

1 A bill to be entitled
2 An act relating to education; amending s. 1002.20, F.S.;
3 providing that academy programs shall be an additional
4 public school choice option; amending s. 1002.31, F.S.;
5 requiring district school boards to offer controlled open
6 enrollment within the public schools and revising
7 components of the controlled open enrollment plan;
8 creating s. 1002.391, F.S.; requiring the Department of
9 Education to develop a plan for school districts to
10 establish academy programs in the public schools;
11 authorizing parents to transfer their children to
12 different academy programs and schools; providing funding
13 for student transportation; amending s. 1008.22, F.S.;
14 requiring the Commissioner of Education to adopt
15 performance standards, set goals, and provide resources to
16 meet constitutional requirements; requiring development
17 and implementation of the FCAT Pretest as a diagnostic
18 tool; amending s. 1008.33, F.S.; revising requirements
19 relating to State Board of Education enforcement of public
20 school improvement; specifying academy program and school
21 performance categories; amending s. 1008.34, F.S.;
22 revising provisions relating to the school and school
23 district performance grading system; providing performance
24 categories for academy programs and schools; providing the
25 basis for performance category designations; providing
26 school district tools for maintenance of high performance
27 standards; amending s. 1008.36, F.S.; renaming the Florida
28 School Recognition Program as the Every Child Matters

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29 Program; revising program intent, purpose, participation,
 30 and use of funds; requiring the department to provide
 31 training and resources for certain student testing by
 32 educators; requiring department policies and procedures
 33 for the development of student individual education plans;
 34 providing an effective date.

35

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

37

38 Section 1. Paragraph (a) of subsection (6) of section
 39 1002.20, Florida Statutes, is amended to read:

40 1002.20 K-12 student and parent rights.--Parents of public
 41 school students must receive accurate and timely information
 42 regarding their child's academic progress and must be informed
 43 of ways they can help their child to succeed in school. K-12
 44 students and their parents are afforded numerous statutory
 45 rights including, but not limited to, the following:

46 (6) EDUCATIONAL CHOICE.--

47 (a) Public school choices.--Parents of public school
 48 students may seek whatever public school choice options that are
 49 ~~applicable to their students and are~~ available to students in
 50 their school districts. These options may include controlled
 51 open enrollment, lab schools, charter schools, charter technical
 52 career centers, magnet schools, alternative schools, special
 53 programs, academy programs, advanced placement, dual enrollment,
 54 International Baccalaureate, International General Certificate
 55 of Secondary Education (pre-AICE), Advanced International
 56 Certificate of Education, early admissions, credit by

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57 examination or demonstration of competency, the New World School
58 of the Arts, the Florida School for the Deaf and the Blind, and
59 the Florida Virtual School. These options may also include the
60 public school choice options of the Opportunity Scholarship
61 Program and the McKay Scholarships for Students with
62 Disabilities Program.

63 Section 2. Subsections (1), (2), and (5) of section
64 1002.31, Florida Statutes, are amended to read:

65 1002.31 Public school parental choice.--

66 (1) As used in this section, "controlled open enrollment"
67 means a public education delivery system that allows school
68 districts to make student school assignments using parents'
69 indicated preferential school choice ~~as a significant factor~~.

70 (2) Each district school board shall ~~may~~ offer controlled
71 open enrollment within the public schools. The controlled open
72 enrollment program shall be offered in addition to the existing
73 choice programs such as magnet schools, alternative schools,
74 special programs, academy programs, advanced placement, and dual
75 enrollment.

76 (5) Each school district shall develop a system of
77 priorities for its plan that includes ~~consideration of~~ the
78 following:

79 (a) An application process required to participate in the
80 controlled open enrollment program.

81 (b) A process that allows parents to declare school
82 preferences.

83 (c) A process that allows ~~encourages~~ placement of siblings
84 within the same school.

85 (d) A lottery procedure used by the school district to
 86 determine student assignment.

87 (e) An appeals process for hardship cases.

88 (f) The procedures to maintain socioeconomic, demographic,
 89 and racial balance.

90 ~~(g) The availability of transportation.~~

91 (g)~~(h)~~ A process that promotes strong parental
 92 involvement, including the designation of a parent liaison.

93 (h)~~(i)~~ A strategy that establishes a clearinghouse of
 94 information designed to assist parents in making informed
 95 choices.

96 Section 3. Section 1002.391, Florida Statutes, is created
 97 to read:

98 1002.391 Public school academy programs; public schools.--

99 (1) The Department of Education shall develop by January
 100 1, 2007, a plan for school districts to establish academy
 101 programs in every public school where feasible. Based on the
 102 school-within-a-school concept, academy programs shall be
 103 multiple programs within one school facility that allow students
 104 to concentrate on unique and specialized tracks of study of
 105 their choosing. The department's plan shall be based on the
 106 following:

107 (a) Students in each academy program shall be required to
 108 take a base of core-curricula courses in addition to specialized
 109 courses unique to each program.

110 (b) The plan shall include a waiver provision for school
 111 districts to continue offering traditional single-track programs
 112 if, because of unique circumstances, it is not feasible for them

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113 to offer multi-track academy programs within individual schools.

114 (c) Parents shall be empowered to switch their child to a
115 different academy program if they are unhappy with the program
116 in which their child is enrolled. Except as provided in
117 paragraph (d), once a child begins an academic year in an
118 academy, he or she is required to attend that academy for the
119 remainder of the academic year.

120 (d) Parents may apply to move their child to another
121 academy program before the end of the academic year if special
122 circumstances warrant such action, according to a process
123 developed by the department.

124 (2) Parents shall be empowered to switch their child to
125 another public school within the school district if they are
126 unhappy with the school in which their child is enrolled. Once a
127 child begins an academic year in a school, he or she is required
128 to attend that school for the remainder of the academic year.
129 However, if special circumstances warrant such action, parents
130 may apply to move their child to another school before the end
131 of the academic year, according to a process developed by the
132 department.

133 (3) School districts shall provide transportation for
134 students to attend academy programs or schools outside of their
135 school zone. The department shall use Every Child Matters
136 Program funds, pursuant to s. 1008.36, to reimburse school
137 districts for reasonable costs to provide transportation for
138 students who attend academy programs or schools outside of their
139 school zone.

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140 Section 4. Subsection (2) of section 1008.22, Florida
141 Statutes, is amended, paragraphs (d), (e), and (f) of subsection
142 (3) are redesignated as paragraphs (e), (f), and (g),
143 respectively, and a new paragraph (d) is added to that
144 subsection, to read:

145 1008.22 Student assessment program for public schools.--

146 (2) NATIONAL EDUCATION COMPARISONS.--

147 (a) It is Florida's intent to participate in the
148 measurement of national educational goals. The Commissioner of
149 Education shall direct Florida school districts to participate
150 in the administration of the National Assessment of Educational
151 Progress, or a similar national assessment program, both for the
152 national sample and for any state-by-state comparison programs
153 which may be initiated. Such assessments must be conducted using
154 the data collection procedures, the student surveys, the
155 educator surveys, and other instruments included in the National
156 Assessment of Educational Progress or similar program being
157 administered in Florida. The results of these assessments shall
158 be included in the annual report of the Commissioner of
159 Education specified in this section. The administration of the
160 National Assessment of Educational Progress or similar program
161 shall be in addition to and separate from the administration of
162 the statewide assessment program.

163 (b) In order to ensure that Florida provides "a uniform,
164 efficient, safe, secure, and high quality system of free public
165 schools that allows students to obtain a high quality education"
166 as required in s. 1, Art. IX of the State Constitution, the
167 Commissioner of Education shall:

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168 1. Adopt performance standards, set goals, and provide the
169 resources necessary to ensure that Florida ranks in the top half
170 of state-by-state education performance comparisons compiled by
171 the United States Department of Education.

172 2. Set goals so that in no instance will Florida rank in
173 the bottom quartile of any state-by-state education performance
174 comparison compiled by the United States Department of
175 Education.

176 (3) STATEWIDE ASSESSMENT PROGRAM.--The commissioner shall
177 design and implement a statewide program of educational
178 assessment that provides information for the improvement of the
179 operation and management of the public schools, including
180 schools operating for the purpose of providing educational
181 services to youth in Department of Juvenile Justice programs.
182 The commissioner may enter into contracts for the continued
183 administration of the assessment, testing, and evaluation
184 programs authorized and funded by the Legislature. Contracts may
185 be initiated in 1 fiscal year and continue into the next and may
186 be paid from the appropriations of either or both fiscal years.
187 The commissioner is authorized to negotiate for the sale or
188 lease of tests, scoring protocols, test scoring services, and
189 related materials developed pursuant to law. Pursuant to the
190 statewide assessment program, the commissioner shall:

191 (d) Develop and implement a student achievement testing
192 program known as the Florida Comprehensive Assessment Test
193 (FCAT) Pretest as part of a statewide diagnostic tool for public
194 school students. The FCAT Pretest shall be given during the
195 first week of the academic year to assess the academic strengths

196 and weaknesses of each student so that teachers can accurately
 197 develop curricula that promote advancement of all students. The
 198 FCAT Pretest shall be used for diagnostic purposes only and
 199 shall not be used to determine performance categories for
 200 academy programs or public schools.

201 Section 5. Section 1008.33, Florida Statutes, is amended
 202 to read:

203 1008.33 Authority to enforce public school
 204 improvement.--It is the intent of the Legislature that all
 205 public schools be held accountable for students performing at
 206 acceptable levels. A system of school improvement and
 207 accountability that assesses student performance by school,
 208 identifies schools in which students are not making adequate
 209 progress toward state standards, institutes appropriate measures
 210 for enforcing improvement, and provides rewards and sanctions
 211 based on performance shall be the responsibility of the State
 212 Board of Education.

213 (1) Pursuant to Art. IX of the State Constitution
 214 prescribing the duty of the State Board of Education to
 215 supervise Florida's public school system and notwithstanding any
 216 other statutory provisions to the contrary, the State Board of
 217 Education shall intervene in the operation of a district school
 218 system when one or more schools in the school district have
 219 failed to make adequate progress for 2 school years in a 3-year
 220 ~~4-year~~ period. For purposes of determining when an academy
 221 program or a school is eligible for state board action ~~and~~
 222 ~~opportunity scholarships~~ for its students, the terms "2 years in
 223 any 3-year ~~4-year~~ period" and "2 years in a 3-year ~~4-year~~

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224 period" mean that in any year that a school has a performance
225 category of "Inadequate Progress," ~~grade of "F,"~~ the school is
226 eligible for state board action ~~and opportunity scholarships~~ for
227 its students if it also has had a performance category of
228 "Inadequate Progress" ~~grade of "F"~~ in any of the previous 2 ~~3~~
229 school years. The State Board of Education may determine that
230 the school district or school has not taken steps sufficient for
231 students in the school to be academically well served.

232 Considering recommendations of the Commissioner of Education,
233 the State Board of Education shall recommend action to a
234 district school board intended to improve educational services
235 to students in each school that is designated as performance
236 ~~grade~~ category "Inadequate Progress." ~~"F."~~ Recommendations for
237 actions to be taken in the school district shall be made only
238 after thorough consideration of the unique characteristics of an
239 academy program or a school, which shall include student
240 mobility rates, the number and type of exceptional students
241 ~~enrolled in the school,~~ and the availability of options for
242 improved educational services. The state board shall adopt by
243 rule steps to follow in this process. Such steps shall provide
244 school districts sufficient time to improve student performance
245 in schools and the opportunity to present evidence of assistance
246 and interventions that the district school board has
247 implemented.

248 (a) An academy program or school shall not receive a
249 performance category of "Inadequate Progress" if it has an
250 overall increase in student achievement of 10 percent over the
251 previous year.

252 (b) An academy program or school shall not receive a
 253 performance category of "Inadequate Progress" if it falls below
 254 its previous year's score but maintains adequate performance
 255 standards compared to other programs or schools in the state.

256 (c) The State Board of Education shall determine by rule
 257 what constitutes "Adequate Progress" and "Inadequate Progress"
 258 for the purposes of the state education performance
 259 accountability system.

260 (2) The State Board of Education may recommend one or more
 261 of the following actions to district school boards to enable
 262 students in academy programs and schools designated as
 263 performance ~~grade~~ category "Inadequate Progress" ~~"F"~~ to be
 264 academically well served by the public school system:

265 (a) Provide additional resources, change certain
 266 practices, and provide additional assistance if the state board
 267 determines the causes of inadequate progress to be related to
 268 school district policy or practice;

269 (b) Implement a plan that satisfactorily resolves the
 270 education equity problems in the academy program or school;

271 (c) Contract for the educational services of the academy
 272 program or school, or reorganize the academy program or school
 273 at the end of the school year under a new school principal who
 274 is authorized to hire new staff and implement a plan that
 275 addresses the causes of inadequate progress;

276 ~~(d) Allow parents of students in the school to send their~~
 277 ~~children to another district school of their choice; or~~

278 (d)-(e) Other action appropriate to improve the school's
 279 performance.

280 (3) In recommending actions to district school boards, the
 281 State Board of Education shall specify the length of time
 282 available to implement the recommended action. The State Board
 283 of Education may adopt rules to further specify how it may
 284 respond in specific circumstances. No action taken by the State
 285 Board of Education shall relieve an academy program or a school
 286 from state accountability requirements.

287 (4) The State Board of Education may require the
 288 Department of Education or Chief Financial Officer to withhold
 289 any transfer of state funds to the school district if, within
 290 the timeframe specified in state board action, the school
 291 district has failed to comply with the action ordered to improve
 292 the district's low-performing academy programs or schools.
 293 Withholding the transfer of funds shall occur only after all
 294 other recommended actions for school improvement have failed to
 295 improve performance. The State Board of Education may impose the
 296 same penalty on any district school board that fails to develop
 297 and implement a plan for assistance and intervention for low-
 298 performing schools as specified in s. 1001.42(16)(c).

299 Section 6. Section 1008.34, Florida Statutes, is amended
 300 to read:

301 1008.34 School grading system; district performance
 302 category ~~grade~~.--

303 (1) ANNUAL REPORTS.--The Commissioner of Education shall
 304 prepare annual reports of the results of the statewide
 305 assessment program which describe student achievement in the
 306 state, each district, and each school. The commissioner shall
 307 prescribe the design and content of these reports, which must

308 include, without limitation, descriptions of the performance of
309 all schools participating in the assessment program and all of
310 their major student populations as determined by the
311 Commissioner of Education, and must also include the median
312 scores of all eligible students who scored at or in the lowest
313 25th percentile of the state in the previous school year;
314 provided, however, that the provisions of s. 1002.22 pertaining
315 to student records apply to this section.

316 (2) ACADEMY PROGRAM AND SCHOOL PERFORMANCE GRADE
317 CATEGORIES.--The annual report shall identify academy programs
318 and schools as being in one of the following performance grade
319 categories defined according to rules of the State Board of
320 Education:

321 (a) "Adequate progress." ~~"A," schools making excellent~~
322 ~~progress.~~

323 (b) "Inadequate progress." ~~"B," schools making above~~
324 ~~average progress.~~

325 ~~(c) "C," schools making satisfactory progress.~~

326 ~~(d) "D," schools making less than satisfactory progress.~~

327 ~~(e) "F," schools failing to make adequate progress.~~

328

329 Beginning in the 2007-2008 school year, a school that has been
330 designated as performance category "F" in a prior school year
331 shall not be designated as performance category "Inadequate
332 Progress" using the current year's data if that school has shown
333 at least a 10-percent increase in student performance in each
334 subject area. ~~Each school designated in performance grade~~
335 ~~category "A," making excellent progress, or having improved at~~

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336 ~~least two performance grade categories, shall have greater~~
337 ~~authority over the allocation of the school's total budget~~
338 ~~generated from the FEFP, state categoricals, lottery funds,~~
339 ~~grants, and local funds, as specified in state board rule. The~~
340 ~~rule must provide that the increased budget authority shall~~
341 ~~remain in effect until the school's performance grade declines.~~

342 (3) DESIGNATION OF SCHOOL PERFORMANCE GRADE
343 CATEGORIES.--For purposes of determining academy program or
344 school performance, student performance should be based on all
345 students' annual learning gains compared to the previous year.
346 School performance ~~grade~~ category designations itemized in
347 subsection (2) shall be based on the following:

348 (a) Timeframes.--

349 1. Academy program or school performance grade category
350 designations shall be based on the ~~school's~~ current year
351 performance of the academy program or school and its ~~the~~
352 ~~school's~~ annual learning gains.

353 2. Beginning in school year 2007-2008, the performance
354 category designation of an academy program or a school shall be
355 determined based upon the following weighted factors, according
356 to rules adopted by the State Board of Education:

357 a. Fifty percent of the performance category shall be
358 based on students' FCAT scores.

359 b. Fifty percent of the performance category shall be
360 based on measures, where appropriate, that include performance
361 in non-FCAT courses; NAEP scores; dropout rate; retention;
362 expulsions; attendance; delinquencies; school crime rate;
363 effectiveness of Advanced Placement courses; Florida Bright

364 Futures Scholarship Program awards; college acceptance rates;
 365 and rate of placement of vocational students in the workforce.

366 ~~2. A school's performance grade category designation shall~~
 367 ~~be based on a combination of student achievement scores, student~~
 368 ~~learning gains as measured by annual FCAT assessments in grades~~
 369 ~~3 through 10, and improvement of the lowest 25th percentile of~~
 370 ~~students in the school in reading, math, or writing on the FCAT,~~
 371 ~~unless these students are performing above satisfactory~~
 372 ~~performance.~~

373 (b) Student assessment data.--Student assessment data used
 374 in determining academy program and school performance ~~grade~~
 375 categories shall include:

376 1. The aggregate scores of all eligible students enrolled
 377 in the academy program or school who have been assessed on the
 378 FCAT.

379 2. The aggregate scores of all eligible students enrolled
 380 in the academy program or school who have been assessed on the
 381 FCAT, including Florida Writes, ~~and who have scored at or in the~~
 382 ~~lowest 25th percentile of students in the school in reading,~~
 383 ~~math, or writing, unless these students are performing above~~
 384 ~~satisfactory performance.~~

385
 386 The Department of Education shall study the effects of mobility
 387 on the performance of highly mobile students and recommend
 388 programs to improve the performance of such students. The State
 389 Board of Education shall adopt appropriate criteria for each
 390 ~~school~~ performance grade category. The criteria must also give
 391 added weight to student achievement in reading. ~~Schools~~

392 ~~designated as performance grade category "C," making~~
 393 ~~satisfactory progress, shall be required to demonstrate that~~
 394 ~~adequate progress has been made by students in the school who~~
 395 ~~are in the lowest 25th percentile in reading, math, or writing~~
 396 ~~on the FCAT, including Florida Writes, unless these students are~~
 397 ~~performing above satisfactory performance.~~

398 (4) SCHOOL IMPROVEMENT RATINGS.--The annual report shall
 399 identify each school's performance as having improved, remained
 400 the same, or declined. This school improvement rating shall be
 401 based on a comparison of the current year's and previous year's
 402 student and academy program or school performance data. ~~Schools~~
 403 ~~that improve at least one performance grade category are~~
 404 ~~eligible for school recognition awards pursuant to s. 1008.36.~~

405 (5) SCHOOL PERFORMANCE ~~GRADE~~ CATEGORY AND IMPROVEMENT
 406 RATING REPORTS.--School performance ~~grade~~ category designations
 407 and improvement ratings shall apply to the each school's
 408 performance of each academy program or school for the year in
 409 which performance is measured. Each ~~school's~~ designation and
 410 rating shall be published annually by the Department of
 411 Education and the school district. Parents shall be entitled to
 412 an easy-to-read report card about the designation and rating of
 413 the academy program or school in which their child is enrolled.

414 (6) RULES.--The State Board of Education shall adopt rules
 415 pursuant to ss. 120.536(1) and 120.54 to implement the
 416 provisions of this section.

417 (7) PERFORMANCE-BASED FUNDING.--The Legislature may factor
 418 in the performance of academy programs and schools in

419 calculating any performance-based funding policy that is
 420 provided for annually in the General Appropriations Act.

421 (8) DISTRICT PERFORMANCE ~~GRADE~~.--The annual report
 422 required by subsection (1) shall include district performance
 423 categories ~~grades~~, which shall consist of weighted district
 424 average performance categories ~~grades~~, by level, for all
 425 elementary schools, middle schools, and high schools in the
 426 district. A district's weighted average performance category
 427 ~~grade~~ shall be calculated by weighting individual academy
 428 program and school performance category designations ~~grades~~
 429 determined pursuant to subsection (2) by school enrollment.
 430 School districts shall have a variety of tools at their disposal
 431 to maintain high performance standards. These tools shall
 432 include, but not be limited to:

433 (a) Giving academy programs and schools that make
 434 "Adequate Progress" greater spending flexibility in their annual
 435 budgets.

436 (b) Allowing academy programs and schools that make
 437 "Adequate Progress" to operate free of many state categoricals
 438 and rules.

439 Section 7. Section 1008.36, Florida Statutes, is amended
 440 to read:

441 1008.36 Every Child Matters ~~Florida School Recognition~~
 442 Program.--

443 (1) The Legislature finds that in order to provide every
 444 student enrolled in K-12 public schools with the opportunity to
 445 achieve a successful public education, academic problems must be
 446 identified early and remediation and intervention services must

447 be provided. It is the intent of this section that no child
 448 shall be left behind ~~there is a need for a performance incentive~~
 449 ~~program for outstanding faculty and staff in highly productive~~
 450 ~~schools. The Legislature further finds that performance based~~
 451 ~~incentives are commonplace in the private sector and should be~~
 452 ~~infused into the public sector as a reward for productivity.~~

453 (2) The Every Child Matters Florida School Recognition
 454 ~~Program is created to provide financial awards to public schools~~
 455 ~~that:~~

456 (a) A curriculum-based, year-round measurement of learning
 457 gains for all kindergarten students enrolled in public schools.
 458 ~~Sustain high performance by receiving a school grade of "A,"~~
 459 ~~making excellent progress; or~~

460 (b) Remediation and intervention services to all
 461 kindergarten through grade 12 students enrolled in public
 462 schools who are not meeting grade-appropriate performance
 463 expectations, including FCAT scores. ~~Demonstrate exemplary~~
 464 ~~improvement due to innovation and effort by improving a letter~~
 465 ~~grade.~~

466 (3) All public schools, including charter schools, ~~that~~
 467 ~~receive a school grade pursuant to s. 1008.34~~ are eligible to
 468 participate in the program.

469 (4) All academy programs and selected schools shall
 470 receive financial assistance ~~awards~~ depending on the
 471 availability of funds appropriated ~~and the number and size of~~
 472 ~~schools selected to receive an award.~~ Funds must be distributed
 473 to the school's fiscal agent and placed in the school's account
 474 and must be used for purposes listed in subsection (5) as

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475 determined jointly by the school's staff and school advisory
476 council. ~~If school staff and the school advisory council cannot~~
477 ~~reach agreement by November 1, the awards must be equally~~
478 ~~distributed to all classroom teachers currently teaching in the~~
479 ~~school.~~

480 (5) Every Child Matters Program funds School recognition
481 ~~awards~~ must be used for the following:

482 (a) Administration of the Dynamic Indicators of Basic
483 Early Literacy Skills (DIBELS) to all kindergarten students
484 enrolled in public schools ~~Nonrecurring bonuses to the faculty~~
485 ~~and staff;~~

486 (b) Nonrecurring expenditures for remediation of low-
487 performing students, including remediation programs and
488 intervention services adopted and administered by the Department
489 of Education;

490 (c) ~~(b)~~ Nonrecurring expenditures for educational equipment
491 or materials to assist in the remediation of low-performing
492 students; maintaining and improving student performance; or

493 (d) ~~(e)~~ Temporary personnel for the school to assist in the
494 remediation of low-performing students; maintaining and
495 improving student performance.

496 (e) Contracts with private sector participants to provide
497 remediation services provided that 90 percent of the personnel
498 providing services reside in the state; or

499 (f) Transportation of students pursuant to s. 1002.391.

500

501 ~~Notwithstanding statutory provisions to the contrary, incentive~~
502 ~~awards are not subject to collective bargaining.~~

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503 Section 8. (1) The Department of Education shall provide
504 training and informational resources for educators to administer
505 the Dynamic Indicators of Basic Early Literacy Skills (DIBELS)
506 and shall be responsible for creating and implementing
507 provisions for the collection and analysis of the testing data.

508 (2) The Department of Education shall establish policies
509 and procedures for the development of individual education plans
510 for low-performing students who need remediation and
511 intervention services.

512 Section 9. This act shall take effect July 1, 2006.