

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Education

BILL: SB 886

INTRODUCER: Senator Thurston

SUBJECT: COVID-19 Impact on School Accountability

DATE: March 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	Fav
2.			AED	
3.			AP	

I. Summary:

SB 866 amends accountability provisions in recognition of the public health emergency caused by COVID-19. The bill provides that school grades, school improvement ratings, and student performance results from the statewide, standardized assessments for the 2020-2021 school year may not be used for specified purposes, including:

- School turnaround options;
- Charter school system and school district high-performing designations;
- Grade 3 retention;
- High school graduation; and
- Personnel evaluations.

The provisions of this bill will be repealed July 1, 2023.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming a law.

II. Present Situation:

Every Student Succeeds Act

The Every Student Succeeds Act (ESSA), which reauthorized the Elementary and Secondary Education Act, was signed into law on December 10, 2015. ESSA includes provisions to:¹

- Help ensure success for students and schools through advancing equity by upholding protections for disadvantaged and high-need students.

¹ U.S. Department of Education, *Every Student Succeeds Act (ESSA)*, <https://www.ed.gov/essa?src=rm> (last visited Feb. 22, 2021).

- Require that all students be taught to high academic standards that will prepare them to succeed in college and careers.
- Ensure that vital information is provided to educators, families, students, and communities through annual statewide assessments that measure students' progress.
- Support and grow local innovations.
- Increase access to high-quality preschool.
- Maintain an expectation that there will be accountability and action to effect positive change in the lowest-performing schools.

ESSA requires that statewide mathematics and English language arts (ELA) assessments be administered in each of grades 3 through 8 and at least once in grades 9 through 12. Statewide science assessments must be administered at least once in grades 3 through 5, grades 6 through 9, and grades 10 through 12.²

ESSA allows flexibility for locally selected, nationally recognized high school academic assessments. Under ESSA, a state may permit districts to use a nationally recognized high school academic assessments in place of the statewide high school assessments. A school district using this flexibility, however, must use the same locally selected, nationally recognized assessment in all of its high schools.³ To ensure these tests are truly “nationally recognized,” they must be given in multiple states, be recognized by institutions of higher education for the purposes of entrance or placement into courses in postsecondary education or training programs, and provide the same benefits to all students – including English learners and children with disabilities.⁴

Florida’s ESSA plan received approval from the United States Department of Education (USDOE) on September 26, 2018.⁵

Authority to Enforce Public School Improvement

The State Board of Education (SBE) complies with the federal Elementary and Secondary Education Act (ESEA),⁶ its implementing regulations, and the ESEA flexibility waiver approved for Florida by the United States Secretary of Education.⁷ The SBE may adopt rules to maintain compliance with the ESEA and the ESEA flexibility waiver.

The SBE holds all school districts and public schools accountable for student performance and is responsible for a state system of school improvement and education accountability that assesses student performance by school, identifies schools that are not meeting accountability standards, and institutes appropriate measures for enforcing improvement.⁸ School districts must be held

² U.S. Department of Education, *Elementary and Secondary Education Act of 1965, As Amended Through P.S. 114-95, Enacted December 10, 2015* (2015), available at <https://www2.ed.gov/documents/essa-act-of-1965.pdf>.

³ U.S. Department of Education, *Every Student Succeeds Act, Assessments under Title I, Part A and B: Summary of Final Regulations* (December, 2017), available at <https://www2.ed.gov/policy/elsec/leg/essa/essaassessmentfactsheet1207.pdf>.

⁴ *Id.*

⁵ Florida Department of Education, *Every Student Succeeds Act (ESSA)*, <http://www.fldoe.org/academics/essa.stml> (last visited Feb. 22, 2021).

⁶ U.S. Department of Education, *Elementary and Secondary Education Act of 1965, As Amended Through P.S. 114-95, Enacted December 10, 2015* (2015), available at <https://www2.ed.gov/documents/essa-act-of-1965.pdf>.

⁷ Section 1008.33(1), F.S.

⁸ Section 1008.33(2)(a), F.S.

accountable for improving the academic performance of all students and for identifying and improving schools that fail to meet accountability standards.⁹

The SBE has a duty to supervise Florida's public school system, equitably enforce the accountability requirements of the state school system, and impose state requirements on school districts in order to improve the academic performance of all districts, schools, and students.¹⁰ DOE annually identifies each public school in need of intervention and support to improve student academic performance.¹¹

Statewide Assessment Program

The primary purpose of the student assessment program is to provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff. The data is to be used by districts to improve instruction; by students, parents, and teachers to guide learning objectives; by education researchers to assess national and international education comparison data; and by the public to assess the cost benefit of the expenditure of taxpayer dollars.¹²

The statewide assessment program for Florida's public schools includes statewide, standardized assessments for ELA (grades 3-10) and mathematics (grades 3-8); end-of-course (EOC) assessments for Algebra I, Geometry, Biology I, Civics, and U.S. History; and the Statewide Science Assessment (grades 5 and 8).¹³ Results from the assessments are used to calculate school grades and school improvement ratings,¹⁴ and determine student readiness for promotion to 4th grade and high school graduation.¹⁵

Student Progression Measured by Statewide Assessments

To be promoted to grade 4, a student must score a Level 2 or higher on the statewide, standardized ELA assessment required for grade 3.¹⁶ The student must be retained if the student's reading deficiency is not remedied by the end of grade 3, by scoring a Level 2 or higher on the statewide, standardized assessment required for grade 3.¹⁷

The district school board may only exempt students from mandatory retention in grade 3 for good cause. A student who is promoted to grade 4 with a good cause exemption must be provided intensive reading instruction and intervention. Good cause exemptions are limited to

⁹ Section 1008.33(2)(c), F.S.

¹⁰ Section 1008.33(3)(a), F.S. Based upon the provisions of the Florida K-20 Education Code, chapters 1000-1013; the federal ESEA and its implementing regulations; and the ESEA flexibility waiver approved for Florida by the United States Secretary of Education.

¹¹ Section 1008.33(4), F.S.

¹² Section 1008.22(1), F.S.

¹³ Section 1008.22(3), F.S. and Florida Department of Education, *Statewide Assessment Program 2019-2020*, available at <http://www.fldoe.org/core/fileparse.php/5663/urlt/swapig.pdf>.

¹⁴ See ss. 1008.34 and 1008.341, F.S.

¹⁵ See ss. 1008.25(5) and 1003.4282(3), F.S.

¹⁶ Section 1008.25(5)(b), F.S.

¹⁷ *Id.*

students in grade 3 and relate to limited English proficiency students, students with disabilities, the use of alternative assessments or portfolios, and students previously retained in grades K-3.¹⁸

Receipt of a standard high school diploma requires successful completion of 24 credits,¹⁹ including passing statewide, standardized assessments. Specifically, a student must pass the grade 10 ELA statewide, standardized assessment and the Algebra I end-of-course (EOC) assessment.²⁰

School Grading System

School grades provide an easily understandable way to measure the performance of a school. Parents and the general public can use the school grade and its components to understand how well each school is serving its students.²¹ School grades are used in the state system of school improvement and accountability to determine the need for school intervention and support,²² or to determine whether a school is eligible for school recognition funds.²³

Schools are graded using one of the following grades:²⁴

- “A,” schools making excellent progress (62 percent or higher of total applicable points).
- “B,” schools making above average progress (54 to 61 percent of total applicable points).
- “C,” schools making satisfactory progress (41 to 53 percent of total applicable points).
- “D,” schools making less than satisfactory progress (32 to 40 percent of total applicable points).
- “F,” schools failing to make adequate progress (31 percent or less of total applicable points).

Elementary schools, middle schools, and high schools each share a basic model for determining school grades, based on the percentage of total points earned by a school for each component in the model. All schools are graded on the percentage of eligible students who pass assessments in ELA, mathematics, science, and social studies; student learning gains in ELA and mathematics; and students in the lowest 25 percent of ELA and mathematics performers who make learning gains.²⁵ Middle and high school models include additional components beyond the basic model.²⁶

For a high school comprised of grades 9 through 12 or grades 10 through 12, the school’s grade is also based on following components:²⁷

¹⁸ Section 1008.25(6)(b), F.S.

¹⁹ Section 1003.4282(1)(a), F.S.

²⁰ Section 1003.4282(3)(a) and (b), F.S.

²¹ Florida Department of Education, *2019 School Grades Overview (2019)*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SchoolGradesOverview19.pdf>.

²² See s. 1008.33(4), F.S.

²³ See s. 1008.36, F.S.

²⁴ Section 1008.34(2), F.S.; Rule 6A-1.09981(4)(d), F.A.C.

²⁵ Section 1008.34(3)(b), F.S. If a school does not have at least 10 students with complete data for one or more of the components, those components may not be used in calculating the school’s grade. Section 1008.34(3)(a), F.S.

²⁶ See s. 1008.34(3)(b), F.S.; Rule 6A-1.09981(4)(a)-(c), F.A.C.

²⁷ Section 1008.34(3)(b)2., F.S., and Rule 6A-1.09981(4)(c)2. and 3., F.A.C.

- The 4-year high school graduation rate of the school as defined by SBE rule.²⁸
- The percentage of students who were eligible to earn college and career credit through College Board Advanced Placement examinations, International Baccalaureate examinations, dual enrollment courses, including career dual enrollment courses resulting in the completion of 300 or more clock hours, or Advanced International Certificate of Education examinations; who, at any time during high school, earned national industry certification identified in the CAPE Industry Certification Funding List; or, beginning with the 2022-2023 school year, who earned an Armed Services Qualification Test score that falls within Category II or higher on the Armed Services Vocational Aptitude Battery and earned a minimum of two credits in Junior Reserve Officers' Training Corps courses from the same branch of the United States Armed Forces.

School improvement rating

School improvement ratings are calculated for alternative schools and exceptional student education (ESE) center schools that choose to receive a school improvement rating in lieu of a school grade.²⁹ The commissioner prepares an annual report on the performance of each school receiving a school improvement rating.³⁰

Schools that elect a school improvement rating in lieu of a school grade will have the rating based on student learning gains for statewide, standardized assessments for ELA and mathematics; schools will be rated on only those components for which they have sufficient data.³¹ School improvement ratings must identify an alternative school or ESE center school as having one of the following ratings:³²

- “Commendable” – a significant percentage of students attending the school are making learning gains
- “Maintaining” – a sufficient percentage of students attending the school are making learning gains
- “Unsatisfactory” – an insufficient percentage of students attending the school are making learning gains

A school having an insufficient percentage of students making learning gains³³ must have a school improvement plan, which is developed and implemented by the school's advisory

²⁸ The four-year high school graduation rate of the school as measured according to 34 CFR §200.19, Other Academic Indicators, effective November 28, 2008. Rule 6A-1.09981(4)(c)1., F.A.C.

²⁹ Section 1008.341; 1008.3415, F.S.; Rule 6A-1.099822 and 6A-1.099828, F.A.C.

³⁰ Section 1008.341(1), F.S.

³¹ Florida Department of Education, *2018-19 Guide to Calculating School Improvement Ratings, July 2019*, available at <http://www.fldoe.org/core/fileparse.php/18534/urlt/SIRCalcGuide19.pdf>.

³² Section 1008.341(2), F.S.

³³ “Learning Gains,” “annual learning gains,” or “student learning gains” means the degree of student learning growth occurring from one school year to the next as required by state board rule for purposes of calculating school grades under section 1008.349(1)(b), F.S.

council.³⁴ It is the responsibility of each district school board to approve school improvement plans.³⁵

School Personnel Evaluations

School districts establish procedures for evaluating the performance of instructional, administrative, and supervisory personnel in order to increase student academic performance by improving the quality of services in public schools.³⁶

Instructional personnel and school administrator performance evaluations must be based upon the performance of students assigned to their classrooms or schools.³⁷ A school district's performance evaluation system is not limited to student performance, but may include other criteria to evaluate instructional personnel and school administrators' performance.³⁸ The performance evaluation must be based upon sound educational principles and contemporary research in effective educational practices. The evaluation criteria must include:³⁹

- At least one-third based on performance of students;
- At least one-third based on instructional practice;
- At least one-third based on instructional leadership (administrators only); and
- Other indicators of performance.⁴⁰

The Commissioner of Education (commissioner) has approved a formula to measure individual student learning growth on the statewide, standardized assessments in English Language Arts and mathematics.⁴¹ Each school district may, but is not required to, measure student growth using the formula approved by the commissioner.⁴² The commissioner approved using a value-added model (VAM) to measure learning growth for purposes of teacher evaluation, in part because of the model's capacity to reflect an individual educator's contribution to that learning growth.⁴³ Use of the VAM data as part of the performance of student's component in a teacher's evaluation is a local district decision.

³⁴ Sections 1001.42(18)(a) and 1001.452(2), F.S. School advisory councils (SACs) are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school's improvement plan, assisting in the development of the school's budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S. *See also* Section 1002.33(9)(n), F.S. Requires a charter school earning a "D" or "F" to submit a school improvement plan to the sponsor.

³⁵ Section 1001.42(18)(a), F.S.

³⁶ Section 1012.34, F.S.

³⁷ Section 1012.34(3), F.S.

³⁸ *Id.*

³⁹ Section 1012.34(3)(a), F.S.

⁴⁰ For instructional personnel and school administrators, the remainder of a performance evaluation may include, but is not limited to, professional and job responsibilities as recommended by the State Board of Education or identified by the district school board and, for instructional personnel, peer reviews, objectively reliable survey information from students and parents based on teaching practices that are consistently associated with higher student achievement, and other valid and reliable measures of instructional practice. *Id.*

⁴¹ Section 1012.34(7)(a), F.S.

⁴² Section 1012.34(7)(b), F.S.

⁴³ Florida Department of Education, *Performance Evaluation, Why do we have VAM?* <http://www.fldoe.org/teaching/performance-evaluation/> (last visited Feb. 23, 2021).

High-Performing School Districts and Charter School Systems

A high-performing school district meets the following criteria⁴⁴:

- Earns a grade of “A” for 2 consecutive years; and
- Has no district-operated school that earns a grade of “F”;
- Complies with all class size requirements; and
- Has no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted.

The SBE annually designates academically high-performing school districts. Seventeen school districts were designated as high-performing school districts for the 2018-2019 school year.⁴⁵

A high-performing charter school system means an entity⁴⁶ that:⁴⁷

- Operated at least three high-performing charter schools in the state during each of the previous 3 school years;
- Operated a system of charter schools in which at least 50 percent of the charter schools were designated as high-performing charter schools, and no charter school earned a school grade of “D” or “F” in any of the previous 3 school year, with exceptions identified in law;⁴⁸ and
- Did not receive a financial audit that revealed one or more of the financial emergency conditions specified in law⁴⁹ in the most recent 3 fiscal years for which such audits are available.

The commissioner must verify all charter schools served by an entity, verify that the entity meets the specified criteria, and provide a letter to the entity stating that it is a high-performing charter school system. The commissioner must annually determine whether a high-performing charter school system continues to meet specified criteria.⁵⁰ Five entities were designated as high-performing charter school systems for the 2018-2019 school year.⁵¹

Improvement of Low Performing Schools

Florida’s system of improving low-performing schools is referred to as “school improvement” (SI),⁵² Under SI, intervention and support is provided to traditional public schools earning a letter grade of “D,” or “F.”⁵³ Intensive intervention and support strategies are applied to schools that earn two consecutive grades of “D” or a grade of “F” through turnaround option plans.⁵⁴

⁴⁴ Section 1003.621(1)(a), F.S.

⁴⁵ State Board of Education, *Consent Item, Designation of 2018-2019 Academically High-Performing School Districts* available at <http://www.fldoe.org/core/fileparse.php/19916/urlt/19-1.PDF>.

⁴⁶ “Entity” means a municipality or other public entity that is authorized by law to operate a charter school; a private, nonprofit corporation with tax-exempt status under s. 501(c)(3) of the Internal Revenue Code; or a private, for-profit education management corporation. Section 1002.332(1)(a), F.S.

⁴⁷ Section 1002.332(1)(b), F.S.

⁴⁸ Section 1002.332(1)(b)2.a. and b., F.S.

⁴⁹ Section 218.503(1), F.S.

⁵⁰ Section 1002.332(2)(a), F.S.

⁵¹ Email, Florida Department of Education (Feb. 25, 2021).

⁵² Rule 6A-1.099811(1), F.A.C.

⁵³ Section 1008.33(3)(b), F.S.

⁵⁴ Section 1008.33(3)(c), F.S.

All Florida public schools that earn a grade of “D” or “F” must have a school improvement plan, which is developed and implemented by the school’s advisory council.⁵⁵ It is the responsibility of each district school board to approve school improvement plans.⁵⁶

DOE may not release funds from the Educational Enhancement Trust Fund to any district in which a school, does not have an approved school improvement plan, after one full school year of planning and development, or does not comply with school advisory council membership composition requirements.⁵⁷ The department must send a technical assistance team to each school without an approved plan to develop such school improvement plan or to each school without appropriate school advisory council membership composition to develop a strategy for corrective action.⁵⁸

The commissioner is required to assign a community assessment team to each school district or governing board with a school that earned a grade of “D” or “F” to review the school performance data and determine causes for the low performance, including the role of school, area, and district administrative personnel.⁵⁹

A school district may not assign a higher percentage than the school district average of temporarily certified teachers, teachers in need of improvement, or out-of-field teachers to schools graded “D” or “F.”⁶⁰

Intervention and Support Strategies

If a school earns two consecutive grades of “D” or a grade of “F,” it must immediately implement a differentiated matrix of intervention and support strategies.⁶¹ Districts with a school improvement school must coordinate with the Department of Education (DOE), the Regional Executive Director or designee, and the school to identify and implement tailored support and improvement strategies designed to address low performance at the school.⁶²

Florida law specifies seven general types of intervention and support strategies for traditional public schools to address student performance. The intervention and support strategies may include school improvement planning; leadership and educator quality improvement; professional development; curriculum review, pacing and alignment across grade levels to improve background knowledge in social studies, science, and the arts; and the use of continuous improvement and monitoring plans and processes.⁶³

⁵⁵ Sections 1001.42(18)(a) and 1001.452(2), F.S. School advisory councils (SACs) are composed of principals, teachers, educational support personnel, parents, students, local business representatives, and community members. Section 1001.452(1)(a), F.S. SACs are responsible for developing and implementing the school’s improvement plan, assisting in the development of the school’s budget, and assisting in determinations regarding the use of school improvement funds and school recognition awards. Sections 1001.452(2) and 1008.36(4), F.S. *See also* Section 1002.33(9)(n), F.S. Requires a charter school earning a “D” or “F” to submit a school improvement plan to the sponsor.

⁵⁶ Section 1001.42(18)(a), F.S.

⁵⁷ Section 1008.345(6)(c), F.S.

⁵⁸ *Id.*

⁵⁹ Section 1008.345(6)(d), F.S.

⁶⁰ Section 1012.2315(2), F.S.

⁶¹ Section 1008.33(4)(a), F.S.

⁶² Rule 6A-1.099811(5)(a), F.A.C.

⁶³ Section 1008.33(3)(c), F.S.; *see* Rule 6A-1.099811(5)(b)1.-9., F.A.C.

School Turnaround Options

Schools that earn two consecutive grades of “D” or a grade of “F” must also implement a district managed turnaround plan through which the school district manages the two-year turnaround plan at the school.⁶⁴ The school district must submit a district-managed turnaround plan to the SBE for approval by October 1.⁶⁵

Once the district-managed turnaround plan is approved by the SBE, the school district must implement the plan for the remainder of the year and continue implementation for the next full school year.⁶⁶ If the school’s grade does not improve to a “C”, the school must select from the following turnaround options:⁶⁷

- Reassign students to another school and monitor the progress of each student.
- Close the school and reopen as one or more charter schools with a governing board that has a demonstrated record of effectiveness.
- Contract with an external operator that has a demonstrated record of effectiveness to operate the school.
 - The external operator may include a district-managed charter school in which all instructional personnel are not employees of the school district, but are employees of an independent governing board composed of members who did not participate in the review or approval of the charter.

Based on traditional public schools that received grades in 2018 and 2019:⁶⁸

- 70 percent of schools graded “D” or “F” improved their grade in 2019;
- 77 percent of schools graded “F” in 2018 improved their grade in 2019; and
- 85 percent of first-year turnaround schools in 2018 improved their grade to a “C” or higher and exited turnaround in 2019.

For the 2019-2020 school year, 142 schools are in SI requiring intervention and support, including:⁶⁹

- 91 schools earning a grade of “D” for the first time.
- 3 schools earning a grade of “F” for the first time.
- 20 schools earning two grades of “D” or a “D” and an “F” for their last two school grades.

⁶⁴ Rule 6A-1.099811(5)(a)-(b), F.A.C.

⁶⁵ Section 1008.33(4)(a), F.S.

⁶⁶ The state board may allow a school an additional year of implementation before the school must implement a turnaround option required under paragraph if it determines that the school is likely to improve to a grade of “C” or higher after the first full school year of implementation. *Id.*

⁶⁷ Section 1008.33(4)(b)1.-3., F.S.

⁶⁸ Florida Department of Education, *School Improvement Presentation to the House PreK-12 Innovation Subcommittee* (October 16, 2019), available at

<https://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?PublicationType=Committees&CommitteeId=3017&Session=2020&DocumentType=Meeting Packets&FileName=pki 10-16-19.pdf>

⁶⁹ *Id.*

COVID-19 Public Health Emergency

Emergency Order - March 2020

In response to the COVID-19 emergency, the DOE issued an Emergency Order (EO),⁷⁰ which cancelled remaining K-12 state assessments for the 2019-2020 school year.⁷¹ The EO also authorized school districts and other educational entities to evaluate students for promotion, graduation, and final course grades for the 2019-2020 school year as though those assessments which were cancelled did not exist.⁷²

DOE also requested that the USDOE approve Florida’s requested waiver⁷³ of statewide assessment, accountability, and reporting requirements in ESEA for the 2019-2020 school year due to widespread school closures related to COVID-19.

Resulting guidance⁷⁴ relating to the cancellation of state assessments specified that, because the Grade 3 ELA FSA was a key component districts used to make promotion decisions, and such data would not be available due to the cancellation of statewide assessments for the 2019-2020 school year, promotion decisions should be made in consultation with parents, teachers, and school leaders based on the students’ classroom performance and progress monitoring data.

Emergency Order - February 2021

An EO⁷⁵ was issued by the DOE to provide school districts with expanded statewide testing windows to ensure every student can be safely tested. The following modified testing windows for the spring of 2021 for paper-based testing (PBT) and computer based testing (CBT)⁷⁶ will allow for more district flexibility in scheduling tests.

Assessment	Extended Schedule (+2 weeks for each Subject)
Grade 3 English Language Arts (ELA) Reading (PBT)	April 5-30
Grades 4-10 Writing (PBT and CBT)	April 5-30
Grades 4-6 ELA, 3-6 Math, grades 5 and 8 Science (PBT)	May 3-28
Grades 7-10 ELA/Math, EOCs (CBT)	May 3-June 11

⁷⁰ Florida Department of Education, *Emergency Order No. 2020-EO-01, March 23, 2020* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁷¹ *Id.*, Section 4. Assessment, Accountability and Promotion, March 23, 2020 available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/DOEORDERNO2020-EO-01.pdf>.

⁷² Florida Department of Education, Coronavirus (COVID-19), K-12 Public, Private & Charter Schools, Assessments, Accountability and Promotion <http://www.fldoe.org/em-response/schools.stml> (last visited Feb. 22, 2021).

⁷³ Florida Department of Education, *COVID-19 Waiver Response from Assistant Secretary Frank T. Brogan Assistant Secretary for Elementary and Secondary Education, March 27, 2020* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FLCovid19WaiverResponse.pdf>.

⁷⁴ Florida Department of Education, *Florida Department of Education (FDOE) Q&A Guidance, March 19, 2020* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/FDOE-COVID-QA1.pdf> at p. 2.

⁷⁵ Florida Department of Education, *Emergency Order No. 2021-EO-01, February 15, 2021* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/2021-EO-01.pdf>.

⁷⁶ *Id.*, *Modified Spring 2021 Testing Windows, February 15, 2021* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/2021-EO-01.pdf>.

The release of the testing results will occur later than the statutory deadlines. Grade 3 ELA assessment will be available no later than June 30 and the results of the remaining assessments will be made available no later than July 31.⁷⁷ The EO does not address any other aspect of statewide, standardized testing.

III. Effect of Proposed Changes:

SB 886 amends s. 1008.34, F.S., in recognition of the impact of the COVID-19 public health emergency on school accountability.

The bill removes the requirement for a school to select and implement a turnaround option in the 2021-2022 school year based on the school's 2020-2021 school grade or improvement rating.

The bill specifies that a school or approved virtual instruction provider that receives the same or lower grade or school improvement rating for the 2020-2021 school year compared to the 2018-2019 school year is not subject to sanctions or penalties that would occur as a result of the 2020-2021 school grade or school improvement rating.

The bill does not allow for a charter school system or school district designated as high performing to lose its designation as based on 2020-2021 school grades.

The bill specifies student performance results from the 2020-2021 statewide, standardized assessments may not be used for determining grade 3 retention or high school graduation. In the 2019-2020 school year, student performance results on the statewide, standardized assessments were not used for student progression. As a result, there was a 77 percent reduction in grade 3 student retentions compared to the previous 5-year average. Similarly, there was also a 27 percent reduction in grade 12 student retentions, contributing to an increase in the state's high school graduation rate for the 2019-2020 school year.⁷⁸

Additionally, the bill specifies student performance results from the 2020-2021 statewide, standardized assessments may not be used for calculating student performance measurement and evaluating personnel. Thus, limiting personnel evaluations to only be based on instructional practice, instructional leadership, and professional and job responsibilities.

The bill is also consistent with United States Department of Education (USDOE) guidance⁷⁹ to states emphasizing the importance of flexibility in administering assessments in 2020-2021 as a result of the pandemic, and supporting the use of assessment data as a source of information for

⁷⁷ Florida Department of Education, *Emergency Order No. 2021-EO-01, February 15, 2021* available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/2021-EO-01.pdf>. Modified Spring 2021 Testing Windows, February 15, 2021 available at <http://www.fldoe.org/core/fileparse.php/19861/urlt/2021-EO-01.pdf>.

⁷⁸ Florida's high school graduation rate for 2019-2020 was 90 percent, which is a 3.1 percentage points increase over the previous year. Students in the 2019-20 grad class were exempt from statewide, standardized assessment requirements; approximately 7.1 percent of the 2019-20 grad class graduated with this exemption. Florida Department of Education, *2019-20 Graduate Rate* (January 2021), available at <https://www.fldoe.org/core/fileparse.php/7584/urlt/GradRates1920.pdf>.

⁷⁹ U.S. Department of Education, *U.S. Department of Education Releases Guidance to States on Assessing Student Learning During the Pandemic*, February 22, 2021, <https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-states-assessing-student-learning-during-pandemic> (last visited Feb. 23, 2021).

parents and educators to target resources and support, rather than for accountability purposes this year.

USDOE guidance makes clear that states should consider the ways they can do things differently this year. Flexibility available to states includes:

- Extending the testing window and moving assessments to the summer or fall,
- Giving the assessment remotely, where feasible,
- Shortening the state assessment, to make testing more feasible to implement and prioritize in-person learning time.

The USDOE guidance invited states to request a waiver for the 2020-2021 school year of the accountability and school identification requirements in the Elementary and Secondary Education Act of 1965 (ESEA). A state receiving this waiver would not be required to implement and report the results of its accountability system, including calculating progress toward long-term goals and measurements of interim progress or indicators, or to annually meaningfully differentiate among its public schools using data from the 2020-2021 school year. The state would also not be required to identify schools for comprehensive support and improvement (CSI), targeted support and improvement (TSI), and additional targeted support and improvement (ATSI) based on data from the 2020-2021 school year. Each state that receives the accountability and school identification waivers would be required to continue to support previously identified schools in the 2021-2022 school year, resume school identification in the fall of 2022, and ensure transparency to parents and the public.⁸⁰

The provisions of this bill will be repealed July 1, 2023.

The bill has no impact on state revenues or expenditures.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁸⁰ U.S. Department of Education, *U.S. Department of Education Releases Guidance to States on Assessing Student Learning During the Pandemic, February 22, 2021* available at <https://www2.ed.gov/policy/elsec/guid/stateletters/dcl-assessments-and-acct-022221.pdf>.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1008.34 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.