

## **Testimony Before the Taxation and Budget Commission**

*Senator Don Gaetz*

*Chairman, Senate Education Committee (PreK-12)*

Madame Chair and Members of the Commission:

Thank you for the invitation to appear before you and, hopefully, to add some small value to your important work. I'm a freshman Senator, representing the five coastal counties of Northwest Florida. Among the assignments I've been given by President Pruitt is to chair the Senate Education Committee (PreK-12).

My background is in business and finance, co-founding and for 20 years being a principal owner of a national health care company based in Florida. I am not a professional educator, but from 2000 to 2006 was the elected Superintendent of Schools of Okaloosa County. As my daughter often reminds me, I'm not really a Superintendent of Schools but I did play one on TV.

Chairman Levine has asked that I address five specific issues that generally relate to public school funding and which may, in one way or another, affect the Commission's recommendations for constitutional or statutory change.

1. The constitutionality of educational vouchers

No matter where one stands on the voucher question, for or against, there seems to be agreement on one fact: *Bush v Holmes* has not only stopped parents whose children are in failing schools from receiving Opportunity Scholarships to attend better, private schools, but this decision has also placed a cloud of constitutional uncertainty over Florida's two other voucher programs: the McKay Scholarships, which allow disabled students to choose a private school at public expense and Corporate Scholarships, which allow companies to divert a portion of their state taxes to support vouchers used in private schools.

Voucher opponents hope that *Bush v Holmes* paves the way for McKay and Corporate Scholarships to be declared unconstitutional. Voucher proponents fear they may be right.

This issue is ripe for solution and it should be solved not by activist judges but by the people of Florida. Please do both sides a favor by placing on the ballot a proposed constitutional amendment that settles the question.

Please do parents and children a favor by permitting choice, promoting competition, and requiring accountability – financial accountability and academic accountability – from any and every school, public or private, that receives tax dollars.

2. The authority an unelected group to set the budget and tax policy

It is a historic principle of representative government in the English-speaking world that the few who are entrusted with the power to tax should be subject to the many who pay the tax – or simply stated, the taxpayers should choose the tax takers.

In higher education, this comes down to who can set college tuition -- an unelected Board of Governors or the Legislature, which is elected and can be unelected by the people.

Arguably, tuition is a form of user tax. But that's not the basis of the constitutional issue for me, as a legislator, as a taxpayer, and as a parent.

Florida has Bright Futures and Gold Seal Scholarship Programs which provide that high school students may earn, through their academic performance, 75% to 100% of college and university tuition. Bright Futures and Gold Seal are funded by the Legislature.

If the Board of Governors controls tuition they tax students and parents but this unelected group would also exercise control over the education budget of the state. By setting tuition, they have remote control over the amount the Legislature must appropriate for Gold Seal and Bright

Futures Scholarships, and consequently they control the amount the Legislature must tax in order to fund those programs.

If you think this is inconsequential and merely a scholarship program, most of the in-state students attending FSU and every single Florida student attending the University of Florida has qualified for a Bright Futures Scholarship. It is their primary source of tuition.

Florida has a pre-paid tuition program whereby students can receive full tuition for four years and room and board for up to two years paid for in advance, often with painstaking savings and sacrifice, by their parents and grandparents.

If the Board of Governors can set tuition, they also set the amounts and affect the contracts governing Florida Pre-paid.

Florida has a Take Stock in Children Scholarship Program that provides students from economically poor families, often from broken homes or tough neighborhoods, with the

promise of full college tuition for two or four years in return for academic performance and model citizenship, often very hard things for those children to deliver given the circumstances of their lives. Take Stock Scholarships are funded half by philanthropy and half by the Legislature.

If an unelected group can raise tuition, that unelected group also determines the amount of money that must be raised in donations and raised through taxes for Take Stock in Children.

Here's the constitutional issue: If the Board of Governors sets tuition, they become the automatic pilot on legislative appropriations and tax policy. If appropriations and tax policy are controlled by someone other than the Legislature, then the people's representatives can shrug, point to the Board of Governors, and thereby evade their constitutional budgetary responsibility and authority.

Who should decide if this constitutional shift should occur, if this control should be given to a Board of Governors, the members of which could not be identified by 1/100<sup>th</sup> of 1 percent of Floridians and are not chosen and cannot be removed by Floridians?

I hope you will take up this question and allow the people of Florida to resolve it by placing on the ballot a constitutional amendment that confirms that the Legislature has the responsibility and authority to balance competing priorities, establish and be accountable for a state budget, and provide the resources for our state colleges and universities.

3. The inadequacy of “uniformity” to describe public education in the Constitution.

Article 9, Section 1 of the Constitution speaks of the responsibility of the State to provide a “uniform, safe, secure, quality education” for our children.

The last thing any of us want is any backsliding toward separate but unequal education for minorities, for the poor, for people in rural areas or urban centers or anywhere else.

But a constitutional mandate for uniformity may assume or could be construed by a court to assume that every child will go to a neighborhood school, open the same text to the same lesson taught by the same kind of teacher standing in front of the class...and then go home on the yellow school bus at the end of a school day that was funded in the same way all across Florida.

That's not how education is delivered, it's not how education should be delivered. Education shouldn't be uniform. It should be customized, individualized as much as possible to the needs of every child.

The Florida Education Finance Program (FEFP) pays more for a student who is disabled because it costs more to teach him, and less for a seventh grader than for a fourth grader who is gifted.



By the same token, more and more Florida students now and in the future will go to a brick schoolhouse part of the year or not at all, because of the option of on-line, virtual education. An Okaloosa student who is a championship fisherman completed her junior year in high school on line aboard a fishing boat off the coast of Australia.

Today, in one part of Florida, students are home schooled in the morning and attend a “blended school” class provided and funded by a public school system but taught in a church fellowship hall or at a marine laboratory or at a university in the afternoon.

Now, through the CHOICE Institutes, students in a dozen counties are simultaneously earning public high school diplomas, national industry certifications through curricula developed and credentials granted by the private sector, and public and private university credits at no cost to their families --- all of these different benefits achieved simultaneously by the same course. Some students earn their credentials in three months, others take six, others twelve.

A “uniform” education guaranteed by the Constitution? Not for these students. Their educational programs, their schools, their coursework, their results are highly customized.

The funding formula that governs K-12 public education assumes that most students ride the yellow bus, all go to school in buildings with a principal, a library, a guidance counselor, a cafeteria, and a football team and cheerleaders. But none of those students or programs I described fit this uniform model.

The funding formula that governs K-12 education pays for only one thing: not quality curricula, not learning, not results. The FEFP pays only for seat time. The funding model pays for every student to take 6 hours a day for 182 days sitting in a classroom with a teacher in front of the class to complete his coursework, even though some can do it in 4 hours a day for 150 days and others need 9 hours a day for 220 days.

Students have to put in the seat time in the classroom with a teacher in order for the school to get paid. Uniformity.

Consequently, our funding system discourages customized learning, disincentivizes innovation, and financially penalizes school districts that use research-proven methods of teaching and learning that go far beyond the brick schoolhouse, 6 hours a day, 182 days a year.

“Uniformity” is a poor fit. I ask you to consider recommending to the Legislature that educational funding formulas be changed to fit student needs by paying school districts for results, not for seat time. If your daughter can take Latin on line and finish it, mastering the course, in half the time, let us not hold her hostage until the end of the year. Let her move on to Latin II and pay the school district for the course.

If my son requires 14 months to achieve his advanced Microsoft certification in the high school’s information

technology institute, let's stay with him until he finishes but let's pay the school district one price not a price and a half.

Put simply, recommend to the Legislature that seat time should not be the determinant of funding. Recommend to the Legislature that we encourage and reward school districts for customizing, not levelizing education.

4. Allow voters in over-sized school districts to choose smaller school districts with more local character and control.

Some states have too many small school districts. In those balkanized states, every small city and town is its own school district. Every few miles there's another School Board, another Superintendent. By contrast, Florida has some school districts larger than states. Voters should be able to choose a sensible middle ground.

In the past, a bipartisan legislative coalition came within one vote of the necessary 2/3's majority to place on the constitutional ballot a measure permitting electors of the very

largest school districts to determine for themselves whether to downsize to a more manageable model.

A very wise principal in Miami told me the perfect size of an elementary school is the number of students she could recognize and call by their names.

But in some places in Florida there are principals who have never met the Superintendent of Schools, never had a face to face conversation, the Superintendent has never even driven by the school let alone spend time with teachers, parents and students there. Not because the Superintendent is insensitive or inaccessible but because there are too many schools, too many principals, scores of thousands, hundreds of thousands of students, layers and layers of administrative supervisors between the Superintendent and the person leading the school.

Parents can feel cut off, teachers can be anonymous, principals can be far removed from a school district that is too large. I realize there are many factors that affect results

but I don't believe it's entirely coincidental that below average performance and above average costs are associated with over-sized school systems.

I also acknowledge that my South Florida friends are right when they say we in Okaloosa County were at a decided advantage as we rose from the middle of the pack in academic ranking to the state's highest performing school district by having 30,000 students, not 200,000 students...by having 38 schools, not 200 schools...by having one person between me and the principal.

A more manageable size and scale doesn't guarantee success or competence. But decentralized management seems to work better in every industry, especially in organizations whose mission is to help and care for people.

Therefore, may I suggest that you consider constitutional language that would allow those most involved and affected – the electors of the state's largest school districts – to decide this question for themselves by referendum instead of the

current arrangement which mandates that a school system must always be the size of a county.

Even if one county contained two or three or four school districts, property taxes would still be collected county-wide and smaller districts would still receive revenues based on their enrollment, as adjusted by the Florida Education Finance Program rules.

One note of caution: a voter-approved breakup of large districts should not result in administrative metastasis. The worst result if a large county chose to create four districts would be two or three or four times as much district overhead and administrative cost. To prevent this unhappy consequence, the constitutional language or the language used in local referenda on the issue or enabling legislation should limit overhead to no more, and hopefully less, than the amount and percentage already occurring under a mega-district structure.

5. Consider a Constitutional trade-off: maintain small class sizes where they are now, at a school average, as a way of funding the “costs” to education from a property tax cut.

Critics of the Legislature’s action on tax cuts – both the statutory provisions that require a reduction in property taxes and then a limit on future tax increases and the constitutional proposal for a super homestead exemption – argue that public education will be shortchanged if property taxes are reduced and limited.

The worst estimate of how much K-12 education will “lose” over five years is \$7 billion or \$1.6 billion per year. That estimate was offered during the legislative session by tax cut opponents. But that dire estimate has already been revised downward.

The \$1.6 billion annual education funding “gap” assumed using the current assessment process and current values. But based on the Tax Roll Forecast from the Department of Revenue, values are expected to slowly rise over the next five



years. That factor alone will reduce the “gap” by about \$600 million a year.

Therefore, the net “gap” caused by the super homestead exemption is more like \$1 billion a year, recurring, according to the Senate Appropriations Committee professional staff.

Now we’re down to \$5 billion that the super homestead exemption will “cost” the education budget.

Next, please consider the dramatic change in K-12 enrollment in Florida. In 2002-2003, enrollment increased by 44,000 students over the previous year. In 2003-2004, total enrollment jumped by 59,000 students. The next year the increase was 52,000 more students. Last year, 2005-2006, state-wide K-12 enrollment was up another 32,000 students.

But this year, enrollment actually went down by 3,600 students, next year projected enrollment is only up by 4,800

students, and long-range projections are that enrollment will grow, if at all, by a half a percent to one percent per year.

Lower enrollment growth reduces costs. Using current data and revised projections, the annual savings from lower enrollment growth will be \$1.3 billion in 2010. We'll spend \$1.3 billion less than we thought we'd have to spend because the number of new students is increasing at a slower rate in the future than in the past.

What else happens in 2010 to education funding? That's the year when constitutional class size mandates reach their final and most restrictive phase.

As you are aware, class size limits in the Constitution are 1 teacher to 18 students in K-3, 1 teacher to 22 students in grades 4-8 and 25 students per teacher in grades 9-12. Implementation comes in three phases. First, a district average.

During that phase, class sizes could vary some between rooms in a school and between schools so long as the district average of 18, 22, and 25 were maintained.

Now we're in the second phase of implementation. The same class sizes apply but they now must be managed on a school average. Mrs. Jones third grade class may have 19 students so long as some other third grade class in that school has 17 students, achieving a school average of 18 per class.

The last phase limits each class to 18 students in K-3, 22 students in 4-8 and 25 students in 9-12. There is no averaging. There is no flexibility. There are no time delays or mitigating circumstances. If, in March, the 19<sup>th</sup> third grader presents himself at Leaky Overshoe Elementary School, the school must immediately hire a teacher in March who nobody wanted to hire in August and create a classroom right now, haul in another portable, and split third grade.

I'm sorry your daughter loves her teacher. I'm sorry that teacher is especially trained to deal with your daughter's

individual learning needs. But the 19<sup>th</sup> child showed up and we have to split the class to achieve precise class size reduction requirements and your daughter will be moving to the rented portable and will have the new teacher we and every other school in the district passed over last summer.

And, by the way, we will need from you, as taxpayers, another \$1.8 billion in recurring funds each year to implement and continue to be compliant with that inflexible requirement that every third grade class in every school in Florida on every day of the school year must have no more than 18 students. Because we have to hire that additional teacher and supply that additional classroom.

Or, you could recommend to the voters a constitutional trade. We have already spent over \$10 billion to get through phases one and two, to achieve the school average in class size. Classes in Florida are small.

DOE estimates we're already 12,000 teachers short, we're filling in with substitutes right now, some don't have degrees.

A constitutional trade could be structured like this:

Continue with Florida's small classes, keep the limits at 18, 22, and 25. But stop at the school average. Allow Mrs. Jones to have 19 students. Mr. Smith can have 17 and so can Mrs. Wilson. And when that student transfers in on March 1, we won't have to split the classes and send your daughter out to the portable. It'll still be tight but we'll manage class size within our school.

Better for parents. Better for students. No hardship for teachers, they've already seen a significant reduction in the sizes of their classes and the school average would still be in the Constitution.

By maintaining the same class size limits managed within a school average, public education will cost \$1.8 billion per year less than the highly restrictive, practically unmanageable, individual class size limit now constitutionally mandated in 2010.

In general terms, here's the math for a constitutional trade-off: (Based on an analysis done by the Senate Appropriations Committee and Department of Revenue)

The conservative small increases in property rolls projected over the next five years, broadening the tax base even with tax cuts....that narrows the \$7 billion gap by \$600 million a year.

The lower enrollment growth, as contrasted with previous experience....that means we'll be paying out \$1.3 billion less than expected in 2010.

Stopping the class size reduction schedule at the school average....that saves \$1.8 billion in annual recurring costs.

Even if property values don't slowly move up and even if enrollment rises higher than projected, we can use common sense in class size reduction to offset the "costs" education would otherwise incur by cutting property taxes.

Please consider placing on the ballot a constitutional amendment that will permit the voters to choose significant and substantial class size reduction, with some limited flexibility within each school, and a property tax cut that will allow Floridians to keep, save, invest and spend more of their own money.

Will Rogers said a politician's dream was the intersection of conscience and convenience....and this trade might meet that standard.

Commissioners, you have an extraordinary and historic opportunity.

If you turn to the people of Florida to settle the great constitutional questions of vouchers and choice and of where the power to tax and control the budget should be reposed...

If you ensure that constitutional "uniformity" does not inhibit customized, individualized, more effective education....

If you permit some local control of the size of school districts and thereby allow voters to choose what may be a more manageable, more customer-friendly, perhaps more successful model of governance....

And if you consider a constitutional trade: small class sizes with some common sense flexibility as a way to help fund a property tax cut to stimulate the economy....

Then, thanks to you, I believe we will have better schools, a better education for our children and a better Florida.