

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2546  
 SPONSOR: Senator Diaz de la Portilla  
 SUBJECT: Public Schools/FCAT/Native Language  
 DATE: April 13, 2003      REVISED: 4/15/03 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Fav/ 1 amendment</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill specifies the eligibility requirements for a student to take the grade 10<sup>th</sup> FCAT in his or her native language one time. However, if the student is unable to earn the passing scores when the FCAT is taken in his or her native language, he or she must subsequently take the FCAT in English. The Commissioner of Education must implement the provisions of the bill, allowing school districts to make appropriate accommodations and adjustments.

This bill substantially amends s. 1008.22, F.S.

This bill provides an effective date of July 1, 2003.

**II. Present Situation:**

**Limited English Proficient Students**

In Florida, there are 215,777 students classified and served as limited English proficient (LEP) students. These students speak 207 different languages and come from 257 different countries. The four largest language groups are Spanish, Haitian-Creole, French and Portuguese.<sup>1</sup>

**Student Progression**

District school boards must establish comprehensive programs for student progress that include standards for evaluating student performance, specific levels of performance in reading, writing, science, and mathematics for each grade level, including performance levels on statewide assessments, and appropriate alternative placement for a student who has been retained for 2 or

<sup>1</sup> Florida Department of Education, *No Child Left Behind Consolidated State Application Accountability Workbook* (excerpts from material related to limited English proficient students), submitted to the U.S. Department of Education, 2003.

more years. Students who perform below the performance level must receive remediation or be retained in an intensive program that is different from the previous year's program and that takes into consideration the student's learning style.

Remedial and supplemental instructional resources must be provided, according to the following priority:

- students who are deficient in reading by the end of grade 3.
- students who fail to meet performance levels required for promotion consistent with the district school board's plan for student progression.

Students who do not meet either the district performance levels in reading, writing, science, and mathematics or the performance levels on statewide assessments at selected grade levels must be provided with additional diagnostic assessments to determine the nature of the student's difficulty and areas of academic need. School districts must provide parents with information related to their child's progress toward achieving state and district proficiency in reading, writing, science, and mathematics, as well the student's results on each statewide assessment test.

Current administrative rules provide that no promotion or retention decision may be made for an LEP student that is based solely on a score on any single assessment instrument, whether the assessment instrument is part of the statewide assessment program or of a particular district's formal assessment process.

### **Student Assessment**

Unless participation in particular tests is individually determined to be inappropriate for a particular student, federal law generally requires inclusion of all students in assessments. For example, the recent rules for assessments under the No Child Left Behind Act, requires the inclusion of students with limited English proficiency (LEP) and the provision of reasonable accommodations for these students.<sup>2</sup> The scores of LEP students, including those taking alternate assessments, will be included in the calculation of annual yearly progress under P.L.107-110. Also, the scores of LEP students participating in the Florida Comprehensive Assessment Test (FCAT) are included in Florida's accountability system. The scores for students who do not participate in the FCAT will also be collected and reported by the number of students who are scoring at a proficient level and the number who are not scoring at a proficient level.

Current law (s. 1008.22(3), F.S.) requires the Commissioner of Education to develop and implement a student achievement testing program, the FCAT, as part of the statewide educational assessment program that provides information for improving public schools. Participation in the testing program is mandatory for all students attending public school, except as otherwise prescribed by the Commissioner. Parents of students who do not participate in the assessment program must be provided with specific information about possible consequences of nonparticipation. School districts must provide appropriate remedial instruction to students who score below the levels established for each subject area.

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<sup>2</sup> 34 CFR Part 200, effective August 5, 2002.

The FCAT is administered each year to students in grades 3 through 10 to measure reading, writing, science, and mathematics. All eligible students in grades 3 through 10 take the reading and mathematics tests. All eligible students in grades 4, 8, and 10 take the writing test. This year the science test is being administered to students in grades 5, 8, and 10.

Students must earn a passing score on the 10<sup>th</sup> grade assessment test in reading, writing, and mathematics to qualify for a regular high school diploma. State Board of Education rule (Rule 6A-1.09422, F.A.C.) designates the passing scores for each part of the assessment test and specifies the passing scores for the 10<sup>th</sup> grade FCAT. Under the 2002-2003 Florida Statewide Assessment Schedule, reexaminations in reading and mathematics are offered three times each year in grades 11 and 12 to each student who fails part of the 10<sup>th</sup> grade test, for a total of 6 available reexaminations.<sup>3</sup>

On an individual basis, it may be determined that the FCAT is not an appropriate measure of academic performance for LEP students who have been enrolled in an approved English for Speakers of Other Languages (ESOL) program for 12 months or less. However, the academic achievement of these students is measured and reported using locally-determined alternate assessments. According to the Department of Education, this represents a very small percentage of LEP students. The department is currently working with representatives of school districts to ensure that the alternate assessments being used are valid and reliable.

#### **Accommodations and statewide assessment instruments**

Current administrative rule (Rule 6A-6.09091, F.A.C.) provides for accommodations of the statewide assessment program instruments and procedures for limited English proficient students. The Department of Education must provide accommodations for limited English proficient students to enable them to fully participate in the statewide assessment program.

The FCAT accommodations for LEP students include: flexible timing (e.g., additional time to complete each test section and allowing for the entire test to be given over one or more days); access to English-to heritage language and heritage language-to-English dictionaries; and testing in a separate room with the ESOL or heritage teacher serving as a test administrator. Some heritage language assistance may be provided for tests in certain subject areas. For example, students taking the FCAT reading section may be provided with limited assistance by an ESOL or a heritage language teacher using the student's heritage language, within the guidelines set by rule.

School districts are required to offer these accommodations for LEP students who currently receive services in a program operated in accordance with an LEP plan. Also, an exemption from participation in any component of the statewide assessment program for an individual LEP student may only be made by specific action of an LEP committee, and only for a student whose date of LEP classification falls within one year prior to the assessment date.

#### **School Grade Designations**

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<sup>3</sup> See <http://www.firm.edu/doe/sas/fcat/pdf/fcschedl.pdf>

Current law (s. 1008.34(3), F.S.) provides that school performance grade designations (“A,” “B,” “C,” “D,” and “F”) are based upon a combination of student achievement scores, student learning gains (as measured by annual FCAT assessments in grades 3 through 10) and improvement of the lowest 25th percentile of students in the school in reading, math, or writing on the FCAT, unless these students are performing above the satisfactory performance level. As well, the law (s. 1008.345, F.S.) provides incentives for a designation as an “A” school. School districts with schools designated as a “D” or an “F” must be assigned a community assessment team to determine the cause of the low performance. Under s. 1008.36, F.S., financial awards are available to high performing and improved public schools.

### III. Effect of Proposed Changes:

**Section 1.** The bill amends s. 1008.22, F.S., to allow a student one opportunity to take the 10<sup>th</sup> grade FCAT in his or her native language, if the student:

- did not earn a passing score when taking the FCAT in English;
- is in the 12<sup>th</sup> grade;
- is enrolled in an English for Speakers of Other Languages (ESOL) program; and
- arrived in the United States within one year prior to taking the 10<sup>th</sup> grade FCAT for the first time.

However, if the student is unable to earn the passing scores for the 10<sup>th</sup> grade FCAT when it is taken in the student’s native language, the student must subsequently take the FCAT in English.

The Commissioner of Education must implement these provisions, allowing school districts to make appropriate accommodations and adjustments. This includes establishing time requirements, where unusual situations exist.

**Section 2.** This bill takes effect July 1, 2003.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill allows certain students to take the 10<sup>th</sup> grade FCAT in their native language one time. According to the Department of Education, there is currently not a version of the FCAT in a language other than English. There would be costs, as well as time, associated with the development of an FCAT in another language. The specific costs are unknown at this time.

**VI. Technical Deficiencies:**

On page 4, the bill allows school districts to make appropriate accommodations and adjustments for student assessments, including establishing time requirements under unusual situations. The bill does not identify the criteria for these types of situations.

**VII. Related Issues:**

Current federal rules (34 CFR Part 200) require states to: identify the languages other than English that are present in the student population served by the states; and to indicate the languages for which yearly student academic assessments are not available but are needed. States are required to make an effort to develop these assessments and may request assistance from the Secretary of Education to identify linguistically accessible academic assessments that are needed. A comprehensive plan has been developed, according to the Department of Education, for both an assessment of academic progress and English language proficiency.

**VIII. Amendments:**

#1 by Education (WITH TITLE AMENDMENT);

Provides an exception to the requirement that all students earn a passing score on the 10<sup>th</sup> grade FCAT to obtain a standard high school diploma; defines eligible students; requires State Board of Education rules to allow a student whose native language is Spanish or Creole to take the FCAT in the student's native language; allows the student to take the FCAT in Spanish or Creole if that is the student's native language; requires the State Board to conduct a study of equivalency scores for certain students; allows the State Board to adopt certain equivalency scores as meeting graduation requirements in lieu of FCAT passing scores; and provides for the use of certain funds.