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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-86, Laws of Florida

HOUSE OF REPRESENTATIVES AS FURTHER REVISED BY THE COMMITTEE ON GENERAL EDUCATION FINAL ANALYSIS

BILL #: CS/CS/HB 0269, 2nd ENG

RELATING TO: School District Best Financial Management Practices Reviews

SPONSOR(S): Council for Lifelong Learning, Committee on Education Appropriations, Representatives Murman, Lacasa, Byrd, Mack, Melvin, Diaz-Balart, Cantens, Bense, Argenziano, and Lynn

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) COMMITTEE ON GENERAL EDUCATION YEAS 13 NAYS 0
(2) EDUCATION APPROPRIATIONS YEAS 14 NAYS 0
(3) COUNCIL ON LIFELONG LEARNING YEAS 15 NAYS 0
(4)
(5)

I. SUMMARY:

BEST FINANCIAL MANAGEMENT PRACTICES REVIEWS -- The act creates the “Sharpening the Pencil Act” requiring each school district to undergo a best financial management practices review on a five year cycle. The best financial management practices reviews are in-depth projects that involve reviewing district operations at the individual program level. They are intended to improve the use of resources and identify cost savings.

The state will fully fund all reviews, subject to an annual appropriation in the General Appropriations Act (GAA). The reviews will be administered by (though not necessarily *conducted by*) the Office of Program Policy Analysis and Government Accountability (OPPAGA). Most of the funds will be used for contracted services (via OPPAGA) with private firms. However, if sufficient funds are not provided to contract for all the scheduled reviews, OPPAGA will conduct the remaining scheduled reviews, unless otherwise provided in law or the GAA.

School districts successfully implementing the best financial management practices earn a “Seal of Best Financial Management.” Districts that are awarded the Seal and continue to maintain the best practices may request a waiver form undergoing its next scheduled review.

Specific Appropriation 147A in the 2001-02 GAA provides $3,200,000 for the reviews in FY 2001-02.

LAND ACQUISITION AND FACILITIES ADVISORY BOARDS -- The act also provides that if OPPAGA determines that significant deficiencies exist in a school district's land acquisition and facilities operational processes, a Land Acquisition and Facilities Advisory Board (LAFAB) shall be created by the Governor, President of the Senate, and Speaker of the House to provide expert advice and assist the district. After assessing the district's response to their recommendation, the LAFAB shall report to the Commissioner of the Department of Education.

Specific Appropriation 117A in the 2001-2002 GAA provides $250,000 for the LAFAB.

CHARTER SCHOOLS -- This act also amends various provisions in current law relating to charter schools. Significant provisions include: (1) Expanding the purpose of charter schools; (2) Requiring existing public schools to be in operation for at least two years before converting to a charter school; (3) Requiring a school board that denies an existing public school’s application to convert to a charter school to provide a written notice that specifies the exact reasons for the denial; (4) Permitting an appeal of a charter school denial; (5) Providing additional criteria that must be used for the approval of a charter; (6) Requiring that PECO maintenance funds generated by a conversion charter school remain with that school; and (7) Authorizing the establishment of charter schools-in-a-municipality in order to encourage municipalities to provide the land or facility to be used for a charter school.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

THE BEST FINANCIAL MANAGEMENT PRACTICES REVIEWS (Sections 1-9)

The Office of Program Policy Analysis and Government Accountability (OPPAGA)
The 1994 Legislature created the Office of Program Policy Analysis and Government Accountability (OPPAGA) to help improve the performance and accountability of state government. OPPAGA is a research unit that conducts studies on Florida agencies and programs to identify opportunities to improve services to citizens and reduce government costs.

OPPAGA produces policy analyses and performance reviews on state government programs. These studies assess the efficiency, effectiveness, and long-term implications of state policies and programs, and make recommendations to Florida government. OPPAGA also produces program evaluation and justification reviews of Florida agencies that are operating under Performance-Based Program Budgeting (PB2).

Currently, OPPAGA administers two types of reviews of Florida school districts: school district performance reviews and best financial management practices reviews.

School District Performance Reviews
The 1996 Florida Legislature created the school district performance review program to assist Florida school districts in identifying ways to save funds, improve management, and increase efficiency and effectiveness. Pursuant to s. 230.2302, F.S., the Legislature annually designates the districts to undergo a review. These reviews are conducted by private consulting firms selected by OPPAGA using a request for proposal (RFP) process and are fully funded by the state. Participating school districts retain any cost savings resulting from the implementation of review recommendations.

According to s. 11.515, F.S., school district performance reviews must examine the following 11 broad school district management and operational areas:

- School district organization and management
- Educational service delivery
- Community involvement
- Facilities use and management
- Personnel management
- Asset and risk management
- Financial management

- Purchasing
- Transportation
- Food service
- Safety and security

OPPAGA works with school districts undergoing a review to refine the scope to address specific district issues. Nine districts have undergone this review: Hamilton, Hillsborough, Lee, Clay, Glades, Orange, Broward, Brevard, and Martin. The Legislature fully funded these reviews, except for Brevard and Martin, which actually received a combined performance review/best financial management practices review, for which they paid part of the cost. A private consultant was utilized for each of these reviews.

The 1999 Legislature appropriated $30,000 in the General Appropriations Act (GAA), SA 131, for post-review evaluations of Hamilton, Hillsborough, and Lee County schools. The Legislature did not appropriate any funds in the 1999-2000 GAA for school district performance reviews.

Best Financial Management Practices Reviews
The 1997 Legislature directed OPPAGA and Florida's Auditor General to develop a system for reviewing the financial management practices of the school districts. OPPAGA and the Auditor General developed best financial management practices for Florida school districts (s. 230.23025, F.S.) and submitted them to the Commissioner of Education to be adopted. The Commissioner of Education adopted them in September of 1997. The best practices may be revised, as needed. To date, they have been revised only once, in October of 2000.

OPPAGA and the Auditor General jointly examine school district operations to determine whether they are using the best financial management practices in certain statutorily specified areas. Best financial management practices reviews are designed to encourage school districts to:

- Use performance and cost-efficiency measures to evaluate programs

- Use appropriate benchmarks based on comparable school districts, government agencies, and industry standards to assess their operations and performance

- Identify potential cost-savings through privatization and alternative service delivery

- Link financial planning and budgeting to district priorities, including student performance

OPPAGA published the first best financial management practices review, a review of Manatee County School District, in October of 1998. The possible net savings to the district as a result of this review could surpass $35 million if the school board follows through with the implementation of this plan. Manatee County voted to implement all of the recommendations made by OPPAGA. Manatee County's initial report on the implementation of these changes will be published in February of 2001.

In 1999, OPPAGA conducted a best financial management practices review for the Polk County School District and contracted a combined performance and best financial management practices review for the Brevard and Martin County School Districts. These reviews are funded on a 50-50 basis; the district pays for half and the Legislature funds the other half. The estimated (if the school board were to vote to implement all of the recommendations) savings to the district, as a result of these reviews, could be:

- Polk County -- $1.5 million in fiscal year 1998-99 and $8 million over five years

- Martin County -- $16.4 million over five years
- Brevard County -- $6 million over five years

The 2000 Legislature directed OPPAGA to expand the best financial management practices to include four additional areas–school safety, community involvement, administrative and instructional technology, and educational service delivery. The Commissioner of Education adopted the revised and updated best practices in October 2000.

In addition, the 2000 Legislature directed OPPAGA to conduct a BFMP review in Lake County during the 2000-01 fiscal year. OPPAGA has obtained a consultant to conduct the review, and expects to begin the review in March 2001.

Differences
School district performance reviews differ from best financial management practices reviews in several ways:

- A performance review is selective, but compulsory, in that districts participating in it are generally designated by the Legislature, whereas a best practices review is voluntary, in that school districts apply to OPPAGA to conduct the review.

- Although the general areas covered by both reviews are similar, best practices reviews determine whether a district is using a comprehensive set of standards, or best practices, adopted by the Commissioner of Education. In a best practices review, if a district is found to be using the best practices, it is eligible for a Seal of Best Financial Management.

1999 General Session

The House passed HB 469 that would have integrated the school district performance reviews and the Best Financial Management Practice Reviews into a single process. HB 469 died on the Senate calendar. OPPAGA indicated, "combining the two programs would eliminate overlap between the two types of reviews, simplify administration, resolve confusion among school districts about the reviews, and enable all school districts to participate."

THE LAND ACQUISITION AND FACILITIES ADVISORY BOARDS

The 2000 Legislature directed OPPAGA to review the Miami-Dade County School District's land acquisition practices. In carrying out this project, OPPAGA contracted with MGT of America, Inc., to analyze the district's construction and land acquisition practices.

With over 368,000 students and averaging 8,750 new students each year, the Miami-Dade County School District is facing substantial overcrowding and the need for new school facilities to meet its growth. The district estimates that it needs over $1.6 billion in new facilities. There are several options available to the district for better meeting its facility needs.

The OPPAGA study (Special Review of the Land Acquisition Practices of the Miami-Dade County School District , Report #01-26) concluded that while the district generally is effective at identifying its facilities needs, it can improve its planning process by:

- Ensuring that all priority projects are included in the five-year plan,
- Limiting changes to the plan that are not supported by identified needs and priorities, and
- Developing a broad-based facility planning committee to help identify and develop priorities for the district's construction needs.

The report further concluded that the district's land acquisition office frequently has not acquired the land it needed because it often did not use the five-year construction plan to guide its acquisitions. This resulted in two problems:

- The land needed for high priority projects often is not available when the projects are scheduled.
- The land acquisition staff sometimes acquires lands for which the district has little need.

The report additionally concluded that the district has not established good land acquisition procedures to help it ensure that the prices it pays for land are reasonable. In particular:

- The district does not have an effective process to establish the market value of land,
- The district discloses information that weakens its negotiating position with landowners, and
- The district has not exercised effective oversight of the land acquisition office.

The report recommended (among other things), that to improve the planning and accountability processes and reduce the district's dependence on the availability of land:

- The school board should establish a facilities planning committee that includes a broad base of school district personnel, parents, construction professionals, and other community stakeholders.
- The district should establish performance measures for the planning and land acquisition functions.
- The district should institute a formal process to evaluate alternatives to new school construction including, but not limited to, double sessions, year-round schools, and branch campuses.

CHARTER SCHOOLS (Sections 11-14)

Charter Schools And Their Purpose

According to section 228.056, F.S., charter schools are part of the state's program of public education and are fully recognized as public schools. Current law specifies that the purpose of charter schools must be to improve student learning; increase learning opportunities for all students, with an emphasis placed on students that are identified as academically low achieving; encourage the use of different and innovative learning methods; increase learning opportunity choices for students; establish a new form of accountability for schools; require the measurement of learning outcomes and create innovative measurement tools; establish the school as the unit for improvement; and create new professional opportunities for teachers.

Charter School Conversions

Section 228.056(1), F.S., specifies that creating a new school or converting an existing public school to a charter school are methods that may be used to form a charter school. In the situation where an existing public school, including a school-within-a-school, wants to convert to a charter school, s. 228.056(3), F.S., requires the school board or school principal, teachers, parents, and/or the school advisory council to submit an application requesting permission to convert the existing school to a charter school.

Charter School Sponsor & The Application Process

Section 228.056(4), F.S., authorizes a school board to sponsor a charter school in the county over which the school board has jurisdiction. Specifically, a school board must receive and review all applications for a charter school. Within 60 days after receiving a charter school application, a school board must approve or deny a charter school application through a majority vote.

If a school board denies a charter school application, it must express in writing the specific reasons for which the charter school application was denied within 10 calendar days after rendering its decision. According to s. 228.056(4)(b), F.S., a charter school applicant may appeal a school board's denial of a charter school application or its failure to render a decision on a charter school application to the State Board of Education within 30 calendar days after the school board's denial of the application or failure to render a decision on the application. Within 60 calendar days after a charter school applicant files an appeal, the State Board of Education must accept or reject the school board's initial decision through a majority vote. Subsequently, the State Board of Education must remand the charter school application to the school board with its written recommendation specifying whether or not the school board should approve or deny the charter school application. Section 228.056(4)(c), F.S., requires the school board to act upon the recommendation of the State Board of Education within 30 calendar days after receiving the recommendation. The school board may fail to act in accordance with the recommendation of the State Board of Education if it determines that the recommendation is contrary to law or contrary to the best interest of the students or the community. The school board's action on the State Board of Education's recommendation is a final action subject to judicial review.

Section 228.056(4), F.S., further requires the sponsor to monitor and review the charter school in its progress toward the goals established in the charter, as well as the revenues and expenditures of the charter school.

Conflict Resolution
Section 228.056(4)(f), F.S., specifies that the terms and conditions for the operation of a charter school must be set forth by the sponsor (school board) and the charter school applicant in a written contractual agreement (charter). Current law requires the sponsor and the charter school applicant to mutually agree to the provisions of the charter within six months. With the exception of disputes relating to charter school application denials, s. 228.056(4)(f), F.S., requires the Department of Education to provide mediation services for any disputes relating to the charter school statute (section 228.056, F.S.) that arise after the approval of a charter school application. If the Commissioner of Education determines that a dispute cannot be resolved through mediation, the dispute may be appealed to an administrative law judge appointed by the Division of Administrative Hearings.

Charter School Enrollments
According to s. 228.056(6)(b), F.S., a charter school must enroll an eligible student that submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such a situation, applicants are admitted through a random selection process.

A charter school is only authorized to limit the enrollment process in order to target specific student populations. Such populations include students within specific age groups or grade levels; students considered to be at risk of dropping out of school or academic failure; students who wish to enroll in a charter school-in-the-workplace; and students residing within a reasonable distance of the charter school.

Charter School Financial Information
Section 228.056(8)(i), F.S., requires charter schools to maintain all financial records that constitute their accounting system in accordance with the accounts and codes prescribed in the most recent issue of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools." Charter schools are required to provide annual financial

information and program cost information in the state required format to the school district so that the school district can submit the information to the state.

Charter schools that are operated by a municipality or a not-for-profit organization may use the accounting system of the municipality or the not-for-profit organization but must reformat the information contained in the accounting system for reporting purposes.

Criteria For A Charter

Section 228.056(9)(a), F.S., specifies the criteria that must be used to approve a charter. The criteria used for the approval of a charter must be based on the following:

- The charter school's mission, the students and the ages of students that will be served, and the grades that will be included in the charter school;
- The focus of the charter school's curriculum, the instructional methods that will be used, and any distinctive instructional techniques that will be employed;
- The current incoming baseline standard of student achievement, the outcomes that will be achieved, and the method of measurement that will be used;
- The methods that will be used to identify the educational strengths and needs of students;
- A method determining if a student satisfies high school graduation requirements;
- A method for resolving conflicts between the governing body of the charter school and the sponsor;
- The charter school's admission and dismissal procedures, as well as its student conduct code;
- The methods by which the charter school will achieve a racial/ethnic balance reflective of the community it serves or other public schools in the same school district;
- The financial and administrative management of the charter school;
- The manner in which the charter school will be insured;
- The term of the charter;
- The facilities that the charter school will use and their location;
- The qualifications that will be required of the charter school's teachers;
- The governance structure of the charter school;
- A timetable for implementing the charter; and
- The development of alternative arrangements for current students that choose not to attend a charter school that was converted from an existing public school.

Progress Reports To The Sponsor & Oversight

Section 228.056(9)(d), F.S., requires the governing board of a charter school to submit annual progress reports to the sponsor that must at least include the charter school's progress toward achieving the goals outlined in its charter; the information required in the annual school report pursuant to current law; financial records of the charter school; and salary and benefit levels of charter school employees.

Non-Renewal Or Termination Of Charters

The provisions of subsection 228.056(10), F.S., permit the sponsor of a charter school to not renew the charter at the end of the charter's term for certain reasons. Such reasons include failure to meet the requirements for student performance stated in the charter; failure to meet generally accepted fiscal management standards; violation of the law; or any other demonstrated good cause.

Section 228.056(10)(c), F.S., requires the sponsor of a charter school to notify in writing the governing body of the charter school whether or not the charter will be renewed or terminated. This written notification must be submitted to the charter school at least 90 days before the actual renewal or termination of the charter. The written notification must also detail the specific reasons for renewing or terminating the charter and must inform the charter school that the governing body may, within 14 calendar days after receiving the notice, request an informal hearing before the sponsor. Should the governing body of the charter school request an informal hearing, the sponsor must conduct the hearing within 30 calendar days after receiving the request. Should the sponsor still decide to terminate or refuse to renew the charter, the charter school may appeal the decision, within 14 calendar days, to the State Board of Education.

Within 60 calendar days after a charter school files an appeal, the State Board of Education must accept or reject the school board's initial decision through a majority vote. Subsequently, the State Board of Education must provide the school board with its written recommendation specifying whether or not the school board should renew or terminate the charter. The school board is required to act upon the recommendation of the State Board of Education within 30 calendar days after receiving the recommendation. The school board may fail to act in accordance with the recommendation of the State Board of Education if it determines that the recommendation is contrary to law or contrary to the best interest of the students or the community. The school board's action on the State Board of Education's recommendation is a final action subject to judicial review.

Section 228.056(10)(d), F.S., authorizes a sponsor to terminate a charter immediately if it determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. Under such a scenario, current law does not provide a charter school with the opportunity to request an informal hearing before the sponsor or appeal the decision to the State Board of Education.

Lastly, the provisions of s. 228.056(10)(f), F.S., specify that the governing body of a charter school is responsible for all of the school's debts if the school's charter is terminated or not renewed.

Exemption From School Code
According to s. 228.056(11), F.S., a charter school must operate in accordance with its charter and must be exempt from all of the statutes of the Florida School Code, except those statutes specifically applying to charter schools; those statutes pertaining to the provision of services to students with disabilities; those statutes pertaining to civil rights; and those statutes pertaining to student health, safety, and welfare.

Section 228.056(11), F.S., authorizes the sponsor, upon the request of a charter school, to apply to the Commissioner of Education for a waiver of the provisions of chapters 230-239, F.S. (these chapters are part of the school code), that are applicable to charter schools. However, the provisions of chapters 236 (public school finance & tax) and 237 (public school financial accounts & expenditures), F.S., are not eligible for a waiver if the waiver affects public school funding allocations or creates an inequity in public school funding.

Charter School Teachers
Section 228.056(12)(f), F.S., requires charter school teachers to be certified. The subsection authorizes a charter school governing board to employ skilled selected non-certified personnel to provide instructional services or to assist instructional personnel as education paraprofessionals in the same manner as defined in chapter 231, F.S., and as provided by State Board of Education rule for charter school governing boards.

Additionally, s. 228.056(12)(f), F.S., prohibits a charter school from employing an individual to provide instructional services or to serve as an education paraprofessional if the individual's teaching certificate or license is suspended or revoked.

Reporting Of Student Enrollment
The provisions of s. 228.056(13), F.S., require students enrolled in a charter school to be funded as if they are enrolled in a basic program or a special program at any other public school in the school district. Each charter school must report its student enrollment to the school district and the school district must include each charter school's student enrollment in the school district's report of student enrollment.

Administrative Fees
According to s. 228.056(13)(e), F.S., a school district must provide certain administrative and educational services to charter schools. The services must include contract management services, FTE (full-time equivalent) data reporting services, exceptional student education administration services, test administration services, processing of teacher certificate data services, and information services. Any administrative fee charged by the school district for the provision of services must be limited to five percent of the available funds "defined in paragraph (b)."

Section 228.056(13)(b), F.S., delineates the basis for funding students enrolled in a charter school. Specifically, funding for students enrolled in a charter school must be the sum of the school district's operating funds from the Florida Education Finance Program, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted FTE students in the school district; multiplied by the weighted FTE students for the charter school. Charter schools are entitled to their proportionate share of categorical program funds included in the total funds available in the Florida Education Finance Program.

Charter Schools-In-The-Workplace
Section 228.056(22), F.S., establishes charter schools-in-the-workplace in order to increase business partnerships in education, reduce school and classroom overcrowding throughout the state, and offset the high costs associated with the construction of educational facilities. Charter schools-in-the-workplace may be established when a business partner provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of the employees of the business; and enrolls students according to the racial/ethnic balance reflective of the community or other public schools in the same school district. Any portion of a facility used for a charter school must be exempt from ad valorem taxes.

Charter School Capital Outlay Funding
Section 228.0561, F.S., provides for charter school capital outlay funding and specifies that unless otherwise provided in the General Appropriations Act, the capital outlay allocation for each charter school must be determined by multiplying the charter school's projected student enrollment by one-fifteenth of the cost-per-student station for an elementary, middle, or high school. If the appropriated funds are not sufficient, the Commissioner of Education must prorate the funds among the charter schools.

Section 228.0561, F.S., requires that funds be distributed on the basis of capital outlay full-time equivalent (FTE) membership by grade level, which must be calculated by averaging the results of the second (October) and third (February) enrollment surveys. Current law requires that 60% of the funds be distributed after the second enrollment survey and the balance of the funds be distributed after the third enrollment survey. The Commissioner of Education is required to adjust subsequent distributions as necessary to reflect each charter school's actual student enrollment.

Interscholastic Extracurricular Activities
The provisions of s. 232.425(3), F.S., specify the eligibility criteria that a traditional public school student must meet in order to participate in any interscholastic extracurricular activity.

Additionally, s. 232.425(3)(c), F.S., specifies the eligibility criteria that a home education student must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend. Specifically, a home education student is eligible to participate in any interscholastic extracurricular activity at the public school that the student would otherwise have to attend if the following conditions are met:

- The home education student must comply with the requirements of the home education program pursuant to current law;
- The home education student must maintain a 2.0 grade point average in all subjects while participating in any interscholastic extracurricular activity;
- The home education student must comply with the same residency requirements that students at the public school must comply with;
- The home education student must comply with the same standards of acceptance, behavior, and performance that are required of other students in interscholastic extracurricular activities; and
- The home education student must register with the public school his or her intent to participate in an interscholastic extracurricular activity before the beginning date of the season for the activity.

Additionally, a student that transfers from a home education program to a public school before or during the first grading period is academically eligible to participate in any interscholastic extracurricular activity during the first grading period if he or she maintained a 2.0 grade point average during the previous academic year or if he or she fulfilled the requirements of an academic performance contract if his or her grade point average was less than a 2.0 during the previous academic year.

Lastly, a public or nonpublic school student who is academically ineligible to participate in an interscholastic extracurricular activity is also ineligible to participate in an interscholastic extracurricular activity as a home education student until he or she maintains a 2.0 grade point average during one grading period or until he or she fulfills the requirements of an academic performance contract if his or her grade point average is less than a 2.0 during one grading period.

Although provisions exist in current law for a home education student to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend, similar provisions are not afforded to a charter school student.

C. EFFECT OF PROPOSED CHANGES:

Best Financial Management Practices Reviews (sections 1-9)
This act creates the “Sharpening the Pencil Act” to assist school districts in identifying and realizing cost savings through implementation of best financial management practices. The best financial management practice reviews are in-depth projects that involve reviewing district operations at the individual program level. Each school district is required to be reviewed at least once every five years, and districts are specified for each year of the five-year cycle. Additional reviews may be scheduled to address adverse financial condition in specific districts.

The reviews are intended to improve the use of resources and identify cost savings. The state will fully fund all reviews subject to an annual appropriation in the General Appropriations Act. Most of the funds will be used for contracted services with private firms. However, if sufficient funds are not provided to contract for all the scheduled reviews, OPPAGA will conduct the remaining scheduled reviews.

School districts successfully implementing the best financial management practices earn a "Seal of Best Financial Management." Districts that are awarded the Seal and continue to maintain the best practices may request a waiver from undergoing its next scheduled review.

Cost savings realized in unrestricted program areas (areas in which budgetary or statutory provisions do not *require* that money to be spent in that area) are to be spent at school and classroom (rather than, say, *administrative*) areas. Savings from restricted program areas are to be spent for enhancements of the restricted area.

Reviews are to be funded by state appropriation and the Office of Program Policy Analysis (OPPAGA) is to contract with private firms for performance of reviews.

Land Acquisition And Facilities Advisory Boards (section 10)
The act also provides for the appointment of Land Acquisition and Facilities Advisory Boards in instances in which the OPPAGA or the Auditor General determine that significant deficiencies exist in a specific district's land acquisition and facilities program.

Charter Schools (sections 11-14)
The act also amends statutes relating to charter schools. These changes:
- Prohibit a public school from using the term "charter" in its name or title unless the school is currently operating under a charter;
- Expand the purpose of charter schools;
- Require existing public schools to be in operation for at least two years before converting to a charter school;
- Require a school board that denies an existing public school's application to convert to a charter school to provide a written notice that specifies the exact reasons for the denial;
- Prohibit a sponsor from charging an application fee;
- Permit denied charter school applicants to file an appeal within 30 days after receiving the denial in writing;
- Authorize the establishment of charter school cooperatives;
- Authorize a charter school to limit the enrollment process in order to target additional student populations;
- Require a charter school, in conjunction with the sponsor, to annually determine its capacity;
- Provide additional criteria that must be used for the approval of a charter;
- Authorize a charter school to file an appeal when the charter is terminated immediately for certain reasons;
- Authorize a charter school to directly apply to the Commissioner of Education for certain waivers;
- Clarify that the five percent administrative fee is limited to certain funds;
- Require that PECO maintenance funds generated by a conversion charter school remain with that school;
- Require the Department of Education to distribute capital outlay funds on a monthly basis, rather than twice a year;
- Require each charter school governing board to annually adopt and maintain an operating budget; and

- Specify the eligibility criteria that a charter school student must meet in order to participate in any interscholastic extracurricular activity offered at the public school that the student would otherwise have to attend.

This act also authorizes the establishment of charter schools-in-a-municipality in order to encourage municipalities to provide the land and/or facility to be used for a charter school. The provided land and facility are exempt from ad valorem taxes.

See SECTION-BY-SECTION portion of this analysis for further details.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for citing the act as the "Sharpening the Pencil Act."

Section 2. Amends s 230.23025, F.S., to establish a new process relating to Best Financial Practices Reviews, with the following provisions:

- The Office of the Auditor General is to assist OPPAGA in examining district operations.
- Best financial management practices may be periodically updated after consultation with the Legislature, the Governor, the SMART Schools Clearinghouse, DOE, school districts and the Auditor General.
- OPPAGA submits proposed revisions to the Commissioner for review and approval.
- Practices are to be developed for, but not limited to, the following:
  - Management structures
  - Performance accountability
  - Efficient delivery of educational services, including instructional materials
  - Administrative and instructional technology
  - Personnel systems and benefits management
  - Facilities construction
  - Student transportation
  - Food service operations
  - Cost control systems, including asset management, risk management, financial management, purchasing, internal auditing, and financial auditing.
- OPPAGA shall contract for conducting reviews with private firms selected through a formal request for proposal process, to the extent that funds are provided for this purpose in the General Appropriations Act.
- The scope of the review shall focus on the best practices adopted by the Commissioner, however, OPPAGA may include additional items after seeking input from the district and the Department of Education.
- At least one member of the private firm review team shall have expertise in school district finance.
- OPPAGA is to consult with the Commissioner throughout the best practices review process to ensure that the technical expertise of DOE benefits the review process and supports the school districts before, during, and after the review.
- All districts are to be reviewed on a continuing 5-year cycle, as follows, unless specified otherwise in the General Appropriations Act: Year 1: Hillsborough, Sarasota, Collier, Okaloosa, Alachua, St. Lucie, Santa Rosa, Hernando, Indian River, Monroe, Osceola, and Bradford. Year 2: Miami-Dade, Duval, Volusia, Bay, Columbia, Suwannee, Wakulla, Baker, Union, Hamilton, Jefferson, Gadsden, and Franklin. Year 3: Palm Beach, Orange, Seminole, Lee, Escambia, Leon, Levy, Taylor, Madison, Gilchrist, Gulf, Dixie, Liberty, and Lafayette. Year 4: Pinellas, Pasco, Marion, Manatee, Clay, Charlotte, Citrus, Highlands, Nassau, Hendry, Okeechobee, Hardee, DeSoto, and Glades. Year 5: Broward, Polk,

Brevard, Lake, St. Johns, Martin, Putnam, Jackson, Flagler, Walton, Sumter, Holmes, Washington, and Calhoun.

- If unforeseen circumstances prevent initiation of reviews scheduled in a given year, the Joint Legislative Auditing Committee may adjust the schedule of districts to be reviewed.
- At the direction of the Joint Legislative Auditing Committee or the President of the Senate and the Speaker of the House of Representatives, and subject to funding by the Legislature, OPPAGA may conduct, or contract with a private firm to conduct, up to two additional best financial practices reviews during that year if such review is necessary to address adverse financial conditions.
- Districts to complete self-assessment instrument on each best practice prior to review.
- OPPAGA and the consultant conducting a review are to hold at least one advertised public forum to explain the review process and obtain input from students, parents, the business community, and other district residents.
- School district to notify all members of SAC's and district advisory council by mail that the final report has been delivered to the school district and to council chairs. Also inform members of OPPAGA website for access to the report.
- School board to hold advertised public forum to accept input and review findings and recommendations of the report. OPPAGA and consultant are to be represented.
- School board must decide, by majority plus one vote within 90 days of receive of final report, whether or not to implement the action plan. School board must notify OPPAGA and the Commissioner of the board's action or failure to act. If a district fails to vote on the action plan within 90 days, school board members may be required to appear and present testimony before a legislative committee, pursuant to s. 11.143, F.S..
- No later than one year after receipt of the final report, the district must submit an initial status report on progress toward implementing the action plan and any changes bearing on compliance with best practices.
- A second status report is to be made no later than one year after the initial report.
- Following receipt of each status report, OPPAGA is to assess the district's implementation of the action plan.
- Districts that successfully implement the best financial management practices within two years, or are determined in the review to be using best practices, are eligible to receive a "Seal of Best Financial Management" awarded by the State Board of Education.
- The Seal is effective for five years or until the next review is completed. If there are no operational or policy changes that do not comply with the best financial management practices, the district may request a waiver from the next scheduled review.
- Unrestricted cost savings resulting from implementation of the best financial management practices must be spent at the school and classroom levels for teacher salaries, teacher training, improved classroom facilities, student supplies, textbooks, classroom technology, and other direct student instruction activities. Cost savings identified for a program that has restrictive expenditure requirements shall be used for the enhancement of the specific program.

Section 3. Repeals s 11.515, F.S., which provided for school district performance reviews by OPPAGA.

Section 4. Repeals s. 230.2302, F.S., relating to the purposes of performance reviews, cost savings, and designation of districts in the General Appropriations Act.

Section 5. Repeals s. 230.23026, F.S., providing for the Florida School District Review Trust Fund and its operation.

Section 6. Amends s. 11.51(1), F.S., authorizing and empowering OPPAGA to perform specified activities as provided by general law, as provided by concurrent resolution, or as directed by the

Legislative Auditing Committee, and to provide recommendations, training, or other services to assist the Legislature; deleting reference to the statutes repealed in the preceding sections.

Section 7. Amends s. 230.23027(4), F.S., relating to the Small School District Stabilization Program, making a technical, cross-reference correction.

Section 8. Amends s 233.43(1), F.S., relating to records and accounts for funds collected from the sale, exchange, loss, or damage of instructional materials, making a technical, cross-reference correction.

Section 9. Amends s. 235.2197(2)(a), F.S., relating to the Florida Frugal Schools Program, making a technical correction and correcting a reference to the best financial management reviews under this act..

Section 10. Creates an unspecified section of law for land acquisition and facilities advisory board; establishing and providing for the appointment of Land Acquisition and Facilities Advisory Boards by the President of the Senate, Speaker of the House of Representatives, and the Governor. Each board shall consist of seven members and shall possess specific expertise needed to assist the school district in improving its deficient processes. Members are to serve without compensation, but may be reimbursed for travel and per diem.

Such boards are to be formed following determination by the director of OPPAGA or the Auditor General that significant deficiencies exist in a school district's land acquisition and facilities operational processes. Upon a determination that such a deficiency exists, the Legislative Budget Commission shall determine whether funds for the district will be placed in reserve until the deficiencies are corrected

Within 30 days of formation, the board shall convene in the district and make all reasonable efforts to help the district correct deficiencies noted in the examination or audit of the district. Within 60 days of convening, the board shall assess the district's progress and corrective actions and report to the Commissioner of Education. The report must address the release of any funds placed in reserve by the Governor.

Any recommendation for release of funds placed in reserve shall include a certification that policies established, procedures followed, and expenditures made by the school board are consistent with the advisory board's recommendations, and will accomplish corrective action and address recommendations made by OPPAGA and the Auditor General. If the advisory board does not recommend release of the funds held in reserve, they shall provide additional assistance and submit a subsequent report. Upon certification that corrective action has been taken, the advisory board is disbanded.

Section 11. Amends s. 159.27, F.S., revising the definition of "educational facility" for the purposes of the Florida Industrial Development Financing Act. Definition now includes any school owned or operated as part of the state's system of public education, including, but not limited to, a charter school or a developmental research school operated under chapter 228, F.S..

Section 12. Amends Section 228.056, F.S., to provide that:
- A public school may not use the term charter in its name unless it has been approved according to statute;
- The purpose of charter schools is expanded to providing rigorous competition with a school district to stimulate improvement of all schools, providing additional academic choices and expanding the capacity of the public school system;

- In order for a public school to apply for conversion to a charter school it must have been in operation for a least two years;
- A district must meet certain requirements in denying an application for a conversion charter school;
- A district may not charge an application fee;
- An application of appeal from a school board denial must be filed within 30 days of *receipt* of the *specific reasons for the denial*;
- Department of Education may mediate all issues relating to charter schools except the denial of an application;
- A charter school shall be exempt from the sponsor's policies;
- Charter schools may create relationships with other charter schools to deliver certain services;
- A charter school-in-a-municipality, a charter school focusing on academic, artistic or other eligibility standards, and a charter school with an articulation agreement between charter schools may limit enrollment to target students if certain conditions are met;
- The capacity of a charter school shall be determined annually by the governing board, in conjunction with the sponsor in consideration of certain factors;
- A charter school may, under certain circumstances, follow generally accepted accounting standards in lieu of the "red book";
- The governing board shall annually adopt and maintain an operating budget;
- The charter must provide for:
    - The identification and acquisition of technologies,
    - A means for ensuring accountability to its constituents by analyzing student performance data and by evaluating the effectiveness and efficiency of its major educational programs,
    - responsibilities, policies and practices to ensure effective management, including internal audit procedures and financial controls,
    - plans to ensure safety and security, and
    - strategies to recruit, hire, train and retain qualified staff;
    - the district must provide academic student performance data to charter schools for each student coming from the district schools;
    - the governing body shall exercise continuing oversight over school operations;
    - the governing board may appeal sponsor's decision to terminate the charter;
    - upon termination, the charter school, not the governing body, is responsible for all debts;
    - the governing board may apply directly to the Commissioner of Education for a waiver of statutes applicable to charter schools;
    - all charter schools submitting required student records must use Department of Education's electronic data formats and districts must accept such data;
    - the 5% administrative fee charged by districts may not include capital outlay, federal and state grants or any other funds besides FTE;
    - maintenance funds for conversion schools remain with the school;
    - charter schools in municipalities may target students who reside in the municipality;
    - any portion of the land and facility used for a public charter school in municipalities is exempt from ad valorem taxes.

Section 13. Amends Section 228.0561(1), F.S., to provide that the Department of Education shall distribute capital outlay monthly rather than biannually.

Section 14. Amends Section 232.425(3)(d), F.S., to codify the current practice of allowing charter school students to participate in activities at their "home" school.

Section 15. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Best Financial Management Practices Reviews
In order for each of the 67 school districts to be reviewed at least once every five years, OPPAGA must conduct an average of 13 to 14 reviews per year. The reviews are to be contracted out to private consultants, through OPPAGA, and are funded by the Legislature, at no expense to the school districts. Based on the cost of the nine districts reviewed since 1997, OPPAGA had estimated the annual cost to review all 67 districts within 5 years to be $4.1 million per year.

SA 147A in the 2001 GAA provides $3,200,000 for the reviews to be conducted in FY 2001-2002. As of May 22, 2001, OPPAGA has indicated that it will allocate those funds as follows:

- $968,000 for OPPAGA, including salaries for hiring 12 staff, operating capital outlay, and expenses for the new staff and travel expenses for the OPPAGA and Auditor General staff assigned.
- $2,232,000 for consultants to conduct 7 reviews.
- OPPAGA will conduct 3 reviews using OPPAGA employees.

The Year One (FY 2001-02) Schedule (according to OPPAGA):

1. Miami-Dade.	$900,000.	Consulting firm.

(Proviso language in the GAA advanced Miami-Dade from the 2002-03 cycle to the 2001-02 cycle and also earmarked $900,000 of the $3.2 million appropriated. Because of the size and complexity of the Miami-Dade project, OPPAGA will propose moving Sarasota, Collier, and Alachua districts from 2001-2002 to the 2002-2003 cycle. Section 230.23025[6][a], F.S. authorizes the Joint Legislative Auditing Committee to amend the schedule).

2. Hillsborough.	$495,000.	Consulting firm.
3. Santa Rosa.	$198,000.	Consulting firm.
4. Hernando.	$198,000.	Consulting firm.
5. Bradford.	$108,000.	Consulting firm.
6. Monroe.	$135,000.	Consulting firm.
7. Indian River.	$198,000.	Consulting firm.
8. Okaloosa.		OPPAGA staff.
9. Osceola.		OPPAGA staff.
10. St. Lucie.		OPPAGA staff.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The districts will no longer be required to provide a portion of the funding for the audits. In addition, the audits will generate cost savings for the districts. Previous best financial management practices reviews have provided potential savings amounts of $35 million, $16.4 million, $8 million and $6 million for certain districts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private consulting firms chosen by OPPAGA can expect to derive a substantial amount of business in assisting OPPAGA with these reviews.

D. FISCAL COMMENTS:

Best Financial Management Practices Reviews
Based on previous OPPAGA best financial management practices reviews each school district can implement changes in the use of resources that result in saving millions of dollars that can be used to help increase student achievement. In addition by providing the services in the best financial management practices reviews to school districts, without requiring the districts to share in the cost of the review, will produce some savings to local school districts, who currently have to pay part of the costs of the reviews.

Land Acquisition and Facilities Advisory Board
Proviso language in SA15 in the2001-2002 GAA for fixed capital outlay maintenance, repair, renovation, and remodeling funds and in SA16 for fixed capital outlay survey recommended needs for public schools provides that funds for the Miami-Dade County School Board shall be placed in reserve by the Governor's Office until the Commissioner of Education certifies that conditions for the release of funds have been met. These conditions shall include a recommendation for release of funds received from a Land Acquisition and Facilities Advisory Board appointed by the Governor and Legislature. Furthermore, "Any recommendation from the Advisory Board for the release of funds shall include certification that policies established, procedures followed, and expenditures made by the Miami-Dade County School Board related to site acquisition and facilities planning and construction are consistent with recommendations of the Land Acquisition and Facilities Advisory Board and will accomplish corrective action recommended by OPPAGA.

SA 117A in the 2001-2001 GAA provides $250,000 for the land acquisition and facilities advisory board from General Revenue.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The Commissioner of Education must adopt the best financial management practices for school districts.

C. OTHER COMMENTS:

The purpose of the best financial management practices reviews is to provide cost effective assistance to all school districts to enable them to achieve efficient and effective use of all resources available to provide a high quality education for their students.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 6, 2001, the House Committee on General Education adopted six amendments. The amendments:

- Name the act the "Sharpening the Pencil Act;"
- Clarify that the best practices must be adopted by the Commissioner of Education;
- Provide that the reviews shall include the school districts use of *all* resources;
- Require that OPPAGA contract with outside consultants and that at least one member of the consulting team have expertise in school district finance;
- Require public meetings subsequent to the issuance of the report and distribution of the report to school advisory councils and district advisory councils; and
- Provide that superintendents, in addition to school board members, are subject to being called before the legislature if the district fails to implement the best practices after having voted to implement them.

The amendments were not engrossed into the bill and are traveling with the bill.

On February 9, 2001, the House Committee on Education Appropriations heard this bill and adopted two amendments. One amendment provided that funds saved by a school district as a result of implementing the best financial management practices reviews must be spent at the school and classroom level in the district to correct student outcome deficiencies. The other amendment changed the time of the scheduled review for the Volusia school district from year 1 to year 2. The amended bill was made a Committee Substitute.

On February 21, 2001, the House Council For Lifelong Learning made three additional changes, and made the bill a Council Substitute. Those changes:

- Moved the Osceola County review from year 2 to year 1;
- Provided for an citizen appeal process, to the DOE, regarding the actions/inactions taken by the school district subsequent to the review; and

- Removed the language providing that cost savings resulting from the reviews must be redirected to the classroom (*the committee indicated that there was a technical problem with the provision and that language correcting the problem would be developed at a later date, and the provision could then be reinserted into the bill*).

Amendments were adopted on the House Floor and the Senate Floor that added provisions related to charter schools and the authority to establish Land Acquisition and Facilities Advisory Boards, when needed.

VII. SIGNATURES:

COMMITTEE ON GENERAL EDUCATION:

Prepared by:	Staff Director:
Gip Arthur	Ouida Ashworth

AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:	Staff Director:
William Cecil Golden	John Newman

AS FURTHER REVISED BY THE COUNCIL ON LIFELONG LEARNING:

Prepared by:	Staff Director:
Gip Arthur	Patricia Levesque

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON GENERAL EDUCATION:

Prepared by:	Staff Director:
Gip Arthur	Ouida Ashworth