

By Representative Alexander

1                                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           229.57, F.S.; providing an exemption from  
4           public records requirements for information in  
5           the possession of the Department of Education  
6           in connection with annual student assessments  
7           which identifies teachers or other  
8           instructional personnel or discloses the  
9           effects of instruction by such persons;  
10          providing for future review and repeal;  
11          providing a finding of public necessity;  
12          providing an effective date.

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14           WHEREAS, beginning with the full implementation of an  
15          annual assessment of student learning gains, the assessment of  
16          instructional personnel must primarily use data and indicators  
17          of improvement in student performance, and

18           WHEREAS, it is the intent of the Legislature to  
19          permanently and completely protect the privacy of individual  
20          teacher records at the state level, and

21           WHEREAS, data identifying instructional personnel and  
22          students and estimating the effects of instruction by such  
23          instructional personnel on a student's year-to-year  
24          achievement, or lack thereof, in the possession of the  
25          Department of Education or the State Board of Education must  
26          be held confidential and exempt from public records  
27          requirements, NOW, THEREFORE,

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29          Be It Enacted by the Legislature of the State of Florida:  
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1 Section 1. Paragraph (e) of subsection (11) of section  
2 229.57, Florida Statutes, is amended to read:

3 229.57 Student assessment program.--

4 (11) STATEWIDE ASSESSMENTS.--The Department of  
5 Education is authorized, subject to appropriation, to  
6 negotiate a multiyear contract for the development, field  
7 testing, and implementation of annual assessments of students  
8 in grades 3 through 10. Such assessments must comply with the  
9 following criteria:

10 (e)1. The statistical system shall use measures of  
11 student learning, such as the FCAT, to determine teacher,  
12 school, and school district statistical distributions, which  
13 distributions:

14 ~~a.1.~~ Shall be determined using available data from the  
15 FCAT, and other data collection as deemed appropriate by the  
16 Department of Education, to measure the differences in student  
17 prior year achievement against the current year achievement or  
18 lack thereof, such that the "effects" of instruction to a  
19 student by a teacher, school, and school district may be  
20 estimated on a per-student and constant basis.

21 ~~b.2.~~ Shall, to the extent possible, be able to be  
22 expressed in linear scales such that the effects of ceiling  
23 and floor dispersions are minimized.

24 2. The department shall not release data disclosing  
25 personal identifying information about a teacher or any other  
26 instructional personnel and the effects of instruction by such  
27 teacher or other instructional personnel on a student except  
28 to the State Board of Education. Such data, in the possession  
29 of the department and the State Board of Education, are  
30 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
31 of the State Constitution. This subparagraph is subject to the

1 Open Government Sunset Review Act of 1995 in accordance with  
2 s. 119.15, and shall stand repealed on October 2, 2006, unless  
3 reviewed and saved from repeal through reenactment by the  
4 Legislature.

5       Section 2. The Legislature finds that the exemption  
6 from public records requirements provided by s.  
7 229.57(11)(e)2., Florida Statutes, is a public necessity in  
8 order to ensure the privacy of individual teacher records at  
9 the state level. Personal information about the effects of  
10 instruction by teachers and instructional personnel is highly  
11 sensitive. Collection of such information by the Department of  
12 Education allows it to effectively administer the statewide  
13 student assessment program. However, if this information were  
14 subject to statewide public release, teachers and  
15 instructional personnel would be reluctant to participate  
16 fully in the assessment program, and qualified persons would  
17 be discouraged from entering the field of teaching. Therefore,  
18 the harm that would result from release of this information  
19 outweighs any public benefit that might result therefrom.

20       Section 3. This act shall take effect upon becoming a  
21 law.

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24 HOUSE SUMMARY

25  
26 Provides an exemption from public records requirements  
27 for information in the possession of the Department of  
28 Education in connection with annual student assessments  
29 which identifies teachers or other instructional  
30 personnel or discloses the effects of instruction by such  
31 persons. Provides for future review and repeal.