; revising powers and
 35 duties of the Commissioner of Education; providing
 36 restrictions on the development or publication of test-
 37 preparation materials; revising requirements for norm-
 38 referenced tests; establishing requirements for FCAT
 39 testing and reporting schedules; prohibiting certain
 40 practice testing and FCAT-preparation activities;
 41 requiring public schools to comply with statewide
 42 assessment and reporting schedules; establishing
 43 requirements for calculating student scores on revised
 44 statewide assessments; providing for the discontinued
 45 administration of former assessments; requiring the State
 46 Board of Education to adopt rules establishing passing
 47 scores on revised assessments required for a standard high
 48 school diploma; clarifying determination of concordant
 49 scores for the FCAT; amending s. 1008.25, F.S.; requiring
 50 each district school board's student progression program
 51 to include performance in social studies and requiring
 52 assessment, remediation, and reporting related thereto;
 53 amending ss. 1008.34 and 1008.341, F.S.; exempting certain
 54 schools from receiving school grades or school improvement

55 ratings; revising definition of "home school" for purposes
 56 of calculating school grades for alternative schools;
 57 requiring annual collaboration among school principals
 58 concerning the school assignment of students attending an
 59 alternative school; providing an effective date.

60
 61 Be It Enacted by the Legislature of the State of Florida:

62
 63 Section 1. Section 1003.41, Florida Statutes, is amended
 64 to read:

65 1003.41 Sunshine State Standards.--

66 (1) Public K-12 educational instruction in Florida shall
 67 be ~~is~~ based on the "Sunshine State Standards." The State Board
 68 of Education shall review and replace the Sunshine State
 69 Standards with enhanced curricular standards that establish the
 70 core content of the curricula to be taught in this state and
 71 that specify the core content knowledge and skills that K-12
 72 public school students are expected to learn. The enhanced
 73 curricular standards must, at a minimum:

74 (a) Establish the core curricular content for language
 75 arts, science, mathematics, and social studies. Standards for
 76 these subjects must identify specific curricular content and
 77 include distinct grade-level expectations for the core content
 78 knowledge and skills that a student is expected to have learned
 79 by each individual grade level from kindergarten through grade
 80 12.

81 1. Language arts standards shall establish core curricular

82 content for, at a minimum, reading, grammar, literature, and
 83 writing. The standards must identify a specific list of authors,
 84 important literary works, and literary traditions that a student
 85 is expected to have read by each individual grade level.

86 2. Science standards shall establish core curricular
 87 content for, at a minimum, biology, chemistry, earth and space
 88 science, and physics.

89 3. Mathematics standards shall establish core curricular
 90 content for, at a minimum, number sense and operations, algebra
 91 and functions, geometry and measurement, and probability and
 92 statistics.

93 4. Social studies standards shall establish core
 94 curricular content for, at a minimum, geography, history,
 95 government, civics, economics, United States patriotism, and
 96 national sovereignty.

97 (b) Establish the core curricular content for visual and
 98 performing arts, physical education, health, and foreign
 99 languages. Standards for these subjects must identify specific
 100 curricular content and include distinct grade-level expectations
 101 for the core content knowledge and skills that a student is
 102 expected to have learned by each individual grade level from
 103 kindergarten through grade 5. The standards for grades 6 through
 104 12 may be organized by grade clusters of more than one grade
 105 level.

106 (c) Identify the core curricular content that a student is
 107 expected to learn, for each subject at each individual grade
 108 level, in order to acquire the broad background knowledge needed

109 for reading comprehension.

110 (d) Be rigorous, relevant, and provide for the logical,
 111 sequential progression of core curricular content that
 112 incrementally increases a student's core content knowledge and
 113 skills over time.

114 (e) Integrate critical-thinking and problem-solving
 115 skills; communication, reading, and writing skills; mathematics
 116 skills; collaboration skills; contextual and applied-learning
 117 skills; technology-literacy skills; information and media-
 118 literacy skills; and civic-engagement skills.

119 (f) Be organized according to a uniform structure and
 120 format that is consistent for each subject. The enhanced
 121 curricular standards shall, for each subject and grade level,
 122 use the same alphanumeric coding system.

123 (g) Be aligned to expectations for success in
 124 postsecondary education and high-skill, high-wage employment.

125 (2) By December 31, 2008, the State Board of Education
 126 shall establish an expedited schedule for adoption of the
 127 enhanced curricular Sunshine State Standards and shall establish
 128 by rule a schedule for the periodic review and revision of the
 129 standards. The state board must adopt the enhanced curricular
 130 standards for each subject by December 31, 2011.

131 (3) (a) The Commissioner of Education shall submit to the
 132 State Board of Education proposed enhanced curricular Sunshine
 133 State Standards, and periodically submit proposed revisions to
 134 the standards, for adoption by the state board according to the
 135 schedules established under subsection (2). The commissioner, in

136 developing the proposed standards, shall consult with renowned
 137 experts on K-12 curricular standards and content in each subject
 138 listed in paragraphs (1)(a) and (1)(b) and shall consider
 139 standards implemented by other states or nations which are
 140 regarded as exceptionally rigorous by the curricular and content
 141 experts. The commissioner may also consult with curricular and
 142 content experts in other subjects.

143 (b) The commissioner shall submit the proposed standards
 144 for review and comment by Florida educators, school
 145 administrators, representatives of community colleges and state
 146 universities who have expertise in the content knowledge and
 147 skills necessary to prepare a student for postsecondary
 148 education, and leaders in business and industry. The
 149 commissioner, after considering any comments and making any
 150 revisions to the proposed standards, shall submit the standards
 151 for written evaluation by renowned experts on K-12 curricular
 152 standards and content.

153 (c) The commissioner, upon finalizing the proposed
 154 standards, shall submit the standards and evaluations by the
 155 curricular and content experts to the Governor, President of the
 156 Senate, and Speaker of the House of Representatives at least 21
 157 days before state board considers adoption of the proposed
 158 standards.

159 (4) The State Board of Education may adopt rules under ss.
 160 120.534(1) and 120.54 to implement this section. ~~These standards~~
 161 ~~have been adopted by the State Board of Education and delineate~~
 162 ~~the academic achievement of students, for which the state will~~

163 ~~hold schools accountable, in grades K-2, 3-5, 6-8, and 9-12 in~~
 164 ~~the subjects of language arts, mathematics, science, social~~
 165 ~~studies, the arts, health and physical education, and foreign~~
 166 ~~languages. They include standards in reading, writing, history,~~
 167 ~~government, geography, economics, and computer literacy.~~

168 Section 2. Subsection (7) of section 1000.21, Florida
 169 Statutes, is amended to read:

170 1000.21 Systemwide definitions.--As used in the Florida K-
 171 20 Education Code:

172 (7) "Sunshine State Standards" means the state's public K-
 173 12 curricular are standards adopted under s. 1003.41 which
 174 establish the core content of the curricula to be taught in this
 175 state and which specify the core content knowledge and skills
 176 that K-12 public school students are expected to learn. The term
 177 includes the current Sunshine State Standards for a subject
 178 until the standards are replaced under s. 1003.41 by enhanced
 179 curricular standards. ~~that identify what public school students~~
 180 ~~should know and be able to do. These standards delineate the~~
 181 ~~academic achievement of students for which the state will hold~~
 182 ~~its public schools accountable in grades K-2, 3-5, 6-8, and 9-~~
 183 ~~12, in the subjects of language arts, mathematics, science,~~
 184 ~~social studies, the arts, health and physical education, foreign~~
 185 ~~languages, reading, writing, history, government, geography,~~
 186 ~~economics, and computer literacy.~~

187 Section 3. Subsection (1) of section 1001.03, Florida
 188 Statutes, is amended to read:

189 1001.03 Specific powers of State Board of Education.--

190 (1) PUBLIC K-12 CURRICULAR ~~STUDENT PERFORMANCE~~
 191 STANDARDS.--The State Board of Education shall adopt and
 192 periodically review and revise ~~approve the student performance~~
 193 ~~standards known as the Sunshine State Standards in accordance~~
 194 with s. 1003.41. key academic subject areas and grade levels.
 195 ~~the state board shall establish a schedule to facilitate the~~
 196 ~~periodic review of the standards to ensure adequate rigor,~~
 197 ~~relevance, logical student progression, and integration of~~
 198 ~~reading, writing, and mathematics across all subject areas.~~
 199 ~~The standards review by subject area must include participation~~
 200 ~~of curriculum leaders in other content areas, including the~~
 201 ~~arts, to ensure valid content area integration and to address~~
 202 ~~the instructional requirements of different learning styles. The~~
 203 ~~process for review and proposed revisions must include~~
 204 ~~leadership and input from the state's classroom teachers, school~~
 205 ~~administrators, and community colleges and universities, and~~
 206 ~~from representatives from business and industry who are~~
 207 ~~identified by local education foundations. A report including~~
 208 ~~proposed revisions must be submitted to the Governor, the~~
 209 ~~President of the Senate, and the Speaker of the House of~~
 210 ~~Representatives annually to coincide with the established review~~
 211 ~~schedule. The review schedule and an annual status report must~~
 212 ~~be submitted to the Governor, the President of the Senate, and~~
 213 ~~the Speaker of the House of Representatives annually not later~~
 214 ~~than January 1.~~

215 Section 4. Subsection (3) of section 1001.41, Florida
 216 Statutes, is amended to read:

217 1001.41 General powers of district school board.--The
 218 district school board, after considering recommendations
 219 submitted by the district school superintendent, shall exercise
 220 the following general powers:

221 (3) ~~Prescribe and~~ Adopt standards and policies that to
 222 provide each student the opportunity to receive a complete
 223 education program, including instruction in the core curricular
 224 content established in language arts, mathematics, science,
 225 social studies, health, physical education, foreign languages,
 226 and the arts, as defined by the Sunshine State Standards. The
 227 standards and policies must emphasize integration and
 228 reinforcement of reading, writing, and mathematics skills across
 229 all subjects, including Career awareness, career exploration,
 230 and career and technical education standards and policies must
 231 integrate and reinforce the Sunshine State Standards.

232 Section 5. Subsection (7) of section 1001.42, Florida
 233 Statutes, is amended to read:

234 1001.42 Powers and duties of district school board.--The
 235 district school board, acting as a board, shall exercise all
 236 powers and perform all duties listed below:

237 (7) COURSES OF STUDY AND OTHER INSTRUCTIONAL
 238 MATERIALS.--Provide adequate instructional materials for all
 239 students in accordance with the requirements of chapter 1006. A
 240 school district may not expend any legislative appropriations,
 241 including, but not limited to, the instructional materials
 242 allocation, for Florida Comprehensive Assessment Test (FCAT)
 243 practice tests, sample test items, or practice workbooks or for

244 any other materials dedicated to test-taking exercises or
 245 strategies designed exclusively for FCAT preparation or that
 246 includes any reference to the "Florida Comprehensive Assessment
 247 Test" or "FCAT." If the Auditor General determines that a school
 248 district violates this subsection, the department shall withhold
 249 from the next distribution of funds from the instructional
 250 materials allocation under s. 1011.67 an amount equal to the
 251 legislative appropriations expended in violation of this
 252 subsection. The district school board shall appropriately
 253 discipline the malfeasant staff responsible for the unlawful
 254 expenditure.

255 Section 6. Paragraph (a) of subsection (8) of section
 256 1003.428, Florida Statutes, is amended to read:

257 1003.428 General requirements for high school graduation;
 258 revised.--

259 (8) (a) Each district school board must provide instruction
 260 to prepare students with disabilities to demonstrate proficiency
 261 in the core content knowledge and skills ~~and competencies~~
 262 necessary for successful grade-to-grade progression and high
 263 school graduation.

264 Section 7. Paragraph (a) of subsection (11) of section
 265 1003.43, Florida Statutes, is amended to read:

266 1003.43 General requirements for high school graduation.--

267 (11) (a) Each district school board must provide
 268 instruction to prepare students with disabilities to demonstrate
 269 proficiency in the core content knowledge and skills ~~and~~
 270 ~~competencies~~ necessary for successful grade-to-grade progression

271 and high school graduation.

272 Section 8. Subsection (1) of section 1006.34, Florida
 273 Statutes, is amended to read:

274 1006.34 Powers and duties of the commissioner and the
 275 department in selecting and adopting instructional materials.--

276 (1) PROCEDURES FOR EVALUATING INSTRUCTIONAL
 277 MATERIALS.--The commissioner shall prescribe the procedures by
 278 which the department shall evaluate instructional materials
 279 submitted by publishers and manufacturers in each adoption.
 280 Included in these procedures shall be provisions that ~~which~~
 281 afford each publisher or manufacturer or his or her
 282 representative an opportunity to present to members of the state
 283 instructional materials committees the merits of each
 284 instructional material submitted in each adoption. By July 1,
 285 2008, the procedures must prohibit the adoption of instructional
 286 materials that include any reference to the "Florida
 287 Comprehensive Assessment Test" or "FCAT" and must require any
 288 instructional materials submitted to clearly demonstrate
 289 alignment to the Sunshine State Standards.

290 Section 9. Subsection (1) and paragraph (b) of subsection
 291 (3) of section 1006.40, Florida Statutes, are amended to read:

292 1006.40 Use of instructional materials allocation;
 293 instructional materials, library books, and reference books;
 294 repair of books.--

295 (1) (a) On or before July 1 each year, the commissioner
 296 shall certify to each district school superintendent the
 297 estimated allocation of state funds for instructional materials,

298 | computed under ~~pursuant to the provisions of~~ s. 1011.67 for the
 299 | ensuing fiscal year. All instructional materials used must align
 300 | to the Sunshine State Standards. Instructional materials used to
 301 | teach reading shall, to the maximum extent practicable,
 302 | incorporate nonfictional content from other core subjects.

303 | (b) A school district may not expend funds from the
 304 | instructional materials allocation for Florida Comprehensive
 305 | Assessment Test (FCAT) practice tests, sample test items, or
 306 | practice workbooks or for any other materials dedicated to test-
 307 | taking exercises or strategies designed exclusively for FCAT
 308 | preparation or that includes any reference to the "Florida
 309 | Comprehensive Assessment Test" or "FCAT." The department shall
 310 | notify publishers and manufacturers of this prohibition by
 311 | including notice of this paragraph in the instructional
 312 | materials specifications for each adoption. A school district's
 313 | violation of this paragraph is subject to the withholding of
 314 | funds from the instructional materials allocation under s.
 315 | 1001.42(7).

316 | (3)

317 | (b) Up to 50 percent of the annual allocation may be used
 318 | for the purchase of instructional materials, including library
 319 | and reference books and nonprint materials, not included on the
 320 | state-adopted list and for the repair and renovation of
 321 | textbooks and library books. Notwithstanding subsection (4), up
 322 | to 10 percent of the annual allocation for instructional
 323 | materials not on the state-adopted list may be used to purchase
 324 | technology devices with digital content or online content, if

325 the publisher or manufacturer clearly demonstrates that the
 326 content is aligned to the Sunshine State Standards.

327 Section 10. Section 1008.22, Florida Statutes, is amended
 328 to read:

329 1008.22 Student assessment program for public schools.--

330 (1) PURPOSE.--The primary purposes of the student
 331 assessment program are to provide information needed to improve
 332 the public schools by enhancing the learning gains of all
 333 students and to inform parents of the educational progress of
 334 their public school children. The program must be designed to:

335 (a) Assess the annual learning gains of each student
 336 toward achieving the Sunshine State Standards appropriate for
 337 the student's grade level.

338 (b) Provide data for making decisions regarding school
 339 accountability and recognition.

340 (c) Identify the educational strengths and needs of
 341 students and the readiness of students to be promoted to the
 342 next grade level or to graduate from high school with a standard
 343 or special high school diploma.

344 (d) Assess how well educational goals and performance
 345 standards are met at the school, district, and state levels.

346 (e) Provide information to aid in the evaluation and
 347 development of educational programs and policies.

348 (f) Provide information on the performance of Florida
 349 students compared with that of other students across the United
 350 States.

351 (2) NATIONAL EDUCATION COMPARISONS.--It is Florida's

352 intent to participate in the measurement of national educational
 353 goals. The Commissioner of Education shall direct Florida school
 354 districts to participate in the administration of the National
 355 Assessment of Educational Progress, or a similar national
 356 assessment program, both for the national sample and for any
 357 state-by-state comparison programs which may be initiated. The
 358 ~~Such~~ assessments must be conducted using the data collection
 359 procedures, the student surveys, the educator surveys, and other
 360 instruments included in the National Assessment of Educational
 361 Progress or similar program being administered in Florida. The
 362 results of these assessments shall be included in the annual
 363 report of the Commissioner of Education specified in this
 364 section. The administration of the National Assessment of
 365 Educational Progress or similar program shall be in addition to
 366 and separate from the administration of the statewide assessment
 367 program.

368 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 369 design and implement a statewide program of educational
 370 assessment that provides information for the improvement of the
 371 operation and management of the public schools, including
 372 schools operating for the purpose of providing educational
 373 services to youth in Department of Juvenile Justice programs.
 374 The commissioner may enter into contracts for the continued
 375 administration of the assessment, testing, and evaluation
 376 programs authorized and funded by the Legislature. Contracts may
 377 be initiated in 1 fiscal year and continue into the next and may
 378 be paid from the appropriations of either or both fiscal years.

379 The commissioner is authorized to negotiate for the sale or
 380 lease of tests, scoring protocols, test scoring services, and
 381 related materials developed pursuant to law. Pursuant to the
 382 statewide assessment program, the commissioner shall:

383 (a) Submit proposed enhanced curricular Sunshine State
 384 Standards to the State Board of Education for adoption and
 385 periodic review and revision under s. 1003.41 ~~a list that~~
 386 ~~specifies student skills and competencies to which the goals for~~
 387 ~~education specified in the state plan apply, including, but not~~
 388 ~~limited to, reading, writing, science, and mathematics. The~~
 389 ~~skills and competencies must include problem-solving and higher-~~
 390 ~~order skills as appropriate and shall be known as the Sunshine~~
 391 ~~State Standards as defined in s. 1000.21. The commissioner shall~~
 392 ~~select such skills and competencies after receiving~~
 393 ~~recommendations from educators, citizens, and members of the~~
 394 ~~business community. The commissioner shall submit to the State~~
 395 ~~Board of Education revisions to the list of student skills and~~
 396 ~~competencies in order to maintain continuous progress toward~~
 397 ~~improvements in student proficiency.~~

398 (b) Develop and implement a uniform system of indicators
 399 to describe the performance of public school students and the
 400 characteristics of the public school districts and the public
 401 schools. These indicators must include, without limitation,
 402 information gathered by the comprehensive management information
 403 system created pursuant to s. 1008.385 and student achievement
 404 information obtained pursuant to this section.

405 (c) Develop and implement a student achievement testing

406 program known as the Florida Comprehensive Assessment Test
 407 (FCAT) as part of the statewide assessment program to measure a
 408 student's content knowledge and skills in reading, writing,
 409 science, and mathematics, and, by the 2012-2013 school year,
 410 social studies. Other content areas may be included as directed
 411 by the commissioner. ~~The Comprehensive assessments~~ assessment of
 412 reading and mathematics shall be administered annually in grades
 413 3 through 10. ~~The Comprehensive assessments~~ assessment of
 414 writing and science shall be administered at least once at the
 415 elementary, middle, and high school levels. Comprehensive
 416 assessments of social studies shall be administered at least
 417 once at the elementary and middle school levels. End-of-course
 418 assessments of social studies shall be administered at the high
 419 school level. End-of-course assessments of any other subject may
 420 be administered in addition to the comprehensive assessments
 421 required under this paragraph. An end-of-course assessment must
 422 be rigorous, standardized, and administered statewide. The
 423 content knowledge and skills assessed by comprehensive and end-
 424 of-course assessments must be aligned to the core curricular
 425 content established in the Sunshine State Standards. The
 426 ~~commissioner must document the procedures used to ensure that~~
 427 ~~the versions of the FCAT which are taken by students retaking~~
 428 ~~the grade 10 FCAT are equally as challenging and difficult as~~
 429 ~~the tests taken by students in grade 10 which contain~~
 430 ~~performance tasks.~~ The testing program must be designed so that:
 431 1. ~~The tests measure student skills and competencies~~
 432 ~~adopted by the State Board of Education as specified in~~

433 ~~paragraph (a).~~ The tests must measure and report student
 434 proficiency levels of all students assessed in reading, writing,
 435 mathematics, and science, and social studies. The commissioner
 436 shall provide for the tests to be developed or obtained, as
 437 appropriate, through contracts and project agreements with
 438 private vendors, public vendors, public agencies, postsecondary
 439 educational institutions, or school districts. An entity awarded
 440 a contract or entering into a project agreement, and any
 441 corporate affiliates or subsidiaries, may not participate in the
 442 development or publication of practice tests, sample test items,
 443 or practice workbooks, or of any other materials dedicated to
 444 test-taking exercises or strategies for the tests developed or
 445 obtained through the contract or project agreement, except as
 446 authorized in the contract or project agreement or otherwise
 447 authorized in writing by the commissioner. The commissioner
 448 shall obtain input with respect to the design and implementation
 449 of the testing program from assessment experts, state educators,
 450 assistive technology experts, and the public. In addition, the
 451 commissioner must provide for ongoing review of the FCAT by an
 452 independent test-measurement expert who provides analysis and
 453 evaluation of the test and testing practices.

454 2. The statewide assessment ~~The testing program shall will~~
 455 include a combination of ~~norm-referenced and criterion-~~
 456 ~~referenced tests~~ and norm-referenced tests. Norm-referenced
 457 tests included in the statewide assessment program may only be
 458 administered in grades 3, 7, and 9. The criterion-referenced
 459 tests shall include, to the extent determined by the

460 commissioner, test items ~~questions~~ that require the student to
 461 produce information or perform tasks in such a way that the
 462 skills and competencies he or she uses can be measured.

463 3. ~~Each testing program, whether at the elementary,~~
 464 ~~middle, or high school level, includes a test of Writing~~
 465 assessments shall require ~~in which~~ students are ~~required~~ to
 466 produce a writing sample ~~writings~~ that is ~~are then~~ scored using
 467 by appropriate and timely methods.

468 4. A score is designated for each test ~~subject area~~
 469 ~~tested~~, below which score a student's performance is deemed
 470 inadequate. A ~~The~~ school district ~~districts~~ shall provide
 471 appropriate remedial instruction to students whose performance
 472 is ~~who score~~ below grade level ~~these levels~~.

473 5. Except as provided in s. 1003.428(8)(b) or s.
 474 1003.43(11)(b), students must earn a passing score on the grade
 475 10 assessment test described in this paragraph or attain
 476 concordant scores as described in subsection (9) in reading,
 477 writing, and mathematics to qualify for a standard high school
 478 diploma. The State Board of Education shall designate a passing
 479 score for each part of the grade 10 assessment test. In
 480 establishing passing scores, the state board shall consider any
 481 possible negative impact of the test on minority students. The
 482 State Board of Education shall adopt rules that ~~which~~ specify
 483 the passing scores for the grade 10 FCAT. Any such rules that
 484 ~~which~~ have the effect of raising the required passing scores
 485 shall only apply to students taking the grade 10 FCAT for the
 486 first time after such rules are adopted by the State Board of

487 Education.

488 6. Participation in the testing program is mandatory for
 489 all students attending public school, including students served
 490 in Department of Juvenile Justice programs, except as otherwise
 491 prescribed by the commissioner. If a student does not
 492 participate in the statewide assessment, the district must
 493 notify the student's parent and provide the parent with
 494 information regarding the implications of such nonparticipation.
 495 A parent must provide signed consent for a student to receive
 496 classroom instructional accommodations that would not be
 497 available or permitted on the statewide assessments and must
 498 acknowledge in writing that he or she understands the
 499 implications of such instructional accommodations. The State
 500 Board of Education shall adopt rules, based upon recommendations
 501 of the commissioner, for the provision of test accommodations
 502 for students in exceptional education programs and for students
 503 who have limited English proficiency. Accommodations that negate
 504 the validity of a statewide assessment are not allowable in the
 505 administration of the FCAT. However, instructional
 506 accommodations are allowable in the classroom if included in a
 507 student's individual education plan. Students using
 508 instructional accommodations in the classroom that are not
 509 allowable as accommodations on the FCAT may have the FCAT
 510 requirement waived under ~~pursuant to the requirements of~~ s.
 511 1003.428(8)(b) or s. 1003.43(11)(b).

512 7. A student seeking an adult high school diploma must
 513 meet the same testing requirements that a regular high school

514 student must meet.

515 8. District school boards must provide instruction to
 516 prepare students to demonstrate proficiency in the core
 517 curricular content established in the Sunshine State Standards
 518 adopted under s. 1003.41, including the core content knowledge
 519 and skills and ~~competencies~~ necessary for successful grade-to-
 520 grade progression and high school graduation. If a student is
 521 provided with instructional accommodations in the classroom that
 522 are not allowable as accommodations in the statewide assessment
 523 program, as described in the test manuals, the district must
 524 inform the parent in writing and must provide the parent with
 525 information regarding the impact on the student's ability to
 526 meet expected proficiency levels in reading, writing, science,
 527 mathematics, and social studies ~~math~~. The commissioner shall
 528 conduct studies as necessary to verify that the required core
 529 curricular content is ~~skills and competencies~~ are part of the
 530 district instructional programs.

531 9. District school boards must provide opportunities for
 532 students to demonstrate an acceptable level of performance on an
 533 alternative standardized assessment approved by the State Board
 534 of Education following enrollment in summer academies.

535 10. The Department of Education must develop, or select,
 536 and implement a common battery of assessment tools that are ~~will~~
 537 be used in all juvenile justice programs in the state. These
 538 tools must accurately measure the core curricular content
 539 established ~~skills and competencies established~~ in the Sunshine
 540 State Standards.

541 11. For students seeking a special diploma under ~~pursuant~~
 542 ~~to~~ s. 1003.438, the Department of Education must develop, or
 543 select, and implement an alternate assessment tool that
 544 accurately measures the core curricular content established
 545 ~~skills and competencies established~~ in the Sunshine State
 546 Standards for students with disabilities under s. 1003.438.

547 12. The Commissioner of Education shall establish
 548 schedules for the administration of statewide assessments and
 549 the reporting of student test results. The commissioner shall,
 550 by August 1 of each year, notify each school district in writing
 551 and publish on the department's Internet website the testing and
 552 reporting schedules for, at a minimum, the school year following
 553 the upcoming school year. The testing and reporting schedules
 554 shall require:

555 a. The latest possible administration of statewide
 556 assessments and the earliest possible reporting to the school
 557 districts of student test results which are feasible within
 558 available technology and specific appropriations;

559 b. Beginning with the 2010-2011 school year, a
 560 comprehensive statewide assessment of writing may not be
 561 administered earlier than the week of March 1 and a
 562 comprehensive statewide assessment of any other subject may not
 563 be administered earlier than the week of April 15;

564 c. A statewide end-of-course assessment must be
 565 administered within the last 2 weeks of the course; and

566 d. Student test results of statewide assessments must be
 567 reported by the week of the first Monday in June following

568 administration of the assessments.

569

570 The commissioner may, based on collaboration and input from
 571 school districts, design and implement student testing programs,
 572 for any grade level and subject area, necessary to effectively
 573 monitor educational achievement in the state, including the
 574 measurement of educational achievement of the Sunshine State
 575 Standards for students with disabilities. Development and
 576 refinement of assessments shall include universal design
 577 principles and accessibility standards that will prevent any
 578 unintended obstacles for students with disabilities while
 579 ensuring the validity and reliability of the test. These
 580 principles should be applicable to all technology platforms and
 581 assistive devices available for the assessments. The field
 582 testing process and psychometric analyses for the statewide
 583 assessment program must include an appropriate percentage of
 584 students with disabilities and an evaluation or determination of
 585 the effect of test items on such students.

586 (d) Conduct ongoing research to develop improved methods
 587 of assessing student performance, including, without limitation,
 588 the use of technology to administer tests, score, or report the
 589 results of, the use of electronic transfer of data, the
 590 development of work-product assessments, and the development of
 591 process assessments.

592 (e) Conduct ongoing research and analysis of student
 593 achievement data, including, without limitation, monitoring
 594 trends in student achievement by grade level and overall student

595 | achievement, identifying school programs that are successful,
 596 | and analyzing correlates of school achievement.

597 | (f) Provide technical assistance to school districts in
 598 | the implementation of state and district testing programs and
 599 | the use of the data produced pursuant to such programs.

600 | (g) Study the cost and student achievement impact of
 601 | secondary end-of-course assessments, including web-based and
 602 | performance formats, and report to the Legislature prior to
 603 | implementation.

604 | (4) STATEWIDE ASSESSMENT PREPARATION; PROHIBITED
 605 | ACTIVITIES.--Beginning with the 2008-2009 school year, a
 606 | district school board shall prohibit each public school from
 607 | suspending a regular program of curricula for purposes of
 608 | administering practice tests, or engaging in other test-
 609 | preparation activities, for a statewide assessment, except as
 610 | otherwise determined necessary for the valid and reliable
 611 | administration of the statewide assessment as set forth in rules
 612 | adopted by the State Board of Education with specific reference
 613 | to this subsection.

614 | (5)~~(4)~~ DISTRICT TESTING PROGRAMS.--Each district school
 615 | board shall periodically assess student performance and
 616 | achievement within each school of the district. The assessment
 617 | programs must be based on the core curricular content
 618 | established in the Sunshine State Standards and any ~~upon~~ local
 619 | goals and objectives that are compatible with the state plan for
 620 | education and that supplement the core content knowledge and
 621 | skills necessary for successful grade-to-grade progression and

622 high school graduation and competencies adopted by the State
 623 Board of Education. All school districts must participate in the
 624 statewide assessment program designed to measure annual student
 625 learning and school performance. All district school boards
 626 shall report assessment results as required by the state
 627 management information system.

628 (6)-(5) SCHOOL TESTING PROGRAMS.--Each public school shall
 629 participate in the statewide assessment program in accordance
 630 with the testing and reporting schedules published by the
 631 Commissioner of Education under subparagraph (3)(c)12., unless
 632 specifically exempted by state board rule based on serving a
 633 specialized population for which standardized testing is not
 634 appropriate. Student performance data shall be analyzed and
 635 reported to parents, the community, and the state. Student
 636 performance data shall be used in developing objectives of the
 637 school improvement plan, evaluation of instructional personnel,
 638 evaluation of administrative personnel, assignment of staff,
 639 allocation of resources, acquisition of instructional materials
 640 and technology, performance-based budgeting, and promotion and
 641 assignment of students into educational programs. The analysis
 642 of student performance data also must identify strengths and
 643 needs in the educational program and trends over time. The
 644 analysis must be used in conjunction with the budgetary planning
 645 processes developed pursuant to s. 1008.385 and the development
 646 of the programs of remediation.

647 (7)-(6) REQUIRED ANALYSES.--The commissioner shall provide,
 648 at a minimum, for the following analyses of data produced by the

649 student achievement testing program:

650 (a) The statistical system for the annual assessments
 651 shall use measures of student learning, such as the FCAT, to
 652 determine teacher, school, and school district statistical
 653 distributions, which shall be determined using available data
 654 from the FCAT, and other data collection as deemed appropriate
 655 by the Department of Education, to measure the differences in
 656 student prior year achievement compared to the current year
 657 achievement for the purposes of accountability and recognition.

658 (b) The statistical system shall provide the best
 659 estimates of teacher, school, and school district effects on
 660 student progress. The approach used by the department shall be
 661 approved by the commissioner before implementation.

662 (c) The annual testing program shall be administered to
 663 provide for valid statewide comparisons of learning gains to be
 664 made for purposes of accountability and recognition. The
 665 ~~commissioner shall establish a schedule for the administration~~
 666 ~~of the statewide assessments. In establishing such schedule, the~~
 667 ~~commissioner is charged with the duty to accomplish the latest~~
 668 ~~possible administration of the statewide assessments and the~~
 669 ~~earliest possible provision of the results to the school~~
 670 ~~districts feasible within available technology and specific~~
 671 ~~appropriation.~~ District school boards shall not establish school
 672 calendars that jeopardize or limit the valid testing and
 673 comparison of student learning gains.

674 (8) ~~(7)~~ LOCAL ASSESSMENTS.--Measurement of the learning
 675 gains of students in all subjects and grade levels other than

676 subjects and grade levels required for the state student
 677 achievement testing program is the responsibility of the school
 678 districts.

679 (9)~~(8)~~ APPLICABILITY OF TESTING STANDARDS.--

680 (a) If the Commissioner of Education revises a statewide
 681 assessment and the revisions require the State Board of
 682 Education to modify the assessment's proficiency levels, or
 683 modify the passing scores required for a standard high school
 684 diploma, until the state board adopts the modifications by rule,
 685 the commissioner shall use calculations for scoring the
 686 assessment which adjust student scores on the revised assessment
 687 for statistical equivalence to student scores on the former
 688 assessment.

689 (b) A student must attain meet the passing scores on a
 690 statewide assessment required testing requirements for a
 691 standard high school diploma which are graduation that were in
 692 effect at the time the student enters entered 9th grade 9, if
 693 provided the student's enrollment is was continuous.

694 (c) If the commissioner revises a statewide assessment and
 695 the revisions require the state board to modify the passing
 696 scores required for a standard high school diploma, the
 697 commissioner shall discontinue administration of the former
 698 assessment upon the graduation, based on normal student
 699 progression, of students entering grade 9 the school year
 700 following administration of the revised assessment. The state
 701 board shall adopt by rule passing scores for the revised
 702 assessment which are statistically equivalent to passing scores

703 on the discontinued assessment for a student required under
 704 paragraph (b) to attain passing scores on the discontinued
 705 assessment.

706 (10)~~(9)~~ CONCORDANT SCORES FOR THE FCAT.--

707 (a) The State Board of Education shall analyze the content
 708 and concordant data sets for widely used high school achievement
 709 tests, including, but not limited to, the PSAT, PLAN, SAT, ACT,
 710 and College Placement Test, to assess if concordant scores for
 711 FCAT scores can be determined for high school graduation,
 712 college placement, and scholarship awards. In cases where
 713 content alignment and concordant scores can be determined, the
 714 Commissioner of Education shall adopt those scores as meeting
 715 the graduation requirement in lieu of achieving the FCAT passing
 716 score and may adopt those scores as being sufficient to achieve
 717 additional purposes as determined by rule. Each time ~~that~~ test
 718 content or scoring procedures change ~~are changed~~ for the FCAT or
 719 for a high school achievement test for which a concordant score
 720 is determined ~~one of the identified tests~~, new concordant scores
 721 must be determined.

722 (11)~~(10)~~ REPORTS.--The Department of Education shall
 723 annually provide a report to the Governor, the President of the
 724 Senate, and the Speaker of the House of Representatives on the
 725 following:

726 (a) Longitudinal performance of students in mathematics
 727 and reading.

728 (b) Longitudinal performance of students by grade level in
 729 mathematics and reading.

730 (c). Longitudinal performance regarding efforts to close
731 the achievement gap.

732 (d) Longitudinal performance of students on the norm-
733 referenced component of the FCAT.

734 (e) Other student performance data based on national norm-
735 referenced and criterion-referenced tests, when available, and
736 numbers of students who after 8th grade enroll in adult
737 education rather than other secondary education.

738 (12)~~(11)~~ RULES.--The State Board of Education shall adopt
739 rules under ~~pursuant to~~ ss. 120.536(1) and 120.54 to implement
740 ~~the provisions of~~ this section.

741 Section 11. Subsection (1), paragraph (b) of subsection
742 (2), paragraphs (a) and (c) of subsection (4), and paragraph (a)
743 of subsection (8) of section 1008.25, Florida Statutes, are
744 amended to read:

745 1008.25 Public school student progression; remedial
746 instruction; reporting requirements.--

747 (1) INTENT.--It is the intent of the Legislature that each
748 student's progression from one grade to another be determined,
749 in part, upon proficiency in reading, writing, science, ~~and~~
750 mathematics, and, upon its assessment under s. 1008.22, social
751 studies; that district school board policies facilitate such
752 proficiency; and that each student and his or her parent be
753 informed of that student's academic progress.

754 (2) COMPREHENSIVE PROGRAM.--Each district school board
755 shall establish a comprehensive program for student progression
756 which must include:

757 (b) Specific levels of performance in reading, writing,
 758 science, ~~and mathematics, and,~~ upon its assessment under s.
 759 1008.22, social studies for each grade level, including the
 760 levels of performance on statewide assessments as defined by the
 761 commissioner, below which a student must receive remediation, or
 762 be retained within an intensive program that is different from
 763 the previous year's program and that takes into account the
 764 student's learning style.

765 (4) ASSESSMENT AND REMEDIATION.--

766 (a) Each student must participate in the statewide
 767 assessment tests required by s. 1008.22. Each student who does
 768 not meet specific levels of performance as determined by the
 769 district school board in reading, writing, science, and
 770 mathematics, and, upon its assessment under s. 1008.22, social
 771 studies for each grade level, or who scores below Level 3 in
 772 reading or mathematics ~~math~~, must be provided with additional
 773 diagnostic assessments to determine the nature of the student's
 774 difficulty, the areas of academic need, and strategies for
 775 appropriate intervention and instruction as described in
 776 paragraph (b).

777 (c) Upon subsequent evaluation, if the documented
 778 deficiency has not been remediated, the student may be retained.
 779 Each student who does not meet the minimum performance
 780 expectations defined by the Commissioner of Education for the
 781 statewide assessment tests in reading, writing, science, and
 782 mathematics, and, upon its assessment under s. 1008.22, social
 783 studies must continue to be provided with remedial or

784 supplemental instruction until the expectations are met or the
 785 student graduates from high school or is not subject to
 786 compulsory school attendance.

787 (8) ANNUAL REPORT.--

788 (a) In addition to the requirements in paragraph (5) (b),
 789 each district school board must annually report to the parent of
 790 each student the progress of the student toward achieving state
 791 and district expectations for proficiency in reading, writing,
 792 science, ~~and mathematics,~~ and, upon its assessment under s.
 793 1008.22, social studies. The district school board must report
 794 to the parent the student's results on each statewide assessment
 795 test. The evaluation of each student's progress must be based
 796 upon the student's classroom work, observations, tests, district
 797 and state assessments, and other relevant information. Progress
 798 reporting must be provided to the parent in writing in a format
 799 adopted by the district school board.

800 Section 12. Subsection (3) of section 1008.34, Florida
 801 Statutes, is amended to read:

802 1008.34 School grading system; school report cards;
 803 district grade.--

804 (3) DESIGNATION OF SCHOOL GRADES.--

805 (a) Schools receiving a school grade.--Each school that
 806 has students who are tested and included in the school grading
 807 system, ~~except an alternative school that receives a school~~
 808 ~~improvement rating pursuant to s. 1008.341,~~ shall receive a
 809 school grade, except as follows:

810 1. A school shall not receive a school grade if the number

811 of its students tested and included in the school grading system
 812 is less than the minimum sample size necessary, based on
 813 accepted professional practice, for statistical reliability and
 814 prevention of the unlawful release of personally identifiable
 815 student data under 20 U.S.C. s. 1232g or s. 1002.22.; however,

816 2. An alternative school may choose to receive a school
 817 grade under this section or in lieu of a school improvement
 818 rating under s. 1008.341.

819 3. Additionally, A school that serves any combination of
 820 students in kindergarten through grade 3 which does not receive
 821 a school grade because its students are not tested and included
 822 in the school grading system shall receive the school grade
 823 designation of a K-3 feeder pattern school identified by the
 824 Department of Education and verified by the school district. A
 825 school feeder pattern exists if at least 60 percent of the
 826 students in the school serving a combination of students in
 827 kindergarten through grade 3 are scheduled to be assigned to the
 828 graded school. ~~School grades itemized in subsection (2) shall be~~
 829 ~~based on the following:~~

830 (b)(a) Criteria.--A school's grade shall be based on a
 831 combination of:

832 1. Student achievement scores, including achievement
 833 scores for students seeking a special diploma.

834 2. Student learning gains as measured by annual FCAT
 835 assessments in grades 3 through 10; learning gains for students
 836 seeking a special diploma, as measured by an alternate
 837 assessment tool, shall be included not later than the 2009-2010

838 school year.

839 3. Improvement of the lowest 25th percentile of students
 840 in the school in reading, math, or writing on the FCAT, unless
 841 these students are exhibiting satisfactory performance.

842 (c)~~(b)~~ Student assessment data.--Student assessment data
 843 used in determining school grades shall include:

844 1. The aggregate scores of all eligible students enrolled
 845 in the school who have been assessed on the FCAT.

846 2. The aggregate scores of all eligible students enrolled
 847 in the school who have been assessed on the FCAT, including
 848 Florida Writes, and who have scored at or in the lowest 25th
 849 percentile of students in the school in reading, math, or
 850 writing, unless these students are exhibiting satisfactory
 851 performance.

852 3. Effective with the 2005-2006 school year, the
 853 achievement scores and learning gains of eligible students
 854 attending alternative schools that provide dropout prevention
 855 and academic intervention services pursuant to s. 1003.53. The
 856 term "eligible students" in this subparagraph does not include
 857 students attending an alternative school who are subject to
 858 district school board policies for expulsion for repeated or
 859 serious offenses, who are in dropout retrieval programs serving
 860 students who have officially been designated as dropouts, or who
 861 are in programs operated or contracted by the Department of
 862 Juvenile Justice. The student performance data for eligible
 863 students identified in this subparagraph shall be included in
 864 the calculation of the home school's grade. As used in For

865 ~~purposes~~ of this section and s. 1008.341, the term "home school"
 866 means the school to which the student would be assigned if the
 867 student was not attending when assigned to an alternative
 868 school. If an alternative school chooses to be graded under
 869 ~~pursuant to~~ this section, student performance data for eligible
 870 students identified in this subparagraph shall not be included
 871 in the home school's grade but shall be included only in the
 872 calculation of the alternative school's grade. School districts
 873 shall ~~must~~ require collaboration between the home school and the
 874 alternative school in order to promote student success. This
 875 collaboration must include an annual discussion between the
 876 principal of the alternative school and the principal of each
 877 student's home school concerning the most appropriate school
 878 assignment for the student.

879
 880 The State Board of Education shall adopt appropriate criteria
 881 for each school grade. The criteria must also give added weight
 882 to student achievement in reading. Schools designated with a
 883 grade of "C," making satisfactory progress, shall be required to
 884 demonstrate that adequate progress has been made by students in
 885 the school who are in the lowest 25th percentile in reading,
 886 math, or writing on the FCAT, including Florida Writes, unless
 887 these students are exhibiting satisfactory performance.

888 Section 13. Subsection (2) of section 1008.341, Florida
 889 Statutes, is amended to read:

890 1008.341 School improvement rating for alternative
 891 schools.--

892 (2) SCHOOL IMPROVEMENT RATING.--An alternative school
 893 ~~schools~~ that provides ~~provide~~ dropout prevention and academic
 894 intervention services under ~~pursuant to~~ s. 1003.53 shall receive
 895 a school improvement rating under ~~pursuant to~~ this section.
 896 However, an alternative school shall not receive a school
 897 improvement rating if the number of its students for whom
 898 student performance data is available for the current year and
 899 previous year is less than the minimum sample size necessary,
 900 based on accepted professional practice, for statistical
 901 reliability and prevention of the unlawful release of personally
 902 identifiable student data under 20 U.S.C. s. 1232g or s.
 903 1002.22. The school improvement rating shall identify an
 904 alternative school ~~schools~~ as having one of the following
 905 ratings defined according to rules of the State Board of
 906 Education:

907 (a) "Improving" means a school ~~schools~~ with students
 908 making more academic progress than when the students were served
 909 in their home schools.

910 (b) "Maintaining" means a school ~~schools~~ with students
 911 making progress equivalent to the progress made when the
 912 students were served in their home schools.

913 (c) "Declining" means a school ~~schools~~ with students
 914 making less academic progress than when the students were served
 915 in their home schools.

916

917 The school improvement rating shall be based on a comparison of
 918 student performance data for the current year and previous year.

919 | Schools that improve at least one level or maintain an
920 | "improving" rating under ~~pursuant to~~ this section are eligible
921 | for school recognition awards under ~~pursuant to~~ s. 1008.36.
922 | Section 14. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

Public School Curricular Standards

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The draft does not appear to implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

Sunshine State Standards:

Present Situation:

Academic content standards describe what a state hopes or expects its students to learn.¹ They “identify what public school students should know and be able to do [sic]. These standards delineate the academic achievement of students for which the state will hold its public schools accountable.”²

In 1996, the State Board of Education adopted Florida’s academic content standards, known as the “*Sunshine State Standards*.”³ The 1996 standards included seven subject areas: language arts, mathematics, science, social studies, foreign languages, the arts, and health and physical education.⁴ The 1996 standards were divided into four separate grade clusters: prekindergarten through grade 2, grades 3-5, grades 6-8, and grades 9-12.⁵

National Evaluations of the Sunshine State Standards:

Fordham Reports. From 2003 through 2006, the Thomas B. Fordham Institute and Foundation conducted a series of nationwide evaluations of state academic content standards in U.S. history (2003),⁶ English (2005),⁷ mathematics (2005),⁸ science (2005),⁹ and world history (2006).¹⁰ Florida

¹ Thomas B. Fordham Foundation, *The Fordham Report 2006: How Well are States Educating Our Neediest Children?* 17 (2006), available at <http://www.fordhamfoundation.org/doc/TFR06FULLREPORT.PDF> (last visited Feb. 29, 2008).

² Section 1000.21(7), F.S.

³ Bureau of Instruction and Innovation, Florida Department of Education, *Sunshine State Standards*, at <http://www.fldoe.org/bii/curriculum/sss> (last visited Feb. 29, 2008).

⁴ *Id.*; § 1003.41, F.S.

⁵ *Id.*; rule 6A-1.09401(1), F.A.C.

⁶ Sheldon M. Stern, et al., *Effective State Standards for U.S. History: A 2003 Report Card* (Thomas B. Fordham Institute, Sept. 2003), available at http://www.edexcellence.net/doc/History_Standards2003.pdf (last visited Feb. 29, 2008).

⁷ Sandra Stotsky, *The State of State English Standards 2005* (Thomas B. Fordham Foundation, Jan. 2005), available at [http://www.edexcellence.net/doc/FullReport\[01-03-05\].pdf](http://www.edexcellence.net/doc/FullReport[01-03-05].pdf) (last visited Feb. 29, 2008).

⁸ David Klein, et al., *The State of State Math Standards 2005* (Thomas B. Fordham Foundation, Jan. 2005), available at <http://www.edexcellence.net/doc/mathstandards05FINAL.pdf> (last visited Feb. 29, 2008).

⁹ Paul R. Gross, et al., *The State of State Science Standards 2005* (Thomas B. Fordham Institute, Dec. 2005), available at <http://www.edexcellence.net/doc/Science%20Standards.FinalFinal.pdf> (last visited Feb. 29, 2008).

was evaluated based on its 1996 standards. A 2006 report summarized Fordham's findings across each of these subject areas.¹¹ Fordham assigned Florida's standards an overall letter grade of "D minus".¹²

SUBJECT	Grade
U.S. History	D
English	C
Mathematics	F
Science	F
World History	F
FLORIDA OVERALL GRADE	D-

U.S. History Standards. Fordham's review of U.S. history standards was based on three criteria: comprehensive historical content, sequential development, and balance.¹³ Do the standards teach U.S. history comprehensively—including the most important political, social, cultural, and economic events and references to major historical figures? Do the standards teach history in a coherent and structured sequence that begins with a solid introduction in the early grades and is cumulatively reinforced through the high school years? Are the standards evenhanded and place historical events in context, avoiding moralistic judgments or politically correct posturing, distortions, or omissions?¹⁴

Fordham determined that Florida's 1996 social studies standards did not include a "specific breakdown of exactly what U.S. history materials will be included and in what sequence.... [The standards are] extremely vague about identifying specific periods, issues, and personalities covered in particular grades, making it difficult to assess the comprehensiveness, sequential development, and coherence of this U.S. history curriculum."¹⁵ Fordham assigned a letter grade of "D" to the state's U.S. history standards and recommended that the state add a "grade-by-grade listing or a grade-range listing of the specific core content that should be taught at each grade level."¹⁶

English Standards. Fordham's evaluation of English standards was based on 28 criteria, which were organized into eight categories: (A) purposes and expectations, (B) organization, (C) disciplinary coverage, (D) quality, and (E) negative criteria.¹⁷ These criteria included, for example:

- **A-5:** The standards acknowledge the existence of a corpus of literary works called American literature, however diverse its origins and the social groups it portrays.
- **B-1:** The standards are presented grade by grade or in spans of no more than two grade levels.
- **C-3:** The standards clearly address the reading, interpretation, and critical evaluation of literature. They include knowledge of diverse literary elements and genres, use of different kinds of literary responses, and use of a variety of interpretive and critical lenses. They also specify those key authors, works, and literary traditions in American literature and in the literary and

¹⁰ Walter Russell Mead, et al., *The State of State World History Standards 2006* (Thomas B. Fordham Institute, June 2006), available at <http://www.edexcellence.net/doc/State%20of%20State%20World%20History%20Standards%202006.pdf> (last visited Feb. 29, 2008).

¹¹ Chester E. Finn, Jr., et al., *2006 The State of State Standards* (Thomas B. Fordham Foundation, Aug. 2006), available at <http://www.edexcellence.net/doc/State%20of%20State%20Standards2006FINAL.pdf> (last visited Feb. 29, 2008).

¹² *Id.* at 59-60.

¹³ Stern, *supra* note 6, at 11-12.

¹⁴ *Id.*

¹⁵ *Id.* at 34.

¹⁶ *Id.* at 33-34.

¹⁷ Stotsky, *supra* note 7, at 92-113.

civic heritage of English-speaking people that all students should study because of their literary quality and cultural significance.

- D-3: The standards are of increasing intellectual difficulty at each higher educational level and cover all important aspects of learning in the area they address.
- D-4: The standards index or illustrate growth through the grades for reading by referring to specific reading levels or to titles of specific literary and academic works as examples of a reading level.

Thus, like its U.S. history criteria, Fordham's criteria for English standards reflect its recommendation that state standards include a comprehensive listing of specific core content (*i.e.*, literature) that is sequentially developed grade by grade. Fordham determined that Florida's 1996 language arts standards did not "point to any culturally or historically significant authors, literary works, literary periods, or literary traditions."¹⁸ Fordham assigned a grade letter of "C" to the state's language arts standards and recommended that Florida "work out some content-rich and specific standards pointing to culturally and historically significant authors, works, literary periods, and literary traditions, drawn from classical, British, and American literature—broadly conceived—that outline the essential content of the English curriculum from grade 7 to grade 12."¹⁹ Fordham also recommended that the standards include "some selective lists of authors and/or titles to accompany each grade level from which teachers might draw for their core classroom curriculum."²⁰

Mathematics Standards. Fordham's review of mathematics standards was based on four criteria: clarity, content, reason, and negative qualities. In terms of clarity, Fordham's criteria ask whether a state's standards are understandable and free of needless jargon, whether they are clear and definite about what is being asked of students and teachers, and whether the standards can be tested in the school environment.²¹ In the area of content (or "subject coverage"), Fordham's criteria ask whether the topics offered and the performance demanded at each level are sufficient and appropriate. "[I]s the state asking K-12 students to learn the correct skills, in the best order and at the proper speed?"²² The criteria also ask whether the standards explicitly include that mathematics facts are to be taught with information on their standing within the overall structure of mathematical reasoning, thereby allowing students to understand the logical interconnections within mathematics.²³ Finally, Fordham's criteria reduce a state's grade for negative qualities, including, for example, "false doctrines" (standards, according to Fordham, that contain curricular or pedagogical errors).²⁴

Fordham determined that Florida's 1996 mathematics standards include "[o]ccasional strong coverage of some topics [but] glaring deficiencies in the whole, an overemphasis on calculators, and technology, and a few inexplicable hang-ups that seem disconnected from the main body of mathematical study."²⁵ Fordham specifically notes that the standards' "unrelenting insistence on use of calculators and computers in the early grades is potentially damaging.... as the heavy use of

¹⁸ *Id.* at 37.

¹⁹ *Id.* at 37-38.

²⁰ *Id.*

²¹ Klein, *supra* note 8, at 31.

²² *Id.* at 32.

²³ *Id.* at 32-34.

²⁴ *Id.* at 34-36.

²⁵ *Id.* at 52.

calculators in the early grades undermines number sense and arithmetic.”²⁶ Fordham assigned a grade letter of “F” to the state’s mathematics standards.²⁷

Science Standards. Fordham’s evaluation of state science standards was based on 21 criteria, which were organized into five categories: (A) expectations, purpose, and audience; (B) organization; (C) science content and approach; (D) quality; and (E) seriousness.²⁸ These criteria included, for example:

- **B1:** The standards are organized grade by grade or by clusters of no more than four grades.
- **C1:** The standards provide explicitly for substantial laboratory and (as appropriate) field experience.
- **C6:** The primary curriculum content is an adequately representative set of basic principles, explicit or contained within science themes.
- **C7:** These principles are first introduced via facts and simple examples; they emerge as themes and theories in higher grades.
- **D3:** The standards, taken as a whole, define a core scientific literacy for all students in all public schools of the state. At the same time, they are sufficiently challenging to ensure that students who achieve proficiency by the final year will be ready for college work.
- **E1:** The standards do not offer or encourage—as though they were science—psuedo-scientific or discredited proposals.²⁹

Fordham determined that Florida’s 1996 science standards were “reasonably well organized but sorely lacking in content”; included errors in fact and presentation; and were vague and ambiguous.³⁰ Fordham assigned a grade letter of “F” to the state’s science standards.³¹

World History Standards. Fordham’s review of world history standards was based on 14 criteria, which were organized into two categories: content and instructional focus. The content category evaluated the extent to which a state’s standards are specific, rigorous, and focused in 11 subject areas: geography; ancient Mediterranean; the non-western world; Mexico and the western hemisphere; the Anglo-American context; modern contexts; history of religion; science and technology; culture, arts, and philosophy; democratic values; and “balance.”³² The last of these criteria, *balance*, evaluated whether a state’s standards presented a balanced view between Western and non-Western civilizations.³³ The instructional focus category included three criteria: selectivity and coherence; teachability; and sequencing.³⁴ Has the content been well selected, it being apparent that the standard writers have compiled a coherent body of the most essential content, which is presented in a clear, logical, and manageable way? Are the standards easy to read and follow for educators, such that a textbook author, teacher, test maker, curriculum director, or parent can actually find useful guidance from the standards? Are the standards cumulative and sequential, so that each grade builds in a rational, coherent way on what was done in previous grades?

²⁶ *Id.* at 53.

²⁷ *Id.* at 52.

²⁸ Gross, *supra* note 9, at 11-15.

²⁹ *Id.* at 14-15.

³⁰ *Id.* at 34.

³¹ *Id.*

³² Mead, *supra* note 10, at 19-25.

³³ *Id.* at 19 & 21.

³⁴ *Id.* at 25 & 27.

Fordham determined that Florida's 1996 social studies standards include "a number of important cultures, events, and themes, but nothing is addressed with any depth or sincerity."³⁵ Fordham found that the state's standards do not "attempt to supply any grade specificity in the high school years" and that its "approach is so superficial that [the state's standards are], for all intents and purposes, worthless."³⁶ Fordham assigned a grade letter of "F" to Florida's social studies standards and recommended that the state "supply some actual content to the standards" and "specify at the high school level what material should be learned in which grades."³⁷

Koret Task Force. In 2006, the Hoover Institution's Koret Task Force on K-12 Education conducted a review of Florida's public education system.³⁸ The task force concluded that the *Sunshine State Standards* were vague about what students are expected to learn in each grade,³⁹ especially the general background knowledge needed for reading proficiency;⁴⁰ were not sufficiently detailed to guide curriculum development or testing,⁴¹ and were the "weakest link" in the state's education reform efforts.⁴²

The task force recommended that Florida revise and strengthen its standards and that the standards should provide greater grade-by-grade content specificity,⁴³ should focus on the essential knowledge—not just the skills—required for stronger academic performance,⁴⁴ and should describe the sequential development of knowledge and skills grade by grade.⁴⁵

Review and Revision of the Sunshine State Standards:

On January 8, 2002, President George W. Bush signed into law the federal *No Child Left Behind (NCLB) Act of 2001*.⁴⁶ The act, among other provisions, required that each state demonstrate that it has adopted "challenging academic content standards"⁴⁷ in, at least, "mathematics, reading or language arts, and (beginning in the 2005-2006 school year) science."⁴⁸ The standards must:

- "Specify what children are expected to know and be able to do [sic]";
- "Contain coherent and rigorous content"; and
- "Encourage the teaching of advanced skills."⁴⁹

In 2005, DOE initiated a review of the *Sunshine State Standards*, and, by June 2005, began to revise the standards for language arts. On January 17, 2006, the State Board of Education adopted

³⁵ *Id.* at 42.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Hoover Institution, Koret Task Force on K-12 Education, *Reforming Education in Florida: A Study Prepared by the Koret Task Force on K-12 Education* (2006).

³⁹ Hoover, *supra* note 38, *Executive Summary, Thirty Major Recommendations*, at xx.

⁴⁰ Hoover, *supra* note 38, E. D. Hirsch, Jr., chapter 5, *Essential Reading*, at 85, 91-92, and 93-94.

⁴¹ Hoover, *supra* note 38, chapter 1, *Full Statement of Recommendations*, at 13.

⁴² Hoover, *supra* note 38, Diane Ravitch, chapter 7, *High School Reform Begins in First Grade*, at 128.

⁴³ Hoover, *supra* note 39; Hoover, *supra* note 41, at 7.

⁴⁴ Hoover, *supra* note 42, at 120 and 132.

⁴⁵ Hoover, *supra* note 41, at 14.

⁴⁶ Pub. L. 107-110 (2002).

⁴⁷ Section 1111(b)(1)(A), Pub. L. 107-110 (2002) (codified at 20 U.S.C. § 6311(b)(1)(A)).

⁴⁸ Section 1111(b)(1)(C), Pub. L. 107-110 (2002) (codified at 20 U.S.C. § 6311(b)(1)(C)).

⁴⁹ Section 1111(b)(1)(D), Pub. L. 107-110 (2002) (codified at 20 U.S.C. § 6311(b)(1)(D)).

a 6-year review and revision schedule for each subject area of the *Sunshine State Standards*. Under the schedule, all of the standards were planned for revision by 2011:

	Subject Area	Start	Complete
Initial Review and Revision Schedule	Language Arts, Reading (as part of Language Arts), and English for Speakers of Other Languages (ESOL)	June 2005	June 2006
	Mathematics	June 2006	Feb. 2007
	Science	June 2007	Feb. 2008
	Social Studies	June 2007	Feb. 2009
	Electives: Computer, Business, Technical, Industrial, Health, Foreign Languages, Physical Education, Family and Consumer Sciences, Humanities	June 2009	Feb. 2010
	Visual and Performing Arts	June 2010	Feb. 2011

SOURCE: Florida Department of Education (2006).⁵⁰

The review and revision schedule outlined two 6-year cycles for 2011-2016 and 2017-2022:

	Subject Area	Review and Revision
Six-Year Cycle	Reading and Language Arts, ESOL	2011
	Mathematics	2012
	Science	2013
	Social Studies	2014
	Electives: Computer, Business, Technical, Industrial, Health, Foreign Languages, Physical Education, Family and Consumer Sciences, Humanities	2015
	Visual and Performing Arts	2016
Next Six-Year Cycle	Same as above	2017-2022

SOURCE: Florida Department of Education (2006).⁵¹

On January 25, 2007, the State Board of Education adopted revised reading and language arts standards.⁵² Instead of organizing the standards into four grade clusters, the 2007 standards include individual grade-level standards for kindergarten and grades 1, 2, 3, 4, 5, 6, 7, and 8. The standards for high school are grouped into two grade clusters: grades 9-10 and grades 11-12. At each grade level or grade cluster, the 2007 standards are divided into six content strands. Among the changes made from the 1996 standards, the 2007 standards include a stronger emphasis on technology and information literacy. The standards do not, however, as recommended by Fordham, identify any culturally or historically significant authors, literary works, literary periods, or literary traditions. The Koret Task Force observed that Florida's standards were "vague about what students are expected to know in each grade."⁵³ The task force recommended that the standards

⁵⁰ Florida Department of Education, *Sunshine State Standards, Proposed Six-Year Cycle: Standards Revision, Instructional Materials Adoption, and Assessment Alignment 1-4* (June 2006).

⁵¹ *Id.* at 4-5.

⁵² Florida Department of Education, *2006 Sunshine State Standards, K-12 Reading and Language Arts* (Jan. 25, 2007), available at http://etc.usf.edu/flstandards/la/la_sss.pdf (last visited Feb. 29, 2008).

⁵³ Hoover, *supra* note 38, at 5.

be “given greater grade-by-grade content specificity for all subjects including language arts to ensure that students are taught a well-defined, coherent body of content at each grade level.”⁵⁴ Although the 2007 standards are organized by individual grades levels for students in grades K-8, a closer inspection of the standards reveals that standards for one grade level are substantially similar (and in many instances identical) to the standards of other grade levels, thereby obscuring the distinctions of what is taught at one grade level compared to another. The standards also appear to describe language arts skills rather than identify the specific content that a student is expected to learn.

Reading and Language Arts Content Strands (Grades K-12)

1996	2007
Reading	Reading Process
Literature	Literary Analysis
Writing	Writing Process
Language	Writing Applications
Listening, Viewing, and Speaking	Communication
	Information and Media Literacy

On September 18, 2007, the State Board of Education adopted revised mathematics standards.⁵⁵ Like the revised reading and language arts standards, the revised mathematics standards include individual grade-level standards for kindergarten through grade 8. The standards for high school are grouped into a single grade cluster covering grades 9-12 but are subdivided into eight “bodies of knowledge”:

Mathematics Standards (Grades 9-12)

1996 Strands	2007 Bodies of Knowledge
Number Sense, Concepts, and Operations	Algebra
Measurement	Calculus
Geometry and Spatial Sense	Discrete Mathematics
Algebraic Thinking	Financial Literacy
Data Analysis and Probability	Geometry
	Probability
	Statistics
	Trigonometry

On February 19, 2008, the State Board of Education adopted revised science standards.⁵⁶ Like the revised reading and language arts standards and the revised mathematics standards, the revised science standards include individual grade-level standards for kindergarten through grade 8. Also like the revised mathematics standards, the revised science standards for high school are grouped into a single grade cluster covering grades 9-12 and are subdivided into bodies of knowledge. Unlike the high school mathematics standards, which are subdivided into eight bodies of knowledge, the revised science standards for high school are subdivided into four bodies of knowledge:

⁵⁴ *Id.* (emphasis added).

⁵⁵ Florida Department of Education, *Mathematics Sunshine State Standards* (Sept. 18, 2007), available at http://www.fldoestem.org/uploads/1/docs/2007_FL_Mathematics_Standards_9_13_07.pdf (last visited Feb. 29, 2008).

⁵⁶ Florida Department of Education, *Science Florida Sunshine State Standards* (Feb. 19, 2008), available at <http://www.fldoestem.org/Uploads/1/docs/FLDOE/Science%20Standards%20-%20combined.pdf> (last visited Feb. 29, 2008).

Science Standards (Grades 9-12)

2007 Bodies of Knowledge

Nature of Science
Earth and Space Science
Physical Science
Life Science

The revised science standards, as recommended by Fordham, include an increased emphasis on evolutionary biology. The standards specify that evolution is to be taught as the "scientific theory of evolution." DOE is currently reviewing and revising the *Sunshine State Standards* for social studies.

Proposed Changes:

The draft directs the State Board of Education, by December 31, 2001, to review and replace the *Sunshine State Standards* with enhanced curricular standards, which must:

- Establish the core content of the curricula to be taught in Florida K-12 public schools;
- Describe the core content knowledge and skills that students are expected to learn;
- Provide distinct grade-level expectations for what a student is expected to have learned in language arts, science, mathematics, and social studies by each individual K-12 grade level;
- Provide distinct grade-level expectations for what a student is expected to have learned in visual and performing arts, physical education, health, and foreign languages by each individual K-5 grade level (standards for grades 6-12 may be organized by grade clusters of more than one grade level, e.g., grades 9-10, 11-12);
- Identify the core curricular content that students are expected to learn for reading comprehension;
- Provide for rigorous and relevant standards;
- Provide for the logical, sequential progression of core curricular content that incrementally increases a student's knowledge and skills over time; and
- Use a uniform structure and format consistent for each subject for organizing the standards;
- Identify the standards using the same alphanumeric coding system for each subject and grade level; and
- Align to expectations for success in postsecondary education and high-skill, high-wage employment.

The draft requires the language arts standards to include reading, grammar, literature, and writing and specify a list of authors, literary works, literary traditions that students are expected to read. Science standards must include biology, chemistry, earth and space science, and physics. Mathematics standards must include number sense and operations, algebra and functions, geometry and measurement, and probability and statistics. The draft requires the social studies standards to include geography, history, government, civics, economics, U.S. patriotism, and national sovereignty.

The draft also requires the enhanced curricular standards to integrate the following skills:

- Critical thinking and problem solving;
- Communication, reading, and writing;
- Mathematics;
- Collaboration;
- Contextual and applied learning;
- Technology literacy;
- Information and media literacy; and
- Civic engagement.

The draft requires the State Board of Education, by December 31, 2008, to establish an expedited schedule for replacing the *Sunshine State Standards* with enhanced curricular standards. The draft also requires the state board to adopt rules establishing a schedule for the review and revision of the enhanced curricular standards.

The draft establishes the following process for the adoption or revision of the enhanced curricular standards:

- The Commissioner of Education develops proposed standards in consultation with renowned curricular and content experts in language arts, science, mathematics, social studies, visual and performing arts, physical education, health, and foreign languages (the commissioner may also consult with experts in other subjects). The commissioner must consider standards regarded by the experts as exceptionally rigorous which are implemented by other states and nations.
- The commissioner submits the proposed standards for review and comment by Florida educators; school administrators, community college and state university representatives, and leaders in business and industry.
- The commissioner submits the proposed standards, as revised based on any comments received, to the renowned curricular and content experts for a written evaluation.
- The commissioner finalizes the proposed standards and submits the standards and the experts' written evaluations to the Governor and Legislature at least 21 days before the state board's consideration of the standards.
- The commissioner submits the proposed standards to the State Board of Education and the state board determines whether to adopt the standards.

The draft authorizes the State Board of Education to adopt rules to implement the adoption and revision of the enhanced curricular *Sunshine State Standards*.

The draft also makes several conforming changes to the review and adoption of the enhanced curricular *Sunshine State Standards*, including:

- Revises the definition of "Sunshine State Standards" that applies throughout the Florida K-20 Education Code;
- Revises the powers and duties of the State Board of Education concerning the adoption and review of public K-12 curricular standards;
- Revises the general powers of district school boards which require the boards to provide students with a complete education program, including instruction in the subjects in the *Sunshine State Standards*; and
- Requires a district school board's career and technical education standards and policies to integrate and reinforce the Sunshine State Standards.

Florida Comprehensive Assessment Test:

Present Situation:

In 1971, the Legislature established Florida's statewide assessment program,⁵⁷ and the first statewide assessment was administered in reading in 1971-1972.⁵⁸ Between 1971 and 1995, the state administered various statewide assessments, including several versions of the State Student Assessment Test (SSAT). In 1995, the former Florida Commission on Education Reform and Accountability recommended procedures for the assessment of student learning in the state which would raise educational expectations for students and help them compete for jobs in a global

⁵⁷ Chapter 71-197, L.O.F. (1971).

⁵⁸ Florida Department of Education, *History of Statewide Assessment Program, A Chronology of Events: 1968-1978*, at <http://www.fldoe.org/asp/hsap/hsap6878.asp> (last visited Feb. 29, 2008).

marketplace.⁵⁹ In June 1995, the State Board of Education adopted the commission's recommendations and directed the development of new statewide assessments. In addition, the state board directed that educational content standards be developed and adopted, which became known as the *Sunshine State Standards*.

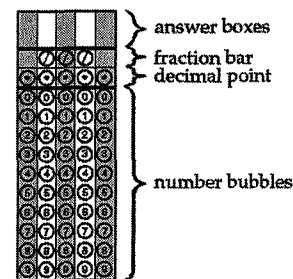
From 1995 to 1998, the Florida Comprehensive Assessment Test (FCAT) was developed and field tested. The FCAT is a series of criterion-referenced tests (CRTs) designed to measure a student's proficiency in the content specified in the *Sunshine State Standards*. In January 1998, the FCAT was administered for the first time to students in grades 4, 5, 8, and 10 in reading and mathematics.

Under current law, FCAT assessments are administered in reading, writing, science, and mathematics.⁶⁰ Students in grades 3-10 are annually required to take FCAT assessments in reading and mathematics.⁶¹ Assessment in writing and science are required at least once for students at the elementary, middle, and high school levels. To implement these requirements, DOE administers the FCAT, as follows:

- FCAT Reading and FCAT Mathematics for students in grades 3-10;
- FCAT Writing+ for students in grades 4, 8, and 10; and
- FCAT Science for students in grades 5, 8, and 11.⁶²

FCAT test items appear in various formats. These include:

- **Multiple choice.** Test items that present students with several options from which to choose. Multiple-choice items are included in testing for each FCAT subject and grade level.
- **Gridded response.** Test items that require students to solve a problem for which the answer is numerical. Answers must be written and bubbled into a number grid. Gridded-response items are included in FCAT Mathematics (grades 5-10) and FCAT Science (grades 8 and 11). See figure at right.
- **Performance tasks.** Test items that require students to provide either a short or extended written response. Short-response items may, for example, ask students to describe a character in a story, write a mathematical equation, or explain a scientific concept. Examples of extended-response items include comparing two characters, constructing a graph, or describing the steps in an experiment. Performance tasks are included in FCAT Reading (grades 4, 8, and 10), FCAT Mathematics (grades 5, 8, and 10), and FCAT Science (grades 5, 8, and 11).
- **Writing prompt or prompted essay.** Test items in which the student is given a topic on which to write an essay. Writing-prompt items are included in the essay portion of FCAT Writing+ (grades 4, 8, and 10).



Current law requires the FCAT to “measure and report student proficiency levels of all students assessed in reading, writing, mathematics, and science.”⁶³ The State Board of Education has

⁵⁹ Florida Department of Education, *History of Statewide Assessment Program, A Chronology of Events: 1990-2000*, at <http://www.fldoe.org/asp/hsap/hsap9000.asp> (last visited Feb. 29, 2008).

⁶⁰ Section 1008.22(3)(c), F.S.

⁶¹ *Id.*

⁶² Florida Department of Education, *About the FCAT*, at <http://fcats.fldoe.org/aboutfcats/english/about.html> (last visited Apr. 11, 2007).

⁶³ Section 1008.22(3)(c)1., F.S.

adopted a rule establishing five achievement levels for FCAT.⁶⁴ Level 5 represents the greatest achievement, while Level 1 signifies the lowest achievement.⁶⁵ The rules identify ranges of scale scores, by grade level, for each achievement level. For example, a student scoring in Level 1 on FCAT Reading earned a scale score that falls within a range from 100 to 258, while a student scoring at Level 5 earned a scale score within a range from 394 to 500. The upper and lower scale scores of each achievement-level range are known as “cut-point scores.” DOE periodically establishes standards-setting committees to recommend cut-point scores for the five achievement levels through a process, known as “bookmarking,” for reviewing grade-level expectations for student performance on FCAT test items. Committee members include teachers from the targeted grade levels and subject areas, school and district curriculum specialists, school and district administrators, university faculty from the discipline areas, and business and community leaders.

Students who score at Levels 3, 4, or 5 are performing at or above grade-level expectations. Students who score at Level 1 or 2 are performing below expectations and need additional instruction in the content assessed at that grade level.

Current law requires the Commissioner of Education to document procedures used to ensure that versions of the FCAT taken by students retaking the grade 10 FCAT are “equally challenging and difficult as the tests taken by students in grade 10 which contain performance tasks.”⁶⁶ As previously discussed, FCAT includes multiple-choice items, gridded-response items, performance task (short and extended response), and writing prompt (essay). However, test items on assessments for students retaking the grade 10 FCAT Reading and FCAT Mathematics are exclusively multiple choice.

Proposed Changes:

The draft requires FCAT assessments to be aligned to the core curricular content in the *Sunshine State Standards*. As the *Sunshine State Standards* are reviewed and replaced with enhanced curricular standards, the Commissioner of Education must revise the FCAT in accordance with the changes made to the standards.

If the changes made to an FCAT assessment are significant, the state board may need to revise the proficiency levels or, in the case of the grade 10 FCAT, passing scores required for a standard high school diploma. As previously discussed, the FCAT’s proficiency (i.e., achievement) levels are periodically established by standards-setting committees that recommend cut-point scores for the FCAT’s five achievement levels. Once the committees recommend cut-point scores, the State Board of Education must adopt rules establishing the official cut-point scores. According to DOE, to set cut-point scores, it is necessary for the revised assessment to be administered in order to obtain data about student performance on the assessment. The draft authorizes the Commissioner of Education, until the state board adopts the cut-point scores for the revised assessment, to adjust student scores on the revised assessment for statistical equivalence to student scores on the former assessment.

Current law requires a student to meet the testing requirements for high school graduation which are in effect when the student enters grade 9.⁶⁷ According to DOE, under this provision, some

⁶⁴ Rule 6A-1.09422(5), F.A.C.

⁶⁵ *Id.*

⁶⁶ Section 1008.22(3)(c), F.S.

⁶⁷ Section 1008.22(8), F.S.

students are currently required to take the high school competency test (HSCT), which the Legislature replaced with the grade 10 FCAT in 2001.⁶⁸ DOE explains that:

This current provision limits the Department of Education's authority to phase out exit exams when new testing programs are created. For example, the High School Competency Test (HSCT) continues to be administered despite the Department's intent to phase this exam out in 2003. The last group of students for whom the HSCT was the graduation requirement (scheduled graduation date – spring 2002) have had a total of 22 opportunities to pass. Approximately 300 students participate in each administration; a total of 605 students participated in 2006. Of the 605 students, 110 students participated in both administrations. In 2006, the cost to administer the HSCT per student was approximately \$373.86, compared to \$12.84 per student for the FCAT.

The draft allows the Commissioner of Education to discontinue administration of former assessments (e.g., HSCT), for which passage is required for a standard high school diploma, once the assessment (e.g., FCAT) is revised and students who entered grade 9 after the revised assessment's administration have graduated (i.e., 4 years). For students who remain enrolled after an assessment is discontinued, the draft requires the State Board of Education to adopt rules providing for students to be assigned scores on the revised assessment which are statistically equivalent to what the students' scores would have been on the former assessment.

Current law requires the Commissioner of Education, if possible, to identify scores on widely used high school achievement tests (e.g., PSAT, SAT and ACT) which are "concordant" (i.e., equivalent) to scores on the FCAT.⁶⁹ If identified, concordant scores may be substituted for passing scores required for a standard high school diploma, college placement, or scholarship awards (e.g., Florida Bright Futures Scholarship Program). If the commissioner identifies a concordant score, the commissioner is directed to adopt the score and specify the requirement that is satisfied by achieving the concordant score.⁷⁰ Once a concordant score is identified, if the FCAT or "one of the identified tests" is changed, new concordant scores must be identified.⁷¹ The draft clarifies that new concordant scores must only be identified for the high school achievement tests for which a concordant score is determined.

The draft directs the commissioner to provide an ongoing review of the FCAT by an independent test-measurement expert who provides analysis and evaluation of the test and testing practices.

Current law requires the commissioner to obtain input from state educators, assistive technology experts, and the public for the design and implementation of the statewide assessment program.⁷² The draft adds assessment experts to the list of professionals from whom the commissioner must obtain input on the statewide assessment program.

The draft eliminates a requirement that the Commissioner of Education document procedures used to ensure that FCAT test versions for students retaking the grade 10 FCAT Reading or FCAT Mathematics are equally challenging and difficult as the regular grade 10 FCAT.

⁶⁸ Sections 368 & 1058, ch. 2002-387, L.O.F. (2002).

⁶⁹ Section 1008.22(9)(a), F.S.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Section 1008.22(3)(c)1., F.S.

FCAT Testing and Reporting Schedules:

Present Situation:

Current law requires the Commissioner of Education to establish a schedule for administration of the FCAT which provides for the latest possible administration of the test and the earliest possible provision of the results to the school districts, which is feasible within "available technology and specific appropriation."⁷³ The commissioner has established the following testing schedules for the 2007-2008 and 2008-2009 school years:

	2007-2008 Schedule	2008-2009 Schedule
FCAT Writing+ (grades 4, 8, and 10)	Feb. 12-15, 2008	Feb. 10-13, 2009
FCAT Reading FCAT Mathematics Norm-Referenced Tests (NRTs) of Reading and Mathematics (grades 3-10)	Mar. 11-24, 2008	Mar. 10-23, 2009
FCAT Science (grades 5, 8, and 11)		
<i>Retake Tests</i> (grades 11-adult): FCAT Reading (Retake) FCAT Mathematics (Retake)	Sept. 24-28 or Oct. 1-5, 2007 March 11-24, 2008	Oct. 6-10 or Oct. 13-17, 2008 Mar. 10-23, 2009
<i>Retake Tests</i> (students scheduled to graduate in May or June): FCAT Reading (Retake) FCAT Mathematics (Retake)	June 16-20 or June 23-27, 2008	June 15-19 or June 22-26, 2009

⁷³ Section 1008.22(6)(c), F.S.

For the 2007-2008 administration of FCAT, DOE estimates that test results will be reported to school districts according to the following schedule:⁷⁴

	2007-2008 Testing Schedule	Anticipated Reporting Schedule
FCAT Writing+ (grades 4, 8, and 10)	Feb. 12-15, 2008	No earlier than the week of <u>May 5</u>
<i>Retake Tests</i> (grades 11-adult): FCAT Reading (Retake) FCAT Mathematics (Retake)	Sept. 24-28 or Oct. 1-5, 2007 March 11-24, 2008	No earlier than the week of <u>May 12</u>
FCAT Reading FCAT Mathematics (grade 3 only)	Mar. 11-24, 2008	No earlier than the week of <u>May 19</u>
Norm-Referenced Tests (NRTs) of Reading and Mathematics (grades 3-10)	Mar. 11-24, 2008	No earlier than the week of <u>May 26</u>
FCAT Reading FCAT Mathematics (grades 4-10)	Mar. 11-24, 2008	No earlier than the week of <u>June 2</u>

Proposed Changes:

The draft requires the Commissioner of Education, by August 1 of each year, to notify the school districts in writing and publish on the department's website (currently <http://www.fldoe.org>) an FCAT testing and reporting schedule for the school year following the upcoming school year. For example, on August 1, 2008, the draft requires the commissioner to publish the FCAT testing and reporting schedule for the 2009-2010 school year.

The draft requires that the FCAT testing and reporting schedules, beginning with the 2010-2011 school year, prohibit the administration of FCAT Writing+ earlier than the week of March 1 and prohibit the administration of other FCAT assessments (i.e., reading, mathematics, science, and social studies) before April 15. The draft requires that student test results be reported by the week of the first Monday in June. The draft also specifies that public schools must participate in the statewide assessment program in accordance with the testing and reporting schedules.

FCAT Norm-Referenced Tests:

Present Situation:

In addition to criterion-referenced tests (CRTs) aligned to the *Sunshine State Standards*, the FCAT also includes norm-referenced tests (NRTs).⁷⁵ An NRT compares the performance of Florida students to a sample of students (known as a "norm group") who took the test during its development. DOE has selected the *Stanford Achievement Test Series, Tenth Edition* ("Stanford 10" or "SAT 10") published by Harcourt Assessment as the NRT for the FCAT.⁷⁶ The Stanford 10 includes both reading and mathematics segments and is administered with the FCAT's CRTs in grades 3-10. The Stanford 10's norm group, against which Florida students' performance is

⁷⁴ Florida Department of Education, Memorandum from Frances Haithcock to Florida School District Superintendents 2 (Jan. 24, 2008) (the memorandum explains that the reporting of FCAT results for the 2007-2008 school year is later than normal).

⁷⁵ Section 1008.22(3)(c)2., F.S.

⁷⁶ Florida Department of Education & Harcourt Assessment, *The New FCAT NRT: Stanford Achievement Test Series, Tenth Edition* (2005), available at <http://fcats.fldoe.org/pdf/fcat-nrt-sat10.pdf> (last visited Feb. 29, 2008).

compared, took the tests in spring and fall 2002.⁷⁷ Unlike the FCAT's CRTs aligned to the *Sunshine State Standards*, which include gridded-response items, performance tasks, and writing prompts, the Stanford 10 is composed exclusively of multiple-choice items.⁷⁸ According to DOE, the FCAT's NRTs are used for the following:

- **Grade 3 Promotion.** Current law requires that a student in grade 3, to be promoted to grade 4, must score at Level 2 or higher on the grade 3 FCAT Reading (CRT) or qualify for a "good cause" exemption.⁷⁹ Among the authorized exemptions, a student scoring below Level 2 may be promoted if the student demonstrates an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.⁸⁰ School districts routinely use the reading comprehension segment of FCAT's grade 3 NRTs as a basis for determining whether good cause exists to promote a student who scores below Level 2 on the grade 3 FCAT Reading (CRT).
- **Corporate Tax Credit Scholarships.** Current law establishes the Corporate Income Tax Credit Scholarship Program, which provides businesses with corporate income tax credits for funding scholarships for low-income students to attend private schools.⁸¹ For a private school to be eligible to receive scholarship funds for an eligible student, the school must provide for the student to annually take one of the nationally norm-referenced tests identified by DOE.⁸² DOE must identify and select nationally norm-referenced tests that are comparable to the FCAT's NRTs, and must allow private schools to administer the FCAT's NRTs.⁸³ DOE may approve a school's use of an additional assessment if the assessment meets industry standards of quality and comparability.⁸⁴ According to DOE, in 2007-2008, 15 students in four private schools were tested using the FCAT's NRTs.⁸⁵
- **Supplemental Educational Services.** Under the federal *No Child Left Behind (NCLB) Act of 2001*, if, after one school year, a school identified for school improvement fails to make adequate yearly progress (AYP), the school district must use a portion of its Title I funds to provide "supplemental educational services" (SES) for students attending the school who are from low-income families (typically those eligible for free or reduced-price meals under the National School Lunch Program).⁸⁶ SES include tutoring, after-school services, summer school, and other supplemental academic enrichment services, offered by DOE-approved public or private service providers. The NCLB act requires DOE to "develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by [SES] providers..., and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served."⁸⁷

⁷⁷ *Id.*

⁷⁸ Florida Department of Education, *FCAT Handbook - A Resource for Educators 5* (2005), available at <http://fcat.fldoe.org/handbk/complete.pdf> (last visited Feb. 29, 2008).

⁷⁹ Section 1008.25(5)(b), F.S.

⁸⁰ Section 1008.25(6)(b)3., F.S.

⁸¹ Section 220.187, F.S.

⁸² Section 220.187(8)(c)2., F.S.

⁸³ Section 220.187(9)(i), F.S.

⁸⁴ *Id.*

⁸⁵ Florida Department of Education, *2008 Agency Bill Analysis of Act Relating to Public School Curricular Standards (House Standards bill) 3* (Feb. 18, 2008).

⁸⁶ Section 1116(e), Pub. L. 107-110 (2002) (codified at 20 U.S.C. § 6316(e)).

⁸⁷ Section 1116(e)(4)(D), Pub. L. 107-110 (2002) (codified at 20 U.S.C. § 6316(e)(4)(D)).

According to DOE, increased academic proficiency of students in grades 4-12 will be determined by documented increases in student test scores on the FCAT's NRTs in reading and mathematics.⁸⁸ Increased academic proficiency of students in grades 2-3 will be calculated using increased student test scores on other norm-referenced tests approved by DOE.⁸⁹

- English language learners. Current law requires each district school board to identify limited English proficient (LEP) students⁹⁰ through assessment and provide requirements for identified LEP students to exit the district's program for English for Speakers of Other Languages (ESOL).⁹¹ The State Board of Education is required to adopt rules for implementing these requirements.⁹² Existing rules adopted by the state board authorize school districts to use the reading and writing subparts of a norm-referenced test to identify LEP students who lack English proficiency.⁹³ For an LEP student to exit an ESOL program, existing state board rules require the student to demonstrate English proficiency by "reassessing the student utilizing the same or comparable assessments ... used to determine the student's eligibility assessment."⁹⁴ Under proposed revisions to these rules, the state board proposes to authorize school districts to use the criterion-referenced Comprehensive English Language Learning Assessment (CELLA) for identifying LEP students and assessing their English proficiency for exiting an ESOL program.⁹⁵

In a series of reports published in 1987 and 1989, John Jacob Cannell, M.D., a resident psychiatrist at the University of Mexico, questioned the use of norm-referenced tests (NRTs) by public school educators.^{96,97} In the reports, dubbed the "Lake Wobegon"⁹⁸ reports, Dr. Cannell found that 70 percent of the U.S. elementary students, 90 percent of U.S. school districts, and all 50 states were testing above the publisher's "national norm" on commercial norm-referenced achievement tests, compared to the expected 50 percent.⁹⁹ To explain his findings, Dr. Cannell investigated the causes of this "Lake Wobegon" effect and further found that:

- NRTs compare the performance of examinees to a sample of students (known as a "norm group") who take the test during its development.¹⁰⁰ Norm groups are not given prior notice of

⁸⁸ Florida Department of Education, *2008 Agency Bill Analysis of HB 65*, 2-3 (Oct. 15, 2007).

⁸⁹ *Id.*

⁹⁰ Following a recent national trend, limited English proficient (LEP) students are frequently referred to as "English language learners (ELLs)."

⁹¹ Section 1003.56(3)(b) & (c), F.S.

⁹² Section 1003.56(5), F.S.

⁹³ Rule 6A-6.0902(2)(a)2., F.A.C.

⁹⁴ Rule 6A-6.0903(1)(a), F.A.C.

⁹⁵ Florida Department of State, *Florida Administrative Weekly*, Vol. 34, No. 4, at 456-461 (Jan. 25, 2008), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2008/3404/3404doc.pdf> (last visited Feb. 29, 2008).

⁹⁶ John Jacob Cannell, *Nationally Normed Elementary Achievement Testing in America's Public Schools: How All 50 States Are Above the National Average* (Friends for Education, 2d ed. 1987).

⁹⁷ John Jacob Cannell, *How Public Educators Cheat on Standardized Achievement Tests: The "Lake Wobegon" Report*, ERIC, ED314454 (Friends for Education, 1989), available at http://www.eric.ed.gov/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/1f/c1/6d.pdf (last visited Feb. 29, 2008).

⁹⁸ The reference to "Lake Wobegon" refers to the fictional setting of Garrison Keillor's *A Prairie Home Companion* radio program broadcast on National Public Radio. In the program, Keillor describes Lake Wobegon as a place where "all the women are strong, all the men are good looking, and all the children are above average." See American Public Media, *A Prairie Home Companion with Garrison Keillor*, at <http://prairiehome.publicradio.org/> (last visited Feb. 29, 2008).

⁹⁹ Cannell, *supra* note 97, at 4.

¹⁰⁰ *Id.* at 7.

the test items or provided with test preparatory instruction before the test.¹⁰¹ Dr. Cannell contrasts “Lake Wobegon” NRTs with what he calls “legitimate standardized tests.” These include the College Board’s SAT (formerly Scholastic Aptitude Test) and Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), the National Assessment of Educational Progress (NAEP), and the ACT (formerly American College Testing Program).¹⁰² According to Dr. Cannell, these “legitimate” tests compare the test scores of currently tested students with all other currently tested students by computing a yearly national average.¹⁰³

- “National norms” are generally not representative of the national student population because commercial test publishers do not have access to that population. An NRT’s norm group is typically drawn from a publisher’s customers or prospective customers (schools or school districts purchasing the test).
- Test items generally do not change during the life of an NRT’s administration.¹⁰⁴ Teachers administering NRTs are accordingly given notice of the types of test items and can adjust curricula for students taking the test in future years.¹⁰⁵ The longer an NRT is administered, the number of students receiving preparation for the test increases, thereby causing increased student scores compared to the norm group who did not receive preparation.¹⁰⁶
- States and school districts selecting NRTs often select tests that are closely aligned to the curricula taught in the state’s or district’s schools. Students attending schools with curricula closely aligned to an NRT’s test items typically outperform the norm group who was not selected based on the curricula being taught to the norm group.¹⁰⁷

One of the tests that Dr. Cannell refers to as “legitimate” is the National Assessment of Educational Progress (NAEP). Commonly referred to as the “Nation’s Report Card,” NAEP is the only nationally representative and continuing assessment of student achievement in the United States.¹⁰⁸ Since 1969, NAEP assessments have been conducted periodically in reading, mathematics, science, writing, and other subjects. The U.S. Congress requires the National Center for Education Statistics (NCES) to administer the NAEP testing program. The NCLB act requires states and school districts to permit students to participate in the biennial NAEP in grades 4 and 8 for assessment in reading and mathematics.¹⁰⁹

¹⁰¹ *Id.* at 7 & 25.

¹⁰² See <http://www.collegeboard.com> (last visited Feb. 29, 2008); <http://nces.ed.gov/nationsreportcard> (last visited Feb. 29, 2008); <http://www.act.org> (last visited Feb. 29, 2008).

¹⁰³ Cannell, *supra* note 97, at 7.

¹⁰⁴ *Id.* at 19 & 23; John Jacob Cannell, “‘Lake Wobegone,’ Twenty Years Later,” *Third Education Group Review*, Vol. 2, No. 1, at 2 (2006).

¹⁰⁵ Cannell, *supra* note 97, at 25.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ National Assessment Governing Board, *About NAEP*, at <http://www.nagb.org> (last visited Feb. 29, 2008).

¹⁰⁹ Sections 1111(c)(2) & 1112(b)(1)(F), Pub. L. 107-110 (2002) (codified at 20 U.S.C. §§ 6311(c)(2) & 6312(b)(1)(F)).

Proposed Changes:

The draft limits the Commissioner of Education's authority to administer norm-referenced tests (NRTs) as part of the FCAT to grades 3, 7, and 9 and, in effect, eliminates administration of FCAT's NRTs in grades 4, 5, 6, 8, and 10.

School districts may continue to use the FCAT's grade 3 NRTs as a basis for determining whether good cause exists to promote a student who scores below Level 2 on the grade 3 FCAT Reading (CRT). The draft effectively requires DOE to select another assessment (e.g., FCAT's CRTs) for determining whether supplemental educational services providers increase the academic proficiency of their students served. Except in grades 3, 7, and 9, the draft effectively causes the FCAT's NRTs to be unavailable for private schools to administer in order to satisfy the NRT-testing requirements of the Corporate Income Tax Scholarship Program. However, DOE may approve a private school's use of an additional assessment if the assessment meets industry standards of quality and comparability.¹¹⁰ The draft also requires school districts, in effect, to select CELLA (if DOE's proposed rules are adopted) or an NRT, other than the FCAT's NRTs, for identifying LEP students or assessing their English proficiency for exiting an ESOL program.

Social Studies and End-of-Course Assessments:

Present Situation

Under current law, school districts are required to provide students with a complete education in language arts, mathematics, science, social studies, health, physical education, foreign languages, and the arts.¹¹¹ School districts are also required to adopt student progression plans that require a student to meet specified levels of performance in reading, writing, science, and mathematics in order to progress from one grade level to another.¹¹² Current law requires that students falling below district-specified levels of performance in these subjects (or scoring below Level 3 on FCAT Reading or FCAT Mathematics) must be provided with remedial instruction and may be retained from progressing to the next grade level until remediated.¹¹³

Current law directs the Commissioner of Education to study the cost and student achievement impact of secondary end-of-course assessments, including web-based and performance formats, and report to the Legislature before implementation.¹¹⁴

Proposed Changes:

The draft requires the Commissioner of Education, by the 2012-2013 school year, to add social studies to the subjects tested by the FCAT. The draft requires social studies to be tested at least once at the elementary and middle school levels and directs the commissioner to establish end-of-course assessments of social studies at the high school level. The draft permits the commissioner to establish end-of-course assessments of other subjects in addition to any comprehensive assessment required by law for the FCAT (i.e., reading, mathematics, science, and writing). End-of-course assessments must be rigorous, standardized, administered statewide, and aligned to the

¹¹⁰ Section 220.187(9)(i), F.S.

¹¹¹ Section 1001.41(3), F.S. (emphasis added).

¹¹² Section 1008.25(2), F.S.

¹¹³ Section 1008.25(4), F.S.

¹¹⁴ Section 1008.22(3)(g), F.S.

Sunshine State Standards. The draft also requires that end-of-course assessments be administered within the last 2 weeks of the course.

The draft requires that school districts set minimum student proficiency levels for social studies, once a statewide comprehensive or end-of-course assessment of social studies is administered. If a student does not meet the district's minimum proficiency levels in social studies, the draft requires the student to receive remedial instruction and additional diagnostic evaluation. If, after evaluation, a student's deficiencies in social studies are not remediated, the draft authorizes the school district to retain the student from advancing to the next grade level and requires the student to receive intensive remedial instruction. The draft requires a school district to continue to provide remedial instruction until the student graduates, is not subject to compulsory attendance, or meets the minimum FCAT achievement level established by the Commissioner of Education for social studies. In addition, the draft requires each school district to annually notify parents of their students' progress toward meeting state and district proficiency expectations in social studies.

State-Adopted Instructional Materials:

Present Situation:

Current law directs the Commissioner of Education to select and adopt instructional materials for each grade and subject field in the curriculum of public elementary, middle, and high schools.¹¹⁵ The commissioner, according to a 6-year rotating schedule of subjects, annually selects and adopts instructional materials, which are added to the state-adopted list for use in public schools. Before the commissioner adopts instructional materials for a subject, DOE publishes content specifications for the subject. The specifications detail the courses for which materials are sought and standards the materials must meet.

Each year, the commissioner provides each school district with an annual allocation of state funds for instructional materials.¹¹⁶ Current law requires a school district to use at least 50 percent of the annual allocation to purchase instructional materials on the state-adopted list selected by the commissioner.¹¹⁷ In addition, a school district may use all of that part of the allocation designated for kindergarten, and 75 percent of that part of the allocation designated for grade 1, to purchase instructional materials not on the commissioner's state-adopted list.¹¹⁸

The funds allowed to be used for instructional materials not on the state-adopted list (up to 50 percent of the annual allocation) must be used for instructional materials or other items having intellectual content that assists in the instruction of a subject or course.¹¹⁹ These materials may include electronic media and computer courseware or software; however, the funds may not be used to purchase electronic or computer hardware even if the hardware is bundled with software or other electronic media.¹²⁰

¹¹⁵ Section 1006.34, F.S.

¹¹⁶ Section 1006.40(1), F.S.

¹¹⁷ Section 1006.40(3)(a) and (b), F.S.

¹¹⁸ Section 1006.40(3)(c), F.S.

¹¹⁹ Section 1006.40(4), F.S.

¹²⁰ *Id.*

Proposed Changes:

The draft requires that instructional materials selected by the Commissioner of Education to be included on the list of state-adopted instructional materials must clearly demonstrate alignment to the *Sunshine State Standards*. The draft also requires that all instructional materials purchased by school districts using the annual instructional materials allocation must be aligned to the *Sunshine State Standards*. The draft allows a school district to use up to 10 percent of its annual allocation for instructional materials not on the state-adopted list to purchase technology devices with digital content or online content. The publisher or manufacturer must demonstrate that the digital or online content is aligned to the *Sunshine State Standards*.

FCAT Preparation Activities:

Present Situation:

One newspaper of general circulation in the state referred to the practice of school districts suspending a regular program of curricula in order for students to prepare for the FCAT as "FCAT frenzy."¹²¹ These FCAT-preparation activities typically include the administration of practice tests, the teaching of test-taking strategies, and the use of FCAT practice workbooks for review of curricular content anticipated to appear in FCAT test items.

The Department of Education (DOE) publishes FCAT sample test and answer key books. According to DOE, the sample test books are produced to "prepare students to take the tests ... [by] familiar[izing them] with FCAT by providing helpful hints and offering practice answering questions in different formats."¹²² The sample answer keys are designed to be used by teachers to explain to students the answers and solutions to the questions in the sample test books and to identify which *Sunshine State Standards* benchmark is being tested by the questions. Commercial publishers also produce study guides, sample tests, flash cards, and other test-preparation materials for the FCAT.¹²³

Proposed Changes:

The draft requires district school boards to prohibit each public school, beginning with the 2008-2009 school year, from suspending a regular program of curricula in order to administer practice tests or engage in other test-preparation activities for a statewide assessment, except as required in rules adopted by the State Board of Education which determine that practice testing or the test-preparation activities are necessary for the valid and reliable administration of the statewide assessment.

The draft requires the Commissioner of Education's procedures for selecting instructional materials for the state-approved list to prohibit, by July 1, 2008, any reference to "Florida Comprehensive

¹²¹ See Nirvi Shah, "FCAT frenzy: Is it subsiding?," *Miami Herald* (Feb. 12, 2008).

¹²² Florida Department of Education, *FCAT Sample Test Books and Answer Keys (2007-08)*, at <http://fcata.fldoe.org/fcatitem.asp> (last visited Feb. 29, 2008).

¹²³ See, e.g., *FCAT Secrets Study Guide: FCAT Exam Practice & Review for the Florida's Comprehensive Assessment Test* (Morrison Media, 2007); Research & Education Association, *The Best Test Preparation for the FCAT: Florida Comprehensive Assessment Test, Grade 10* (Jun. 2007); Mel Friedman, *Florida FCAT Reading & Writing, Grade 8: Best Test Prep* (Research & Education Association, Jan. 2006); Enrique Ortiz & Thomas R. Davenport, *CliffsTestPrep FCAT Grade 10 Reading and Math: 10 Practice Tests* (Cliffs Notes, Nov. 2005); Hollandays Publishing, *Florida FCAT Reading & Writing Flashcards* (July 2005); *Targeting the FCAT, Reading and Mathematics, Grade 3* (Steck Vaughn, Oct. 2004); Claudine A. Townley, *Barron's How to Prepare for the FCAT: Grade 10 Florida Comprehensive Assessment Test in Reading and Writing* (Barron's Educational Series, Sept. 2004).

Assessment Test” or “FCAT.” The draft prohibits a school district from using legislative appropriations (including the instructional materials allocation) for:

- FCAT practice tests, sample test items, or practice workbooks;
- Materials dedicated to test-taking exercises or strategies designed exclusively for FCAT preparation; or
- Materials that include any reference to “Florida Comprehensive Assessment Test” or “FCAT.”

The draft requires DOE to notify publishers and manufacturers of these restrictions in the content specifications for each adoption of instructional materials. If the Auditor General finds that a school district purchased materials in violation of these restrictions, DOE is required to withhold funds from the next instructional materials allocation equal to the amount of the unlawful purchases. The draft also directs the district school board to discipline staff responsible for the unlawful purchases.

The draft prohibits any contractor selected by DOE to develop the FCAT, or the contractor’s corporate affiliates or subsidiaries, if any, from developing or publishing FCAT practice tests, sample test items, practice workbooks, or FCAT test-taking exercises or strategies, except as authorized in writing by the commissioner or in the contract.

Reading Comprehension:

Present Situation:

Professor E. D. Hirsh, Jr., in explaining how students learn to read, writes that the “possession of relevant prior knowledge is the single most potent contributor to the comprehension of a text.”¹²⁴ The Koret Task Force agrees with Professor Hirsh, stating that “[w]ithout rich content, students will not develop the knowledge and vocabulary needed to comprehend sophisticated text.”¹²⁵ Professor Hirsh concludes that:

If we want to make sure that students have the background knowledge they need to be good readers, we must give them a good general education—that is, an education in literature, science, history, and the liberal arts. That is the only kind of education that can build good readers. Period. Wasting hours on hours of precious school time on trivial, disconnected stories and on futile how-to exercises deprives students of hours that could be spent on learning literature, science, history, and the arts.¹²⁶

Proposed Changes:

As previously discussed, the draft directs the State Board of Education to review and replace the *Sunshine State Standards* with enhanced curricular standards, which must identify the core curricular content that students are expected to learn for reading comprehension. The draft also requires that instructional materials used to teach reading, which are purchased using funds from each school district’s annual instructional materials allocation, to the maximum extent practicable, must incorporate content from other core subjects (e.g., science, mathematics, and social studies).

¹²⁴ E. D. Hirsh, Jr., “What Do They Know of Reading Who Only Reading Know? Brining Liberal Arts into the Wasteland of the ‘Literacy Block,’” in *Beyond the Basics: Achieving a Liberal Education for All Children* 19 (Thomas B. Fordham Institute, Chester E. Finn, Jr. & Diane Ravitch, eds., July 2007), available at http://vcwww.edexcellence.net/doc/Beyond_The_Basics_Final.pdf (last visited Feb. 29, 2008).

¹²⁵ Hoover, *supra* note 38, at 26.

¹²⁶ Hirsh, *supra* note 124, at 19-20.

School Grades and School Improvement Ratings:

Present Situation:

Current law specifies that each school having students tested and included in the school grading system shall receive a school grade, except that an alternative school may choose to receive a school improvement rating instead of a school grade.¹²⁷ In an existing rule adopted by the State Board of Education, a school grade is not assigned to a public school unless the school has at least 30 eligible students with valid FCAT Reading scores for the current and previous years and 30 eligible students with valid FCAT Mathematics scores for the current and previous years.¹²⁸

In November 2007, DOE published a proposed rule establishing procedures for assigning school improvement ratings to alternative schools.¹²⁹ The proposed rule specifies that a school improvement rating is calculated for an alternative school choosing to receive a rating, if the school has a minimum of 10 eligible students with valid FCAT Reading scores for the current and 2 previous years and a minimum of 10 eligible students with valid FCAT Mathematics scores for the current and 2 previous years.¹³⁰ In response to the proposed rule, the Joint Administrative Procedures Committee (JAPC) submitted a letter to DOE inquiring about DOE's authority to adopt the 10-student limit on school improvement ratings. The letter, which also discusses JAPC's concerns about DOE's authority for its existing rule establishing the 30-student limit on school grades, reads as follows:

I asked, "What is the State Board of Education's authority to restrict implementation of section 1008.341, Florida Statutes, to alternative schools with at least ten students who have a three-year FCAT history?"

[DOE] responded that "some minimum-group-size parameters are needed for comparing student populations' performance over time because of the magnified effects of individual results in smaller groups." In essence, once the number of students becomes so small that the performance of one student can greatly affect the school's performance rating, it is difficult to prepare a statistically relevant report on the school's performance....

With respect to the argument that the 10-student limit is necessary to maintain statistical relevance and accuracy,.... as currently written, section 1008.341 does not contain any directions to the department or the Commissioner to limit school improvement ratings to schools with a certain number of students.... Section 1008.341(2) provides, in part, "Alternative schools that provide dropout prevention and academic intervention services pursuant to s. 1003.53 shall receive a school improvement rating pursuant to this section."¹³¹ I cannot find any exceptions for small schools or any responsibility assigned to the Commissioner or Department of Education to make sure that no school receive a rating if the rating will not be

¹²⁷ Sections 1008.34(3) & 1008.341(2), F.S.

¹²⁸ Rule 6A-1.09981(4), F.A.C.

¹²⁹ Proposed rule 6A-1.099822, F.A.C.; Florida Department of State, *Florida Administrative Weekly*, Vol. 33, at 45, at 5279-81 (Nov. 9, 2007), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2007/3345/3345doc.pdf> (last visited Feb. 29, 2008).

¹³⁰ *Id.* at 6A-1.099822(5)(a)1., F.A.C.

¹³¹ Emphasis in original.

statistically reliable. Furthermore, reliance on similar language in Rule 6A-1.09981 is problematic.

Section 1008.34(3) provides, in part, “Each school that has students who are tested and included in the school grading system, except an alternative school that receives a school improvement rating pursuant to s. 1008.341, shall receive a school grade.”¹³² Thus, the restriction in Rule 6A-1.09981(4) to schools with at least 30 students ... similarly appears to conflict with the statutory requirement that each school receive a school grade. In fact, it is my understanding that more than 12% of traditional public schools and 30% of the state’s charter schools were not graded last year because of the 30-student rule.¹³³

In addition to preserving the statistical reliability of school grades and school improvement ratings, DOE expresses a concern that the reporting of student assessment data for small numbers of students may allow the personal identification of an individual student’s test scores, which must be shielded from public disclosure under the federal *Family Educational Rights and Privacy Act (FERPA)*¹³⁴ and state requirements for confidentiality of student records and reports.¹³⁵

Proposed Changes:

The draft specifies that a school does not receive a school grade (and an alternative school does not receive a school improvement rating) if the number of students for whom the required assessment data is available is less than the minimum sample necessary for statistical reliability and prevention of the unlawful release of personally identifiable student data. The draft requires DOE to base its decision to exclude a school from receiving a school grade or school improvement rating on accepted professional practice. The draft, in effect, addresses JAPC’s concerns by authorizing DOE to continue its 30-student minimum for school grades in existing rule and establish a 10-student minimum for school improvement ratings proposed in its pending rule proposal.

In addition, current law requires that student performance data of students assigned to an alternative school is used in calculations for the school grade of the alternative school, if the alternative school chooses to receive a school grade.¹³⁶ If the alternative school chooses to receive a school improvement rating instead of a school grade, current law requires the student performance data of students assigned to the alternative school to be used in calculations for the school grades of the students’ “home schools.”¹³⁷ Under current law, a student’s home school is the school the student was attending when assigned to an alternative school.¹³⁸ According to DOE, some students are assigned to an alternative school while attending middle school but continue enrollment in the alternative school through high school grade levels. To avoid using an alternative school student’s high school performance data in calculations of the school grade for the student’s former middle school, DOE has proposed rule provisions that, in such a situation, prevent the student’s performance data from being credited to the home school:

¹³² Emphasis in original.

¹³³ Joint Administrative Procedures Committee, Letter from Brian T. Moore to Lynn Abbott (Feb. 1, 2008).

¹³⁴ 20 U.S.C. § 1232g.

¹³⁵ Section 1002.22, F.S.

¹³⁶ Section 1008.34(3)(a)3., F.A.C.

¹³⁷ *Id.*

¹³⁸ *Id.*

(a) Limitations on Students Credited Back. Student performance data will only be credited back to the home school if:

1. The student was referred to the alternative school by the home school; and
2. The student's grade level at the alternative school is within the same grade configuration as the student's home school.¹³⁹

The draft revises the definition of "home school" to require that, if an alternative school chooses to receive a school improvement rating instead of a school grade, the alternative school student's performance data is used in the calculation of the school grade of the school to which the student would be assigned if the student was not assigned to the alternative school. Thus, if a student was assigned to an alternative school in middle school and remained assigned to the alternative school in grades 9-12, the student's performance data would be used to calculate the school grade of the high school to which the student would be assigned if he or she returned to a regular school. In addition, the draft requires the principal of the alternative school to annually discuss the student's appropriate school assignment with the principal of the student's home school.

Effective Date:

The draft provides an effective date of July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends section 1003.41, F.S., requiring the State Board of Education review and replace the *Sunshine State Standards* with enhanced curricular standards.

Section 2. Amends section 1000.21, F.S., revising the systemwide definition of "Sunshine State Standards" as used in the Florida K-20 Education Code to conform to requirements for the enhanced curricular standards.

Section 3. Amends section 1001.03, F.S., revising the specific powers and duties of the State Board of Education for the review and revision of the *Sunshine State Standards*.

Section 4. Amends section 1001.41, F.S., requiring school district policies for providing students with a complete education in the core curricular content in the *Sunshine State Standards* and conforming to requirements for the enhanced curricular standards.

Section 5. Amends section 1001.42, F.S., prohibiting the purchase of FCAT-preparation materials or materials including references to the FCAT using legislative appropriations and requiring DOE to withhold instructional materials funds if the Auditor General determines that a school district violates the purchasing restrictions.

Section 6. Amends section 1003.428, F.S., conforming high school graduation requirements for enhanced curricular standards (applies to students entering high school in the 2007-2008 school year).

Section 7. Amends section 1003.43, F.S., conforming high school graduation requirements for enhanced curricular standards.

¹³⁹ Proposed rule 6A-1.099822(7)(a), F.A.C.; Florida Department of State, *Florida Administrative Weekly*, Vol. 34, No. 9, at 1193 (Feb. 29, 2008), available at <https://www.flrules.org/Faw/FAWDocuments/FAWVOLUMEFOLDERS2008/3409/3409doc.pdf> (last visited Feb. 29, 2008).

Section 8. Amends section 1006.34, F.S., prohibiting instructional materials from including references to the FCAT and requiring the instructional materials to align to the *Sunshine State Standards*.

Section 9. Amends section 1006.40, F.S., establishing additional requirements for the expenditure of funds from the instructional materials allocation.

Section 10. Amends section 1008.22, F.S., revising requirements of the statewide assessment program, including the addition of social studies to the FCAT; requiring high school end-of-course assessments of social studies; authorizing end-of-course assessment of other subjects; limiting the FCAT's norm-referenced tests to grades 3, 7, and 9; establishing restrictions for test publishers that develop the FCAT; revising requirements for FCAT testing and reporting schedules; prohibiting the suspension of a regular curricula for practice testing and test-preparation activities; and authorizing the discontinuation of former assessments.

Section 11. Amends section 1008.25, F.S., adding proficiency in social studies to the requirements that a school district is required to base student progression and requiring remedial instruction, or retention and intensive instruction, and additional diagnostic assessments, for students who score below the school district's minimum performance levels for social studies.

Section 12. Amends section 1008.34, F.S., specifying that a school does not receive a school grade if the number of students tested is less than the minimum sample size necessary for statistical reliability and the prevention of releasing confidential student data; revising the definition of "home school" for purposes of using an alternative school student's performance data in school grade calculations for the student's home school; and requiring collaboration between alternative school and home school principals concerning an alternative school student's school assignment.

Section 13. Amends section 1008.341, F.S., specifying that an alternative school does not receive a school improvement rating if the number of students for whom student performance data is available is less than the minimum sample size necessary for statistical reliability and the prevention of releasing confidential student data.

Section 14. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Commissioner of Education currently administers the FCAT norm-referenced tests (NRTs) at eight grade levels (grades 3, 4, 5, 6, 7, 8, 9, and 10). In October 2007, the Department of Education (DOE) executed a \$42,594,020 contract with a commercial test publisher for the administration of the NRTs through November 30, 2012. The draft proposes a 62.5 percent reduction in the number of grade levels being tested under the NRTs, which is estimated to result in an indeterminate but significant annual cost savings to the state.

The draft authorizes DOE to discontinue the use of former assessments, the passage of which were required for a standard high school diploma. As previously discussed, this provision allows

DOE to discontinue administration of the high school competency test (HSCT) and would require students currently eligible to sit for the HSCT to take the FCAT. According to DOE, approximately 605 students took the HSCT in 2006 at a cost of \$373.86 per student compared to a cost of \$12.84 per student for the FCAT.¹⁴⁰ Based on these figures, allowing DOE to discontinue administration of the HSCT would generate a cost savings of approximately \$218,000 per year.

According to the Department of Education (DOE), the start-up activities for developing FCAT social studies assessments in three grade levels (once at the elementary, middle, and high school levels) are estimated at approximately \$3,000,000¹⁴¹ The draft proposes FCAT social studies assessments at two grade levels (once at the elementary and middle school levels) and requires end-of-course assessments for social studies at the high school level. The fiscal impact of the end-of-course assessments is currently unavailable.

The ongoing review of the FCAT by an independent test-measurement expert would require DOE to issue a contract of approximately \$350,000 to \$500,000 per year.¹⁴²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The draft would impact the current contract with a commercial test publisher that develops the FCAT's norm-referenced tests (NRTs).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

¹⁴⁰ Florida Department of Education, *supra* note 85, at 4.

¹⁴¹ *Id.*

¹⁴² *Id.*

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The draft authorizes the State Board of Education to adopt rules for the:

- Review and adoption of the enhanced curricular *Sunshine State Standards*;
- Determination of the extent to which practice testing and test-preparation activities are necessary for the valid and reliable administration of a statewide assessment; and
- Adoption of passing scores for revised assessments which are statistically equivalent to passing scores on discontinued assessments required for a standard high school diploma.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES



**STILL AT RISK:
What Students Don't Know, Even Now**

Written by
FREDERICK M. HESS

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LETTER FROM
THE EXECUTIVE DIRECTOR

Senator Joseph McCarthy investigated people who protested the war in Vietnam, better known as the Second World War. Fortunately, that war was over before Christopher Columbus sailed to America; otherwise, we might have never experienced the Renaissance.

A new survey of 17-year-olds reveals that, to many, the paragraph above sounds only slightly strange. Almost 20 percent of 1,200 respondents to a national telephone survey do not know who our enemy was in World War II, and more than a quarter think Columbus sailed after 1750. Half do not know whom Sen. McCarthy investigated or what the Renaissance was.

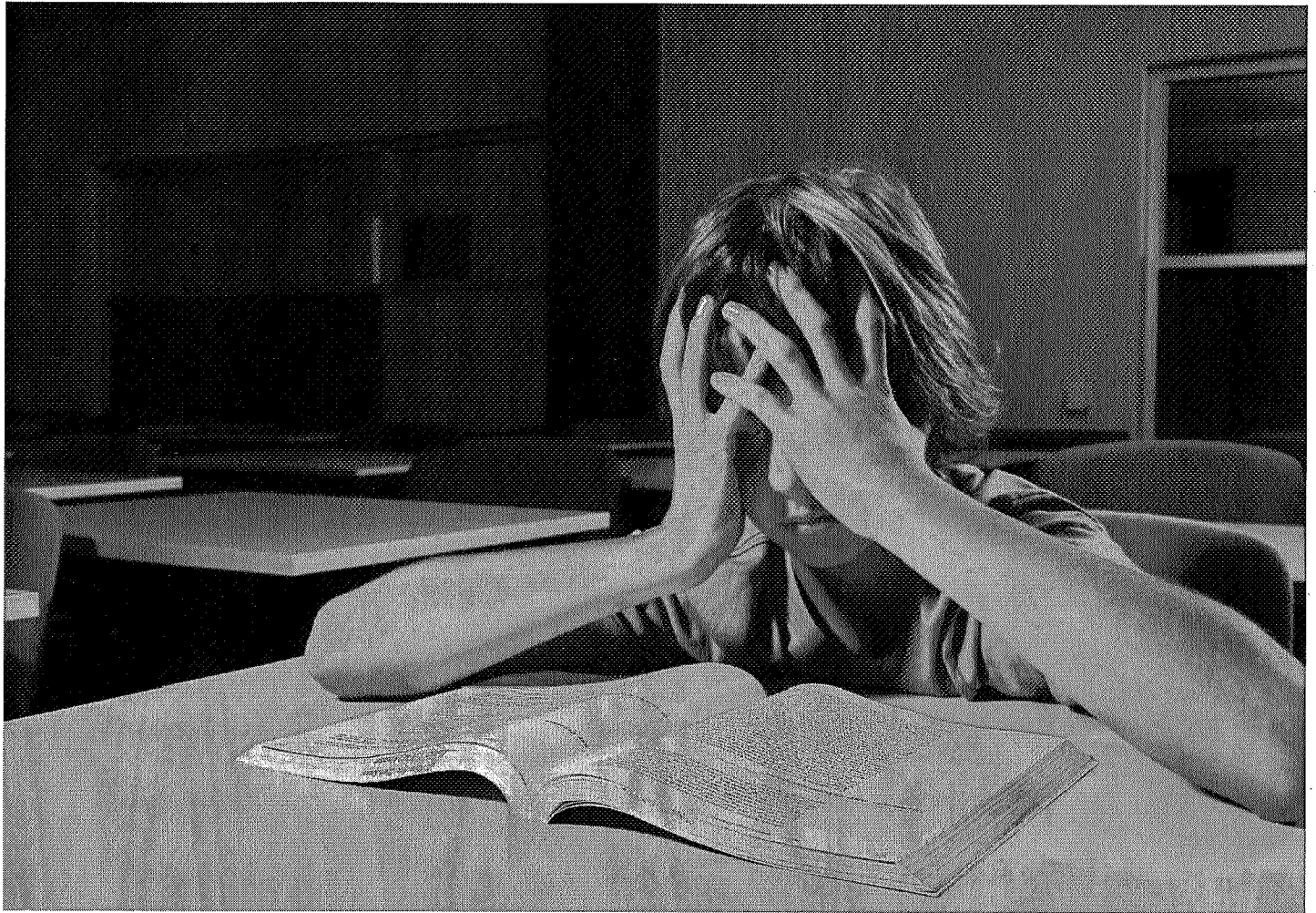


A deep lack of knowledge is neither humorous nor trivial.

It is easy to make light of such ignorance. In reality, however, a deep lack of knowledge is neither humorous nor trivial. What we know helps to determine how successful we are likely to be in life, and how many career paths we can choose from. It also affects our contribution as democratic citizens.

Unfortunately, too many young Americans do not possess the kind of basic knowledge they need. When asked fundamental questions about U.S. history and culture, they score a D and exhibit stunning knowledge gaps:

- Nearly a quarter of those surveyed could not identify Adolf Hitler; 10 percent think he was a munitions manufacturer
- Fewer than half can place the Civil War in the correct half-century
- Only 45 percent can identify Oedipus



- A third do not know that the Bill of Rights guarantees the freedom of speech and religion
- 44 percent think that *The Scarlet Letter* was either about a witch trial or a piece of correspondence



Students are graduating without knowing what *Brown v. Board of Education* decided.

There are parents all over America for whom this is no surprise. They know that the focus of their child's school day is increasingly on preparing for basic skills tests, not on learning history or

geography, reading literature, or participating in the arts. And their child's teacher often shares in their frustration.

Another concern the survey identifies is a consistent gap—the size of a letter-grade—between respondents who have at least one college-educated parent and those who do not. This is devastating for students who come from homes where the discussion of literature and history is rare because if the school doesn't impart this knowledge, these students are not likely ever to learn it. The burden on schools serving less-privileged students is great because they must somehow teach more just to get their students to the starting line. This survey shows that that challenge is not being adequately met.

When students graduate without knowing what *Brown v. Board of*

Education decided or who told them to “ask not what your country can do for you,” they are being left behind in the worst way. Everyone's children deserve to receive a comprehensive, content-rich education in the liberal arts and sciences. Of course they must be able to read and compute. But they must also possess real knowledge about important things, knowledge of civics, biology, geography, art history, languages—the full range of subjects that comprise a complete education. Any reform idea that diminishes the ability of schools and teachers to provide students with such an education is narrowing children's futures, not expanding them.

Lynne Munson
Executive Director
Common Core

CONCLUSION: The findings here should serve as a wake-up call to remind us that it is vital to address more than one educational challenge at a time.

When it comes to familiarity with major historical events and significant literary accomplishments, America's 17-year-olds fare rather poorly. When asked relatively simple multiple-choice questions and graded on a generous scale, teens on the cusp of adulthood earned a D overall. Moreover, there is an unsurprising but unfortunate gap between those children born into homes headed by college-educated parents and their peers. When it comes to familiarity with the base of knowledge that enables us to engage in conversations about policy and values and so much else, our 17-year-olds are only barely literate.

Nearly a quarter of 17-year-olds did not know that George Washington commanded the American army in the Revolutionary War. Forty percent could not identify the proper half-century in which the First World War took place.

One-fourth thought Christopher Columbus had landed in the New World after 1750. More than a quarter did not know that it is the Declaration of Independence that declares that all men "are endowed by their Creator with certain unalienable Rights." Barely half



Is No Child Left Behind stifling instruction in the liberal arts and sciences?

know the setting of Dickens' *A Tale of Two Cities* or the plot of *The Scarlet Letter*. Just two in five could identify the author of the *Canterbury Tales* or the plot of Ralph Ellison's seminal *Invisible Man*.

Perhaps these results should not come as a great surprise. For all the attention paid to school improvement in recent years, particularly at the high school level, there has been a focus on the essentialist questions of reading, math, and graduation. It appears likely that this focus has not served the broader aim of ensuring that our children are educated in the liberal arts and sciences.

The responses to novels like *The Adventures of Huckleberry Finn* and *The Grapes of Wrath* strongly suggest that few high school graduates will have read these volumes unless they are assigned. For young people who are not pursuing a postsecondary education, their K-12 education is the window of opportunity to acquaint them with these works. And in too many cases, that opportunity is being squandered.

What should we take from these findings? For starters, it is essential that parents, policymakers, and educators examine what we are doing when it comes to the teaching of history and culture. We must ask whether popular reform currents are delivering the results (and incentives) we wish, and what that means for school reform going forward. Five specific recommendations deserve attention.



We must do a substantially better job of teaching the liberal arts and sciences.

First, as the old management adage has it, “What you measure is what you get.” We have put that notion to the test in education in recent years, determinedly measuring reading and math skill levels, especially in grades three through eight. It should come as no surprise that our time, energy, and attention have consequently been absorbed by mastery of basic skills in reading and math. The findings here should serve as a wake-up call to remind us that it is vital to address more than one educational challenge at a time. The first step in doing so is to more systematically assess student learning beyond math and reading, particularly in the subjects of the traditional liberal arts. This does not mean adding new assessments into the No Child Left Behind framework—in truth, it is probably advisable not to do so—but it does suggest that states, school districts, foundations, and the National Assessment Governing Boards should think hard about how we might more regularly and more profoundly measure learning in liberal arts and science subjects at a variety of grade levels.

Second, as we debate the reauthorization of No Child Left Behind and design state accountability programs, we would be well advised to reassess whether these systems or district practices are promoting or unintentionally stifling

instruction in the liberal arts and sciences. This survey makes clear that students’ knowledge in these areas falls far short of where it needs to be. In light of extensive efforts to promote educational accountability in recent years, it is worth ensuring that measures such as NCLB are helping to address this challenge and not somehow aggravating it.

Third, we must do a substantially better job of teaching the liberal arts and sciences. In the current policy environment, the vast majority of time and energy are being devoted to research that addresses reading and math instruction. This work is essential and invaluable, but it would behoove parents and policymakers to encourage researchers and educators to ensure that their enthusiasm for basic skills is not marginalizing attention to questions of civic import. To this end, it may be useful to consider the Core Knowledge, Latin, or International Baccalaureate programs, which may offer promising approaches and useful lessons on this count.

Fourth, we need to make sure our teachers have the knowledge they need to teach science and the liberal arts well. Unfortunately, there is little energy or attention devoted to programs that ensure teachers are equipped to provide such instruction. Teachers flock to the few opportunities that do exist to steep themselves in content-rich subject matter, such as the summer institutes offered by the Gilder Lehrman Institute of American History and the National Endowment for the Humanities. So the anecdotal evidence strongly suggests that teachers want to know more and be able to offer that knowledge to their students. There is a need to research the state of teacher mastery and to devise recruitment, training, and support programs that will support robust teaching and learning when it comes to historical and cultural knowledge.

And finally, we note that promoting a rich liberal arts and sciences education for all is an idea around which reform advocates of various stripes can rally. Whatever reforms one believes

advisable in order to promote quality schools and schooling, we can agree that “quality” includes a broad, rich, and challenging liberal arts curriculum. In truth, proponents of charter schools or vouchers, mayoral control or school boards, merit pay or career ladders, or any number of other measures all have reason to insist that these structural strategies be coupled with a rich curriculum that is provided equitably to all students. A successful coalition on behalf of liberal education can and must welcome those who may otherwise disagree on the particular shape of reform.



A coalition on behalf of liberal education must welcome those who may otherwise disagree.

In profound and essential ways, our civic health and national cohesion depend on our ability to familiarize the rising generation with the touchstones of our shared history and culture. Ensuring that all citizens have a shared sense of Martin Luther King, Jr.’s, “I have a dream” speech and the attack on Pearl Harbor is a start—but only a very modest one. Alone, such scattered kernels of awareness constitute no more than a handful of romanticized images flickering in the national conscience. What we need is confidence that all of our children will be familiar with the highs and the lows of the compelling narrative that is our common heritage.