

# 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.)

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Prepared By: Judiciary Committee

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BILL: CS/SB 500

INTRODUCER: Judiciary Committee and Senator Wise

SUBJECT: Florida School Recognition Program

DATE: January 12, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carrouth</u>	<u>Matthews</u>	<u>ED</u>	<u><b>Fav/1 amendment</b></u>
2.	<u>Chinn</u>	<u>Maclure</u>	<u>JU</u>	<u><b>Fav/CS</b></u>
3.	_____	_____	<u>EA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The bill authorizes certain schools to participate in the Florida School Recognition Program. Currently, these schools are not eligible to participate in the program because they do not receive a school grade, which serves as the basis for awarding program funds.

The bill provides that a school serving any combination of kindergarten through third-grade students which does not receive a school grade under the state's school grading statute would be designated by the Department of Education to receive the school performance grade of the school to which at least 60 percent of the ungraded school's students are scheduled to be assigned. The department's designation would also be verified by the district where the ungraded school is located.

Additionally, the proposed language provides that the ungraded schools would be subject to the provisions of the Opportunity Scholarship Program.

The bill amends the following sections of the Florida Statutes: 1002.38, 1008.34, and 1008.36.

## II. Present Situation:

### Florida School Grading System and the Florida School Recognition Program

In 1999, the Legislature adopted a broad reform package that is popularly known as the “A+ Plan,” designed to improve the state’s public school system.<sup>1</sup> Part of the reform package included creating a system for evaluating public schools where a school is assigned a letter grade “A” through “F” based upon the school’s current year performance and the school’s annual learning gains.<sup>2</sup> The school’s performance and learning gains are based upon student scores on the Florida Comprehensive Assessment Test (FCAT) administered in grades 3 through 10.<sup>3</sup> A school receiving an “A” or improving its letter grade is allowed greater authority over the allocation of the school’s total budget and is eligible to participate in performance-based financial award programs.<sup>4</sup>

The Florida School Recognition Program (the program) is one of the programs in which higher performing schools may participate to receive additional funds based upon school grades.<sup>5</sup> Under the program, financial awards are directed to public schools as an incentive for improved performance among faculty and staff. The funds disbursed through the program are subject to appropriation by the Legislature through the General Appropriations Act via the Education Enhancement “Lottery” Trust Fund. In 2005, the Legislature appropriated \$263,449,842 through the Lottery Trust Fund for the program, and 1,502 schools were eligible to receive awards of \$100 per student.<sup>6</sup>

Eligibility to participate in the program is based upon the grade assigned to each school under the state’s grading system.<sup>7</sup> Schools that receive a grade of “A” or improve a full letter grade are eligible to receive a financial award under the program. Because students do not take the FCAT until grade 3, schools that are configured with only kindergarten through grade 3 (K-3) do not

<sup>1</sup> The Legislature enacted ch. 99-398, L.O.F., in response to the November 1998 amendment to s. I, art. IX, of the Florida Constitution, making education in Florida a paramount duty of the state.

<sup>2</sup> Section 1008.34(3), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 1008.34(2), F.S.

<sup>5</sup> Section 1008.36, F.S. (The section was renumbered as a result of ch. 2002-387, L.O.F. This section was originally s. 231.2905, F.S., when the program was enacted in ch. 97-212, L.O.F.)

<sup>6</sup> <http://www.fldoe.org/faq/faq.asp?Dept=177>.

<sup>7</sup> Before the grading system was created in ch. 99-398, L.O.F. (the “A+ Plan”), eligibility to participate in the Florida School Recognition Program was found at s. 231.2905(2), F.S., (1997), and determined as follows:

(a) Initial criteria for identification of schools must rely on the school’s data and statewide data and must include, but not be limited to:

1. Improvement in the school’s student achievement data.
2. Statewide student achievement data.
3. Readiness for postsecondary education data.
4. Dropout rates.
5. Attendance rates.

(b) After a pool of eligible schools has been identified, schools must apply for final recognition and financial awards based on established criteria. Criteria must include, but not be limited to:

1. School climate, including rates of school violence and crime.
2. Indicators of innovation in teaching and learning.
3. Indicators of successful challenging school improvement plans.
4. Parent, community, and student involvement in learning.

receive a grade.<sup>8</sup> Without receiving a grade from the state, these schools are ineligible for school recognition funds.

### **Opportunity Scholarship Program**

The school grading system also has implications for lower performing schools. Opportunity Scholarship Program is designed to provide parents of students in “failing schools” the opportunity to send their children to another public school that is performing satisfactorily or to an eligible private school.<sup>9</sup> Under s. 1002.38(2), F.S., a school is considered failing if it has received an “F” grade for two years in a four-year period. Students attending schools configured with only K-3 students are not graded, and therefore these students are not eligible for opportunity scholarships.

## **III. Effect of Proposed Changes:**

### **Florida School Grading System and the Florida School Recognition Program**

The bill would revise the school grading system and the eligibility requirements of the Florida School Recognition Program (the program) to allow additional schools to qualify for financial awards under the program. The proposed language would add a grade designation category for “feeder pattern schools,” which would denote schools that serve any combination of students in kindergarten through grade 3 (K-3) that do not already receive a grade under the state’s grading system.<sup>10</sup> The Department of Education (DOE) would assign state school grades for feeder pattern schools based upon the school performance grade of the school to which at least 60 percent of students of the K-3 school are scheduled to be assigned. The respective school district of the K-3 school would verify the DOE’s designation of the feeder pattern that serves as the basis for the DOE’s grade assignment. Therefore, if the school to which at least 60 percent of the K-3 school’s students are scheduled to be assigned receives an “A” school grade or improves a letter grade, the K-3 school would be eligible to receive program funds.

### **Opportunity Scholarship Program**

Additionally, the bill requires that the K-3 school would be subject to the provisions of the Opportunity Scholarship Program (OSP) as specified in s. 1002.38, F.S. Accordingly, if the graded school serving the K-3 students receives an “F” grade in two of the last four years, students attending or assigned to attend the K-3 school would be eligible to attend another public school or receive an opportunity scholarship to attend a private school. The Florida Supreme Court recently ruled that the OSP violated the State Constitution. The future of the OSP is unclear at the present time, but students already utilizing the OSP under current school eligibility

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<sup>8</sup> When referencing kindergarten-to-grade 3 schools, “K-3” refers to schools that may serve a combination of grades somewhere within those grades, e.g., K-1, K-2, K-3, 1-2, 1-3, 2-3, etc.

<sup>9</sup> Section 1002.38, F.S.

<sup>10</sup> The “feeder pattern” is comprised of the K-3 school and the school to which 60 percent of its students are scheduled to be assigned to attend.

standards will be able to continue attending their school of choice until the end of the school year.<sup>11</sup>

### **Schools Affected**

According to the DOE, 102 schools were identified as schools serving students in any grade level K-3 that did not receive a school grade for the 2004-2005 school year and could be affected by a change in the program's eligibility standards.<sup>12</sup> The numbers provided by the DOE are based upon the assumption that the proposed eligibility language in the bill, "any combination of students in kindergarten through grade 3,"<sup>13</sup> denotes schools serving students in *any* grade within kindergarten through grade 3. The number of potentially eligible schools declines if the grades a school must serve include grade 2 and/or 3, as opposed to serving only one or more of any of the grades within the K-3 range.

This bill provides an effective date of July 1, 2006.

## **IV. Constitutional Issues:**

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

None.

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

None.

### **C. Trust Funds Restrictions:**

None.

### **D. Other Constitutional Issues:**

In the recent ruling in *Bush v. Holmes*, the Florida Supreme Court held that the Opportunity Scholarship Program (OSP) violates art. IX, s. 1(a), of the State Constitution, requiring that adequate provision shall be made for a "uniform, efficient, safe, secure, and high quality system of free public schools."<sup>14</sup> The court opined that the language of art. IX, s. 1(a) provides both a mandate to provide for children's education and a restriction on the execution of that mandate. Specifically, the provision requires the state to maintain a system of free *public* schools that is *uniform* throughout the state. Thus, according to the court, the Legislature is restricted from fulfilling the state's educational mandate by diverting public funds from the uniform system of public schools to competing private non-uniform schools. The ruling was issued on January 5, 2006, and applies prospectively from the end of the 2005-2006 school year.

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<sup>11</sup> The court made its ruling apply prospectively from the end of the 2005-2006 school year. *Bush v. Holmes*, 2006 WL 20584, at \*16 (Fla. 2006).

<sup>12</sup> See note 4, *supra*.

<sup>13</sup> Committee Substitute for Senate Bill 500, p. 1, line 22.

<sup>14</sup> 2006 WL 20584.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

There would be no fiscal impact on private schools in the next two years. There may be a positive fiscal impact on private schools after two years depending on whether students at schools that previously did not receive grades become eligible for the Opportunity Scholarship Program (OSP). As noted above, whether the OSP is still in effect after the Florida Supreme Court's ruling has yet to be determined, making any fiscal impact based upon future OSP participation indeterminate at this time.

**C. Government Sector Impact:**

The bill may reduce the amount of awards provided to eligible schools depending upon the number of additional schools eligible to receive school recognition funds and the amount of funds appropriated by the Legislature. The extent of the impact is indeterminate at this time.

Additionally, school districts may lose students and funds attached to those students depending on school grades and participation in the OSP. Again, as noted above, whether the OSP is still in effect has yet to be determined, making any fiscal impact based upon future OSP participation indeterminate at this time.

According to the Department of Education (DOE), 102 schools with a total enrollment of 20,101 were identified as schools serving students in any grade level kindergarten through grade 3 (K-3) that did not receive a school grade for the 2004-2005 school year. Of the total enrollment at these schools, 12,404 students are enrolled in K-3.<sup>15</sup> Approximately 62 percent of Florida's elementary schools were eligible to receive school recognition funds this year. Accordingly, the DOE estimates that the bill would require an additional \$769,048 in funding based on an award of \$100 per student.<sup>16</sup> The fiscal impact varies with the interpretation of what constitutes a "combination of students." The number of K-3 schools that include grades 2 or 3 is 34 instead of 102, reducing the number of schools gaining eligibility under the proposed language.

**VI. Technical Deficiencies:**

Page 1, line 22, of the proposed language provides that a school that serves "any *combination* of students in kindergarten through grade 3" is eligible to participate in the award program (emphasis added). According to the *American Heritage Dictionary*, to combine is "[t]o join (two or more substances) to make a single substance."<sup>17</sup> If the intent is to require that a K-3 school

<sup>15</sup> Many of the 102 schools that would qualify under the revised eligibility language also have prekindergarten students, reducing the total enrollment by 7,697 students.

<sup>16</sup> 12,404 students x 62% x \$100 = \$769,048.

<sup>17</sup> AMERICAN HERITAGE DICTIONARY 174 (3d ed. 1994).

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have more than one of any of the grades within K-3 for program eligibility, then the proposed language should remain unchanged. However, if the Legislature intends to allow a school with any one of the grades in K-3 or to require that a school serve students in grades 2 or 3 among the “combination,” the Legislature may wish to revise the proposed language.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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