

By Senator Wilson

33-792E-03

1 A bill to be entitled
2 An act relating to education; amending s.
3 1002.38, F.S.; requiring school districts to
4 ensure that students in certain grades who
5 receive an Opportunity Scholarship take the
6 statewide assessment; establishing requirements
7 for 10th grade students to take the Florida
8 Comprehensive Assessment Test; requiring
9 limited reexaminations for certain students;
10 specifying when the reexaminations must be
11 given; providing for the student's retention of
12 credit; providing for the forfeiture of the
13 scholarship under certain conditions; providing
14 additional eligibility criteria for private
15 schools to participate in the Opportunity
16 Scholarship Program; requiring students who
17 participate in the Opportunity Scholarship
18 Program to earn passing scores on certain
19 statewide assessment tests in order to qualify
20 for a regular high school diploma; requiring
21 participating private schools to establish
22 student progression programs; specifying the
23 contents of the program; requiring an
24 allocation of school remedial and supplemental
25 instruction resources; prescribing content of
26 academic improvement plans; requiring private
27 school students who receive Opportunity
28 Scholarships to participate in statewide
29 assessment tests; requiring additional
30 diagnostic tests; prescribing guidelines for
31 remedial reading instruction; requiring

1 parental notification of reading deficiency;
2 prohibiting social promotion and providing
3 standards for exemptions from
4 mandatory-retention requirements; requiring
5 reports by private schools to parents; amending
6 s. 1008.22, F.S., relating to the student
7 assessment program for public schools;
8 establishing requirements for 10th grade
9 students to take the Florida Comprehensive
10 Assessment Test; requiring limited
11 reexaminations for certain students; specifying
12 when the reexaminations must be given;
13 providing for the student's retention of
14 credit; requiring the Commissioner of Education
15 to develop alternative measures to be used by
16 school districts in awarding high school
17 diplomas to students in public schools and to
18 be used by private schools for students in
19 private schools who receive an Opportunity
20 Scholarship; prohibiting the use of the
21 alternative measures after a specified date;
22 providing an effective date.

23

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

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26 Section 1. Paragraph (c) of subsection (3) and
27 subsection (5) of section 1002.38, Florida Statutes, are
28 amended, present paragraph (f) of subsection (4) is amended,
29 present paragraphs (g), (h), (i), (j), and (k) of that
30 subsection are redesignated as (i), (j), (k), (l), and (m)
31 respectively, new paragraphs (g) and (h) are added to that

1 subsection and subsections (9), (10), (11), (12), (13), and
2 (14) are added to that section, to read:

3 1002.38 Opportunity Scholarship Program.--

4 (3) SCHOOL DISTRICT OBLIGATIONS.--

5 (c) The school district shall ensure that each student
6 in grade 3 and grade 10 ~~For students~~ in the school district
7 who ~~is~~ are participating in the state Opportunity Scholarship
8 Program takes the statewide assessment under s. 1008.22. ~~The~~
9 school district shall provide locations and times to take all
10 statewide assessments required pursuant to s. 1008.22.

11 (4) PRIVATE SCHOOL ELIGIBILITY.--To be eligible to
12 participate in the Opportunity Scholarship Program, a private
13 school must be a Florida private school, may be sectarian or
14 nonsectarian, and must:

15 (f) Be subject to the instruction, curriculum,
16 standards for high school graduation, and attendance criteria
17 adopted by an appropriate nonpublic school accrediting body.
18 The standards must include earning a passing score on the
19 Florida Comprehensive Assessment Test (FCAT), as defined in s.
20 1008.22(3)(c), to be administered annually by each public
21 school district in grade 3 and grade 10 to measure reading,
22 writing, science, and mathematics. ~~and~~

23 (g) Be academically accountable to the parent for
24 meeting the educational needs of the student. The private
25 school must furnish a school profile which includes student
26 performance.

27 (h) Meet the requirements in subsections (9) through
28 (14).

29 (5) OBLIGATION OF PROGRAM PARTICIPATION.--

30 (a) 1. Any student participating in the Opportunity
31 Scholarship Program must remain in attendance throughout the

1 school year, unless excused by the school for illness or other
2 good cause, and must comply fully with the school's code of
3 conduct.

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

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

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

18 b. A passing score means a score established by rule
19 of the State Board of Education.

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

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

25 e. Reexaminations must be offered three times each
26 year in grades 11 and 12 to each student who fails a part of
27 the 10th grade test, for a total of six reexaminations. If the
28 student is unable to earn a passing score on any part of the
29 Florida Comprehensive Assessment Test after a reexamination
30 for the fourth time, the student must forfeit the scholarship.

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1 However, a student may retain credit on any part passed and
2 remains eligible for two additional reexaminations.

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

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

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

12 (9) Each private school shall establish a
13 comprehensive program for student progression which must
14 include:

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

19 (b) Specific levels of performance in reading,
20 writing, science, and mathematics for each grade level,
21 including the levels of performance on statewide assessments
22 as defined by the Commissioner of Education, below which a
23 student must receive remediation, or be retained within an
24 intensive program that is different from the previous year's
25 program and that takes into account the student's learning
26 style.

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

29 (10) Each private school shall allocate remedial and
30 supplemental instruction resources to students in the
31 following priority:

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

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

6 (11)(a) Each student who receives an Opportunity
7 Scholarship must participate in the statewide assessment tests
8 required by s. 1008.22. Each Opportunity Scholarship student
9 who does not meet specific levels of performance as determined
10 by the Commissioner of Education on statewide assessments at
11 selected grade levels, must be provided with additional
12 diagnostic assessments to determine the nature of the
13 student's difficulty and areas of academic need.

14 (b) The private school in which the student is
15 enrolled must develop, in consultation with the student's
16 parent, and must implement an academic improvement plan
17 designed to assist the student in meeting state and school
18 expectations for proficiency. Beginning with the 2003-2004
19 school year, if the student has been identified as having a
20 deficiency in reading, the academic improvement plan shall
21 identify the student's specific areas of deficiency in
22 phonemic awareness, phonics, fluency, comprehension, and
23 vocabulary; the desired levels of performance in these areas;
24 and the instructional and support services to be provided to
25 meet the desired levels of performance. The private school
26 shall also provide for the frequent monitoring of the
27 student's progress in meeting the desired levels of
28 performance. The private school shall assist teachers to
29 implement research-based reading activities that have been
30 shown to be successful in teaching reading to low-performing
31 students. Remedial instruction provided during high school

1 may not be in lieu of English and mathematics credits required
2 for graduation.

3 (c) Upon subsequent evaluation, if the documented
4 deficiency has not been remediated in accordance with the
5 academic improvement plan, the student may be retained. Each
6 student who does not meet the minimum performance expectations
7 defined by the Commissioner of Education for the statewide
8 assessment tests in reading, writing, science, and mathematics
9 must continue to be provided with remedial or supplemental
10 instruction until the expectations are met or the student
11 graduates from high school or is not subject to compulsory
12 school attendance.

13 (12)(a) It is the ultimate goal of the Legislature
14 that every student read at or above grade level. Any student
15 who exhibits a substantial deficiency in reading, based upon
16 statewide assessments conducted in kindergarten or grade 1,
17 grade 2, or grade 3, or through teacher observations, must be
18 given intensive reading instruction immediately following the
19 identification of the reading deficiency. The student's
20 reading proficiency must be reassessed by school determined
21 assessments or through teacher observations at the beginning
22 of the grade following the intensive reading instruction. The
23 student must continue to be provided with intensive reading
24 instruction until the reading deficiency is remedied.

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

30 (c) Beginning with the 2003-2004 school year, the
31 parent of any student who exhibits a substantial deficiency in

1 reading, as described in paragraph (a), must be notified in
2 writing of the following:

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

5 2. A description of the current services that are
6 provided to the child.

7 3. A description of the proposed supplemental
8 instructional services and supports that will be provided to
9 the child that are designed to remediate the identified area
10 of reading deficiency.

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

15 (13)(a) No student may be assigned to a grade level
16 based solely on age or other factors that constitute social
17 promotion.

18 (b) The school may only exempt students from mandatory
19 retention, as provided in paragraph (12)(b), for good cause.
20 Good cause exemptions shall be limited to the following:

21 1. Limited English proficient students who have had
22 less than 2 years of instruction in an English for Speakers of
23 Other Languages program.

24 2. Students with disabilities for whom participation
25 in the statewide assessment program is not appropriate,
26 consistent with the requirements of State Board of Education
27 rule.

28 3. Students who demonstrate an acceptable level of
29 performance on an alternative standardized reading assessment
30 approved by the State Board of Education.

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

6 5. Students with disabilities who participate in the
7 FCAT and who have received the intensive remediation in
8 reading, as required by paragraph (11)(b), for more than 2
9 years but still demonstrates a deficiency in reading and was
10 previously retained in kindergarten, grade 1, or grade 2.

11 6. Students who have received the intensive
12 remediation in reading as required by paragraph (11)(b) for 2
13 or more years but still demonstrate a deficiency in reading
14 and who were previously retained in kindergarten, grade 1, or
15 grade 2 for a total of 2 years. Intensive reading instruction
16 for students so promoted must include an altered instructional
17 day based upon an academic improvement plan that includes
18 specialized diagnostic information and specific reading
19 strategies for each student. The school shall assist teachers
20 to implement reading strategies that research has shown to be
21 successful in improving reading among low performing readers.

22 (c) Requests for good cause exemptions for students
23 from the mandatory retention requirement as described in
24 subparagraphs (b)3. and 4. shall be made consistent with the
25 following:

26 1. Documentation shall be submitted from the student's
27 teacher to the school principal that indicates that the
28 promotion of the student is appropriate and is based upon the
29 student's academic record. In order to minimize paperwork
30 requirements, such documentation shall consist only of the
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1 existing academic improvement plan, individual educational
2 plan, if applicable, report card, or student portfolio.

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

6 (14)(a) In addition to the requirements in paragraph
7 (12)(b), each private school must annually report to the
8 parent of each student the progress of the student toward
9 achieving state and school expectations for proficiency in
10 reading, writing, science, and mathematics. The private school
11 must report to the parent the student's results on each
12 statewide assessment test. The evaluation of each student's
13 progress must be based upon the student's classroom work,
14 observations, tests, state assessments, and other relevant
15 information. Progress reporting must be provided to the parent
16 in writing in a format adopted by the school.

17 (b) Beginning with the 2003-2004 school year, each
18 private school must annually report in writing to the parent
19 the following information on the prior school year, unless the
20 data reveals personally identifiable information about another
21 individual student, pursuant to the requirements of the
22 federal Family Educational Rights and Privacy Act of 1974, as
23 amended:

24 1. The provisions of this section relating to school
25 student progression and the school's policies and procedures
26 on student retention and promotion.

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

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

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

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

6 Section 2. Paragraph (c) of subsection (3) of section
7 1008.22, Florida Statutes, is amended to read:

8 1008.22 Student assessment program for public
9 schools.--

10 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner
11 shall design and implement a statewide program of educational
12 assessment that provides information for the improvement of
13 the operation and management of the public schools, including
14 schools operating for the purpose of providing educational
15 services to youth in Department of Juvenile Justice programs.
16 Pursuant to the statewide assessment program, the commissioner
17 shall:

18 (c) Develop and implement a student achievement
19 testing program known as the Florida Comprehensive Assessment
20 Test (FCAT) as part of the statewide assessment program, to be
21 administered annually in grades 3 through 10 to measure
22 reading, writing, science, and mathematics. Other content
23 areas may be included as directed by the commissioner. The
24 testing program must be designed so that:

25 1. The tests measure student skills and competencies
26 adopted by the State Board of Education as specified in
27 paragraph (a). The tests must measure and report student
28 proficiency levels in reading, writing, mathematics, and
29 science. The commissioner shall provide for the tests to be
30 developed or obtained, as appropriate, through contracts and
31 project agreements with private vendors, public vendors,

1 public agencies, postsecondary educational institutions, or
2 school districts. The commissioner shall obtain input with
3 respect to the design and implementation of the testing
4 program from state educators and the public.

5 2. The testing program will include a combination of
6 norm-referenced and criterion-referenced tests and include, to
7 the extent determined by the commissioner, questions that
8 require the student to produce information or perform tasks in
9 such a way that the skills and competencies he or she uses can
10 be measured.

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

15 4. A score is designated for each subject area tested,
16 below which score a student's performance is deemed
17 inadequate. The school districts shall provide appropriate
18 remedial instruction to students who score below these levels.

19 5. Students must earn a passing score on the grade 10
20 assessment test described in this paragraph in reading,
21 writing, and mathematics to qualify for a regular high school
22 diploma. The State Board of Education shall designate a
23 passing score for each part of the grade 10 assessment test.
24 In establishing passing scores, the state board shall consider
25 any possible negative impact of the test on minority students.
26 All students who took the grade 10 FCAT during the 2000-2001
27 school year shall be required to earn the passing scores in
28 reading and mathematics established by the State Board of
29 Education for the March 2001 test administration. Such
30 students who did not earn the established passing scores and
31 must repeat the grade 10 FCAT are required to earn the passing

1 scores established for the March 2001 test administration.
2 All students who take the grade 10 FCAT for the first time in
3 March 2002 and thereafter shall be required to earn the
4 passing scores in reading and mathematics established by the
5 State Board of Education for the March 2002 test
6 administration. The State Board of Education shall adopt
7 rules which specify the passing scores for the grade 10 FCAT.
8 Any such rules, which have the effect of raising the required
9 passing scores, shall only apply to students taking the grade
10 10 FCAT after such rules are adopted by the State Board of
11 Education.

12 6.a. Participation in the testing program is mandatory
13 for all students attending public school, including students
14 served in Department of Juvenile Justice programs, except as
15 otherwise prescribed by the commissioner.

16 b. Beginning in grade 10, each student must take the
17 Florida Comprehensive Assessment Test at each time the test is
18 administered until the student passes each part, subject to
19 the following conditions:

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

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

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

28 (IV) A student may retain credit for any part that the
29 student passes until the expiration of all offered
30 reexaminations.

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1 (V) Reexaminations must be offered three times each
2 year in grades 11 and 12 to each student who fails part of the
3 10th grade test, for a total of six reexaminations.

4 c. If a student does not participate in the statewide
5 assessment, the district must notify the student's parent and
6 provide the parent with information regarding the implications
7 of such nonparticipation. If modifications are made in the
8 student's instruction to provide accommodations that would not
9 be permitted on the statewide assessment tests, the district
10 must notify the student's parent of the implications of such
11 instructional modifications. A parent must provide signed
12 consent for a student to receive instructional modifications
13 that would not be permitted on the statewide assessments and
14 must acknowledge in writing that he or she understands the
15 implications of such accommodations. The State Board of
16 Education shall adopt rules, based upon recommendations of the
17 commissioner, for the provision of test accommodations and
18 modifications of procedures as necessary for students in
19 exceptional education programs and for students who have
20 limited English proficiency. Accommodations that negate the
21 validity of a statewide assessment are not allowable.

22 7. A student seeking an adult high school diploma must
23 meet the same testing requirements that a regular high school
24 student must meet.

25 8. District school boards must provide instruction to
26 prepare students to demonstrate proficiency in the skills and
27 competencies necessary for successful grade-to-grade
28 progression and high school graduation. If a student is
29 provided with accommodations or modifications that are not
30 allowable in the statewide assessment program, as described in
31 the test manuals, the district must inform the parent in

1 writing and must provide the parent with information regarding
2 the impact on the student's ability to meet expected
3 proficiency levels in reading, writing, and math. The
4 commissioner shall conduct studies as necessary to verify that
5 the required skills and competencies are part of the district
6 instructional programs.

7 9. The Department of Education must develop, or
8 select, and implement a common battery of assessment tools
9 that will be used in all juvenile justice programs in the
10 state. These tools must accurately measure the skills and
11 competencies established in the Florida Sunshine State
12 Standards.

13
14 The commissioner may design and implement student testing
15 programs, for any grade level and subject area, necessary to
16 effectively monitor educational achievement in the state.

17 Section 3. (1) The Commissioner of Education shall
18 develop alternative measures that may be used by school
19 districts in awarding a high school diploma to students in
20 public schools beginning with the 2003 high school graduating
21 class and may be used by private schools in awarding a high
22 school diploma to students in private schools who receive an
23 Opportunity Scholarship. Such alternative measures may
24 include, but need not be limited to:

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

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

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

- 1 (d) The grade point average of a student compared to
- 2 the student's SAT score;
- 3 (e) The grade point average of a student which is
- 4 above the required 2.0; and
- 5 (f) The number of credits earned by a student.
- 6 (2) The alternative measures for awarding a high
- 7 school diploma may not be used after the 2005-2006 school
- 8 year.

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

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13 SENATE SUMMARY

14 Requires school districts to ensure that students in
15 grade 3 and grade 10 who receive an Opportunity
16 Scholarship take the statewide assessment. Provides
17 additional criteria for private schools and for students
18 participating in the Opportunity Scholarship Program.
19 Requires the Commissioner of Education to develop
20 alternative measures to be used by school districts in
21 awarding high school diplomas to students in public
22 schools and students in private schools who receive an
23 Opportunity Scholarship. Provides for the alternative
24 measures to be used through the 2005-2006 school year.
25 (See bill for details.)