

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families-- The bill requires district school boards to conduct annual GAT education eligibility screening for all students in a designated elementary, middle school, and high school grade-level. School districts must also notify parents of available GAT education screening opportunities.

B. EFFECT OF PROPOSED CHANGES:

Gifted Education

State Board of Education (SBE) rule defines “gifted” as “one who has superior intellectual development and is capable of high performance.”¹ Gifted students are classified as exceptional students.² Statute requires school districts to provide exceptional students in grades K-12, including gifted students, with appropriate diagnosis, evaluation, special instruction, facilities, and services.³ According to the DOE, 126,775 students were provided gifted education services during the 2006-2007 school year.⁴

K-12 Students Enrolled in Gifted Education Courses: 2006-2007⁵

White	African American	Hispanic	Asian	American Indian	Multi-Racial	Total Gifted
75,819	12,101	28,152	5,794	405	4,504	126,775

Screening, Identification, and Eligibility: SBE rule sets forth two methods for determining gifted eligibility status. A student must either: (a) demonstrate superior intellectual development as measured by an intelligence quotient (IQ) of at least two standard deviations above the norm,⁶ possess gifted characteristics according to a standard checklist, and need a special program; or (b) be limited English proficient or of low socioeconomic status and meet district-determined criteria set forth in an approved school district plan for increasing participation in gifted education by underrepresented groups.⁷ The latter method for determining gifted status is known as “Plan B.” Plan B students need not meet the IQ requirement to obtain gifted status if they otherwise meet the criteria set forth in the school district’s plan. Currently, 53 of 67 Florida school districts have an approved alternative identification plan for determining gifted eligibility.⁸

Factors Considered in Determining Gifted Eligibility⁹

Factor	Districts
IQ Test	67
Checklist of Gifted Characteristics	67
State or District Assessments	45
Formal or Informal Observation	39
Portfolio of Student Work	34
Student Interviews	3

¹ Rule 6A-6.03019, F.A.C.

² Section 1003.01(3), F.S.

³ Section 1003.57(1), F.S.

⁴ Florida Department of Education, Bureau of Education Information and Accountability Services, *Statistical Brief: Membership in Programs for Exceptional Students: Fall 2006, Series 2007-07B* (January 2007) available at <http://www.fldoe.org/eias/eiaspubs/pdf/eseemem.pdf>. (Data current through October 2006).

⁵ *Id.*

⁶ Two standard deviations above the norm is approximately a 130 IQ as measured by most IQ tests. See Office of Program Policy Analysis and Government Accountability, *Florida’s Gifted Student Population Grew Faster Than the Overall School Enrollment*, Report No. 08-01 (January 2008).

⁷ Rule 6A-6.03019, F.A.C.

⁸ OPPAGA, Report No. 08-01 (January 2008).

⁹ *Id.*

The methods used by school districts to select students for gifted screening vary. Generally, districts consider a student's academic performance, teacher referrals, and review of student records.¹⁰ In the majority of Florida's school districts, testing to identify a gifted student occurs only upon school employee referral or parental request. A minority of districts use screening of the general student population to identify students whose performance warrants further testing for gifted status.¹¹ In such cases, the district either requires screening of all students in a particular grade or screens all students upon entry into the district system.¹²

Methods Used by School Districts to Select Students for Gifted Screening¹³

Criteria Used to Select Students for Screening	Districts
Student Academic Performance	65
Teacher Referral	62
Student Record Review	60
Parent Referral	44
Screen All Students in a Particular Grade	13
Screen All Students Upon Entry Into the District System	10

School districts generally employ a four-step process to determine gifted status:

- Step one: Identify students for eligibility screening;
- Step two: Conduct screening and refer qualified students for further assessment;
- Step three: Individual evaluation by a psychologist; and
- Step four: Final eligibility determination based upon review of information collected during steps one through three.¹⁴

A school district must develop a written educational plan (EP) for each gifted student. The EP must describe the student's educational needs and the services that will be provided to meet those needs. The EP is developed by a multidisciplinary team that includes school and district staff and other experts, if necessary. Parents must participate in the development of the plan.¹⁵

House Bill 297 creates s. 1003.527, F.S., to require the DOE to develop, and district school boards to implement, screening procedures, and eligibility criteria for serving GAT students. Screening procedures must provide for annual evaluation of all students in an elementary, middle school, and high school grade-level designated by the DOE. The appropriate grade-level for screening students must be determined using peer-reviewed research. Screening procedures must also enable students at all other grade-levels to be screened upon written request by the student's parent or teacher. The bill also requires each district school board to provide written notice to all parents of K-12 students regarding the availability of GAT screening.

At a minimum, the bill requires that eligibility criteria for GAT programs must be developed to identify students who require a unique program to achieve their full academic potential. Eligibility must also be based on: (a) superior intellectual development as demonstrated by performance on a standardized intelligence test devised specifically for gifted student identification; or (b) high achievement capability in

¹⁰ *Id.*

¹¹ Presentations by representatives of the Department of Education and Florida Association for the Gifted at the January 23, 2007 meeting of the Committee on Education Innovation and Career Preparation.

¹² OPPAGA, Report No. 08-01 (January 2008).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Rule 6A-6.030191, F.A.C. See also Florida Department of Education, Bureau of Exceptional Education and Student Services, *Technical Assistance Paper: Development of Educational Plans for Students Who Are Gifted*, No. 2006-3 (November 2005) available at <http://www.fldoe.org/ESE/pdf/y2006-3.pdf>.

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one or more academic subject areas for academically talented students. The bill does not authorize the development of alternatives to performance on a standardized intelligence test for gifted eligibility.

The bill requires that each GAT student be evaluated a minimum of every three years to determine: (a) continuing eligibility for the GAT program; and (b) whether enrollment in the program still benefits the student. Each district school board must annually report the number of students screened and identified as GAT, the types of GAT programs it offers, the number of students in GAT programs, achievement data for GAT students, and the number of students who were accelerated at least one grade-level to the DOE. GAT student enrollment data must be broken down by race, ethnicity, and national origin.

Gifted Education Programs: There is no statewide model for gifted education programs. Statute currently requires each district school board to submit a proposed plan for providing ESE services to the DOE every three years.¹⁶ Gifted education services, if provided, must be included in the proposed plan. In complying with this requirement, districts typically provide only a summary of gifted services offered and do not specifically identify the grade-level or the number of schools in which the services are provided.¹⁷

Gifted education services generally fall into one of two categories: (a) enrichment; and (b) acceleration. Enrichment activities provide students with more complex and in depth study of subjects than is available via the regular education curriculum. Acceleration allows a student to work at a faster pace or engage in higher level work.¹⁸ Gifted education services are delivered to students in various ways. Commonly used delivery methods include:

- Consultation by a gifted endorsed specialist who works with both the student and classroom teacher;
- Supplemental instruction provided by a gifted endorsed teacher in the student's regular classroom;
- Pull out instruction by a gifted endorsed teacher;
- Team teaching by the student's regular classroom teacher and a gifted endorsed teacher;
- Self-contained gifted classrooms and schools; and
- Courses with both gifted and regular education students in which the teacher differentiates instruction for the gifted students.¹⁹

Statute requires school districts to offer acceleration mechanisms to high school students that include, but are not limited to, dual enrollment, early admission to a postsecondary institution, advanced placement, credit by examination, the International Baccalaureate Program, and the Advanced International Certificate of Education program.²⁰ These programs are often utilized to serve both gifted and academically talented high school students. Acceleration methods for elementary and middle school students are determined at the district level.²¹

The bill requires the DOE to develop model GAT student education programs based upon best practices set forth in peer-reviewed research. Model programs must be developed for use in classrooms and schools, as well as for district-wide implementation. Such programs must include subject matter acceleration opportunities, differentiated curricula, and enrichment activities. The bill also requires the

¹⁶ Section 1003.57(1)(d), F.S.

¹⁷ OPPAGA, Report No. 08-01 (January 2008).

¹⁸ Florida Department of Education, Bureau of Exceptional Education and Student Services, Information Brief: Acceleration of Gifted Students (2003) *available at* http://www.fldoe.org/ESE/pdf/gift_accel.pdf.

¹⁹ Presentations by representatives of the Department of Education and Florida Association for the Gifted at the January 23, 2007 meeting of the Committee on Education Innovation and Career Preparation. *See also* OPPAGA, Report No. 08-01 (January 2008).

²⁰ *See* Sections 1007.27 and 1007.271, F.S. (requiring public schools to offer secondary and postsecondary students acceleration methods that shorten the time normally required to complete a high school diploma or college degree).

²¹ Acceleration mechanisms for gifted or academically talented elementary and middle school students are not specifically addressed in Florida statute. However, many school districts have adopted policies addressing mechanisms such as grade and subject matter acceleration pursuant to their statutory authority to adopt rules to admit, classify, promote, and graduate students. *See* Section 1003.02(1)(a), F.S.

DOE to develop a policy for annually evaluating the effectiveness of model programs. The DOE must also establish policies, procedures, and eligibility criteria for whole-grade acceleration.

Teacher Preparation and Gifted Students: Statute requires the SBE to adopt rules establishing a uniform core curriculum (UCC) for state approved teacher preparation programs. Among other things, the UCC must include instruction in research-based literacy, computational skills acquisition, classroom management, school safety, professional ethics, educational law, human development, the Sunshine State Standards content and achievement tests, reading and interpretation of data, and use of data to improve student learning.²²

Currently, state approved teacher preparation programs are not required to provide instruction to preservice teachers regarding screening, identification, and placement of gifted students in accelerated academic programs. Only practicing teachers who seek a gifted education endorsement are required to receive instruction pertaining to gifted students. Persons seeking the gifted endorsement must possess a baccalaureate or higher degree with certification and complete fifteen semester hours in gifted education coursework. Gifted education coursework must address gifted characteristics and strategies for providing instruction, creative learning opportunities, guidance, and counseling to gifted students. Such coursework must also address strategies for teaching gifted students with diverse backgrounds and learning styles.²³

The bill amends s. 1004.04(3)(c), F.S., to require each state-approved teacher preparation program to incorporate instruction regarding GAT student characteristics and the GAT screening, identification, and instructional practices set forth by the bill.

Gifted Education Funding: Funding for exceptional students is calculated using a system of weighted cost factors. Cost factors are determined using a matrix of services (MOS) that the exceptional student will receive. The MOS must be completed prior to the student's enrollment in an ESE program and reviewed every three years.²⁴

Exceptional students in grades kindergarten through eight who do not receive a MOS-- usually low and moderately disabled students-- and gifted students are funded through the ESE GA.²⁵ The ESE GA is a lump sum allocation that districts receive in addition to base student funding via the FEFP.

In order to participate in the FEFP, school districts are required to maintain accurate financial records.²⁶ Each school district must annually report its expenditures of all state, local, and federal funds. Such reports must be broken down by school and aggregate district for each FEFP funded program.²⁷ School districts are currently not required to specify the exact amounts of GA funding expended to provide education services to exceptional students who do not receive a MOS and gifted students.

The bill amends s. 1011.62(1)(e)2., F.S., to require each school district to separately identify the ESE GA amounts it expended on students who do not receive a MOS and gifted students in its annual financial report. This requirement will facilitate increased state-level oversight over funding and programming for gifted students.

C. SECTION DIRECTORY:

Section 1.: Creating s. 1003.572, F.S.; requiring the DOE to develop screening procedures for identification of GAT students; specifying requirements for such screening; requiring the DOE to develop GAT eligibility criteria and providing specifications for such criteria; requiring the DOE to develop model GAT student education programs and specifying program requirements; requiring the

²² Section 1004.04(2), F.S.

²³ Rule 6A-4.01791, F.A.C.

²⁴ Section 1011.62(1)(e), F.S.

²⁵ *Id.*

²⁶ Section 1011.60(1), F.S.

²⁷ Section 1010.20(2), F.S.

DOE to develop evaluation procedures for model GAT education programs; requiring the DOE to develop procedures and eligibility criteria for whole-grade acceleration; requiring district school boards to implement screening procedures, eligibility criteria, model programs, evaluation procedures, and whole-grade acceleration policies; requiring district school board reporting; requiring rulemaking.

Section 2.: Amending s. 1004.04, F.S.; requiring state approved teacher preparation programs to provide instruction to preservice teachers regarding GAT education students.

Section 3.: Amending s. 1011.62; requiring school districts to report certain ESE GA expenditures separately.

Section 4.: Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The DOE, in its fiscal analysis, projects that it will incur costs associated with developing screening procedures, eligibility criteria, model programs, and whole-grade acceleration policies for use by school districts for serving GAT students. The DOE estimates that it will need to add two positions to conduct rule making, policy and program development, research review, technical assistance, training, and development of data collection processes at a total cost of \$156,201.²⁸

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures. However, please see FISCAL COMMENTS SECTION for a description of the bill's fiscal impact on school districts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

The 2007 Legislature appropriated \$1,125,846,285 to the ESE GA for the 2007-2008 school year.²⁹ Of this amount, approximately \$290 million was generated by gifted students. Each school district receives \$9,177 for each gifted student. This amount is comprised of basic student funding in the amount of \$6,879 and \$2,298 in ESE GA funding.³⁰

²⁸ Department of Education, 2008 Bill Analysis for HB 297.

²⁹ Specific Appropriation 86 of the Conference Committee Report on Senate Bill 2800, Enrolled Chapter 2007-72, L.O.F., as amended by Chapter 2007-326, L.O.F.

³⁰ OPPAGA, Report No. 08-01 (January 2008).

According to the Office of Program Policy Analysis and Government Accountability (OPPAGA), gifted student funding increased by 26% from 2005-2006 to 2007-2008. OPPAGA attributes this increase to a 6.7% rise in the statewide number of gifted students. This increase in gifted students caused the amount of ESE GA funding allocated for gifted students to increase from \$243 million in 2005-2006 to \$276 million in 2006-2007.³¹ In response to these increases, the 2007 Legislature amended the FEFP statute to provide that a school district's expenditure of ESE GA funds for gifted students in grades nine through 12 may not exceed the amount it expended in 2006-2007.³²

The DOE's fiscal analysis projects that school districts will incur costs associated with the addition of programs for academically talented students and screening and follow-up evaluation of GAT students.³³ Unless the ESE GA appropriation is increased to accommodate the changes made by the bill, districts would be required to fund these activities using the existing allocation.³⁴

Bill provisions requiring school districts to notify each student's parent of the availability of gifted screening may also result in increased school district costs. Bill provisions requiring each school district to separately identify the ESE GA amounts it expended on students who do not receive a MOS and gifted students in its annual financial report will enhance state-level oversight over funding and programming for gifted students.

Postsecondary institutions that offer a state approved teacher preparation program may be required to add courses and faculty to provide instruction regarding GAT students to preservice teachers.³⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds.

The bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the SBE to adopt rules implementing the screening, identification, programming, and eligibility provisions set forth by the bill. Current statute also requires the SBE to adopt rules for state approved teacher preparation programs pursuant to s. 1004.04, F.S. According to the DOE, amendments to Rules 6A-6.03019, F.A.C. (Gifted Identification, screening, and eligibility), 6A-6.0331,

³¹*Id.*

³² Section 1011.62(1)(e), F.S.

³³ Department of Education, 2008 Bill Analysis for HB 297. (The DOE estimates project the total cost of screening at \$260,607, follow-up evaluations at \$86,869 annually, and teacher training at \$10,100).

³⁴ *Id.*

³⁵ *Id.*

F.A.C. (Identification and eligibility for ESE services), and 6A-5.066, F.A.C. (Uniform Core Curricula for state approved teacher preparation programs) will be required to implement the bill.³⁶

C. DRAFTING ISSUES OR OTHER COMMENTS:

Screening: The bill requires that all students at designated grade-levels be screened for gifted eligibility. However, the bill does not specify whether school districts will be required to screen students at that grade-level who are already classified as gifted. Similarly, the bill does not provide an exception for ESE students with severe learning, developmental, or behavioral disabilities for whom extensive screening or psychological evaluations have already been conducted. In addition, the bill does not provide an opportunity for parents to opt their child out of required screenings. To reduce duplication of efforts, consideration might be given to amending the bill to provide an exception for students who have already been evaluated and classified as gifted or ESE. In addition, the bill might be amended to enable parents to opt their child out of gifted screening.

D. STATEMENT OF THE SPONSOR

Representative Legg submitted the following sponsor statement:

Florida's gifted and academically talented students deserve the best education we can provide. I believe HB 297 is an excellent step in the journey toward teaching our best and brightest at a challenging and effective level.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 11, 2008, the Committee on Education Innovation and Career Preparation reported the bill favorably with two amendments, a strike-all amendment and an amendment to the strike-all amendment. The strike-all amendment:

- Creates s. 1003.572, F.S., to require district school boards to provide written notice to parents about the criteria for gifted student classification and the procedure for requesting an eligibility evaluation.
- Requires district school boards to report the number of students classified as gifted under the standard procedure set forth in SBE rule and under a district alternative classification plan by school and grade-level to the DOE. Such reports must indicate the types of gifted student education services that it provides; the number of students receiving each service; the number of hours per week each service is provided; whether services are provided via direct instruction in a gifted-only class, differentiated instruction in a class with both gifted and regular education students, and consultation services; whether gifted instruction is provided by a gifted endorsed teacher; and performance data for gifted students. Gifted student data must be disaggregated by race, ethnicity, national origin, and socio-economic status. The DOE must develop reporting data elements and the SBE must adopt rules to implement the section.
- Creates s. 1003.573, F.S., to require the DOE to develop, and district school boards to implement, statewide grade and subject matter acceleration policies for students in grades K-12.
- Requires district school boards to report the number and performance data of students in both grade and subject matter acceleration programs and the types of subject matter acceleration programs offered. Such information must be disaggregated by race, ethnicity, national origin, and socio-economic status. The DOE must develop reporting data elements and the SBE must adopt rules to implement the section.
- Creates the Gifted and Academically Talented Student Task Force.
- Provides for task force membership, provides the procedure for appointing members, requires members to be appointed by July 1, 2008, and requires the task force to meet by August 1, 2008.
- Assigns the task force to DOE for administrative purposes, authorizes task force members to receive per diem expenses, and subjects members to the code of ethics for public officers and employees.

³⁶*Id.*

- By February 1, 2009, requires the task force to report its recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives. Its recommendations must address:
 - Revisions to statute and rules governing gifted education;
 - Eligibility criteria for academically talented programs;
 - Annual screening procedures for GAT eligibility, including the most appropriate grade-levels for screening students and one or more recommended screening instruments;
 - Model GAT programs including classroom, school, and district-based options, as well as subject matter acceleration, differentiated instruction, and enrichment activities;
 - Procedures for evaluating the effectiveness of model GAT programs; and
 - Procedures for evaluating GAT students for continuing eligibility and suitability for GAT programs.
- Provides that the task force shall be abolished upon completion of its mission.

The amendment to the strike-all amendment modifies district school board reporting requirements concerning provision of gifted education services. In addition to reporting whether gifted services are provided via direct instruction in a gifted-only class or differentiated instruction in a class with both gifted and regular education students, school board reports must also indicate whether gifted students were served using advanced placement courses, dual enrollment courses, and virtual school courses.