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1 A bill to be entitled

2 An act relating to education; amending s. 1002.38, F.S.;

3 requiring school districts to ensure that students in

4 certain grades who receive an Opportunity Scholarship take

5 the statewide assessment; establishing requirements for

6 10th grade students to take the Florida Comprehensive

7 Assessment Test; requiring limited reexaminations for

8 certain students; specifying when the reexaminations must

9 be given; providing for the student's retention of credit;

10 providing for the forfeiture of the scholarship under

11 certain conditions; providing additional eligibility

12 criteria for private schools to participate in the

13 Opportunity Scholarship Program; requiring students who

14 participate in the Opportunity Scholarship Program to earn

15 passing scores on certain statewide assessment tests in

16 order to qualify for a regular high school diploma;

17 requiring participating private schools to establish

18 student progression programs; specifying the contents of

19 the program; requiring an allocation of school remedial

20 and supplemental instruction resources; prescribing

21 content of academic improvement plans; requiring private

22 school students who receive Opportunity Scholarships to

23 participate in statewide assessment tests; requiring

24 additional diagnostic tests; prescribing guidelines for

25 remedial reading instruction; requiring parental

26 notification of reading deficiency; prohibiting social

27 promotion and providing standards for exemptions from

28 mandatory-retention requirements; requiring reports by

29 private schools to parents; amending s. 1008.22, F.S.,

30 relating to the student assessment program for public



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31 schools; establishing requirements for 10th grade students
 32 to take the Florida Comprehensive Assessment Test;
 33 requiring limited reexaminations for certain students;
 34 specifying when the reexaminations must be given;
 35 providing for the student's retention of credit; requiring
 36 the Commissioner of Education to develop alternative
 37 measures to be used by school districts in awarding high
 38 school diplomas to students in public schools and to be
 39 used by private schools for students in private schools
 40 who receive an Opportunity Scholarship; prohibiting the
 41 use of the alternative measures after a specified date;
 42 providing an effective date.

43

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

45

46 Section 1. Paragraph (c) of subsection (3) and subsection
 47 (5) of section 1002.38, Florida Statutes, are amended, present
 48 paragraph (f) of subsection (4) is amended, present paragraphs
 49 (g), (h), (i), (j), and (k) of that subsection are redesignated
 50 as paragraphs (i), (j), (k), (l), and (m), respectively, new
 51 paragraphs (g) and (h) are added to that subsection, and
 52 subsections (9), (10), (11), (12), (13), and (14) are added to
 53 that section, to read:

54 1002.38 Opportunity Scholarship Program.--

55 (3) SCHOOL DISTRICT OBLIGATIONS.--

56 (c) The school district shall ensure that each student in
 57 grade 3 and grade 10 ~~For students~~ in the school district who is
 58 are participating in the state Opportunity Scholarship Program
 59 takes the statewide assessment under s. 1008.22. ~~7~~ The school



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60 district shall provide locations and times to take all statewide
61 assessments required pursuant to s. 1008.22.

62 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
63 participate in the Opportunity Scholarship Program, a private
64 school must be a Florida private school, may be sectarian or
65 nonsectarian, and must:

66 (f) Be subject to the instruction, curriculum, standards
67 for high school graduation, and attendance criteria adopted by
68 an appropriate nonpublic school accrediting body. The standards
69 must include earning a passing score on the Florida
70 Comprehensive Assessment Test (FCAT), as defined in s.
71 1008.22(3)(c), to be administered annually by each public school
72 district in grade 3 and grade 10 to measure reading, writing,
73 science, and mathematics. ~~and~~

74 (g) Be academically accountable to the parent for meeting
75 the educational needs of the student. The private school must
76 furnish a school profile which includes student performance.

77 (h) Meet the requirements in subsections (9) through (14).

78 (5) OBLIGATION OF PROGRAM PARTICIPATION.--

79 (a)1. Any student participating in the Opportunity
80 Scholarship Program must remain in attendance throughout the
81 school year, unless excused by the school for illness or other
82 good cause, and must comply fully with the school's code of
83 conduct.

84 2. Any student participating in the Opportunity
85 Scholarship Program must earn a passing score on the grade 10
86 Florida Comprehensive Assessment Test (FCAT) in reading,
87 writing, and mathematics, according to the passing score
88 established by State Board of Education rules for each part of
89 the test, to qualify for a regular high school diploma.



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90 3. Beginning in grade 10, each student who receives an
91 Opportunity Scholarship must take the Florida Comprehensive
92 Assessment Test at each time the test is administered until the
93 student passes each part, subject to the following conditions:

94 a. A student who takes the Florida Comprehensive
95 Assessment Test and fails to earn a passing score on the test
96 must be offered a reexamination in each of the parts failed.

97 b. A passing score means a score established by rule of
98 the State Board of Education.

99 c. A student must be given credit for each part of the
100 Florida Comprehensive Assessment Test that the student passes.

101 d. A student may retain credit for any part that the
102 student passes until the expiration of all offered
103 reexaminations, except as provided in sub-subparagraph e.

104 e. Reexaminations must be offered three times each year in
105 grades 11 and 12 to each student who fails a part of the 10th
106 grade test, for a total of six reexaminations. If the student is
107 unable to earn a passing score on any part of the Florida
108 Comprehensive Assessment Test after a reexamination for the
109 fourth time, the student must forfeit the scholarship. However,
110 a student may retain credit on any part passed and remains
111 eligible for two additional reexaminations.

112 (b) The parent of each student participating in the
113 Opportunity Scholarship Program must comply fully with the
114 private school's parental involvement requirements, unless
115 excused by the school for illness or other good cause.

116 (c) The parent shall ensure that the student participating
117 in the Opportunity Scholarship Program takes all statewide
118 assessments required pursuant to s. 1008.22.



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119 (d) A participant who fails to comply with this subsection
120 shall forfeit the opportunity scholarship.

121 (9) STUDENT PROGRESSION.--Each private school shall
122 establish a comprehensive program for student progression which
123 must include:

124 (a) Standards for evaluating each student's performance,
125 including how well he or she masters the performance standards
126 approved by the State Board of Education.

127 (b) Specific levels of performance in reading, writing,
128 science, and mathematics for each grade level, including the
129 levels of performance on statewide assessments as defined by the
130 Commissioner of Education, below which a student must receive
131 remediation or be retained within an intensive program that is
132 different from the previous year's program and that takes into
133 account the student's learning style.

134 (c) Appropriate alternative placement for a student who
135 has been retained 2 or more years.

136 (10) ALLOCATION OF RESOURCES.--Each private school shall
137 allocate remedial and supplemental instruction resources to
138 students in the following priority:

139 (a) Students who are deficient in reading by the end of
140 grade 3.

141 (b) Students who fail to meet performance levels required
142 for promotion consistent with the private school's plan for
143 student progression required in paragraph (9)(b).

144 (11) PERFORMANCE LEVELS.--

145 (a) Each student who receives an Opportunity Scholarship
146 must participate in the statewide assessment tests required by
147 s. 1008.22. Each Opportunity Scholarship student who does not
148 meet specific levels of performance as determined by the



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149 Commissioner of Education on statewide assessments at selected
150 grade levels must be provided with additional diagnostic
151 assessments to determine the nature of the student's difficulty
152 and areas of academic need.

153 (b) The private school in which the student is enrolled
154 must develop, in consultation with the student's parent, and
155 must implement an academic improvement plan designed to assist
156 the student in meeting state and school expectations for
157 proficiency. Beginning with the 2003-2004 school year, if the
158 student has been identified as having a deficiency in reading,
159 the academic improvement plan shall identify the student's
160 specific areas of deficiency in phonemic awareness, phonics,
161 fluency, comprehension, and vocabulary; the desired levels of
162 performance in these areas; and the instructional and support
163 services to be provided to meet the desired levels of
164 performance. The private school shall also provide for the
165 frequent monitoring of the student's progress in meeting the
166 desired levels of performance. The private school shall assist
167 teachers to implement research-based reading activities that
168 have been shown to be successful in teaching reading to low-
169 performing students. Remedial instruction provided during high
170 school may not be in lieu of English and mathematics credits
171 required for graduation.

172 (c) Upon subsequent evaluation, if the documented
173 deficiency has not been remediated in accordance with the
174 academic improvement plan, the student may be retained. Each
175 student who does not meet the minimum performance expectations
176 defined by the Commissioner of Education for the statewide
177 assessment tests in reading, writing, science, and mathematics
178 must continue to be provided with remedial or supplemental



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179 instruction until the expectations are met or the student
180 graduates from high school or is not subject to compulsory
181 school attendance.

182 (12) READING PROFICIENCY.--

183 (a) It is the ultimate goal of the Legislature that every
184 student read at or above grade level. Any student who exhibits a
185 substantial deficiency in reading, based upon statewide
186 assessments conducted in kindergarten or grade 1, grade 2, or
187 grade 3, or through teacher observations, must be given
188 intensive reading instruction immediately following the
189 identification of the reading deficiency. The student's reading
190 proficiency must be reassessed by school determined assessments
191 or through teacher observations at the beginning of the grade
192 following the intensive reading instruction. The student must
193 continue to be provided with intensive reading instruction until
194 the reading deficiency is remedied.

195 (b) Beginning with the 2003-2004 school year, if the
196 student's reading deficiency, as identified in paragraph (a), is
197 not remedied by the end of grade 3, as demonstrated by scoring
198 at Level 2 or higher on the statewide assessment test in reading
199 for grade 3, the student must be retained.

200 (c) Beginning with the 2003-2004 school year, the parent
201 of any student who exhibits a substantial deficiency in reading,
202 as described in paragraph (a), must be notified in writing of
203 the following:

204 1. That his or her child has been identified as having a
205 substantial deficiency in reading.

206 2. A description of the current services that are provided
207 to the child.



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208 3. A description of the proposed supplemental
209 instructional services and supports that will be provided to the
210 child that are designed to remediate the identified area of
211 reading deficiency.

212 4. That if the child's reading deficiency is not
213 remediated by the end of grade 3, the child must be retained
214 unless he or she is exempt from mandatory retention for good
215 cause.

216 (13) EXEMPTION FROM MANDATORY RETENTION.--

217 (a) No student may be assigned to a grade level based
218 solely on age or other factors that constitute social promotion.

219 (b) The school may only exempt students from mandatory
220 retention, as provided in paragraph (12)(b), for good cause.

221 Good cause exemptions shall be limited to the following:

222 1. Limited English proficient students who have had less
223 than 2 years of instruction in an English for Speakers of Other
224 Languages program.

225 2. Students with disabilities for whom participation in
226 the statewide assessment program is not appropriate, consistent
227 with the requirements of State Board of Education rule.

228 3. Students who demonstrate an acceptable level of
229 performance on an alternative standardized reading assessment
230 approved by the State Board of Education.

231 4. Students who demonstrate, through a student portfolio,
232 that the student is reading on grade level as evidenced by
233 demonstration of mastery of the Sunshine State Standards in
234 reading equal to at least a Level 2 performance on the FCAT.

235 5. Students with disabilities who participate in the FCAT
236 and who have received the intensive remediation in reading, as
237 required by paragraph (11)(b), for more than 2 years but still



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238 demonstrate a deficiency in reading and were previously retained
239 in kindergarten, grade 1, or grade 2.

240 6. Students who have received the intensive remediation in
241 reading, as required by paragraph (11)(b), for 2 or more years
242 but still demonstrate a deficiency in reading and who were
243 previously retained in kindergarten, grade 1, or grade 2 for a
244 total of 2 years. Intensive reading instruction for students so
245 promoted must include an altered instructional day based upon an
246 academic improvement plan that includes specialized diagnostic
247 information and specific reading strategies for each student.
248 The school shall assist teachers to implement reading strategies
249 that research has shown to be successful in improving reading
250 among low-performing readers.

251 (c) Requests for good cause exemptions for students from
252 the mandatory retention requirement as described in
253 subparagraphs (b)3. and 4. shall be made consistent with the
254 following:

255 1. Documentation shall be submitted from the student's
256 teacher to the school principal that indicates that the
257 promotion of the student is appropriate and is based upon the
258 student's academic record. In order to minimize paperwork
259 requirements, such documentation shall consist only of the
260 existing academic improvement plan, individual educational plan,
261 if applicable, report card, or student portfolio.

262 2. The school principal shall review and discuss such
263 recommendation with the teacher and make the determination as to
264 whether the student should be promoted or retained.

265 (14) ANNUAL REPORTS.--

266 (a) In addition to the requirements in paragraph (12)(c),
267 each private school must annually report to the parent of each



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268 student the progress of the student toward achieving state and
269 school expectations for proficiency in reading, writing,
270 science, and mathematics. The private school must report to the
271 parent the student's results on each statewide assessment test.
272 The evaluation of each student's progress must be based upon the
273 student's classroom work, observations, tests, state
274 assessments, and other relevant information. Progress reporting
275 must be provided to the parent in writing in a format adopted by
276 the school.

277 (b) Beginning with the 2003-2004 school year, each private
278 school must annually report in writing to the parent the
279 following information on the prior school year, unless the data
280 reveals personally identifiable information about another
281 individual student, pursuant to the requirements of the federal
282 Family Educational Rights and Privacy Act of 1974, as amended:

283 1. The provisions of this section relating to school
284 student progression and the school's policies and procedures on
285 student retention and promotion.

286 2. By grade, the number and percentage of all students in
287 grades 3 through 10 performing at Levels 1 and 2 on the reading
288 portion of the FCAT.

289 3. By grade, the number and percentage of all students
290 retained in grades 3 through 10.

291 4. Information on the total number of students who were
292 promoted for good cause, by each category of good cause as
293 specified in paragraph (13)(b).

294 5. Any revisions to the school's policy on student
295 retention and promotion from the prior year.

296 Section 2. Paragraph (c) of subsection (3) of section
297 1008.22, Florida Statutes, is amended to read:



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298 1008.22 Student assessment program for public schools.--

299 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
 300 design and implement a statewide program of educational
 301 assessment that provides information for the improvement of the
 302 operation and management of the public schools, including
 303 schools operating for the purpose of providing educational
 304 services to youth in Department of Juvenile Justice programs.
 305 Pursuant to the statewide assessment program, the commissioner
 306 shall:

307 (c) Develop and implement a student achievement testing
 308 program known as the Florida Comprehensive Assessment Test
 309 (FCAT) as part of the statewide assessment program, to be
 310 administered annually in grades 3 through 10 to measure reading,
 311 writing, science, and mathematics. Other content areas may be
 312 included as directed by the commissioner. The testing program
 313 must be designed so that:

314 1. The tests measure student skills and competencies
 315 adopted by the State Board of Education as specified in
 316 paragraph (a). The tests must measure and report student
 317 proficiency levels in reading, writing, mathematics, and
 318 science. The commissioner shall provide for the tests to be
 319 developed or obtained, as appropriate, through contracts and
 320 project agreements with private vendors, public vendors, public
 321 agencies, postsecondary educational institutions, or school
 322 districts. The commissioner shall obtain input with respect to
 323 the design and implementation of the testing program from state
 324 educators and the public.

325 2. The testing program will include a combination of norm-
 326 referenced and criterion-referenced tests and include, to the
 327 extent determined by the commissioner, questions that require



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328 the student to produce information or perform tasks in such a
329 way that the skills and competencies he or she uses can be
330 measured.

331 3. Each testing program, whether at the elementary,
332 middle, or high school level, includes a test of writing in
333 which students are required to produce writings that are then
334 scored by appropriate methods.

335 4. A score is designated for each subject area tested,
336 below which score a student's performance is deemed inadequate.

337 The school districts shall provide appropriate remedial
338 instruction to students who score below these levels.

339 5. Students must earn a passing score on the grade 10
340 assessment test described in this paragraph in reading, writing,
341 and mathematics to qualify for a regular high school diploma.
342 The State Board of Education shall designate a passing score for
343 each part of the grade 10 assessment test. In establishing
344 passing scores, the state board shall consider any possible
345 negative impact of the test on minority students. All students
346 who took the grade 10 FCAT during the 2000-2001 school year
347 shall be required to earn the passing scores in reading and
348 mathematics established by the State Board of Education for the
349 March 2001 test administration. Such students who did not earn
350 the established passing scores and must repeat the grade 10 FCAT
351 are required to earn the passing scores established for the
352 March 2001 test administration. All students who take the grade
353 10 FCAT for the first time in March 2002 and thereafter shall be
354 required to earn the passing scores in reading and mathematics
355 established by the State Board of Education for the March 2002
356 test administration. The State Board of Education shall adopt
357 rules which specify the passing scores for the grade 10 FCAT.



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358 Any such rules, which have the effect of raising the required
359 passing scores, shall only apply to students taking the grade 10
360 FCAT after such rules are adopted by the State Board of
361 Education.

362 6.a. Participation in the testing program is mandatory for
363 all students attending public school, including students served
364 in Department of Juvenile Justice programs, except as otherwise
365 prescribed by the commissioner.

366 b. Beginning in grade 10, each student must take the
367 Florida Comprehensive Assessment Test at each time the test is
368 administered until the student passes each part, subject to the
369 following conditions:

370 (I) A student who takes the Florida Comprehensive
371 Assessment Test and fails to earn a passing score on the test
372 must be offered a reexamination in each of the parts failed.

373 (II) A passing score means a score established by rule of
374 the State Board of Education.

375 (III) A student must be given credit for each part of the
376 Florida Comprehensive Assessment Test that the student passes.

377 (IV) A student may retain credit for any part that the
378 student passes until the expiration of all offered
379 reexaminations.

380 (V) Reexaminations must be offered three times each year
381 in grades 11 and 12 to each student who fails part of the 10th
382 grade test, for a total of six reexaminations.

383 c. If a student does not participate in the statewide
384 assessment, the district must notify the student's parent and
385 provide the parent with information regarding the implications
386 of such nonparticipation. If modifications are made in the
387 student's instruction to provide accommodations that would not



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388 be permitted on the statewide assessment tests, the district
389 must notify the student's parent of the implications of such
390 instructional modifications. A parent must provide signed
391 consent for a student to receive instructional modifications
392 that would not be permitted on the statewide assessments and
393 must acknowledge in writing that he or she understands the
394 implications of such accommodations. The State Board of
395 Education shall adopt rules, based upon recommendations of the
396 commissioner, for the provision of test accommodations and
397 modifications of procedures as necessary for students in
398 exceptional education programs and for students who have limited
399 English proficiency. Accommodations that negate the validity of
400 a statewide assessment are not allowable.

401 7. A student seeking an adult high school diploma must
402 meet the same testing requirements that a regular high school
403 student must meet.

404 8. District school boards must provide instruction to
405 prepare students to demonstrate proficiency in the skills and
406 competencies necessary for successful grade-to-grade progression
407 and high school graduation. If a student is provided with
408 accommodations or modifications that are not allowable in the
409 statewide assessment program, as described in the test manuals,
410 the district must inform the parent in writing and must provide
411 the parent with information regarding the impact on the
412 student's ability to meet expected proficiency levels in
413 reading, writing, and math. The commissioner shall conduct
414 studies as necessary to verify that the required skills and
415 competencies are part of the district instructional programs.

416 9. The Department of Education must develop, or select,
417 and implement a common battery of assessment tools that will be



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418 used in all juvenile justice programs in the state. These tools
419 must accurately measure the skills and competencies established
420 in the Florida Sunshine State Standards.

421
422 The commissioner may design and implement student testing
423 programs, for any grade level and subject area, necessary to
424 effectively monitor educational achievement in the state.

425 Section 3. (1) The Commissioner of Education shall
426 develop alternative measures that may be used by school
427 districts in awarding a high school diploma to students in
428 public schools beginning with the 2003 high school graduating
429 class and may be used by private schools in awarding a high
430 school diploma to students in private schools who receive an
431 Opportunity Scholarship. Such alternative measures may include,
432 but need not be limited to:

433 (a) The ACT or SAT scores that are used by colleges and
434 universities for admission purposes;

435 (b) The Armed Services Vocational Aptitude Battery (ASVAB)
436 test that is used by branches of the United States military for
437 recruitment purposes;

438 (c) Other tests given to students in grade 10, including,
439 but not limited to, the PLAN test;

440 (d) The grade point average of a student compared to the
441 student's SAT score;

442 (e) The grade point average of a student which is above
443 the required 2.0; and

444 (f) The number of credits earned by a student.

445 (2) The alternative measures for awarding a high school
446 diploma may not be used after the 2005-2006 school year.

447 Section 4. This act shall take effect upon becoming a law.