



K – 20 Competitiveness Subcommittee

Wednesday, February 23, 2011

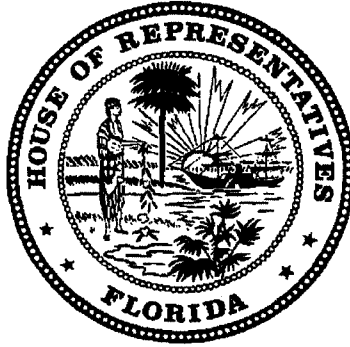
10:15 AM – 4:00 PM

17 HOB

Meeting Packet

**Dean Cannon
Speaker**

**Erik Fresen
Chair**



AGENDA

K-20 Competitiveness Subcommittee
February 23, 2011
10:15 a.m. – 4:00 p.m.
17 HOB

- I. Call to order/Roll Call
- II. Opening Remarks
- III. Presentations by Department of Education
 - Value Added Model
 - Educator Employment Contracts
 - Florida's Race to the Top Memorandum of Understanding – Commitments and Scope of Work
- IV. Consideration of the following proposed committee bill:
 - PCB KCOS 11-01
- V. Closing Remarks and Adjournment

SUBCOMMITTEE AMENDMENT

PCB Name: PCB KCOS 11-01 (2011)

Amendment No. 1

SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Subcommittee hearing PCB: K-20 Competitiveness Subcommittee
2 Representative(s) Fresen offered the following:

3
4 **Amendment**

5 Remove lines 733-735 and insert:

6 3. Has not received two consecutive annual performance
7 evaluation ratings of unsatisfactory, two annual performance
8 evaluation ratings of unsatisfactory within a 3-year period, or
9 three consecutive annual performance evaluation ratings of needs
10 improvement or a combination of needs improvement and
11 unsatisfactory under s. 1012.34.
12

Amendment No. 2

SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Subcommittee hearing PCB: K-20 Competitiveness Subcommittee
 2 Representative(s) Fresen offered the following:

Amendment

5 Remove lines 869-875 and insert:

6 (5) REPORT.-

7 (a) Beginning July 1, 2012, the Department of Education
 8 shall annually report on its website, in a manner that is
 9 accessible to the public, the performance rating data reported
 10 by district school boards under s. 1012.34. The report must
 11 include the percentage of classroom teachers, instructional
 12 personnel, and school administrators receiving each performance
 13 rating aggregated by school district and by school.

14 (b) Notwithstanding the provisions of s. 1012.31(3)(a)2.,
 15 each school district shall annually report to the parent of any
 16 student who is assigned to a classroom teacher or school
 17 administrator having two consecutive annual performance
 18 evaluation ratings of unsatisfactory under s. 1012.34, two
 19 annual performance evaluation ratings of unsatisfactory within a

SUBCOMMITTEE AMENDMENT

PCB Name: PCB KCOS 11-01 (2011)

Amendment No. 2

20 3-year period under s. 1012.34, or three consecutive annual
21 performance evaluation ratings of needs improvement or a
22 combination of needs improvement and unsatisfactory under s.
23 1012.34. Schools

Amendment No. 3

SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Subcommittee hearing PCB: K-20 Competitiveness Subcommittee
 2 Representative(s) Fresen offered the following:

Amendment

5 Remove lines 955-958 and insert:
 6 misconduct in office, incompetency, two consecutive annual
 7 performance evaluation ratings of unsatisfactory under s.
 8 1012.34, two annual performance evaluation ratings of
 9 unsatisfactory within a 3-year period under s. 1012.34, three
 10 consecutive annual performance evaluation ratings of needs
 11 improvement or a combination of needs improvement and
 12 unsatisfactory under s. 1012.34, gross insubordination, willful
 13 neglect

Amendment No. 4

SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Subcommittee hearing PCB: K-20 Competitiveness Subcommittee
 2 Representative(s) Fresen offered the following:

Amendment

5 Remove lines 1003-1007 and insert:

6 (d)(e) A professional service contract shall be renewed each
 7 year unless:

8 1. The district school superintendent, after receiving the
 9 recommendations required by s. 1012.34, charges the employee
 10 with unsatisfactory performance and notifies the employee of
 11 performance deficiencies as required by s. 1012.34; or

12 2. The employee receives two consecutive annual
 13 performance evaluation ratings of unsatisfactory under s.
 14 1012.34, two annual performance evaluation ratings of
 15 unsatisfactory within a 3-year period under s. 1012.34, or three
 16 consecutive annual performance evaluation ratings of needs
 17 improvement or a combination of needs improvement and
 18 unsatisfactory under s. 1012.34.

1 A bill to be entitled
 2 An act relating to education personnel; providing a short
 3 title; amending s. 1012.34, F.S.; revising provisions
 4 relating to the evaluation of instructional personnel and
 5 school administrators; requiring the Department of
 6 Education to approve each school district's instructional
 7 personnel and school administrator evaluation systems;
 8 requiring reporting by the Commissioner of Education
 9 relating to the evaluation systems; providing requirements
 10 and revising procedures and criteria for the evaluation
 11 systems; requiring the commissioner to approve or select
 12 and the State Board of Education to adopt formulas for
 13 school districts to use in measuring student learning
 14 growth; requiring the state board to adopt rules relating
 15 to standards and measures for implementation of the
 16 evaluation systems; amending s. 1008.22, F.S.; requiring
 17 school districts to administer assessments for each course
 18 offered in the district; amending s. 1012.22, F.S.;
 19 revising provisions relating to instructional personnel
 20 and school administrator compensation and salary
 21 schedules; providing requirements for a performance salary
 22 schedule, a grandfathered salary schedule, adjustments,
 23 and supplements; revising criteria for the promotion of
 24 instructional personnel; creating s. 1012.335, F.S.;
 25 providing employment criteria for instructional personnel
 26 hired on or after July 1, 2011; providing definitions;
 27 providing grounds for suspension or dismissal; requiring
 28 rules to define the term "just cause"; providing that

29 | certain individuals who are hired as instructional
 30 | personnel are ineligible for contracts issued under s.
 31 | 1012.33, F.S.; amending s. 1002.33, F.S.; requiring
 32 | charter schools to comply with provisions relating to
 33 | compensation and salary schedules, workforce reductions,
 34 | contracts with instructional personnel hired on or after
 35 | July 1, 2011, and certain requirements for performance
 36 | evaluations; amending s. 1003.621, F.S.; requiring
 37 | academically high-performing school districts to comply
 38 | with additional requirements for personnel; amending s.
 39 | 1006.09, F.S.; conforming provisions to changes made by
 40 | the act; amending s. 1012.07, F.S.; revising the
 41 | methodology for determining critical teacher shortage
 42 | areas; amending s. 1012.2315, F.S.; providing a reporting
 43 | requirement relating to instructional personnel and school
 44 | administrator performance; amending s. 1012.27, F.S.;
 45 | revising the criteria for transferring a teacher;
 46 | conforming provisions to changes made by the act; amending
 47 | s. 1012.28, F.S.; authorizing a principal to refuse to
 48 | accept the placement or transfer of instructional
 49 | personnel under certain circumstances; amending s.
 50 | 1012.33, F.S.; revising provisions relating to contracts
 51 | with certain education personnel; revising just cause
 52 | grounds for dismissal; deleting provisions to conform to
 53 | changes made by the act; requiring that a district school
 54 | board's decision to retain personnel be primarily based on
 55 | the employee's performance; repealing s. 1012.52, F.S.,
 56 | relating to legislative intent and findings to improve

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57 student achievement and teacher quality; amending s.
 58 1012.795, F.S.; conforming provisions to changes made by
 59 the act; authorizing exemption from requirements for
 60 performance evaluation systems and compensation and salary
 61 schedules for certain school districts; providing that
 62 specified provisions of law do not apply to rulemaking
 63 required to administer the act; providing for the repeal
 64 of certain special acts or general laws of local
 65 application relating to contracts for instructional
 66 personnel; providing for application of specified
 67 provisions of the act; providing for severability;
 68 providing effective dates.

69
 70 Be It Enacted by the Legislature of the State of Florida:

71 Section 1. This act may be cited as the "Student Success
 72 Act."

73 Section 2. Effective upon this act becoming a law, section
 74 1012.34, Florida Statutes, is amended to read:

75 1012.34 Personnel evaluation ~~Assessment~~ procedures and
 76 criteria.—

77 (1) EVALUATION SYSTEM APPROVAL AND REPORTING.—

78 (a) For the purpose of increasing student learning growth
 79 by improving the quality of instructional, administrative, and
 80 supervisory services in the public schools of the state, the
 81 district school superintendent shall establish procedures for
 82 evaluating ~~assessing~~ the performance of duties and
 83 responsibilities of all instructional, administrative, and
 84 supervisory personnel employed by the school district. The

85 district school superintendent shall annually report the
 86 evaluation results of instructional personnel and school
 87 administrators to the Department of Education in addition to the
 88 information required under subsection (5).

89 (b) ~~The department of Education~~ must approve each school
 90 district's instructional personnel and school administrator
 91 evaluation systems ~~assessment system~~. The department shall
 92 monitor each district's implementation of its instructional
 93 personnel and school administrator evaluation systems for
 94 compliance with the requirements of this section.

95 (c) By December 1, 2012, the Commissioner of Education
 96 shall report to the Governor, the President of the Senate, and
 97 the Speaker of the House of Representatives the approval and
 98 implementation status of each school district's instructional
 99 personnel and school administrator evaluation systems. The
 100 report shall include performance evaluation results for the
 101 prior school year for instructional personnel and school
 102 administrators using the four levels of performance specified in
 103 paragraph (2)(e). The performance evaluation results for
 104 instructional personnel shall be disaggregated by classroom
 105 teachers, as defined in s. 1012.01(2)(a), excluding substitute
 106 teachers, and all other instructional personnel, as defined in
 107 s. 1012.01(2)(b)-(d). The commissioner shall continue to report,
 108 by December 1 each year thereafter, each school district's
 109 performance evaluation results and the status of any evaluation
 110 system revisions requested by a school district pursuant to
 111 subsection (6).

112 (2) EVALUATION SYSTEM REQUIREMENTS.—The evaluation systems

113 for instructional personnel and school administrators must
 114 ~~following conditions must be considered in the design of the~~
 115 ~~district's instructional personnel assessment system:~~

116 (a) ~~The system must~~ Be designed to support effective
 117 instruction and student learning gains, and performance
 118 evaluation results must be used when developing district and
 119 school level improvement plans.

120 (b) ~~The system must~~ Provide appropriate instruments,
 121 procedures, and criteria for continuous quality improvement of
 122 the professional skills of instructional personnel and school
 123 administrators, and performance evaluation results must be used
 124 when identifying professional development opportunities.

125 (c) ~~The system must~~ Include a mechanism to examine
 126 performance data from multiple sources, including opportunities
 127 for give parents an opportunity to provide input into employee
 128 performance evaluations assessments when appropriate.

129 (d) Identify ~~In addition to addressing generic teaching~~
 130 ~~competencies, districts must determine those teaching fields for~~
 131 ~~which special~~ evaluation procedures and criteria are necessary
 132 ~~will be developed.~~

133 (e) Differentiate among four levels of performance as
 134 follows:

- 135 1. Highly effective.
- 136 2. Effective.
- 137 3. Needs improvement, or for instructional personnel in
 138 the first 3 years of employment who need improvement,
 139 developing.
- 140 4. Unsatisfactory. ~~Each district school board may~~

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141 | ~~establish a peer assistance process. The plan may provide a~~
 142 | ~~mechanism for assistance of persons who are placed on~~
 143 | ~~performance probation as well as offer assistance to other~~
 144 | ~~employees who request it.~~

145 | (f) ~~The district school board shall~~ Provide for training
 146 | programs that are based upon guidelines provided by the
 147 | department ~~of Education~~ to ensure that all individuals with
 148 | evaluation responsibilities understand the proper use of the
 149 | evaluation assessment criteria and procedures.

150 | (g) Include a process for monitoring and evaluating the
 151 | effective and consistent use of the evaluation criteria by
 152 | employees with evaluation responsibilities.

153 | (h) Include a process for monitoring and evaluating the
 154 | effectiveness of the system itself in improving instruction and
 155 | student learning.

156 |
 157 | In addition, each district school board may establish a peer
 158 | assistance process. This process may be a part of the regular
 159 | evaluation system or used to assist employees placed on
 160 | performance probation, beginning classroom teachers, or those
 161 | who request assistance.

162 | (3) EVALUATION PROCEDURES AND CRITERIA. ~~The assessment~~
 163 | ~~procedure for~~ Instructional personnel and school administrator
 164 | performance evaluations ~~administrators~~ must be primarily based
 165 | upon ~~on~~ the performance of students assigned to their classrooms
 166 | or schools, as provided in this section ~~appropriate~~. Pursuant to
 167 | this section, a school district's performance evaluation
 168 | ~~assessment~~ is not limited to basing unsatisfactory performance

169 of instructional personnel and school administrators solely upon
 170 student performance, but may include other criteria approved to
 171 evaluate ~~assess~~ instructional personnel and school
 172 administrators' performance, or any combination of student
 173 performance and other approved criteria. Evaluation ~~The~~
 174 procedures and criteria must comply with, but are not limited
 175 to, the following ~~requirements~~:

176 (a) A ~~An~~ performance evaluation ~~assessment~~ must be
 177 conducted for each employee at least once a year, except that a
 178 classroom teacher, as defined by s. 1012.01(2)(a), excluding
 179 substitute teachers, who is newly hired by the district school
 180 board must be observed and evaluated at least twice in the first
 181 year of teaching in the school district. The performance
 182 evaluation ~~assessment~~ must be based upon sound educational
 183 principles and contemporary research in effective educational
 184 practices. ~~The assessment must primarily use data and indicators~~
 185 ~~of improvement in student performance assessed annually as~~
 186 ~~specified in s. 1008.22 and may consider results of peer reviews~~
 187 ~~in evaluating the employee's performance. Student performance~~
 188 ~~must be measured by state assessments required under s. 1008.22~~
 189 ~~and by local assessments for subjects and grade levels not~~
 190 ~~measured by the state assessment program.~~ The evaluation
 191 ~~assessment~~ criteria must include, ~~but are not limited to,~~
 192 ~~indicators that relate to the following:~~

- 193 1. Performance of students. At least 50 percent of a
 194 performance evaluation must be based upon data and indicators of
 195 student learning growth assessed annually by statewide
 196 assessments or, for subjects and grade levels not measured by

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197 statewide assessments, by school district assessments as
 198 provided in s. 1008.22(8). Each school district must use the
 199 formula adopted pursuant to paragraph (7)(a) for measuring
 200 student learning growth in all courses associated with statewide
 201 assessments and must select an equally appropriate formula for
 202 measuring student learning growth for all other grades and
 203 subjects, except as otherwise provided in subsection (7).

204 a. For classroom teachers, as defined in s. 1012.01(2)(a),
 205 excluding substitute teachers, the student learning growth
 206 portion of the evaluation must include growth data for at least
 207 3 years of students assigned to the teacher. If less than 3
 208 years of data are available, the years for which data are
 209 available must be used and the percentage of the evaluation
 210 based upon student learning growth may be reduced to not less
 211 than 40 percent.

212 b. For instructional personnel who are not classroom
 213 teachers, the student learning growth portion of the evaluation
 214 must include growth data on statewide assessments for at least 3
 215 years of students assigned to the instructional personnel, or
 216 may include a combination of student learning growth data and
 217 other measureable student outcomes that are specific to the
 218 assigned position, provided that the student learning growth
 219 data accounts for not less than 30 percent of the evaluation. If
 220 less than 3 years of student growth data are available, the
 221 years for which data are available must be used and the
 222 percentage of the evaluation based upon student learning growth
 223 may be reduced to not less than 20 percent.

224 c. For school administrators, the student learning growth

225 portion of the evaluation must include growth data as defined in
 226 subsection (7) for at least 3 years of students assigned to the
 227 school. If less than 3 years of data are available, the years
 228 for which data are available must be used and the percentage of
 229 the evaluation based upon student learning growth may be reduced
 230 to not less than 40 percent.

231 2. Instructional practice. Evaluation criteria used when
 232 annually observing classroom teachers, as defined in s.
 233 1012.01(2)(a), excluding substitute teachers, must include
 234 indicators based upon each of the Florida Educator Accomplished
 235 Practices adopted by the State Board of Education. For
 236 instructional personnel who are not classroom teachers,
 237 evaluation criteria must be based upon indicators of the Florida
 238 Educator Accomplished Practices and may include specific job
 239 expectations related to student support.

240 3. Instructional leadership. For school administrators,
 241 evaluation criteria must include indicators based upon each of
 242 the leadership standards adopted by the State Board of Education
 243 under s. 1012.986, including performance measures related to the
 244 effectiveness of classroom teachers in the school, the
 245 administrator's appropriate use of evaluation criteria and
 246 procedures, recruitment and retention of effective and highly
 247 effective classroom teachers, improvement in the percentage of
 248 instructional personnel evaluated at the highly effective or
 249 effective level, and other leadership practices that result in
 250 student learning growth. The system may include a means to give
 251 parents and instructional personnel an opportunity to provide
 252 input into the administrator's performance evaluation.

253 4. Professional and job responsibilities. For
 254 instructional personnel and school administrators, other
 255 professional and job responsibilities must be included as
 256 adopted by the State Board of Education. The district school
 257 board may identify additional professional and job
 258 responsibilities.

259 ~~2. Ability to maintain appropriate discipline.~~

260 ~~3. Knowledge of subject matter. The district school board~~
 261 ~~shall make special provisions for evaluating teachers who are~~
 262 ~~assigned to teach out of field.~~

263 ~~4. Ability to plan and deliver instruction and the use of~~
 264 ~~technology in the classroom.~~

265 ~~5. Ability to evaluate instructional needs.~~

266 ~~6. Ability to establish and maintain a positive~~
 267 ~~collaborative relationship with students' families to increase~~
 268 ~~student achievement.~~

269 ~~7. Other professional competencies, responsibilities, and~~
 270 ~~requirements as established by rules of the State Board of~~
 271 ~~Education and policies of the district school board.~~

272 (b) All personnel must be fully informed of the criteria
 273 and procedures associated with the evaluation ~~assessment~~ process
 274 before the evaluation ~~assessment~~ takes place.

275 (c) The individual responsible for supervising the
 276 employee must evaluate ~~assess~~ the employee's performance. The
 277 evaluation system may provide for the evaluator to consider
 278 input from other personnel trained under paragraph (2)(f). The
 279 evaluator must submit a written report of the evaluation
 280 ~~assessment~~ to the district school superintendent for the purpose

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281 of reviewing the employee's contract. The evaluator must submit
 282 the written report to the employee no later than 10 days after
 283 the evaluation ~~assessment~~ takes place. The evaluator must
 284 discuss the written evaluation report ~~of assessment~~ with the
 285 employee. The employee shall have the right to initiate a
 286 written response to the evaluation ~~assessment~~, and the response
 287 shall become a permanent attachment to his or her personnel
 288 file.

289 (d) The evaluator may amend an evaluation based upon
 290 assessment data from the current school year if the data becomes
 291 available within 90 days after the close of the school year. The
 292 evaluator must then comply with the procedures set forth in
 293 paragraph (c).

294 (4) NOTIFICATION OF UNSATISFACTORY PERFORMANCE.—If an
 295 employee who holds a professional service contract as provided
 296 in s. 1012.33 is not performing his or her duties in a
 297 satisfactory manner, the evaluator shall notify the employee in
 298 writing of such determination. The notice must describe such
 299 unsatisfactory performance and include notice of the following
 300 procedural requirements:

301 (a)~~1.~~ Upon delivery of a notice of unsatisfactory
 302 performance, the evaluator must confer with the employee who
 303 holds a professional service contract, make recommendations with
 304 respect to specific areas of unsatisfactory performance, and
 305 provide assistance in helping to correct deficiencies within a
 306 prescribed period of time.

307 (b)~~1.2.a.~~ If the employee holds a professional service
 308 contract ~~as provided in s. 1012.33~~, the employee shall be placed

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309 on performance probation and governed by the provisions of this
 310 section for 90 calendar days following the receipt of the notice
 311 of unsatisfactory performance to demonstrate corrective action.
 312 School holidays and school vacation periods are not counted when
 313 calculating the 90-calendar-day period. During the 90 calendar
 314 days, the employee who holds a professional service contract
 315 must be evaluated periodically and apprised of progress achieved
 316 and must be provided assistance and inservice training
 317 opportunities to help correct the noted performance
 318 deficiencies. At any time during the 90 calendar days, the
 319 employee who holds a professional service contract may request a
 320 transfer to another appropriate position with a different
 321 supervising administrator; however, if a transfer is granted
 322 pursuant to ss. 1012.27(1) and 1012.28(6), it does not extend
 323 the period for correcting performance deficiencies.

324 ~~2.b.~~ Within 14 days after the close of the 90 calendar
 325 days, the evaluator must evaluate ~~assess~~ whether the performance
 326 deficiencies have been corrected and forward a recommendation to
 327 the district school superintendent. Within 14 days after
 328 receiving the evaluator's recommendation, the district school
 329 superintendent must notify the employee who holds a professional
 330 service contract in writing whether the performance deficiencies
 331 have been satisfactorily corrected and whether the district
 332 school superintendent will recommend that the district school
 333 board continue or terminate his or her employment contract. If
 334 the employee wishes to contest the district school
 335 superintendent's recommendation, the employee must, within 15
 336 days after receipt of the district school superintendent's

337 recommendation, submit a written request for a hearing. The
 338 hearing shall be conducted at the district school board's
 339 election in accordance with one of the following procedures:
 340 a. ~~(I)~~ A direct hearing conducted by the district school
 341 board within 60 days after receipt of the written appeal. The
 342 hearing shall be conducted in accordance with the provisions of
 343 ss. 120.569 and 120.57. A majority vote of the membership of the
 344 district school board shall be required to sustain the district
 345 school superintendent's recommendation. The determination of the
 346 district school board shall be final as to the sufficiency or
 347 insufficiency of the grounds for termination of employment; or
 348 b. ~~(II)~~ A hearing conducted by an administrative law judge
 349 assigned by the Division of Administrative Hearings of the
 350 Department of Management Services. The hearing shall be
 351 conducted within 60 days after receipt of the written appeal in
 352 accordance with chapter 120. The recommendation of the
 353 administrative law judge shall be made to the district school
 354 board. A majority vote of the membership of the district school
 355 board shall be required to sustain or change the administrative
 356 law judge's recommendation. The determination of the district
 357 school board shall be final as to the sufficiency or
 358 insufficiency of the grounds for termination of employment.
 359 (5) ~~(4)~~ ADDITIONAL NOTIFICATIONS.—The district school
 360 superintendent shall annually notify the department of any
 361 instructional personnel or school administrators who receive two
 362 consecutive unsatisfactory evaluations. The district school
 363 superintendent shall also notify the department of any
 364 instructional personnel or school administrators ~~and~~ who are

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365 | ~~have been given written notice by the district of intent to~~
 366 | ~~terminate or not renew that their employment is being terminated~~
 367 | ~~or is not being renewed or that the district school board~~
 368 | ~~intends to terminate, or not renew, their employment.~~ The
 369 | department shall conduct an investigation to determine whether
 370 | action shall be taken against the certificateholder pursuant to
 371 | s. 1012.795(1)(e).

372 | ~~(5) The district school superintendent shall develop a~~
 373 | ~~mechanism for evaluating the effective use of assessment~~
 374 | ~~criteria and evaluation procedures by administrators who are~~
 375 | ~~assigned responsibility for evaluating the performance of~~
 376 | ~~instructional personnel. The use of the assessment and~~
 377 | ~~evaluation procedures shall be considered as part of the annual~~
 378 | ~~assessment of the administrator's performance. The system must~~
 379 | ~~include a mechanism to give parents and teachers an opportunity~~
 380 | ~~to provide input into the administrator's performance~~
 381 | ~~assessment, when appropriate.~~

382 | ~~(6) Nothing in this section shall be construed to grant a~~
 383 | ~~probationary employee a right to continued employment beyond the~~
 384 | ~~term of his or her contract.~~

385 | (6)(7) ANNUAL REVIEW AND REVISIONS TO THE SCHOOL DISTRICT
 386 | EVALUATION SYSTEMS.—The district school board shall establish a
 387 | procedure for annually reviewing instructional personnel and
 388 | school administrator evaluation assessment systems to determine
 389 | compliance with this section. All substantial revisions to an
 390 | approved system must be reviewed and approved by the district
 391 | school board before being used to evaluate ~~assess~~ instructional
 392 | personnel or school administrators. Upon request by a school

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393 | district, the department shall provide assistance in developing,
 394 | improving, or reviewing an evaluation ~~assessment~~ system.

395 | (7) MEASUREMENT OF STUDENT LEARNING GROWTH.—

396 | (a) By June 1, 2011, the Commissioner of Education shall
 397 | approve a formula to measure individual student learning growth
 398 | on the Florida Comprehensive Assessment Test (FCAT) administered
 399 | under s. 1008.22(3)(c)1. The formula must take into
 400 | consideration each student's prior assessment performance on the
 401 | subject tested. The formula must not set different expectations
 402 | for student learning growth based upon a student's gender, race,
 403 | ethnicity, or socioeconomic status. In the development of the
 404 | formula, the commissioner shall consider other factors such as a
 405 | student's attendance record, disability status, or status as an
 406 | English language learner. The commissioner shall select
 407 | additional formulas as appropriate for the remainder of the
 408 | statewide assessments included under s. 1008.22 and continue to
 409 | select formulas as new assessments are implemented in the state
 410 | system. After the commissioner approves the formula to measure
 411 | individual student learning growth on the FCAT and as additional
 412 | formulas are selected by the commissioner for new assessments
 413 | implemented in the state system, the State Board of Education
 414 | shall adopt these formulas by rule.

415 | (b) Beginning in the 2011-2012 school year, each school
 416 | district shall measure student learning growth using the formula
 417 | approved by the commissioner under paragraph (a) for courses
 418 | associated with the FCAT. Each school district shall implement
 419 | the additional student learning growth measures selected by the
 420 | commissioner under paragraph (a) for the remainder of the

421 statewide assessments included under s. 1008.22 as they become
 422 available. Beginning in the 2014-2015 school year, for grades
 423 and subjects not assessed by statewide assessments but otherwise
 424 assessed as required under s. 1008.22(8), each school district
 425 shall measure student learning growth using an equally
 426 appropriate formula. The department shall provide models for
 427 measuring student learning growth which school districts may
 428 adopt.

429 (c) In a course that is not measured by a statewide
 430 assessment, a school district may request, through the
 431 evaluation system approval process, to use a student achievement
 432 measure rather than a student learning growth measure if
 433 achievement is demonstrated to be a more appropriate measure of
 434 classroom teacher performance. A school district may also
 435 request to use a combination of student learning growth and
 436 achievement, if appropriate.

437 (d) If the student learning growth in a course is not
 438 measured by a statewide assessment but is measured by a school
 439 district assessment, a school district may request, through the
 440 evaluation system approval process, that the performance
 441 evaluation for the classroom teacher assigned to that course
 442 includes the learning growth of his or her students on FCAT
 443 Reading or FCAT Mathematics. The request must clearly explain
 444 the rationale supporting the request. However, the classroom
 445 teacher's performance evaluation must give greater weight to
 446 student learning growth on the district assessment.

447 (e) For classroom teachers of courses for which the
 448 district has not implemented appropriate assessments under s.

449 1008.22(8) or for which the school district has not adopted an
 450 equally appropriate measure of student learning growth under
 451 paragraphs (b)-(d), student learning growth must be measured by
 452 the growth in learning of the classroom teacher's students on
 453 statewide assessments, or, for courses in which enrolled
 454 students do not take the statewide assessments, measurable
 455 learning targets must be established based upon the goals of the
 456 school improvement plan and approved by the school principal. A
 457 district school superintendent may assign instructional team
 458 student learning growth to instructional personnel in lieu of
 459 overall student learning growth of the school in reading and
 460 mathematics based upon the statewide assessment program under s.
 461 1008.22. This paragraph expires July 1, 2015.

462 (8) RULEMAKING.—The State Board of Education shall adopt
 463 rules pursuant to ss. 120.536(1) and 120.54 ~~which, that~~
 464 establish uniform procedures ~~guidelines~~ for the submission,
 465 review, and approval of district evaluation systems and
 466 reporting requirements ~~procedures~~ for the annual evaluation
 467 assessment of instructional personnel and school administrators;
 468 specific, discrete standards for each performance level required
 469 under subsection (2) to ensure clear and sufficient
 470 differentiation in the performance levels and to provide
 471 consistency in meaning across school districts; the measurement
 472 of student learning growth and associated implementation
 473 procedures required under subsection (7); and a process for
 474 monitoring school district implementation of evaluation systems
 475 in accordance with this section ~~that include criteria for~~
 476 evaluating professional performance. Specifically, the rules

477 shall establish a student learning growth standard that if not
 478 met will result in the employee receiving an unsatisfactory
 479 performance evaluation rating. In like manner, the rules shall
 480 establish a student learning growth standard that must be met in
 481 order for an employee to receive a highly effective rating and a
 482 student learning growth standard that must be met in order for
 483 an employee to receive an effective rating.

484 Section 3. Subsection (8) of section 1008.22, Florida
 485 Statutes, is amended to read:

486 1008.22 Student assessment program for public schools.—

487 (8) LOCAL ASSESSMENTS.—

488 (a) Measurement of the learning gains of students in all
 489 subjects and grade levels other than subjects and grade levels
 490 required for the state student achievement testing program is
 491 the responsibility of the school districts.

492 (b) Beginning with the 2014-2015 school year, each school
 493 district shall administer for each course offered in the
 494 district a student assessment that measures mastery of the
 495 content, as described in the state-adopted course description,
 496 at the necessary level of rigor for the course. Such assessments
 497 may include:

- 498 1. Statewide assessments.
- 499 2. Other standardized assessments, including nationally
 500 recognized standardized assessments.
- 501 3. Industry certification examinations.
- 502 4. District-developed or district-selected end-of-course
 503 assessments.

504 (c) The Commissioner of Education shall identify methods

505 to assist and support districts in the development and
 506 acquisition of assessments required under this subsection.
 507 Methods may include developing item banks, facilitating the
 508 sharing of developed tests among school districts, acquiring
 509 assessments from state and national curriculum-area
 510 organizations, and providing technical assistance in best
 511 professional practices of test development based upon state-
 512 adopted curriculum standards, administration, and security.

513 Section 4. Paragraphs (c) and (e) of subsection (1) of
 514 section 1012.22, Florida Statutes, are amended to read:

515 1012.22 Public school personnel; powers and duties of the
 516 district school board.—The district school board shall:

517 (1) Designate positions to be filled, prescribe
 518 qualifications for those positions, and provide for the
 519 appointment, compensation, promotion, suspension, and dismissal
 520 of employees as follows, subject to the requirements of this
 521 chapter:

522 (c) Compensation and salary schedules.—

523 1. Definitions.—As used in this paragraph:

524 a. "Adjustment" means an addition to the base salary
 525 schedule that is not a bonus and becomes part of the employee's
 526 permanent base salary and shall be considered compensation under
 527 s. 121.021(22).

528 b. "Grandfathered salary schedule" means the salary
 529 schedule or schedules adopted by a district school board before
 530 July 1, 2014, pursuant to subparagraph 4.

531 c. "Instructional personnel" means instructional personnel
 532 as defined in s. 1012.01(2)(a)-(d), excluding substitute

533 teachers.

534 d. "Performance salary schedule" means the salary schedule
 535 or schedules adopted by a district school board pursuant to
 536 subparagraph 5.

537 e. "Salary schedule" means the schedule or schedules used
 538 to provide the base salary for district school board personnel.

539 f. "School administrator" means school administrators as
 540 defined in s. 1012.01(3)(c).

541 g. "Supplement" means an annual addition to the base
 542 salary for the term of the negotiated supplement as long as the
 543 employee continues his or her employment for the purpose of the
 544 supplement. A supplement does not become part of the employee's
 545 continuing base salary but it shall be considered compensation
 546 under s. 121.021(22).

547 2. Cost-of-living adjustment.—A district school board may
 548 provide a cost-of-living salary adjustment if:

549 a. The adjustment does not discriminate among comparable
 550 classes of employees based upon the salary schedule under which
 551 they are compensated.

552 b. Does not exceed 50 percent of the annual adjustment
 553 provided to instructional personnel rated as effective.

554 3. Advanced degrees.—Beginning with instructional
 555 personnel hired on or after July 1, 2011, a district school
 556 board may not use advanced degrees in setting a salary schedule
 557 for instructional personnel but may provide a supplement for
 558 advanced degrees as follows:

559 a. For classroom teachers, as defined in s. 1012.01(2)(a),
 560 excluding substitute teachers, the advanced degree must be in

561 the specific subject area in which the teacher is certified and
 562 teaching.

563 b. For instructional personnel who are not classroom
 564 teachers, the advanced degree must directly relate to the
 565 specific job assignment.

566 4. Grandfathered salary schedule.-

567 a. The district school board shall adopt a salary schedule
 568 or salary schedules to be used as the basis for paying all
 569 school employees hired before July 1, 2014. Instructional
 570 personnel on annual contract as of July 1, 2014, shall be placed
 571 on the performance salary schedule adopted under subparagraph 5.
 572 Instructional personnel on continuing contract or professional
 573 service contract may opt into the performance salary schedule if
 574 the employee relinquishes such contract and agrees to be
 575 employed on an annual contract under s. 1012.335. Such an
 576 employee shall be placed on the performance salary schedule and
 577 he or she may not return to continuing contract or professional
 578 service contract status. Any employee who opts into the
 579 performance salary schedule may not return to the grandfathered
 580 salary schedule.

581 b. In determining the grandfathered salary schedule for
 582 instructional personnel, a district school board must base a
 583 portion of each employee's compensation upon performance
 584 demonstrated under s. 1012.34 and shall provide differentiated
 585 pay for both instructional personnel and school administrators
 586 based upon district-determined factors, including, but not
 587 limited to, additional responsibilities, school demographics,
 588 critical shortage areas, and level of job performance

589 difficulties.

590 5. Performance salary schedule.—By July 1, 2014, the
 591 district school board shall adopt a performance salary schedule
 592 that provides annual salary adjustments for instructional
 593 personnel and school administrators based upon performance
 594 determined under s. 1012.34. Employees hired on or after July 1,
 595 2014, or employees who choose to move from the grandfathered
 596 salary schedule to the performance salary schedule shall be
 597 compensated pursuant to the performance salary schedule once
 598 they have received the appropriate performance evaluation for
 599 this purpose. However, a classroom teacher whose performance
 600 evaluation utilizes student learning growth measures established
 601 under s. 1012.34(7)(e) shall remain under the grandfathered
 602 salary schedule until his or her teaching assignment changes to
 603 a subject with an assessment or the school district establishes
 604 equally appropriate measures of student learning growth as
 605 defined under s. 1012.34 and rules of the State Board of
 606 Education.

607 a. Base salary.—The base salary shall be established as
 608 follows:

609 (I) The base salary for instructional personnel or school
 610 administrators who opt into the performance salary schedule
 611 shall be the salary paid in the prior year, including
 612 adjustments only.

613 (II) Beginning July 1, 2014, instructional personnel or
 614 school administrators new to the district, returning to the
 615 district after a break in service without an authorized leave of
 616 absence, or appointed for the first time to a position in the

617 district in the capacity of instructional personnel or school
 618 administrator shall be placed on the performance salary
 619 schedule.

620 b. Salary adjustments.—Salary adjustments for highly
 621 effective or effective performance shall be established as
 622 follows:

623 (I) The annual salary adjustment under the performance
 624 salary schedule for an employee rated as highly effective must
 625 be greater than the highest annual salary adjustment available
 626 to an employee of the same classification through any other
 627 salary schedule adopted by the district.

628 (II) The annual salary adjustment under the performance
 629 salary schedule for an employee rated as effective must be equal
 630 to at least 50 percent and no more than 75 percent of the annual
 631 adjustment provided for a highly effective employee of the same
 632 classification.

633 (III) The performance salary schedule shall not provide an
 634 annual salary adjustment for an employee who receives a rating
 635 other than highly effective or effective for the year.

636 c. Salary supplements.—In addition to the salary
 637 adjustments, each district school board shall provide for salary
 638 supplements for activities which must include, but are not
 639 limited to:

640 (I) Assignment to a Title I eligible school.

641 (II) Assignment to a school in the bottom two categories
 642 of the school improvement system under s. 1008.33 such that the
 643 supplement remains in force for at least 1 year following
 644 improved performance in that school.

645 (III) Certification and teaching in critical teacher
 646 shortage areas. Statewide critical teacher shortage areas shall
 647 be identified by the State Board of Education under s. 1012.07.
 648 However, the district school board may identify other areas of
 649 critical shortage within the school district for purposes of
 650 this sub-sub-subparagraph and may remove areas identified by the
 651 state board that do not apply within the school district.

652 (IV) Assignment of additional academic responsibilities.
 653

654 If budget constraints in any given year limit a district school
 655 board's ability to fully fund all adopted salary schedules, the
 656 performance salary schedule shall not be reduced, either on the
 657 basis of total cost or the value of individual awards, in a
 658 manner that is proportionally greater than reductions to any
 659 other salary schedules adopted by the district. ~~The district~~
 660 ~~school board shall adopt a salary schedule or salary schedules~~
 661 ~~designed to furnish incentives for improvement in training and~~
 662 ~~for continued efficient service to be used as a basis for paying~~
 663 ~~all school employees and fix and authorize the compensation of~~
 664 ~~school employees on the basis thereof.~~

665 ~~2. A district school board, in determining the salary~~
 666 ~~schedule for instructional personnel, must base a portion of~~
 667 ~~each employee's compensation on performance demonstrated under~~
 668 ~~s. 1012.34, must consider the prior teaching experience of a~~
 669 ~~person who has been designated state teacher of the year by any~~
 670 ~~state in the United States, and must consider prior professional~~
 671 ~~experience in the field of education gained in positions in~~
 672 ~~addition to district level instructional and administrative~~

673 | ~~positions.~~

674 | ~~3. In developing the salary schedule, the district school~~
 675 | ~~board shall seek input from parents, teachers, and~~
 676 | ~~representatives of the business community.~~

677 | ~~4. Beginning with the 2007-2008 academic year, each~~
 678 | ~~district school board shall adopt a salary schedule with~~
 679 | ~~differentiated pay for both instructional personnel and school-~~
 680 | ~~based administrators. The salary schedule is subject to~~
 681 | ~~negotiation as provided in chapter 447 and must allow~~
 682 | ~~differentiated pay based on district-determined factors,~~
 683 | ~~including, but not limited to, additional responsibilities,~~
 684 | ~~school demographics, critical shortage areas, and level of job~~
 685 | ~~performance difficulties.~~

686 | (e) Transfer and promotion.—The district school board
 687 | shall act on recommendations of the district school
 688 | superintendent regarding transfer and promotion of any employee.
 689 | The district school superintendent's primary consideration in
 690 | recommending an individual for a promotion must be the
 691 | individual's demonstrated effectiveness under s. 1012.34.

692 | Section 5. Section 1012.335, Florida Statutes, is created
 693 | to read:

694 | 1012.335 Contracts with instructional personnel hired on
 695 | or after July 1, 2011.—

696 | (1) DEFINITIONS.—As used in this section, the term:

697 | (a) "Annual contract" means an employment contract for a
 698 | period of no longer than 1 school year which the district school
 699 | board may choose to award or not award without cause.

700 | (b) "Instructional personnel" means instructional

701 personnel as defined in s. 1012.01(2)(a)-(d), excluding
 702 substitute teachers.

703 (c) "Probationary contract" means an employment contract
 704 for a period of 1 school year awarded to instructional personnel
 705 upon initial employment in a school district. Probationary
 706 contract employees may be dismissed without cause or may resign
 707 without breach of contract. A district school board may not
 708 award a probationary contract more than once to the same
 709 employee unless the employee was rehired after a break in
 710 service for which an authorized leave of absence was not
 711 granted. A probationary contract shall be awarded regardless of
 712 previous employment in another school district or state.

713 (2) EMPLOYMENT.—

714 (a) Beginning July 1, 2011, each individual newly hired as
 715 instructional personnel by the district school board shall be
 716 awarded a probationary contract. Upon successful completion of
 717 the probationary contract, the district school board may award
 718 an annual contract pursuant to paragraph (c).

719 (b) Beginning July 1, 2011, an annual contract may be
 720 awarded pursuant to paragraph (c) for instructional personnel
 721 who have already successfully completed a probationary contract
 722 with the district school board and have received one or more
 723 annual contracts by the district school board.

724 (c) The award of an annual contract may occur only if the
 725 employee:

- 726 1. Holds an active professional certificate or temporary
- 727 certificate issued pursuant to s. 1012.56 and rules of the State
- 728 Board of Education.

729 2. Has been recommended by the district school
 730 superintendent for the annual contract based upon the
 731 individual's evaluation under s. 1012.34 and approved by the
 732 district school board.

733 3. Has not received two consecutive unsatisfactory
 734 evaluations or two unsatisfactory evaluations within a 3-year
 735 period, as assessed under s. 1012.34.

736 (3) VIOLATION OF ANNUAL CONTRACT.—Instructional personnel
 737 who accept a written offer from the district school board and
 738 who leave their position without prior release from the district
 739 school board are subject to the jurisdiction of the Education
 740 Practices Commission.

741 (4) SUSPENSION OR DISMISSAL OF INSTRUCTIONAL PERSONNEL ON
 742 ANNUAL CONTRACT.—Any instructional personnel with an annual
 743 contract may be suspended or dismissed at any time during the
 744 term of the contract for just cause as provided in subsection
 745 (5). The district school board shall notify the employee in
 746 writing whenever charges are made and may suspend such person
 747 without pay. However, if the charges are not sustained, the
 748 employee shall be immediately reinstated and his or her back pay
 749 shall be paid. If the employee wishes to contest the charges, he
 750 or she must, within 15 days after receipt of the written notice,
 751 submit a written request for a hearing to the district school
 752 board. A direct hearing shall be conducted by the district
 753 school board or a subcommittee thereof within 60 days after
 754 receipt of the written appeal. The hearing shall be conducted in
 755 accordance with the provisions of ss. 120.569 and 120.57. A
 756 majority vote of the membership of the district school board

757 shall be required to sustain the district school
 758 superintendent's recommendation. The district school board's
 759 determination is final as to the sufficiency or insufficiency of
 760 the grounds for suspension without pay or dismissal. Any such
 761 decision adverse to the employee may be appealed by the employee
 762 pursuant to s. 120.68.

763 (5) JUST CAUSE.—The State Board of Education shall adopt
 764 rules pursuant to ss. 120.536(1) and 120.54 to define the term
 765 "just cause." Just cause includes, but is not limited to:

766 (a) Immorality.

767 (b) Misconduct in office.

768 (c) Incompetency.

769 (d) Gross insubordination.

770 (e) Willful neglect of duty.

771 (f) Being convicted or found guilty of, or entering a plea
 772 of guilty to, regardless of adjudication of guilt, any crime
 773 involving moral turpitude.

774 (6) LIMITATION.—An individual newly hired as instructional
 775 personnel by a school district in this state under this section
 776 is ineligible for any contract issued under s. 1012.33.

777 Section 6. Paragraph (b) of subsection (16) of section
 778 1002.33, Florida Statutes, is amended to read:

779 1002.33 Charter schools.—

780 (16) EXEMPTION FROM STATUTES.—

781 (b) Additionally, a charter school shall be in compliance
 782 with the following statutes:

783 1. Section 286.011, relating to public meetings and
 784 records, public inspection, and criminal and civil penalties.

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785 2. Chapter 119, relating to public records.
 786 3. Section 1003.03, relating to the maximum class size,
 787 except that the calculation for compliance pursuant to s.
 788 1003.03 shall be the average at the school level.

789 4. Section 1012.22(1)(c), relating to compensation and
 790 salary schedules.

791 5. Section 1012.33(5), relating to workforce reductions.

792 6. Section 1012.335, relating to contracts with
 793 instructional personnel hired on or after July 1, 2011.

794 7. Section 1012.34, relating to the substantive
 795 requirements for performance evaluations for instructional
 796 personnel and school administrators.

797 Section 7. Paragraph (h) of subsection (2) of section
 798 1003.621, Florida Statutes, is amended to read:

799 1003.621 Academically high-performing school districts.—It
 800 is the intent of the Legislature to recognize and reward school
 801 districts that demonstrate the ability to consistently maintain
 802 or improve their high-performing status. The purpose of this
 803 section is to provide high-performing school districts with
 804 flexibility in meeting the specific requirements in statute and
 805 rules of the State Board of Education.

806 (2) COMPLIANCE WITH STATUTES AND RULES.—Each academically
 807 high-performing school district shall comply with all of the
 808 provisions in chapters 1000-1013, and rules of the State Board
 809 of Education which implement these provisions, pertaining to the
 810 following:

811 (h) Sections 1012.22(1)(c) and 1012.27(2), relating to
 812 public school personnel compensation and salary schedules; s.

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813 1012.34, relating to personnel evaluation procedures and
 814 criteria; and ss. 1012.33 and 1012.335, relating to contracts
 815 with instructional personnel, staff, supervisors, and school
 816 administrators differentiated pay and performance pay policies
 817 for school administrators and instructional personnel.
 818 ~~Professional service contracts are subject to the provisions of~~
 819 ~~ss. 1012.33 and 1012.34.~~

820 Section 8. Subsection (4) of section 1006.09, Florida
 821 Statutes, is amended to read:

822 1006.09 Duties of school principal relating to student
 823 discipline and school safety.—

824 (4) When a student has been the victim of a violent crime
 825 perpetrated by another student who attends the same school, the
 826 school principal shall make full and effective use of the
 827 provisions of subsection (2) and s. 1006.13(6). A school
 828 principal who fails to comply with this subsection shall be
 829 ineligible for any portion of the performance pay ~~policy~~
 830 ~~incentive~~ or the differentiated pay under s. 1012.22. However,
 831 if any party responsible for notification fails to properly
 832 notify the school, the school principal shall be eligible for
 833 the performance pay incentive or differentiated pay.

834 Section 9. Section 1012.07, Florida Statutes, is amended to
 835 read:

836 1012.07 Identification of critical teacher shortage
 837 areas.—

838 ~~(1) As used in ss. 1009.57, 1009.58, and 1009.59, The term~~
 839 ~~"critical teacher shortage area"~~ means high-need content areas
 840 ~~applies to mathematics, science, career education, and high-~~

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841 | priority ~~high-priority~~ location areas identified by the State
 842 | Board of Education ~~may identify career education programs having~~
 843 | ~~critical teacher shortages~~. The State Board of Education shall
 844 | adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
 845 | annually identify ~~other~~ critical teacher shortage areas ~~and high~~
 846 | ~~priority location areas~~. The state board must ~~shall~~ also
 847 | consider current and emerging educational requirements and
 848 | workforce demands ~~teacher characteristics such as ethnic~~
 849 | ~~background, race, and sex~~ in determining critical teacher
 850 | shortage areas. School grade levels may also be designated
 851 | critical teacher shortage areas. Individual district school
 852 | boards may identify and submit other critical teacher shortage
 853 | areas. Such submissions ~~shortages~~ must be aligned to current and
 854 | emerging educational requirements and workforce demands in order
 855 | to be certified to ~~and~~ approved by the State Board of Education.
 856 | High priority location areas shall be in high-density, low-
 857 | economic urban schools, ~~and~~ low-density, low-economic rural
 858 | schools, and schools identified as lowest performing under s.
 859 | 1008.33(4)(b) ~~shall include schools which meet criteria which~~
 860 | ~~include, but are not limited to, the percentage of free lunches,~~
 861 | ~~the percentage of students under Chapter I of the Education~~
 862 | ~~Consolidation and Improvement Act of 1981, and the faculty~~
 863 | ~~attrition rate.~~

864 | ~~(2) This section shall be implemented only to the extent~~
 865 | ~~as specifically funded and authorized by law.~~

866 | Section 10. Subsection (5) of section 1012.2315, Florida
 867 | Statutes, is amended to read:

868 | 1012.2315 Assignment of teachers.-

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869 (5) REPORT.—By July 1, 2012, the Department of Education
 870 shall annually report on its website, in a manner that is
 871 accessible to the public, the performance rating data reported
 872 by district school boards under s. 1012.34. The report must
 873 include the percentage of classroom teachers, instructional
 874 personnel, and school administrators receiving each performance
 875 rating aggregated by school district and by school. Schools
 876 ~~graded "D" or "F" shall annually report their teacher retention~~
 877 ~~rate. Included in this report shall be reasons listed for~~
 878 ~~leaving by each teacher who left the school for any reason.~~

879 Section 11. Subsections (1) and (2) of section 1012.27,
 880 Florida Statutes, are amended to read:

881 1012.27 Public school personnel; powers and duties of
 882 district school superintendent.—The district school
 883 superintendent is responsible for directing the work of the
 884 personnel, subject to the requirements of this chapter, and in
 885 addition the district school superintendent shall perform the
 886 following:

887 (1) POSITIONS, QUALIFICATIONS, AND NOMINATIONS.—

888 (a) Recommend to the district school board duties and
 889 responsibilities which need to be performed and positions which
 890 need to be filled to make possible the development of an
 891 adequate school program in the district.

892 (b) Recommend minimum qualifications of personnel for
 893 these various positions, and nominate in writing persons to fill
 894 such positions.

895

896 The district school superintendent's recommendations for filling

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897 | instructional positions at the school level must consider
 898 | nominations received from school principals of the respective
 899 | schools. Before transferring a teacher who holds a professional
 900 | teaching certificate from one school to another, the district
 901 | school superintendent shall consult with the principal of the
 902 | receiving school and allow the principal to review the teacher's
 903 | records, including student performance demonstrated under s.
 904 | 1012.34, and interview the teacher. If, in the judgment of the
 905 | principal, students would not benefit from the placement, an
 906 | alternative placement may be sought. A principal may refuse the
 907 | placement in accordance with s. 1012.28(6).

908 | (2) COMPENSATION AND SALARY SCHEDULES.—Prepare and
 909 | recommend to the district school board for adoption a salary
 910 | schedule or salary schedules in accordance with s. 1012.22. ~~The~~
 911 | ~~district school superintendent must recommend a salary schedule~~
 912 | ~~for instructional personnel which bases a portion of each~~
 913 | ~~employee's compensation on performance demonstrated under s.~~
 914 | ~~1012.34. In developing the recommended salary schedule, the~~
 915 | ~~district school superintendent shall include input from parents,~~
 916 | ~~teachers, and representatives of the business community.~~
 917 | ~~Beginning with the 2007-2008 academic year, the recommended~~
 918 | ~~salary schedule for classroom teachers shall be consistent with~~
 919 | ~~the district's differentiated pay policy based upon s. 1012.22.~~

920 | Section 12. Subsection (3) of section 1012.28, Florida
 921 | Statutes, is amended, present subsection (6) is renumbered and
 922 | amended, and a new subsection (6) is added to that section, to
 923 | read:

924 | 1012.28 Public school personnel; duties of school

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925 principals.-

926 (3) Each school principal is responsible for the
 927 performance of all personnel employed by the district school
 928 board and assigned to the school to which the principal is
 929 assigned. The school principal shall faithfully and effectively
 930 apply the personnel evaluation ~~assessment~~ system approved ~~by the~~
 931 ~~district school board~~ pursuant to s. 1012.34.

932 (6) A principal may refuse to accept the placement or
 933 transfer of instructional personnel by the district school
 934 superintendent to his or her school unless the instructional
 935 personnel has a performance rating of effective or highly
 936 effective under s. 1012.34.

937 ~~(7)-(6)~~ A school principal who fails to comply with this
 938 section shall be ineligible for any portion of the performance
 939 pay ~~policy incentive~~ and differentiated pay under s. 1012.22.

940 Section 13. Paragraph (a) of subsection (1) and
 941 subsections (3) and (5) of section 1012.33, Florida Statutes,
 942 are amended to read:

943 1012.33 Contracts with instructional staff, supervisors,
 944 and school principals.-

945 (1)(a) Each person employed as a member of the
 946 instructional staff in any district school system shall be
 947 properly certified pursuant to s. 1012.56 or s. 1012.57 or
 948 employed pursuant to s. 1012.39 and shall be entitled to and
 949 shall receive a written contract as specified in this section.
 950 All such contracts, except continuing contracts as specified in
 951 subsection (4), shall contain provisions for dismissal during
 952 the term of the contract only for just cause. Just cause

953 includes, but is not limited to, the following instances, as
 954 defined by rule of the State Board of Education: immorality,
 955 misconduct in office, incompetency, two consecutive annual
 956 performance ratings of unsatisfactory under s. 1012.34 or two
 957 annual performance ratings of unsatisfactory within a 3-year
 958 period under s. 1012.34, gross insubordination, willful neglect
 959 of duty, or being convicted or found guilty of, or entering a
 960 plea of guilty to, regardless of adjudication of guilt, any
 961 crime involving moral turpitude.

962 (3)(a) Each district school board shall provide a
 963 professional service contract as prescribed herein. Each member
 964 of the instructional staff who completed the following
 965 requirements prior to July 1, 1984, shall be entitled to and
 966 shall be issued a continuing contract in the form prescribed by
 967 rules of the state board pursuant to s. 231.36, Florida Statutes
 968 (1981). Each member of the instructional staff who completes the
 969 following requirements on or after July 1, 1984, shall be
 970 entitled to and shall be issued a professional service contract
 971 in the form prescribed by rules of the state board as provided
 972 herein:

973 1. The member must hold a professional certificate as
 974 prescribed by s. 1012.56 and rules of the State Board of
 975 Education.

976 2. The member must have completed 3 years of probationary
 977 service in the district during a period not in excess of 5
 978 successive years, except for leave duly authorized and granted.

979 3. The member must have been recommended by the district
 980 school superintendent for such contract and reappointed by the

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981 district school board based on successful performance of duties
 982 and demonstration of professional competence.

983 4. For any person newly employed as a member of the
 984 instructional staff after June 30, 1997, the initial annual
 985 contract shall include a 97-day probationary period during which
 986 time the employee's contract may be terminated without cause or
 987 the employee may resign without breach of contract.

988 (b) The professional service contract shall be effective
 989 at the beginning of the school fiscal year following the
 990 completion of all requirements therefor.

991 (c) The period of service provided herein may be extended
 992 to 4 years when prescribed by the district school board and
 993 agreed to in writing by the employee at the time of
 994 reappointment.

995 ~~(d) A district school board may issue a continuing~~
 996 ~~contract prior to July 1, 1984, and may issue a professional~~
 997 ~~service contract subsequent to July 1, 1984, to any employee who~~
 998 ~~has previously held a professional service contract or~~
 999 ~~continuing contract in the same or another district within this~~
 1000 ~~state. Any employee who holds a continuing contract may, but is~~
 1001 ~~not required to, exchange such continuing contract for a~~
 1002 ~~professional service contract in the same district.~~

1003 (d) ~~(e)~~ A professional service contract shall be renewed
 1004 each year unless the district school superintendent, after
 1005 receiving the recommendations required by s. 1012.34, charges
 1006 the employee with unsatisfactory performance and notifies the
 1007 employee of performance deficiencies as required by s. 1012.34.
 1008 ~~An employee who holds a professional service contract on July 1,~~

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1009 ~~1997, is subject to the procedures set forth in paragraph (f)~~
 1010 ~~during the term of the existing professional service contract.~~
 1011 ~~The employee is subject to the procedures set forth in s.~~
 1012 ~~1012.34(3)(d) upon the next renewal of the professional service~~
 1013 ~~contract; however, if the employee is notified of performance~~
 1014 ~~deficiencies before the next contract renewal date, the~~
 1015 ~~procedures of s. 1012.34(3)(d) do not apply until the procedures~~
 1016 ~~set forth in paragraph (f) have been exhausted and the~~
 1017 ~~professional service contract is subsequently renewed.~~

1018 ~~(f) The district school superintendent shall notify an~~
 1019 ~~employee who holds a professional service contract on July 1,~~
 1020 ~~1997, in writing, no later than 6 weeks prior to the end of the~~
 1021 ~~postschool conference period, of performance deficiencies which~~
 1022 ~~may result in termination of employment, if not corrected during~~
 1023 ~~the subsequent year of employment (which shall be granted for an~~
 1024 ~~additional year in accordance with the provisions in subsection~~
 1025 ~~(1)). Except as otherwise hereinafter provided, this action~~
 1026 ~~shall not be subject to the provisions of chapter 120, but the~~
 1027 ~~following procedures shall apply:~~

1028 ~~1. On receiving notice of unsatisfactory performance, the~~
 1029 ~~employee, on request, shall be accorded an opportunity to meet~~
 1030 ~~with the district school superintendent, or his or her designee,~~
 1031 ~~for an informal review of the determination of unsatisfactory~~
 1032 ~~performance.~~

1033 ~~2. An employee notified of unsatisfactory performance may~~
 1034 ~~request an opportunity to be considered for a transfer to~~
 1035 ~~another appropriate position, with a different supervising~~
 1036 ~~administrator, for the subsequent year of employment. If the~~

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1037 ~~request for the transfer is granted, the district school~~
 1038 ~~superintendent shall annually report to the department the total~~
 1039 ~~number of employees transferred pursuant to this subparagraph,~~
 1040 ~~where they were transferred, and what, if any, remediation was~~
 1041 ~~implemented to remediate the unsatisfactory performance.~~

1042 ~~3. During the subsequent year, the employee shall be~~
 1043 ~~provided assistance and inservice training opportunities to help~~
 1044 ~~correct the noted performance deficiencies. The employee shall~~
 1045 ~~also be evaluated periodically so that he or she will be kept~~
 1046 ~~apprised of progress achieved.~~

1047 ~~4. Not later than 6 weeks prior to the close of the~~
 1048 ~~postschool conference period of the subsequent year, the~~
 1049 ~~district school superintendent, after receiving and reviewing~~
 1050 ~~the recommendation required by s. 1012.34, shall notify the~~
 1051 ~~employee, in writing, whether the performance deficiencies have~~
 1052 ~~been corrected. If so, a new professional service contract shall~~
 1053 ~~be issued to the employee. If the performance deficiencies have~~
 1054 ~~not been corrected, the district school superintendent may~~
 1055 ~~notify the district school board and the employee, in writing,~~
 1056 ~~that the employee shall not be issued a new professional service~~
 1057 ~~contract; however, if the recommendation of the district school~~
 1058 ~~superintendent is not to issue a new professional service~~
 1059 ~~contract, and if the employee wishes to contest such~~
 1060 ~~recommendation, the employee will have 15 days from receipt of~~
 1061 ~~the district school superintendent's recommendation to demand,~~
 1062 ~~in writing, a hearing. In such hearing, the employee may raise~~
 1063 ~~as an issue, among other things, the sufficiency of the district~~
 1064 ~~school superintendent's charges of unsatisfactory performance.~~

1065 ~~Such hearing shall be conducted at the district school board's~~
 1066 ~~election in accordance with one of the following procedures:~~
 1067 ~~a. A direct hearing conducted by the district school board~~
 1068 ~~within 60 days of receipt of the written appeal. The hearing~~
 1069 ~~shall be conducted in accordance with the provisions of ss.~~
 1070 ~~120.569 and 120.57. A majority vote of the membership of the~~
 1071 ~~district school board shall be required to sustain the district~~
 1072 ~~school superintendent's recommendation. The determination of the~~
 1073 ~~district school board shall be final as to the sufficiency or~~
 1074 ~~insufficiency of the grounds for termination of employment; or~~
 1075 ~~b. A hearing conducted by an administrative law judge~~
 1076 ~~assigned by the Division of Administrative Hearings of the~~
 1077 ~~Department of Management Services. The hearing shall be~~
 1078 ~~conducted within 60 days of receipt of the written appeal in~~
 1079 ~~accordance with chapter 120. The recommendation of the~~
 1080 ~~administrative law judge shall be made to the district school~~
 1081 ~~board. A majority vote of the membership of the district school~~
 1082 ~~board shall be required to sustain or change the administrative~~
 1083 ~~law judge's recommendation. The determination of the district~~
 1084 ~~school board shall be final as to the sufficiency or~~
 1085 ~~insufficiency of the grounds for termination of employment.~~
 1086 ~~(g) Beginning July 1, 2001, for each employee who enters~~
 1087 ~~into a written contract, pursuant to this section, in a school~~
 1088 ~~district in which the employee was not employed as of June 30,~~
 1089 ~~2001, or was employed as of June 30, 2001, but has since broken~~
 1090 ~~employment with that district for 1 school year or more, for~~
 1091 ~~purposes of pay, a district school board must recognize and~~
 1092 ~~accept each year of full-time public school teaching service~~

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1093 ~~earned in the State of Florida for which the employee received a~~
 1094 ~~satisfactory performance evaluation; however, an employee may~~
 1095 ~~voluntarily waive this provision. Instructional personnel~~
 1096 ~~employed pursuant to s. 121.091(9)(b) and (c) are exempt from~~
 1097 ~~the provisions of this paragraph.~~

1098 (5) If workforce reduction is needed, a district school
 1099 board must retain employees at a school or in the school
 1100 district based upon educational program needs and the
 1101 performance evaluations of employees within the affected program
 1102 areas. Within the program areas requiring reduction, the
 1103 employee with the lowest performance evaluations must be the
 1104 first to be released; the employee with the next lowest
 1105 performance evaluations must be the second to be released; and
 1106 reductions shall continue in like manner until the needed number
 1107 of reductions has occurred. A district school board may not
 1108 prioritize retention of employees based upon seniority. Should a
 1109 ~~district school board have to choose from among its personnel~~
 1110 ~~who are on continuing contracts or professional service~~
 1111 ~~contracts as to which should be retained, such decisions shall~~
 1112 ~~be made pursuant to the terms of a collectively bargained~~
 1113 ~~agreement, when one exists. If no such agreement exists, the~~
 1114 ~~district school board shall prescribe rules to handle reductions~~
 1115 ~~in workforce.~~

1116 Section 14. Section 1012.52, Florida Statutes, is
 1117 repealed.

1118 Section 15. Paragraph (h) of subsection (1) of section
 1119 1012.795, Florida Statutes, is amended to read:

1120 1012.795 Education Practices Commission; authority to

1121 discipline.—

1122 (1) The Education Practices Commission may suspend the
 1123 educator certificate of any person as defined in s. 1012.01(2)
 1124 or (3) for up to 5 years, thereby denying that person the right
 1125 to teach or otherwise be employed by a district school board or
 1126 public school in any capacity requiring direct contact with
 1127 students for that period of time, after which the holder may
 1128 return to teaching as provided in subsection (4); may revoke the
 1129 educator certificate of any person, thereby denying that person
 1130 the right to teach or otherwise be employed by a district school
 1131 board or public school in any capacity requiring direct contact
 1132 with students for up to 10 years, with reinstatement subject to
 1133 the provisions of subsection (4); may revoke permanently the
 1134 educator certificate of any person thereby denying that person
 1135 the right to teach or otherwise be employed by a district school
 1136 board or public school in any capacity requiring direct contact
 1137 with students; may suspend the educator certificate, upon an
 1138 order of the court or notice by the Department of Revenue
 1139 relating to the payment of child support; or may impose any
 1140 other penalty provided by law, if the person:

1141 (h) Has breached a contract, as provided in s. 1012.33(2)
 1142 or s. 1012.335.

1143 Section 16. (1) Notwithstanding any other provision of
 1144 this act, a school district that received an exemption under
 1145 Florida's Race to the Top Memorandum of Understanding for Phase
 1146 2, as provided in section (D)(2)(ii) of the memorandum, is
 1147 allowed to base 40 percent, instead of 50 percent, of
 1148 instructional personnel and school administrator performance

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1149 evaluations upon student learning growth under s. 1012.34,
 1150 Florida Statutes, as amended by this act. The school district is
 1151 also exempt from the amendments to s. 1012.22(1)(c), Florida
 1152 Statutes, made by this act. The exemptions described in this
 1153 subsection are effective for the 2011-2012 school year and are
 1154 effective for each school year thereafter if the school district
 1155 receives annual approval by the State Board of Education.

1156 (2) The State Board of Education shall base its approval
 1157 upon demonstration by the school district of the following:

1158 (a) The instructional personnel and school administrator
 1159 evaluation systems base at least 40 percent of an employee's
 1160 performance evaluation upon student performance and that student
 1161 performance is the single greatest component of an employee's
 1162 evaluation.

1163 (b) The instructional personnel and school administrator
 1164 evaluation systems adopt the Commissioner of Education's student
 1165 learning growth formula for statewide assessments as provided
 1166 under s. 1012.34(7), Florida Statutes.

1167 (c) The school district's instructional personnel and
 1168 school administrator compensation system awards salary increases
 1169 based upon sustained student performance.

1170 (d) The school district's contract system awards
 1171 instructional personnel and school administrators based upon
 1172 student performance and removes ineffective employees.

1173 (e) Beginning with the 2014-2015 school year and each
 1174 school year thereafter, student learning growth based upon
 1175 performance on statewide assessments under s. 1008.22, Florida
 1176 Statutes, must have significantly improved compared to student

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1177 learning growth in the district in 2011-2012 and significantly
 1178 improved compared to other school districts.

1179 (3) The State Board of Education shall annually renew a
 1180 school district's exemptions if the school district demonstrates
 1181 that it meets the requirements of subsection (2). If the
 1182 exemptions are not renewed, the school district must comply with
 1183 the requirements and laws described in subsection (1) by the
 1184 beginning of the next school year immediately following the loss
 1185 of the exemptions.

1186 (4) The State Board of Education shall adopt rules
 1187 pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to
 1188 establish the procedures for applying for the exemptions and the
 1189 criteria for renewing the exemptions.

1190
 1191 This section shall stand repealed August 1, 2017, unless
 1192 reviewed and reenacted by the Legislature.

1193 Section 17. Chapter 2010-279, Laws of Florida, does not
 1194 apply to any rulemaking required to administer this act.

1195 Section 18. The provisions of any special act or general
 1196 law of local application relating to contracts for instructional
 1197 personnel in public schools or school districts in effect on or
 1198 before the effective date of this act are repealed.

1199 Section 19. The amendments made by this act to s. 1012.33,
 1200 Florida Statutes, apply to contracts newly entered into,
 1201 extended, or readopted on or after July 1, 2011, and to all
 1202 contracts entered into on or after July 1, 2014.

1203 Section 20. If any provision of this act or its
 1204 application to any person or circumstance is held invalid, the

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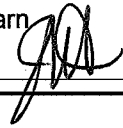
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1205 invalidity does not affect other provisions or applications of
1206 the act which can be given effect without the invalid provision
1207 or application, and to this end the provisions of this act are
1208 severable.

1209 Section 21. Except as otherwise expressly provided in this
1210 act and except for this section, which shall take effect upon
1211 this act becoming a law, this act shall take effect July 1,
1212 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB KCOS 11-01 Education Personnel
SPONSOR(S): K-20 Competitiveness Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 736

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Competitiveness Subcommittee		Beagle 	Ahearn 

SUMMARY ANALYSIS

In August 2010, Florida was awarded a \$700 million federal Race to the Top grant. Grant funds will be used to develop performance evaluation systems that are at least 50 percent based upon student learning growth; assist districts in acquiring assessments for subjects and grades not tested on statewide assessments; develop value-added student learning growth formulas for subjects tested by statewide assessments and growth models for assessing subjects and grades not tested by statewide assessments. Evaluations must differentiate among multiple performance levels and must be used for employment decisions. Districts must also develop educator compensation systems that tie the most significant increases in salary to performance. Sixty-two school districts, 224 charter schools in 29 districts, and three university lab schools have signed formal commitments with the Department of Education (DOE) to implement these reforms. The grant period ends after the 2013-14 school year.

The bill codifies the Race to the Top performance evaluation and educator compensation reforms into law so that, after the end of the grant period, school districts and charter schools must sustain implemented reforms. School districts and charter schools must adopt educator performance evaluation systems that are at least 50 percent based upon student learning growth. Student learning growth must be measured by statewide assessments, and for subjects and grades not tested on statewide assessments, assessments selected by the district or charter school. Measurement of student learning growth will recognize each student's unique starting point by comparing prior student performance with learning achieved while assigned to the educator. Factors such as disability, attendance, and English proficiency will also be considered. Performance evaluation systems must differentiate among four levels of performance – unsatisfactory; needs improvement or, for certain employees, developing; effective; and highly effective. Performance evaluation results, rather than seniority, must be used for employment decisions and workforce reductions.

School districts and charter schools must adopt a performance salary schedule for instructional personnel and school administrators by July 1, 2014. Districts must negotiate this salary schedule within the parameters set by the bill. Any increases to base salary must be based upon "effective" or "highly effective" performance, rather than seniority or advanced degrees. If provided, salary supplements must reward employees who are assigned to Title I or chronically low-performing schools, certified and teaching in a critical shortage area, or assigned additional academic responsibilities. Initially, the performance salary schedule applies to employees hired on or after July 1, 2014, and instructional personnel on annual contracts as of July 1, 2014. Instructional personnel on continuing or professional service contracts are "grandfathered" into the existing salary schedule, or, at anytime, may opt into the performance salary schedule. Employees who opt in must relinquish their continuing or professional service contract for an annual contract. The bill also limits the application of pay increases for seniority, advanced degrees, and cost-of-living adjustments.

The bill discontinues the award of new professional service contracts as of July 1, 2011; annual contracts may only be awarded to instructional personnel thereafter. The probationary period in an employee's first annual contract is extended from 97 days to one year. Unsatisfactory performance on two consecutive or two-out-of-three annual evaluations will disqualify instructional personnel from receiving additional annual contracts and is added as a just cause ground for terminating a professional service contract. Performance evaluation results must be considered in the award of annual contracts.

See Fiscal Comments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Overview

Florida Law

Florida law provides general requirements for contracts, compensation, and performance evaluation of instructional personnel and school administrators.¹ Instructional personnel are classroom teachers, guidance counselors, social workers, career specialists, school psychologists, librarians and media specialists, learning resource specialists, instructional trainers, adjunct educators, and education paraprofessionals.² School administrators are school principals, school directors, career center directors, and assistant principals.³

Performance Evaluations. Job performance of instructional personnel and school administrators is evaluated annually.⁴ Since 1999, the performance evaluation has been statutorily required to be primarily based upon student performance, as measured by statewide assessments and, for subjects and grades not tested by statewide assessments, local assessments. The term “primarily based” is not defined.⁵ The design features of school district performance evaluation systems are often established through collective bargaining.⁶ The correlation between performance evaluations and student performance is questionable when comparing 2008-09 performance evaluation results and student learning gains in reading and math. That year, 99.97 percent of classroom teachers received satisfactory performance evaluations, while less than 70 percent of reading and mathematics teachers had 50 percent of their students make learning gains on statewide assessments.⁷

Contracts. Currently, a professional service contract is granted to instructional personnel who complete a period of probationary employment on annual contracts. Professional service contract employees are entitled to automatically renewing contracts and may only be dismissed for specified reasons after statutorily required due process.⁸ Because of automatic contract renewal, a professional service contract is often referred to as tenure.⁹

Compensation. Instructional personnel salary schedules are collectively bargained, resulting in heavy reliance on seniority and advanced degrees to set compensation. A typical school district salary schedule sets forth an escalating salary scale based upon “steps.” Each step represents the employee’s years of experience. Instructional personnel receive automatic annual salary increases

¹ Sections 1012.22, 1012.33, and 1012.34, F.S.

² Section 1012.01(2)(a)-(e), F.S. Instructional personnel provide direct instructional services or direct instructional support to students in grades K-12. Section 1012.01(2), F.S.

³ Section 1012.01(3)(a), F.S. School administrators serve as school-level managers. Section 1012.01(3), F.S. (introductory paragraph at beginning of subsection).

⁴ Section 1012.34(1), F.S.

⁵ Section 58, ch. 99-398, L.O.F., *codified at s.1012.34(3)*, F.S.

⁶ *See, e.g.,* Miami-Dade Public Schools and United Teachers of Dade, *Collective Bargaining Agreement*, at 190 (2006), available at http://www.dadeschools.net/employees/labor_union/UTD/entire.pdf [hereinafter *Miami-Dade Master Contract*](a successor contract extends this agreement with some changes).

⁷ U.S. Department of Education, *Florida’s Race to the Top Application for Initial Funding*, at 144 (June 1, 2010), available at <http://www2.ed.gov/programs/racetothetop/phase2-applications/florida.pdf> [hereinafter *Race to the Top Application*].

⁸ Section 1012.33(3)(a) and (e) and (6), F.S. Forty-nine states and the District of Columbia have laws providing some form of tenure. Education Commission of the States, *Teacher Tenure/Continuing Contract Laws*, <http://www.ecs.org/clearinghouse/75/64/7564.htm> (last visited Feb. 9, 2011). In Wisconsin, tenure is determined locally. *Id.*

⁹ Section 1012.33(3)(a), F.S.; *see also* 67B Am. Jur. 2d Schools s. 195 (defining tenure). Instructional personnel hired before July 1, 1984, were issued continuing contracts. Legislation enacted in 1981 phased out continuing contracts in favor of professional service contracts. Section 15, ch. 82-242, L.O.F.

based upon these steps. Additional automatic increases are provided to those with advanced degrees.¹⁰

Research

Research indicates that classroom teacher effectiveness is the most important school-level variable influencing student learning. Students who are taught by ineffective teachers perform at much lower levels than students demonstrating comparable ability taught by high-performing teachers. Research shows that students taught by an ineffective teacher for even one year experience long-term negative impacts on achievement.¹¹

Despite the impact teacher effectiveness has on student achievement, few states link employment decisions to annual performance evaluations.¹² Insufficient use of student performance to evaluate teachers impedes rewarding effective teachers, identifying ineffective teachers, and remediating those who need additional support. Tenure protections make removing chronically ineffective teachers difficult and costly.¹³ Research suggests that states should make student performance the centerpiece of performance evaluations, tie employment decisions to evaluations, and provide a system that enables dismissal of chronically ineffective teachers.¹⁴ In 2010, 13 states enacted legislation placing increased emphasis upon student learning when evaluating teacher performance.¹⁵ Eight of these states also reformed teacher tenure, hiring practices, or both.¹⁶

Research also questions the heavy emphasis that traditional teacher compensation systems place upon seniority and educational degree level because no statistically significant evidence exists that either of these factors is a strong predictor of teacher effectiveness.¹⁷ Regarding seniority, some

¹⁰ See s. 1012.22(1)(c), F.S.; see, e.g., Hillsborough County Public Schools, *Salary Schedules 2009-2010*, at 8-10 (2009), available at http://www.sdhc.k12.fl.us/HumanResources/PDFs/SALARY/HCPSS_SalarySchedule_Entire.PDF [hereinafter *Hillsborough Salary Schedule*]; see, e.g., Glades County School District and Glades County Teacher's Association, *Instructional Personnel Master Contract*, at 16 (Jan. 14, 2010) [hereinafter *Glades Teacher Contract*] (copy on file with committee).

¹¹ Sanders and Rivers, *Cumulative and Residual Effects of Teachers on Future Student Achievement*, at 6-8 (Nov. 1996), available at <http://www.mccsc.edu/~curriculum/cumulative%20and%20residual%20effects%20of%20teachers.pdf>. Sanders and Rivers found that standardized mathematics assessment scores for students who were taught by a low-performing teacher for three consecutive years were 53 percentile points lower than those of students who were taught by a high-performing teacher for three consecutive years. *Id.* at 3.

¹² See, e.g., Center for American Progress, *Ring the Bell for K-12 Teacher Tenure Reform*, at 7 (Feb. 2010), available at http://www.americanprogress.org/issues/2010/02/pdf/teacher_tenure.pdf [hereinafter *Ring the Bell*]; see, e.g., National Council on Teacher Quality, *2009 State Teacher Policy Yearbook: Florida*, at 78-80 (2009), available at http://www.nctq.org/stpy09/reports/stpy_florida.pdf [hereinafter *NCTQ 2009 State Report*]; see, e.g., The New Teacher Project, *The Widget Effect, Our Failure to Acknowledge and Act on Differences in Teacher Effectiveness*, at 24 (2009), available at <http://widgeteffect.org/downloads/TheWidgetEffect.pdf> [hereinafter *The Widget Effect*].

¹³ Center for American Progress, *Removing Chronically Ineffective Teachers, Barriers and Opportunities*, at 9-11, 16 (March 2010), available at http://www.americanprogress.org/issues/2010/03/pdf/teacher_dismissal.pdf; The Brookings Institution, *Identifying Effective Teachers Using Performance on the Job*, at 12-15 (April 2006), available at http://www.brookings.edu/views/papers/200604hamilton_1.pdf [hereinafter *Brookings Report*].

¹⁴ *Ring the Bell*, *supra* note 12, at 7-8, 24; *NCTQ 2009 State Report*, *supra* note 12, at 70-73, 78-80, and 125-133; *The Widget Effect*, *supra* note 12, at 27-30; *Brookings Report*, *supra* note 13, at 13-15.

¹⁵ National Council for State Legislatures, *Educators (Teachers/Principals) 2010 Enacted Evaluation Legislation*, <http://www.ncsl.org/default.aspx?tabid=21155> (last visited Feb. 10, 2011) (Arizona, California, Colorado, Connecticut, Illinois, Louisiana, Maine, Maryland, Michigan, Nevada, New York, Oklahoma, and Tennessee).

¹⁶ *Id.* (Arizona, Colorado, Connecticut, Maryland, Michigan, New York, Oklahoma, and Tennessee).

¹⁷ See National Council on Teacher Quality, *Increasing the Odds: How Good Policies Can Yield Better Teachers*, at 2-3 (Oct. 2004), available at http://www.nctq.org/nctq/images/nctq_io.pdf [hereinafter *NCTQ Research Review*]; Center for Educator Compensation Reform, *Research Synthesis: General Compensation Questions*, at 3 (2010), available at http://cecr.ed.gov/researchSyntheses/Research%20Synthesis_Q%20A2.pdf [hereinafter *CECR Research Review*]; see, e.g., Aaronson, Barrow, and Sander, *Teachers and Student Achievement in the Chicago Public High Schools*, Federal Reserve Bank of Chicago, at 28-30 (Feb. 2003); see, e.g., Hanushek, *The Economics of Schooling: Production and Efficiency in Public Schools*, *Journal of Economic Literature*, Vol. 24, Issue 3, at 1162 (Sept. 1986); compare Goldhaber and Brewer, *Evaluating the Effect of Teacher Degree Level on Educational Performance*, in *Developments in School Finance 1996*, U.S. Department of Education, Nation Center for Education

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studies show that teachers become more effective after gaining some experience; however, gains in effectiveness are not sustained over time.¹⁸ Instead, the most significant gains in teacher effectiveness occur early in a teacher's career and peak after a certain number of years, with little or no measurable increase thereafter.¹⁹ According to DOE, 164,501 classroom teachers were paid approximately \$7.4 billion in the 2009-10 school year. Of this amount an estimated \$1.3 billion in base salary increases was paid based upon seniority. In addition, 59,232 classroom teachers were paid approximately \$186 million for advanced degrees. Compensation provided for advanced degrees averaged approximately \$2,800 for a master's degree, \$6,600 for a specialist, and \$6,600 for a doctorate degree.²⁰

Race to the Top

In August 2010, Florida was one of 11 states and the District of Columbia awarded federal Race to the Top grant funds.²¹ Florida has received \$700 million to implement various education reforms. At least \$69 million will be used to reform performance evaluation, compensation, and employment policies.²² Sixty-two of 67 school districts, 224 charter schools in 29 of these districts, and three university lab schools are currently participating in the grant.²³ Fifty-four local teachers unions have agreed to collaborate with their school districts in implementing these reforms.²⁴

Performance Evaluations

Current Law

Florida law requires each district school superintendent to establish procedures to assess the job performance of instructional personnel and school administrators.²⁵ A performance evaluation must be conducted at least once per year for these employees.²⁶ Some school districts require additional

Statistics, at 208 (1997)(finding that teachers with advanced mathematics degrees produced slightly higher student mathematics test scores than those teaching out-of-field or without an advanced mathematics degree) *with* Rowan, Correnti, and Miller, *What Large Scale, Survey Research Tells Us About Student Achievement: Insights from the Prospects Study of Elementary Schools*, Consortium for Policy Research in Education, University of Pennsylvania, at 13-14 (2002)(Finding that teachers with advanced mathematics degrees produced lower student mathematics test scores than those without any mathematics degree); *see also* Clotfelder, Ladd, and Vigdor, *How and Why Teacher Credentials Matter for Student Achievement?*, Urban Institute, Working Paper 2, at 33 (March 2007)(finding that elementary teachers who earned an advanced degree within five years of entering teaching were no more effective than those without advanced degrees and elementary teachers with advanced degrees earned after five years in teaching were *less effective* than those without advanced degrees).

¹⁸ *NCTQ Research Review*, *supra* note 17, at 3; *CECR Research Review*, *supra* note 17, at 2-3.

¹⁹ *Id.*; *see, e.g., Brookings Report*, *supra* note 13, at 27 (finding significant gains in teacher effectiveness during the first two years in teaching, with little measurable increase after four years); *see, e.g., Hanushek, Kain, O'Brien, and Rivkin, The Market for Teacher Quality*, National Bureau of Economic Research, Working Paper 11154, at 29 (Feb. 2005), *available at* <http://edpro.stanford.edu/hanushek/admin/pages/files/uploads/w11154.pdf> (finding that the largest gains in teacher effectiveness occur during the first year in teaching).

²⁰ Email from Florida Department of Education (Dec. 6, 2010).

²¹ American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (Feb. 17, 2009); Press Release, U.S. Department of Education, *Nine States and the District of Columbia Win Second Round Race to the Top Grants* (Aug. 24, 2010), <http://www.ed.gov/news/press-releases/nine-states-and-district-columbia-win-second-round-race-top-grants> (last visited Feb. 10, 2011). Delaware and Tennessee were selected to receive Race to the Top grant funds in Phase 1 of the competition. The District of Columbia, Florida, Georgia, Hawaii, Maryland, Massachusetts, New York, North Carolina, Ohio, and Rhode Island were selected in Phase 2. The winners were selected from a field of 46 states. *Id.*

²² U.S. Department of Education, *Race to the Top Funding Status*, <http://www2.ed.gov/programs/racetothetop/funding.html> (last visited Feb. 14, 2011); Florida Department of Education, *Florida's Race to the Top: hearing before the House Education Comm.* (Jan. 13, 2011); Email from Florida Department of Education (Feb. 14, 2011).

²³ Florida Department of Education, *LEA Approval Status List*, <http://www.fldoe.org/arra/RacetotheTop.asp> (last visited Feb. 4, 2011). Participating lab schools are the Florida Atlantic University, Florida A & M University, and University of Florida lab schools. The Baker, Dixie, Hamilton, Palm Beach, and Suwannee County school districts are not participating in the grant. *Id.*

²⁴ Florida Department of Education, *Press Release Aug. 24, 2010*, http://www.fldoe.org/news/2010/2010_08_24.asp (last visited Feb. 11, 2010).

²⁵ Section 1012.34(1), F.S.

²⁶ Section 1012.34(3), F.S.

evaluations for beginning classroom teachers or those on annual contract.²⁷ State Board of Education rule requires each school district to identify the factors and evidence to be used to designate, document, and differentiate unsatisfactory, satisfactory, and outstanding performance. However, use of a specific set of performance levels is not required.²⁸ The design features of school district performance evaluation systems are often established through collective bargaining.²⁹ The Department of Education (DOE) must approve each school district's performance evaluation system.³⁰

Each performance evaluation must measure the employee's subject area knowledge and ability to maintain classroom discipline; plan and deliver instruction; use technology in the classroom; evaluate instructional needs; and collaborate with parents to increase student achievement. Additional performance criteria may be established by the state board and district school boards.³¹

Since 1999, the performance evaluation has been statutorily required to be primarily based upon student performance. School districts must use statewide assessments and, for subjects and grades not tested by statewide assessments, local assessments.³² The term "primarily based" is not defined, resulting in inconsistent weighting of student performance and use of student assessment data in district performance evaluation systems.³³

Currently, there is no express requirement that performance be considered when making employee transfers and promotions. These actions are based upon district school superintendent recommendation and school board approval. When transferring a classroom teacher from one school to another, the superintendent must consult with the school principal and allow him or her to review the teacher's record and interview the teacher. If the school principal determines that the placement is not in the best interests of students, he or she may request an alternative placement.³⁴ The law does not grant school principals the right to refuse such placements.³⁵

Race to the Top

Race to the Top funds will be used to hire consultants to assist school districts in developing new instructional personnel and school administrator performance evaluations that are at least 50 percent based upon student learning growth. Each school district must use a comprehensive range of performance ratings that include "effective" and "highly effective." Additionally, each school district must conduct multiple evaluations for each first-year classroom teacher. Participating districts must use the performance evaluation to make employment decisions.³⁶

²⁷ See, e.g., Orange County Public Schools, *Instructional Personnel Performance Assessment Procedures Manual*, at 3 (2009), available at https://www.ocps.net/es/hr/PDS/assessment/Documents/2009-10_Assessment_Manual_all.pdf [hereinafter *Orange County Performance Assessment*].

²⁸ Rule 6B-4.010(1)(c)2., F.A.C. The performance levels used by school districts vary. For example, Miami-Dade School District uses four performance levels – exemplary, proficient, developing/needs improvement, and unsatisfactory. Miami-Dade County School District, *Instructional Performance Evaluation and Growth System*, at 26 (2009), available at <http://ipegs.dadeschools.net/pdfs/Teacher%20Handbook%20FINAL%208-4-09.pdf> [hereinafter *Miami-Dade Performance Assessment*]. In contrast, Sumter School District uses three performance levels – satisfactory, needs improvement, and unsatisfactory. Sumter County Schools, *Instructional Performance Assessment System*, at II-11 (1999), available at <http://www.fldoe.org/profdev/pdf/pa/Sumter.pdf> [hereinafter *Sumter County Performance Assessment*].

²⁹ See, e.g., *Miami-Dade Master Contract*, *supra* note 6, at 245-247.

³⁰ Section 1012.34(1), F.S. Approved school district performance evaluations may be viewed on the DOE website. See Florida Department of Education, *District Performance Appraisal Systems*, <http://www.fldoe.org/profdev/pa.asp> (last visited Feb. 4, 2011).

³¹ Section 1012.34(3)(a), F.S. The Educator Accomplished Practices are adopted in rule and include several competencies and skills that are essential to effective teaching. Rule 6A-5.065, F.A.C. Likewise, the Florida Principal Leadership Standards provide the standards by which school administrators must demonstrate competency to be considered effective. Rule 6A-5.080, F.A.C.

³² Section 58, ch. 99-398, L.O.F., codified at s.1012.34(3), F.S.

³³ *Race to the Top Application*, *supra* note 7, at 144.

³⁴ Section 1012.27(1), F.S.

³⁵ See s. 1012.28, F.S.

³⁶ Florida Department of Education, *Florida's Race to the Top Memorandum of Understanding for Phase 2*, at 10-13 (May 3, 2010), available at <http://www.fldoe.org/arra/pdf/phase2mou.pdf> [hereinafter *Race to the Top MOU*]; Florida Department of Education,

School districts participating in Race to the Top must measure student learning growth based upon statewide assessments and, for subjects and grades not tested by statewide assessments, district-developed or selected assessments aligned to state standards.³⁷ Currently, statewide assessments include the Florida Comprehensive Assessment Test (FCAT) and statewide standardized end-of-course assessments (EOC). The FCAT assesses reading (grades 3-10), mathematics (grades 3-8), science (grades 5 and 8), and writing (grades 4, 8, and 10). Statewide standardized EOCs for high school students include Algebra I (administration begins in 2010-11) and Biology I and geometry (administration begins in 2011-12). Middle school students will begin taking an EOC in Civics beginning in the 2012-13 school year.³⁸

Race to the Top funds will be used to hire consultants to assist DOE in developing a value-added student learning growth formula for statewide assessments and model formulas for subjects and grades not tested on statewide assessments. These formulas will be used to measure student learning growth over time, unlike student achievement,³⁹ which measures knowledge held at a particular point-in time. Student learning growth formulas will be used to measure instructional personnel and school administrator performance, using multiple years of student data. Other factors that may influence student learning will be considered during formula development, such as attendance, disability, and English proficiency.⁴⁰

Effect of Bill

The bill more closely aligns state law governing instructional personnel and school administrator performance evaluation systems with the reforms proposed by Race to the Top. These reforms will clearly focus evaluations on student learning, provide uniform standards for system design, and facilitate more consistent and reliable statewide evaluation of employee performance. This, in turn, will enhance the utility of the evaluation in rewarding effective employees, identifying ineffective employees, and remediating those who need additional support. Performance evaluation results must be used as a basis for professional development, compensation, retention, transfers, and promotions, thereby facilitating maximization of personnel resources. The bill authorizes a school principal to refuse the placement or transfer of instructional personnel who are not rated effective or higher.

Currently, a uniform set of performance levels is not required. The terminology used to describe each performance level, standards for measuring each level, and number of levels varies statewide. This makes it difficult to compare effective performance from one school district to another. To provide consistent statewide indicators of performance, the bill requires performance evaluation systems to differentiate among four consistent and clearly defined levels of performance:

- Highly effective;
- Effective;
- Needs improvement, or for instructional personnel in their first three years of employment who need improvement, developing; and
- Unsatisfactory.

The state board must adopt rules establishing uniform standards for each performance level.

Newly hired classroom teachers must be evaluated at least twice in their first year of teaching in the school district. This will enable districts to provide additional feedback and support to these teachers.

American Recovery and Reinvestment Act, Procurements, <http://www.fldoe.org/arra/procurements.asp> (last visited Feb. 13, 2011)[hereinafter *Race to the Top Procurement*] (Improvement of Educator Evaluation Systems).

³⁷ *Race to the Top MOU*, *supra* note 36, at 10-13.

³⁸ Section 1008.22(3)(c), F.S.

³⁹ School districts may use a student achievement measure instead of a student learning growth measure for courses in which achievement is a more appropriate measure. *Race to the Top MOU*, *supra* note 36, at 10-13.

⁴⁰ *Race to the Top MOU*, *supra* note 36, at 10-13; *Race to the Top Procurement*, *supra* note 36 (Value Added Model); *see also* Office of Program Policy Analysis and Government Accountability, *Overview of Value-Added Analysis*, at 1 (2011).

All other employees must be evaluated annually. Performance evaluation systems must include processes for monitoring evaluator reliability and system effectiveness. Evaluators may consider input from other trained personnel.

The bill reorganizes the existing performance criteria into three distinct categories: student performance; instructional practice; and instructional leadership. All employees will be evaluated based upon student performance. Instructional practice criteria for instructional personnel are based upon the Florida Educator Accomplished Practices.⁴¹ Instructional leadership criteria for school administrators are based upon the Florida Principal Leadership Standards.⁴² School administrators will also be evaluated based upon recruitment and retention of effective or highly effective classroom teachers, school-level improvements in the percentage of such teachers, and execution of evaluation duties. The state board may adopt additional performance criteria based upon employee job responsibilities.

Current law does not clearly define the exact proportion of the performance evaluation that must be based upon student performance. Consequently, the weight assigned to student performance varies among school districts. The bill replaces the requirement that performance evaluations be "primarily based" upon student performance with a clearly defined requirement that student learning growth comprise at least 50 percent of the evaluation. Measurement of student learning growth must be based upon students assigned to the employee over three school years. If less than three years of data is available, the school district must include available data and may reduce the weight attributed to student learning growth to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for other instructional personnel. Using three years of data enables evaluators to examine how students assigned to the employee have performed in the past and determine performance trends. This also enables evaluators to examine drastic changes to established trends, and determine if the change is an anomaly.

Standards for measuring student learning growth vary by personnel classification, as follows:

- Student learning growth for students assigned to classroom teachers will be measured by statewide assessments or, for subjects and grades not tested by statewide assessments, school district-selected assessments.
- Student learning growth for students assigned to other instructional personnel will be measured by statewide assessments; however a combination of growth data and measurable student outcomes unique to the personnel assignment may be used, provided that growth data accounts for at least 30 percent of the evaluation.
- Student learning growth for a school administrator's evaluation will be measured by learning growth data for students assigned to the school.

Since 1999, school districts have been required to measure student performance using statewide assessments, and for subjects and grades not tested on statewide assessments, local assessments. Currently, the extent that school districts use existing statewide assessments to measure student performance is unclear. Likewise, not all school districts have local assessments to measure subjects and grades not tested by statewide assessments. Beginning with the 2014-15 school year, each school district must adopt a rigorous student assessment for each course it offers. School districts may use statewide assessments, other standardized assessments, industry certification examinations, and district-developed or -selected assessments. The commissioner must identify methods to support school districts in the development or acquisition of assessments. Such methods include developing test item banks, facilitating the sharing of assessments among districts, acquiring assessments from state and national curriculum-area organizations, and technical assistance. DOE and most school districts will already be undertaking most of these activities as part of Race to the Top implementation.

⁴¹ The Educator Accomplished Practices are adopted in rule and include include several competencies and skills that are essential to effective teaching. Rule 6A-5.065, F.A.C.

⁴² The Florida Principal Leadership Standards provide the essential competencies and skills for school administrators. Rule 6A-5.080, F.A.C.

By June 1, 2011, the commissioner must approve a student learning growth formula for the FCAT. Additional formulas for other statewide assessments must be selected as these assessments are implemented. The state board must adopt formulas for statewide assessments into rule. Formulas must consider each student's prior performance and learning growth over time. Factors such as student attendance, disability, or English proficiency must be considered in formula development. The formula will recognize each student's unique starting point. A student's prior performance will be compared to performance in the year assigned to the employee. Lower expectations will not be established for students based upon gender, race, ethnicity, or socioeconomic status.

Beginning with the 2011-12 school year, each school district must use the commissioner-approved formula for courses associated with the FCAT. Formulas for additional statewide assessments must be implemented as they become available. Beginning with the 2014-15 school year, each district must measure student learning growth using an equally appropriate formula for assessments of subjects and grades not tested by statewide assessments. DOE must provide student learning growth models which school districts may adopt for this purpose. Much of this work will be accomplished during Race to the Top implementation.

The bill authorizes school districts to request DOE-approval to use a student achievement measure or a combination of student learning growth and achievement when such measures are appropriate. Likewise, districts may request approval to determine appropriate measures based upon course characteristics and personnel assignments. This enables districts to use student achievement when point-in-time knowledge more accurately reflects student performance in a course. Such courses may include industry certification, art, or music courses, in which mastering a job skill, painting a picture, or playing a song may be the goal of the course. This provides school districts with flexibility to select an appropriate measure of student performance based upon course characteristics.

Until July 1, 2015, the bill provides flexibility for school district phase-in of appropriate student assessments and learning growth formulas. If a district has not implemented an assessment or formula for a course, two alternative growth measures may be used for a classroom teacher of the course – student growth on statewide assessments or measurable learning targets in the school improvement plan. Additionally, a district school superintendent may assign growth to an instructional team, in lieu of the overall student learning growth of the school on statewide assessments for reading and math. This provides flexibility to provide appropriate evaluation for employees who teach courses in which appropriate assessments or student learning growth formulas have not yet been adopted.

School districts must annually report instructional personnel and school administrator performance evaluation ratings to DOE. Beginning July 1, 2012, DOE must post this information on its website by school district and school. By December 1, 2012, and annually thereafter, DOE must report evaluation ratings to the Governor and Legislature. The initial report must also address district implementation of evaluation systems, and subsequent annual reports must include any changes in such systems. The state board must adopt a process for monitoring school district implementation of evaluation systems. Annual reporting will enable the public to compare the performance of instructional personnel and school administrators across the state. Parents will be able to see which schools in their district have the best teachers and principals.

Salary Schedules

Current Law

Florida law requires district school boards to adopt and use a salary schedule in setting the compensation for district employees. An undefined portion of instructional personnel compensation must be based upon performance, as measured by annual performance evaluations.⁴³ Salary schedules for instructional personnel and school administrators must include differentiated pay based

⁴³ Sections 1011.60(4), 1012.22(1)(c)1.-2., and 1012.27(2), F.S. A district must also consider prior professional experience in the field of education gained in positions in addition to district level instructional and administrative positions. Section 1012.22(1)(c)2., F.S.

upon district-determined factors, including additional responsibilities, school demographics, critical shortage areas, and level of job performance difficulties.⁴⁴

District school boards bargain collectively with the certified bargaining agent (union) that represents the district's employees to set the salary schedule.⁴⁵ The district and union negotiate wages, hours, and terms and conditions of employment, which are included in the collective bargaining agreement.⁴⁶ Annual salary increases are largely based upon seniority and advanced degrees. Typically, instructional personnel receive nominal increases in pay earlier in their careers, with larger increases occurring as they acquire seniority or an advanced degree.⁴⁷ Because collectively bargained salary schedules rely heavily on seniority and advanced degrees to set compensation, differentiated pay incentives for assignment to high-need schools and subject areas have not been consistently implemented.⁴⁸

The critical teacher shortage areas are adopted by the state board. District school boards may submit additional critical teacher shortage areas for state board approval. A critical teacher shortage area is a subject area, grade-level, or high-priority location area in which teachers are in short supply. A high-priority location area is a low socio-economic status urban or rural school with high levels of faculty attrition, economically disadvantaged students, and students receiving free and reduced price lunches. Additional shortage areas may be based upon teacher demographic characteristics.⁴⁹ For 2010-11, the state board has identified as critical teacher shortage areas middle and high school level mathematics, science, and English/language arts; reading; exceptional student education; English for speakers of other Languages; foreign languages; and technology education/industrial arts.⁵⁰ State law establishes several tuition reimbursement and student loan forgiveness programs to attract teachers to critical teacher shortage areas.⁵¹ However, these programs were not funded in 2010, after minimal participation in 2009.⁵² The link between critical teacher shortage areas and differentiated pay is not clearly established in law. Districts have discretion to award or not award differentiated pay for teaching in a critical teacher shortage area.⁵³

Race to the Top

School districts participating in the Race to the Top grant must develop compensation systems for instructional personnel and school administrators that tie the most significant salary increases to effectiveness, as demonstrated by annual performance evaluations. Participants must also provide differentiated pay based upon the factors in current law. These reforms must be implemented by the 2013-14 school year.⁵⁴

⁴⁴ Section 1012.22(1)(c)4., F.S.

⁴⁵ Sections 447.203(2), 447.309(1), and 1012.22(1)(c)4., F.S. The only school district whose instructional personnel are not represented by a union is Calhoun County. Telephone interview with Calhoun County School District, Assistant Superintendent (Oct. 5, 2010).

⁴⁶ Section 447.309(1), F.S.

⁴⁷ See s. 1012.22(1)(c), F.S.; see, e.g., *Hillsborough Salary Schedule*, supra note 10, at 8-10; see, e.g., *Glades Teacher Contract*, supra note 10, at 16.

⁴⁸ *Race to the Top Application*, supra note 7, at 165.

⁴⁹ Section 1012.07(1), F.S.

⁵⁰ Florida Department of Education, *Critical Teacher Shortage Areas 2010-2011*, 1 (Nov. 2009), available at <http://www.fldoe.org/evaluation/teachdata.asp>; see Rule 6A-20.0131, F.A.C.

⁵¹ Section 1009.54, F.S. (Critical Teacher Shortage Program); s. 1009.57, F.S. (Florida Teacher Scholarship and Forgivable Loan Program); s. 1009.58, F.S. (Critical Teacher Shortage Tuition Reimbursement Program); and 1009.59, F.S. (Critical Teacher Shortage Loan Forgiveness Program).

⁵² See Office of Economic and Demographic Research, *Student Financial Aid Enrollment Conference Results, Executive Summary*, at 1 (Nov. 12, 2010), available at <http://edr.state.fl.us/Content/conferences/financialaid/sfaexecsummary.pdf>. In November 2009, 4,716 educators were participating in these programs. See Office of Economic and Demographic Research, *Student Financial Aid Enrollment Conference Results, Executive Summary*, Nov. 20, 2009), available at http://edr.state.fl.us/conferences/financialaid/sfa112009_Summary.pdf.

⁵³ Section 1012.22(1)(c)4., F.S.

⁵⁴ *Race to the Top MOU*, supra note 36, at 15-16.

Effect of Bill

Currently, instructional personnel compensation is based largely upon seniority and advanced degrees. As a result, these employees do not begin earning significant pay increases until they acquire seniority or an advanced degree, regardless of how effective they are. The bill focuses compensation on employee performance, rather than seniority and advanced degrees.

Similar to Race to the Top, each district school board must adopt a performance salary schedule for instructional personnel and school administrators by July 1, 2014. Annual salary adjustments may only be given to employees rated effective and highly effective on annual performance evaluations. The adjustments become part of the employee's permanent base salary and are considered compensation under the Florida Retirement System. The salary adjustment for highly effective performance must be greater than the highest annual salary adjustment available to the employee through any other salary schedule adopted by the school district. The salary adjustment for effective performance must be between 50 and 75 percent of the adjustment provided to a highly effective employee. Employees rated below effective are not eligible for a salary adjustment. Salary adjustments will enable effective and highly effective instructional personnel to earn greater pay increases earlier in their careers. This will increase the likelihood that these employees remain in teaching, rather than leaving the profession for higher-paying fields.

The bill defines a supplement as an increase in pay of fixed duration which does not become part of permanent base salary; however, the supplement is considered compensation under the Florida Retirement System. Similar to differentiated pay under current law, salary supplements must reward instructional personnel and school administrators who are assigned to Title I⁵⁵ or chronically low-performing schools, certified and teaching in a critical shortage area, or assigned additional academic responsibilities. Existing critical teacher shortage area tuition incentives and differentiated pay have not fulfilled the personnel needs of high-need schools and subject areas. Salary supplements will help attract high-performing instructional personnel and school administrators to work in such schools and subject areas.

To more closely align critical teacher shortage areas to the criteria for awarding salary supplements, the bill redefines critical teacher shortage areas as high-need content areas and high-priority location areas, e.g., low socio-economic status and chronically low-performing schools. The state board and district school boards must consider current and emerging educational requirements and workforce demands when identifying critical teacher shortage areas.

Initially, the performance salary schedule applies to instructional personnel and school administrators hired on or after July 1, 2014, and instructional personnel on annual contracts as of July 1, 2014. Instructional personnel on continuing or professional service contracts are grandfathered into the salary schedule adopted under current law, or, at anytime, may opt into the performance salary schedule. Employees who opt in must relinquish their continuing or professional service contract for an annual contract. Such employees may not return to continuing or professional service contract status or the grandfathered salary schedule.

Consistent with research showing that holding an advanced degree has little bearing on a teacher's effectiveness, the bill prohibits the use of advanced degrees in setting base salary for instructional personnel hired on or after July 1, 2011. School districts may provide a salary supplement for advanced degrees to classroom teachers if the degree is in the subject area of teaching and certification. Other instructional personnel may receive a supplement if the degree is directly related to their job assignment. School districts may provide annual cost of living adjustments, subject to certain requirements. If budget constraints limit a school board's ability to fully fund all adopted salary schedules, the bill prohibits the board from disproportionately reducing the performance salary

⁵⁵ Typically, a Title I school is an urban or rural school serving a high proportion of economically disadvantaged students. See Pub. L. No. 89-10, 79 Stat. 27 (April 11, 1965).

schedule. This increases the likelihood that, during budgetary shortfalls, limited personnel resources will be allocated based upon results.

Contracts for Instructional Personnel

Current Law

Three types of contracts are used to employ instructional personnel in Florida – annual contracts, professional service contracts, and continuing contracts. The eligibility and renewal requirements for each type of contract differ.⁵⁶ Holding a continuing contract or professional service contract is often referred to as tenure.⁵⁷ There is no requirement that performance evaluation results be considered in awarding any of these contracts.⁵⁸

An annual contract expires at the end of its term.⁵⁹ An employee's first annual contract includes a 97-day period during which the employee's contract may be terminated without cause or the employee may resign without breach of contract.⁶⁰

Florida law specifically states that instructional personnel hired on or after July 1, 1984, are "entitled to and must receive" a professional service contract after three years of probationary service on annual contracts if fully certified, recommended for a professional service contract by the superintendent, and reappointed by the school board.⁶¹ A professional service contract must be renewed each year, unless the employee is charged with unsatisfactory performance based upon his or her annual performance evaluation.⁶² In such cases, the school board must follow statutorily required due process procedures before dismissing the employee.⁶³ Because of automatic contract renewal, a professional service contract is often referred to as tenure.⁶⁴

Legislation enacted in 1982 discontinued continuing contracts for instructional personnel hired on or after July 1, 1984.⁶⁵ The eligibility requirements for a continuing contract were similar to a professional service contract.⁶⁶ Unlike a professional service contract, instructional personnel who were granted continuing contracts are entitled to continued employment without the necessity of annual renewal.⁶⁷

Continuing contract employees may exchange such contract for a professional service contract. District school boards have discretion to award a continuing or professional service contract to newly hired instructional personnel who previously earned such contract in the same or another school district in the state. Thus, the portability of such contracts is not guaranteed by law.⁶⁸

⁵⁶ Section 1012.33(3), F.S.; *see also* s. 231.36, F.S. (1981).

⁵⁷ Section 1012.33(3)(e), F.S.

⁵⁸ Section 1012.33(3)(a)1.-4., F.S.; *see also* s. 231.36, F.S. (1981).

⁵⁹ Section 1012.33(3), F.S.

⁶⁰ Section 1012.33(3)(a)4., F.S. This 97-day period applies to instructional personnel employed after June 30, 1997. *Id.*

⁶¹ Section 1012.33(3)(a)1.-3., F.S. Probationary employment must be completed in the same school district during a period not to exceed five successive years, except for leave duly authorized and granted. *Id.* Probationary employment may be extended to four years if agreed upon in writing by the district school board and the employee. Section 1012.33(3)(c), F.S.

⁶² Sections 1012.33(3)(e) and 1012.34(3)(c)-(d), F.S.

⁶³ Section 1012.34(3)(d), F.S.

⁶⁴ Section 1012.33(3)(a), F.S.; *see also* 67B Am. Jur. 2d Schools s. 195 (defining tenure). Instructional personnel hired before July 1, 1984, were issued continuing contracts. Legislation enacted in 1981 phased out continuing contracts in favor of professional service contracts. Section 15, ch. 82-242, L.O.F.

⁶⁵ Section 15, ch. 82-242, L.O.F.

⁶⁶ Section 231.36(1) and (3)(a)1.-4., F.S. (1981).

⁶⁷ Section 231.36(3)(e), F.S. (1981). A continuing contract employee may be dismissed upon discontinuation of the position, resignation, dismissal, or return to annual contract. *Id.*

⁶⁸ Section 1012.33(3)(d), F.S.

All instructional personnel may be suspended or dismissed during the term of their contract for just cause.⁶⁹ Just cause includes incompetency, immorality, misconduct in office, gross insubordination, willful neglect of duty, being convicted or found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.⁷⁰ Due process in the form of notice of charges, hearings, and appeals must be provided.⁷¹

District-wide reductions to instructional positions caused by declining enrollment or budgetary conditions are known as “reductions-in-force.”⁷² In such situations, Florida law requires district school boards to establish policies, through collective bargaining or by rule, for determining which employees are retained during a reduction-in-force.⁷³ When making reductions-in-force, the school district must determine which schools, grade-levels, and subject areas will be affected and make reductions according to priorities established in the collective bargaining agreement.⁷⁴ In most Florida school districts, the primary factor considered when making reductions-in-force is seniority, tenure, or both.⁷⁵ This practice is known as “last hired, first fired.”⁷⁶

Effect of Bill

The bill discontinues professional service contracts for instructional personnel on annual contract as of July 1, 2011, and those hired thereafter. Unlike automatically renewing professional service contracts, these employees will be employed on annual contracts. This reform shifts the focus of Florida’s instructional personnel contracting system away from entitled employment to employment based upon performance.

The first annual contract for newly hired employees is a one-year probationary contract, which may be terminated without cause or the employee may resign without breach of contract. This extends the current probationary period in the first annual contract from 97 days to one year.

Upon successful completion of the one-year probationary contract, district school boards may award subsequent annual contracts if the employee is certified, recommended by the superintendent based upon his or her performance evaluation, and approved by the district school board. Annual contracts may not be awarded to instructional personnel who have two consecutive unsatisfactory evaluations or two unsatisfactory evaluations within a three-year period. This increases the likelihood that all students will have effective or highly effective classroom teachers.

Effective July 1, 2011, the bill repeals all special laws or general laws of local application relating to contracts for public school instructional personnel to achieve statewide consistency regarding such contracts. District school board authorization to award a continuing contract or professional service contract to newly hired instructional personnel who previously earned such contract in the same or another school district in the state is also repealed as are provisions allowing a continuing contract to

⁶⁹ Section 1012.33(1)(a), (4)(c), and (6)(a), F.S. School administrators may also be suspended or dismissed on just cause grounds. Section 1012.33(4)(c) and (6)(b), F.S.

⁷⁰ Section 1012.33(1)(a), F.S.; rule 6B-4.009, F.A.C. The just cause grounds for dismissal are further defined in state board rule. See rule 6B-4.006(1)-(6), F.A.C.

⁷¹ Section 1012.33(6)(a), F.S. (flush-left provisions at end of subsection); see s. 120.68(1) and (2), F.S.

⁷² National Council on Teacher Quality, *Teacher Layoffs: Rethinking “Last Hired, First Fired” Policies*, at 3 (Feb. 2010), available at http://www.nctq.org/p/docs/nctq_dc_layoffs.pdf [hereinafter *Rethinking “Last Hired, First Fired”*].

⁷³ Section 1012.33(5), F.S. Calhoun County does not have a collective bargaining agreement because its instructional personnel are not unionized. Telephone interview with Calhoun County School District, Assistant Superintendent (Oct. 5, 2010).

⁷⁴ See, e.g., Hillsborough County School District and Hillsborough Classroom Teachers Association, Inc., *Teacher Contract 2007-2010*, at 79-84 (2007), available at http://www.sdhc.k12.fl.us/HumanResources/PDFs/CONTRACT/bargaining_agreement.pdf; see, e.g., *Miami-Dade Master Contract*, *supra* note 6, at 245-247.

⁷⁵ *Id.*; see, e.g., Collier County School District and Collier County Education Association, *Instructional Personnel Collective Bargaining Agreement*, at 9.01, (2009), available at http://www.ccea-ocap.org/index.php?option=com_content&view=article&id=17&Itemid=70.

⁷⁶ *Rethinking “Last Hired, First Fired,” supra* note 72, at 1.

be exchanged for a professional service contract. Continuing contract employees have had since July 1, 1984, to exchange their contract.

All contracts for instructional personnel will allow suspension or dismissal at any time during the term of the contract based upon the same just cause grounds currently in law. For professional service contracts, the bill expands "just cause" to authorize suspension or dismissal for two consecutive unsatisfactory performance evaluations or two unsatisfactory evaluations within a three-year period. This will allow chronically ineffective professional service contract employees to be removed from the classroom.

The bill effectively ends the practice of "last hired, first fired" in Florida. District school boards, when making reductions-in-force, must prioritize retention of instructional personnel and school administrators upon educational program needs and performance evaluation results. Specifically, employees with the lowest performance evaluation ratings must be released before higher-rated employees. Unlike current practice, school boards may not prioritize retention of employees based upon seniority.

Applicability of Exemptions

Current Law

Academically high-performing school districts are generally exempt from the Florida K-20 Education Code (chs. 1000-1013, F.S.), with several exceptions. These school districts are statutorily required to comply with provisions governing instructional personnel and school administrator salary schedules, professional service contracts, and performance evaluations.⁷⁷

Charter schools are generally exempt from the Florida K-20 Education Code (Chapters 1000-1013, F.S.), except statutes directly applicable to charter schools and statutes for which compliance is specifically required. Charter schools are currently exempt from statutory provisions pertaining to instructional personnel and school administrator performance appraisals, salary schedules, and contracts.⁷⁸ The 224 charter schools participating in Race to the Top will be implementing reforms to performance evaluations and compensation systems.⁷⁹

On November 19, 2009, the Hillsborough County School District received a \$100 million grant award from the Bill and Melinda Gates Foundation. Funds from this grant will be used to implement several instructional personnel and school administrator quality reforms, including:

- Development of a performance evaluation system that is at least 40 percent based upon student performance.
- Use of a value-added student learning growth formula.
- Consideration of performance before instructional personnel tenure is awarded.
- Implementation of performance pay linked to performance evaluations.
- Granting greater authority to school principals to recruit and dismiss instructional personnel based upon performance.⁸⁰

Hillsborough County is also participating in Race to the Top. Florida's *Race to the Top Memorandum of Understanding for Phase 2* contains an exemption allowing the district to develop a performance evaluation system that is 40 percent based upon student performance, rather than the 50 percent

⁷⁷ Section 1003.621(1)(b) and (2), F.S.

⁷⁸ Section 1002.33(16), F.S.

⁷⁹ Email from Florida Department of Education (Feb. 15, 2011).

⁸⁰ Bill and Melinda Gates Foundation, *Intensive Partnership Fact Sheet: Hillsborough County Public Schools*, <http://www.gatesfoundation.org/united-states/Pages/hillsborough-county-public-schools-fact-sheet.aspx> (last visited Feb. 15, 2011).

required by Race to the Top. This enables the district to implement the performance evaluation it proposed in obtaining the Gates grant.⁸¹

Effect of Bill

To ensure consistent statewide implementation of the reforms made by the bill, academically high performing school districts are subjected to provisions governing contracts for instructional personnel on annual contract as of July 1, 2011, and those hired thereafter.

Similarly, the bill requires charter schools to comply with provisions governing salary schedules; reductions-in-force; contracts for instructional personnel on annual contract as of July 1, 2014, or hired thereafter; and instructional personnel and school administrator performance evaluations.

Beginning with the 2011-12 school year, Hillsborough County School District is exempted from the bill's requirement that 50 percent of its performance evaluation be based upon student performance. In accordance with the Gates grant, student learning growth may comprise 40 percent of its evaluation. The school district is also exempt from the bill's performance pay provisions. The exemptions may be extended annually with state board approval. To receive such approval, the district must:

- Maintain the performance evaluation and performance pay systems developed under the Gates grant.
- Use the student learning growth formula for statewide assessments approved by the commissioner pursuant to the bill.
- Contract with instructional personnel and school administrators based upon student performance and demonstrate that ineffective employees are dismissed.
- Demonstrate improvements in student learning growth on statewide assessments beginning with the 2014-15 school year, and annually thereafter, above 2011-12 levels.

If the state board denies the exemption, the school district must comply with the bill's performance evaluation, contracting, and compensation reforms by the beginning of the next school year immediately following loss of the exemption. The state board must adopt rules establishing a procedure for obtaining the exemption. The exemption sunsets on August 1, 2017, unless renewed and reenacted by the Legislature.

The exemption enables Hillsborough County to continue implementing the Gates grant, while holding it accountable for improving student performance. Statewide use of the same student learning growth formula will allow for an accurate comparison of the Gates grant reforms and those made by the bill and Race to the Top.

B. SECTION DIRECTORY:

Section 1: Providing a short title.

Section 2: Amending s. 1012.34, F.S.; revising the instructional personnel and school administrator performance evaluation system design components; revising the performance criteria; requiring inclusion of specific performance levels; requiring adoption of a student learning growth formula; requiring reporting; requiring the state board to adopt rules.

Section 3: Amending s. 1008.22, F.S.; requiring school districts to administer assessments to measure student learning growth for all courses offered; requiring the commissioner to identify methods to assist and support districts in administering such assessments.

Section 4: Amending s. 1012.22, F.S.; providing for employee placement on salary schedules; requiring adoption of a performance salary schedule; requiring salary adjustments to be based upon performance; requiring salary supplements to be based upon specified criteria; prohibiting use of advanced degrees to set base salary; authorizing salary supplements for advanced degrees; authorizing cost of living adjustments; providing definitions; requiring consideration of performance when making employee transfers and promotions.

⁸¹ *Race to the Top MOU, supra* note 36, at 11.

- Section 5:** Creating s. 1012.335, F.S.; providing new employment criteria for instructional personnel hired on or after July 1, 2011; providing grounds for suspensions and dismissals; providing definitions.
- Section 6:** Amending s. 1002.33, F.S.; requiring charter schools to comply with statutes governing salary schedules, workforce reductions, contracts for instructional personnel hired on or after July 1, 2011, and instructional personnel and school administrator performance evaluations.
- Section 7:** Amending s. 1003.621, F.S.; requiring academically high-performing school districts to comply with statutes governing salary schedules, personnel transfers, employee contracts, instructional personnel and school administrator performance evaluations.
- Section 8:** Amending s. 1006.09, F.S.; revising terminology.
- Section 9:** Amending s. 1012.07, F.S.; revising the methodology for identifying critical teacher shortage areas.
- Section 10:** Amending s.1012.2315, F.S.; requiring the department to post performance evaluation results online.
- Section 11:** Amending s. 1012.27, F.S.; revising the procedure for employee transfers.
- Section 12:** Amending s.1012.28, F.S.; authorizing school principal to refuse transfer of certain employees.
- Section 13:** Amending s. 1012.33, F.S.; providing additional grounds for suspension and dismissal; repealing authorization to award a continuing or professional service contract to newly hired employees who received such contract in the same or another school district; repealing authorization to exchange certain contracts; repealing an expired due process procedure; revising the priorities for workforce reductions.
- Section 14:** Repealing s. 1012.52, F.S.; relating to teacher quality legislative intent.
- Section 15:** Amending s.1012.795, F.S.; granting the Education Practices Commission jurisdiction to pursue charges for breach of an annual contract entered into on or after July 1, 2011.
- Section 16:** Providing an exemption.
- Section 17:** Providing that Chapter 2010-279, Laws of Florida, does not apply to rulemaking required under the bill.
- Section 18:** Repealing special acts or general laws of local application relating to contracts for public school instructional personnel.
- Section 19:** Providing that amendments made to s. 1012.33, F.S., apply to contracts entered into, extended, or readopted on or after July 1, 2011, and to all contracts entered into on or after July 1, 2014.
- Section 20:** Providing a severability clause.
- Section 21:** Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

Florida's \$700 million Race to the Top grant is funding implementation of most bill requirements. DOE will allocate at least \$69 million in grant funds to improve teacher and principal effectiveness.⁸² Grant funds will be used to assist school districts in the development of new educator performance evaluations; develop of test item banks; student learning growth formulas for subjects tested on statewide assessments; and growth models for district-developed assessments. DOE will provide assistance to school districts in developing or acquiring assessments for subjects and grades not tested on statewide assessments, including:

- Resources for districts to develop test items for "hard to measure" content areas, such as physical education, fine arts, and foreign language.
- Test items for core content areas such as math, social studies, science, and language arts for subjects and grades not tested on statewide assessments; and
- A technology platform to provide districts with secure access to high-quality test items and tools for the creation and administration of student assessments.

Additional resources may be necessary to maintain a test item bank or platform at the conclusion of the grant period, which is the end of the 2013-14 school year.⁸³

Since 1999, school districts have been required to measure student performance on educator performance evaluations using statewide assessments and, for subjects and grades not tested on statewide assessments, local assessments. During the next three years, the grant will provide funding for the development of assessments in most subjects.

The bill establishes new priorities that must be met by school districts when determining educator compensation; however, it does not require school districts to expend any new funds on adjustments and supplements if funds are not available to do so.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

⁸² Florida Department of Education, *Florida's Race to the Top: hearing before the House Education Comm.* (Jan. 13, 2011); Email from Florida Department of Education (Feb. 14, 2011).

⁸³ Florida Department of Education, *Legislative Bill Analysis for CS/SB 736* (2011); Staff of the Florida Senate, *Legislative Bill Analysis for CS/SB 736* (2011).

The bill requires the State Board of Education to adopt rules:

- Establishing student learning growth measures and implementation procedures for performance evaluations.
- Defining standards for performance levels.
- Establishing procedures for annual reporting and monitoring of school district implementation of performance evaluation systems.
- Defining just cause dismissal based upon unsatisfactory performance.
- Establishing a procedure for obtaining an exemption from certain requirements.

Additionally, the rulemaking requirements of the bill are exempt from ch. 2010-279, L.O.F.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.



Value-Added Models



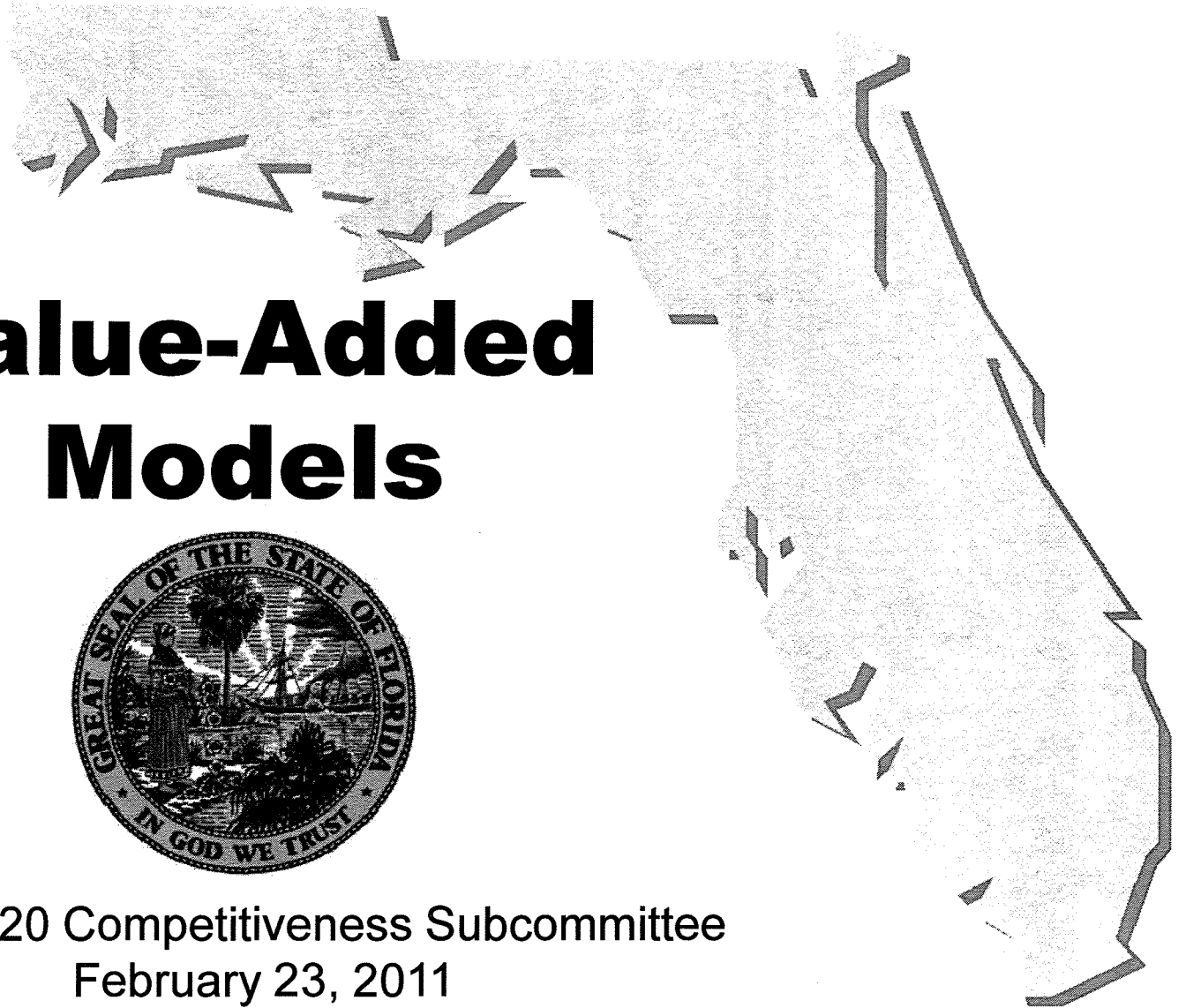
House K-20 Competitiveness Subcommittee

February 23, 2011

Juan Copa, Department of Education

Director of Research and Analysis in

Educator Performance

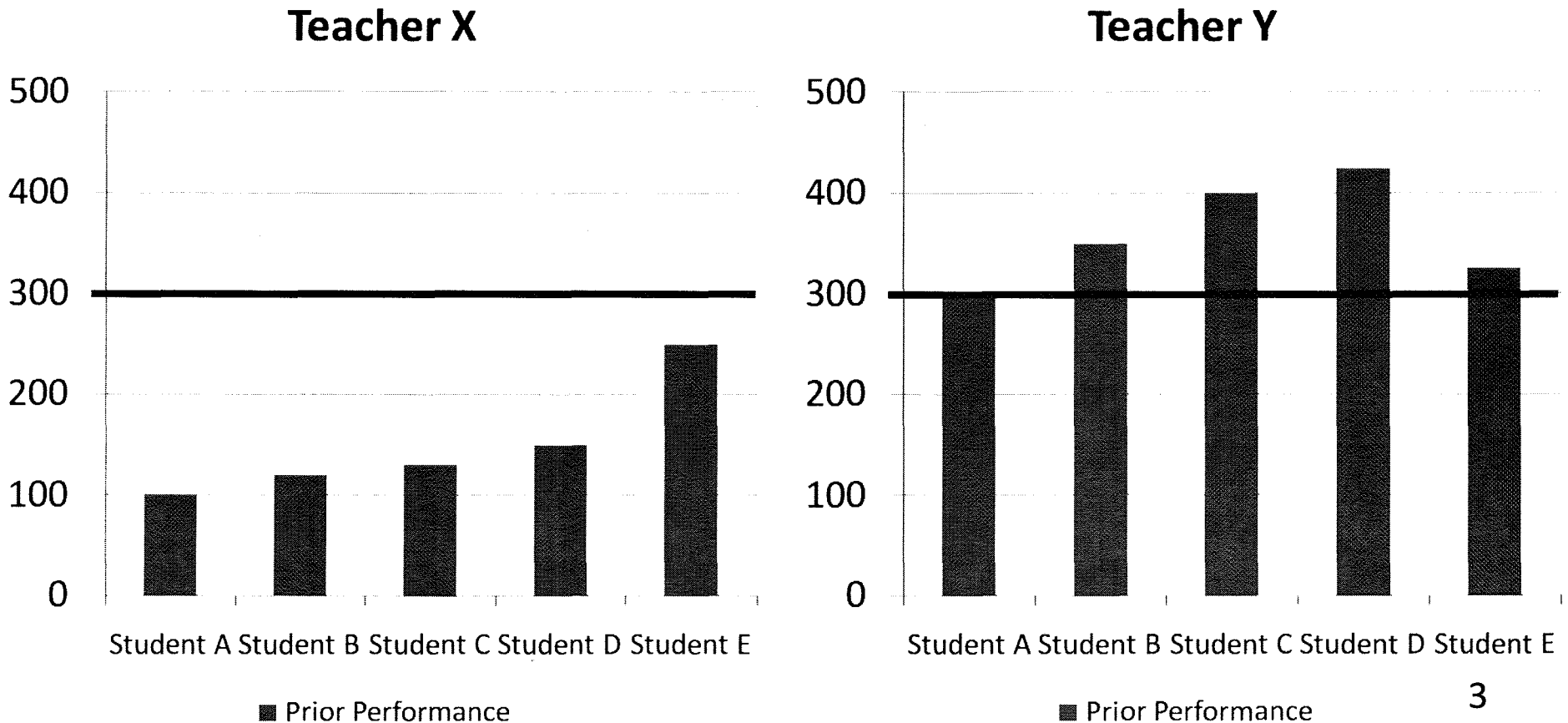


Value-Added Models

- A value-added model is one that seeks to measure the impact of a teacher on student learning, while accounting for other factors that may impact the performance of a student.
- These models do not:
 - Evaluate teachers based on student performance or proficiency in one given year (status model) or
 - Evaluate teachers based on simple comparison of growth from one year to the next (simple growth)

Value-Added Example

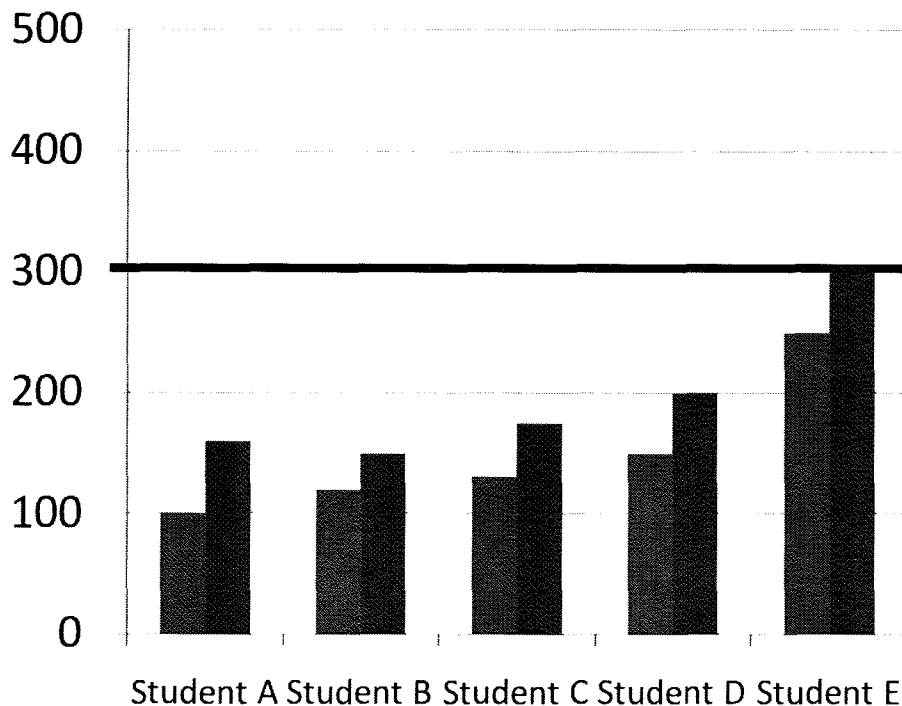
- Teacher X's class is composed exclusively of students who start the school year scoring *below* grade level.
- Teacher Y's class is composed exclusively of students who start the school year scoring *at or above* grade level.



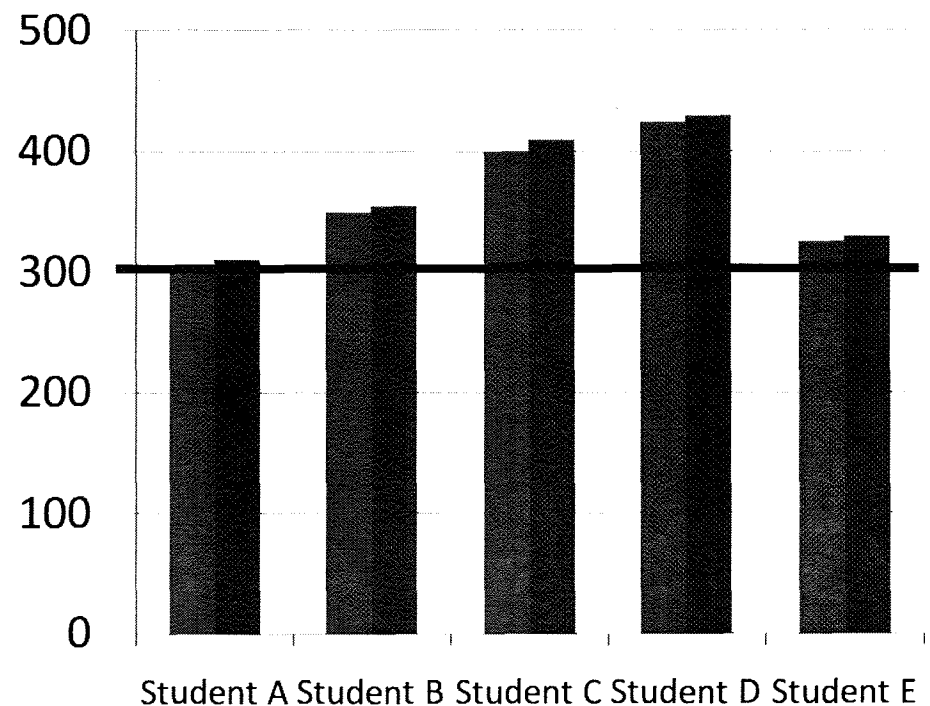
Value-Added Example

- After a year of instruction, all of Teacher X's and all of Teacher Y's students improved upon their level of performance.
- After a year of instruction, one of Teacher X's students is now scoring above grade level.
- After a year of instruction, all of Teacher Y's are still scoring above grade level.

Teacher X



Teacher Y

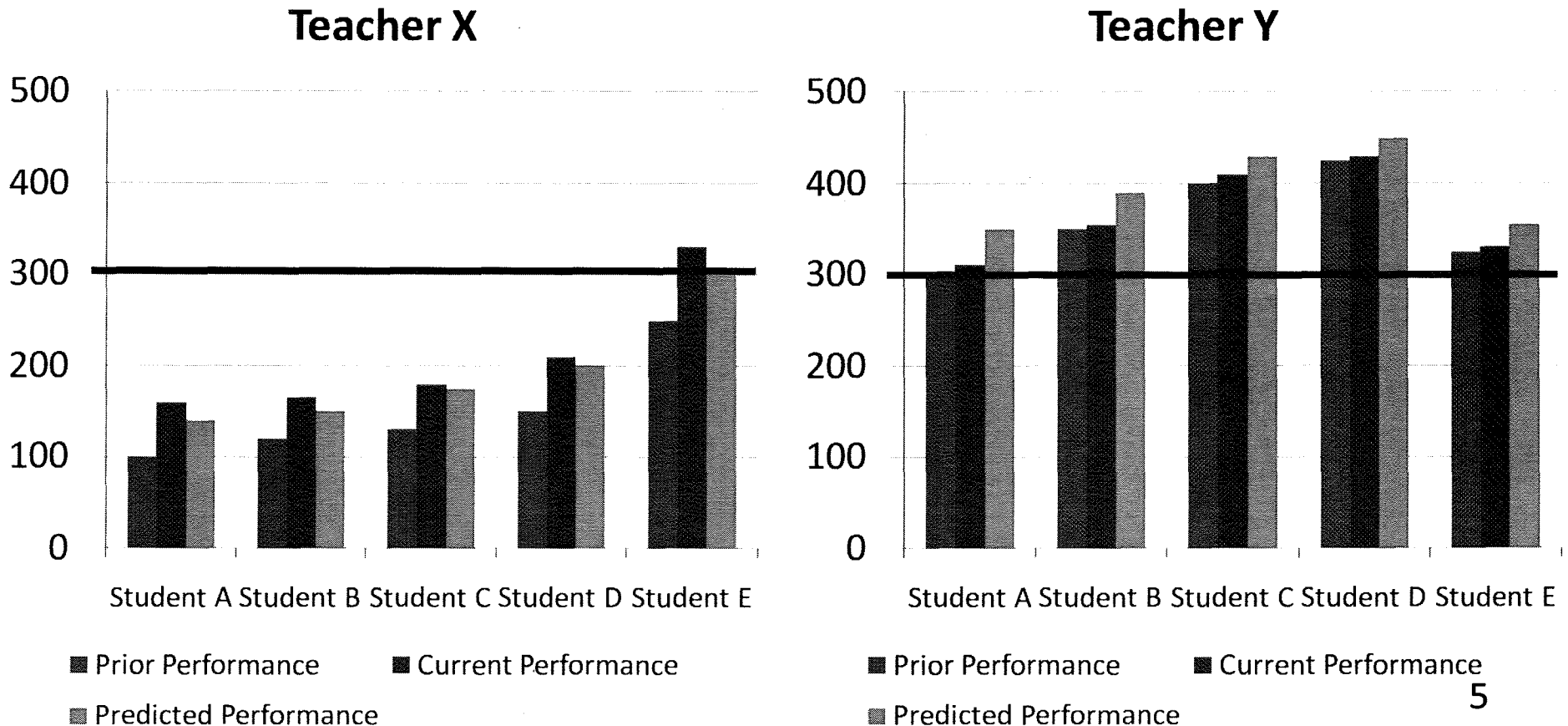


■ Prior Performance ■ Current Performance

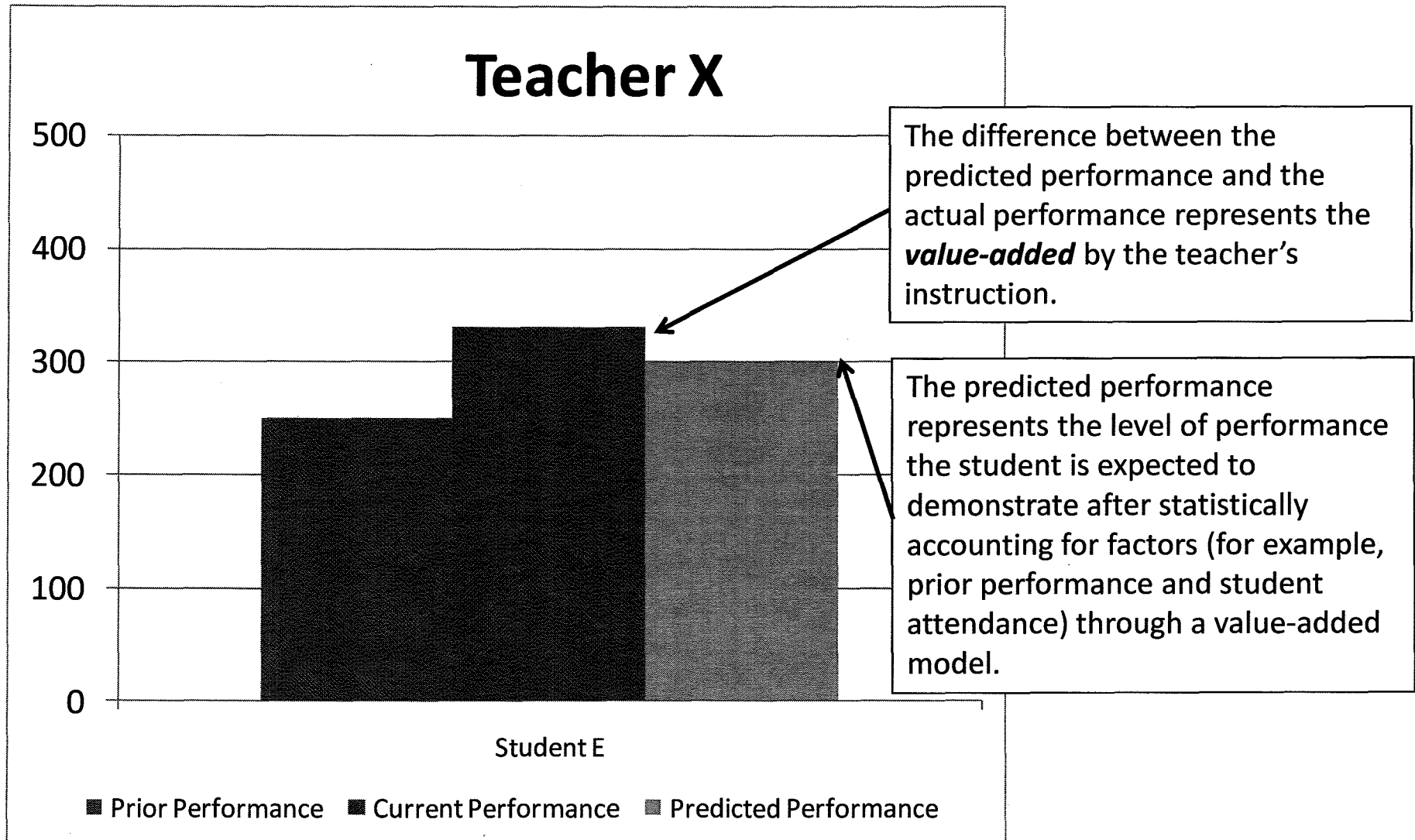
■ Prior Performance ■ Current Performance

Value-Added Example

- All of Teacher X's students improved beyond their predicted growth.
- Though all of Teacher Y's students improved, none of her students met or exceeded their predicted growth.



Value-Added Example



Value-Added Example

- Evaluating the performance of Teacher X and Teacher Y as it relates to student learning.

Measures of Student Performance	Teacher X	Teacher Y
Status	1 out of 5 students are scoring above grade level.	5 out of 5 students are scoring above grade level.
Simple Growth	5 out of 5 students improved their performance over the prior year.	5 out of 5 students improved their performance over the prior year.
Value-Added	5 out of 5 students exceeded their predicted growth.	None of the 5 students met or exceeded their predicted growth.

Value-Added Model Development Under Race to the Top

- The Department is contracting with a national expert to develop value-added models to measure student growth on statewide assessments.
- The Department will be working collaboratively with a committee of stakeholders (Student Growth Implementation Committee) to identify the type of model and the factors that should be accounted for in Florida's value-added models.
- The Department will also work with the contractor to provide example value added models for use with other standardized assessments and local assessments.

Value-Added Model Development Under Race to the Top

- The Student Growth Implementation Committee is composed of 27 members from across the state. The group includes:
 - Teachers (across various subjects and grade levels, including exceptional student education)
 - School administrators
 - District-level administrators (assessment and HR)
 - Representatives from postsecondary education
 - Representative from the business community
 - Parents

Value-Added Model Development Under Race to the Top

- The development of value-added models using FCAT to measure student growth is the focus of Year 1 of the grant.
 - These models will be developed over the Spring of this year for use in teacher evaluations beginning in 2011-12.
- The development of value-added models for other statewide assessments (for example, end-of-course assessments and alternate assessment for students with disabilities) will be the focus of Year 2 of the grant.
- Models for local assessments and other standardized assessments, such as Advanced Placement, International Baccalaureate, and the Stanford Achievement Test (SAT-10), will be developed beginning in Year 2 of the grant.

**Educator Employment
Contracts**

Contracts with Instructional Personnel

House K 20 Competitiveness Subcommittee

February 23, 2011

Judy Bone, Office of General Counsel

Prepared by Florida Department of Education

Annual Contracts

- Annual contracts are awarded to instructional employees during the first three years of employment
- Annual contracts may be non-renewed at the termination of each annual contract without cause
- The contract may be terminated by either the school district or the instructional employee during the first 97 days of the first annual contract without cause
- Except for this 97-day period, the employee may be terminated during the term of the annual contract only for “just cause”

s. 1012.33(3),(6), F.S.

Professional Service Contract (PSC)

- In order to be awarded a PSC, instructional personnel must meet three requirements
 - Hold a Florida teaching certificate
 - Complete 3 years “probationary service” (annual contract) during a 5-year period
 - Be appointed by the school board based upon the recommendation of superintendent

s. 1012.33(3), F.S.

Professional Service Contracts

- Instructional personnel with a PSC are entitled to renewal *each year*, unless the employee receives two unsatisfactory performance evaluations or the employee is terminated for “just cause”
- Collective bargaining agreements with public employees may not exceed 3 years

s. 1012.33(1),(3), (6) F.S.

s. 1012.22(1)(f), F.S.

s. 1012.34(3)(d),(4), F.S.

s. 447.309(5), F.S.

Process For Termination Of PSC Based upon Unsatisfactory Evaluation

- Instructional personnel are evaluated by his or her supervisor
- Written notice of unsatisfactory evaluation must be provided
- Employee is then placed on a 90-day performance probation
- Employee may request transfer during the 90-day probationary period

Process for Termination of PSC (continued)

- Reevaluation of the employee occurs within 14 days of the close of the probationary period (second unsatisfactory evaluation)
- Within 14 days of receipt of the supervisor's recommendation, the superintendent provides the employee written notice of his recommendation to terminate the PSC
- Within 15 days of receipt of the superintendent's recommendation, an employee may contest by requesting a hearing

Process for Termination of PSC (continued)

- The hearing may be held before the school board or the Division of Administrative Services (DOAH) at the school board's election
- Statute provides for hearing within 60 days
- DOAH issues recommended order and school board reviews and issues the final order
- The final order may be appealed to the district court of appeal

s. 1012.33(3)(e), F.S.

s. 1012.34(d), F.S.

s. 120.68, F.S.

Process for Termination of PSC for Cause

- Instructional staff may be suspended or dismissed at any time during the term of the contract for just cause
- Written notice of the charges must be provided
- Employee may request a hearing to contest charges within 15 days
- Hearing is before the school board or DOAH at the school board's election
- The final order may be appeal to the district court of appeal

s. 1012.33(6), F.S.



Florida's Race to the Top Memorandum of Understanding



Dr. Frances Haithcock
House K-20 Competitiveness Subcommittee
February 23, 2011

Memorandum of Understanding (MOU)

- Required by USDOE to be a participating district and receive portion of formula funds
- Signed by superintendent, school board chair, and local union president (optional)
- 69 Local Education Agencies (LEAs) signed, 54 with local union support
- Currently, there are 65 participating LEAs, 50 with local union support
- The 65 LEAs include 62 school districts and 3 university lab schools



Five Sections

1. Standards and Assessments
2. Data Systems to Support Instruction
3. Great Teachers and Leaders
4. Turning Around the Lowest-Achieving Schools
5. Charter Schools



Great Teachers and Leaders

1. Use highly effective educators to supervise pre-service teacher and leadership candidates
2. Use student data to annually review and improve alternative certification program
3. Measure student growth based on results of:
 - State assessments
 - District-developed or -selected end-of-course exams aligned to state standards
 - Rigorous national assessments



Great Teachers and Leaders

4. Revise teacher and principal evaluation systems
 - Student growth/achievement accounts for 50% of evaluation
 - Use state-adopted student growth measure:
 - o For 2011-12, minimum 35% state and 15% local
 - o By 2013-14, minimum 40% state and 10% local
 - Includes core of effective practices
 - o Florida Educator Accomplished Practices
 - o Florida Principal Leadership Standards
 - Multiple metrics for teachers in year prior to a milestone event
 - Comprehensive ratings including “effective” and “highly effective”



Great Teachers and Leaders

5. Submit evaluation systems to DOE for review/approval
6. Use student performance as a significant factor for evaluation of district staff with responsibility related to student learning
7. Report the results of evaluations to DOE in Survey 5
8. Evaluate teachers and principals at least annually
 - More than once for first-year teachers.
9. Use evaluation results to inform professional development



Great Teachers and Leaders

10. Use evaluation results to inform compensation for teachers and principals

- Tie the most significant gains in salary to effectiveness
- Implement statutory requirements of differentiated pay through bonuses or salary supplements
- Provide promotional opportunities for effective teachers to remain teaching in addition to moving into school leadership positions
- Base promotions on effectiveness (including a multi-metric evaluation in the year prior to promotion)



Great Teachers and Leaders

11. Base decisions to award employment contracts to teachers and principals on effectiveness
12. Base decisions surrounding reductions in staff on effectiveness
13. Hold supervisors accountable for utilizing the process and timeline in statute to remove ineffective teachers from the classroom
14. Report annually to DOE the teachers and principals who were dismissed for ineffective performance



Great Teachers and Leaders

15. Develop a plan to attract and retain highly effective teachers and principals to schools that are high-poverty, high-minority, and persistently lowest-achieving
16. Provide strategies and compensation incentives for encouraging effective teachers, principals and teams to work in these schools
17. Report the effectiveness data of all teachers and principals annually
18. Implement recruitment and professional development strategies, including compensation, for hard-to-staff subjects and specialty areas
19. Implement a district professional development system for teachers and principals that utilizes the state's protocol standards for effective professional development



Great Teachers and Leaders

20. Evaluate professional development based on student results and changes in classroom/leadership practice
21. Document the use of Title II-A funds specifically to supplement and enhance the initiatives implemented in this grant



Charter Schools

1. Offer charter schools the opportunity to participate in the grant on the same terms as any other district school
2. Ensure that participating charter schools receive a commensurate share of any grant funds and services funded by the grant
3. Provide data and reports necessary for the evaluation of the grant and require charter schools to provide the LEA with the data necessary for such evaluations

