

PCB KCOS 11-01

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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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

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

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~~

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

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

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

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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

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

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

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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

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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

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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.

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-~~

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.—

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

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

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,~~

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~~

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.~~

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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

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

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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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.