

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

EDUCATION PRE-K - 12
Senator Wise, Chair
Senator Bullard, Vice Chair

MEETING DATE: Wednesday, February 9, 2011
TIME: 1:30 —4:30 p.m.
PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Wise, Chair; Senator Bullard, Vice Chair; Senators Alexander, Benacquisto, and Montford

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Presentation on Instructional Quality Michelle A. Rhee, CEO, StudentsFirst		
	Presentation on Instructional Quality Department of Education		
1	SB 736 Wise	Education Personnel; Cites this act as the "Race to the Top for Student Success Act." Revises provisions related to the evaluation of instructional personnel and school administrators. Requires that the Department of Education approve school district evaluation systems. Requires the Department of Education to collect evaluation information from school districts and to report such information to the Governor and Legislature. Provides requirements for the evaluation systems, etc.	
		ED 02/09/2011 If received BC RC	



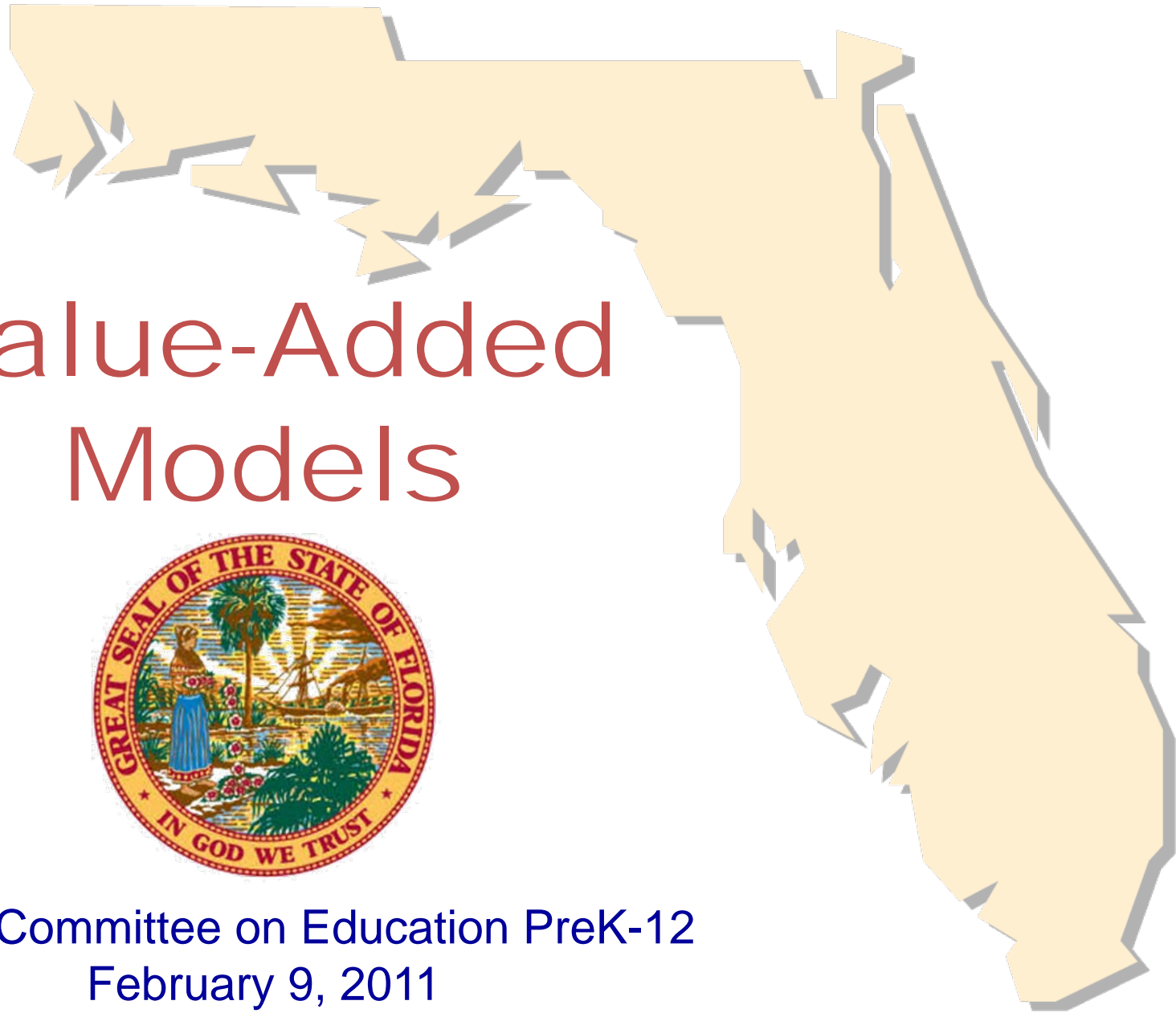
Value-Added Models



Senate Committee on Education PreK-12

February 9, 2011

Juan Copa, Department of Education
Director of Research and Analysis in
Educator Performance



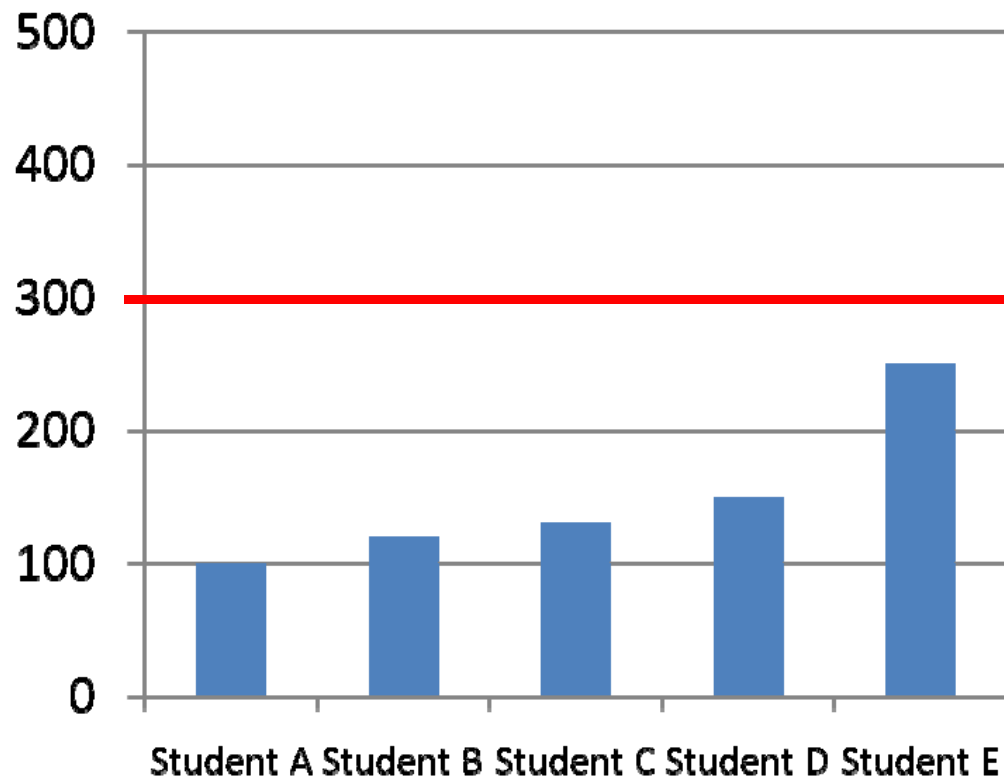
Value-Added Models

- 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

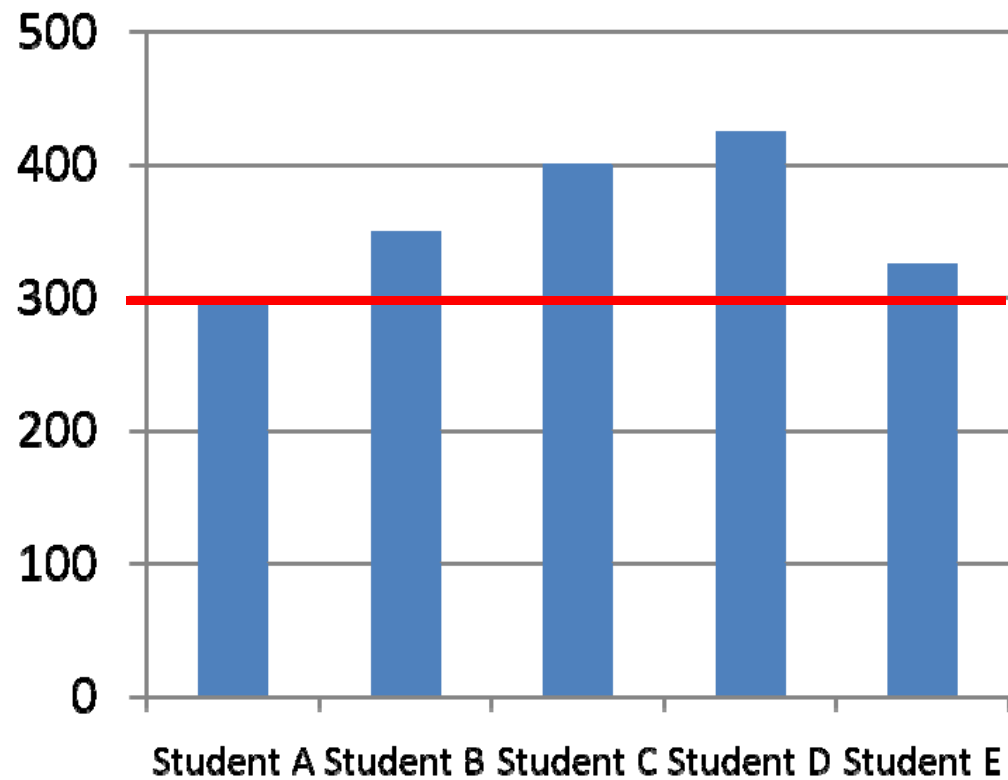
- Teacher X's class is composed exclusively of students who start the school year scoring **below** grade level.
- Teacher Y's class is composed exclusively of students who start the school year scoring **at or above** grade level.

Teacher X



■ Prior Performance

Teacher Y

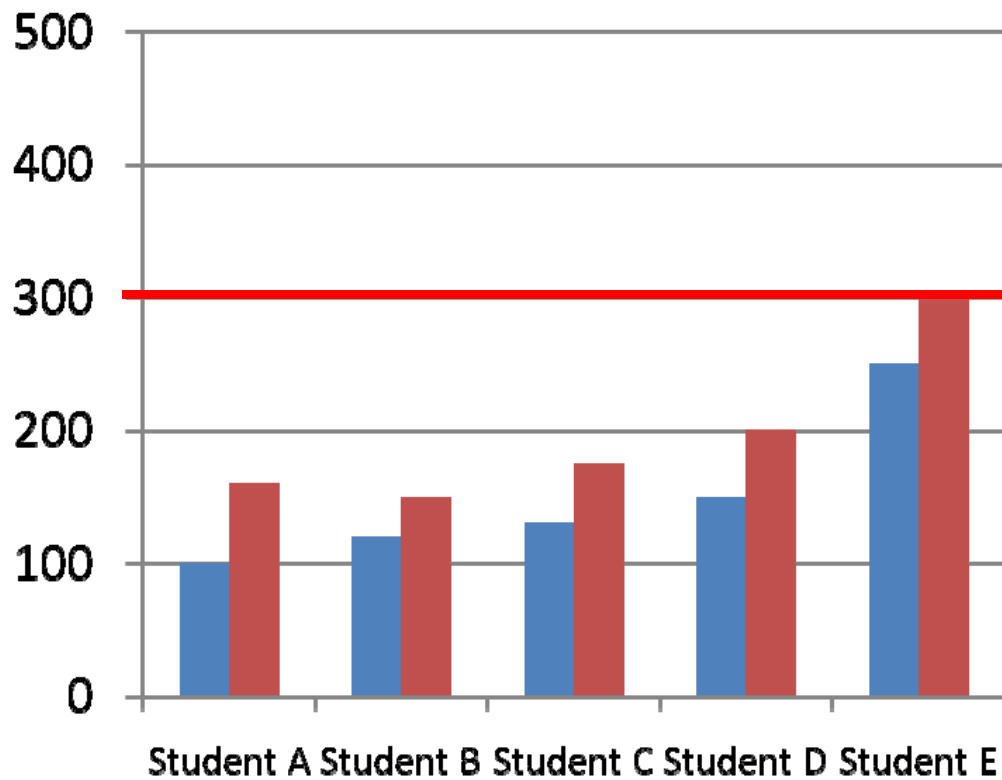


■ Prior Performance

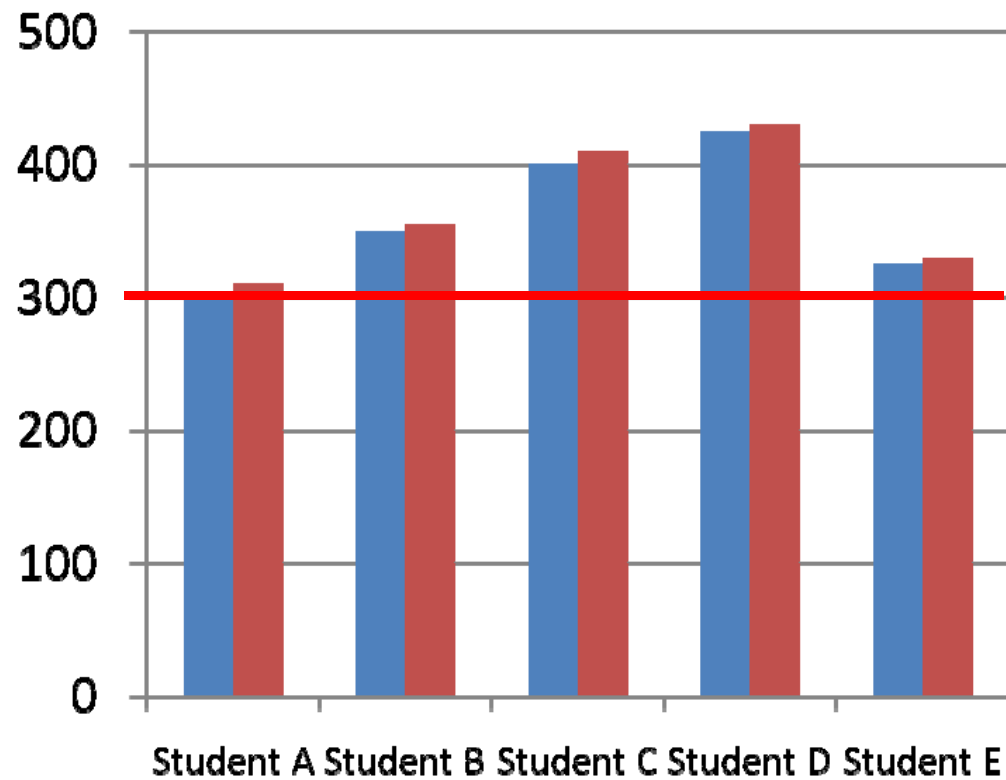
Value-Added Example

- 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



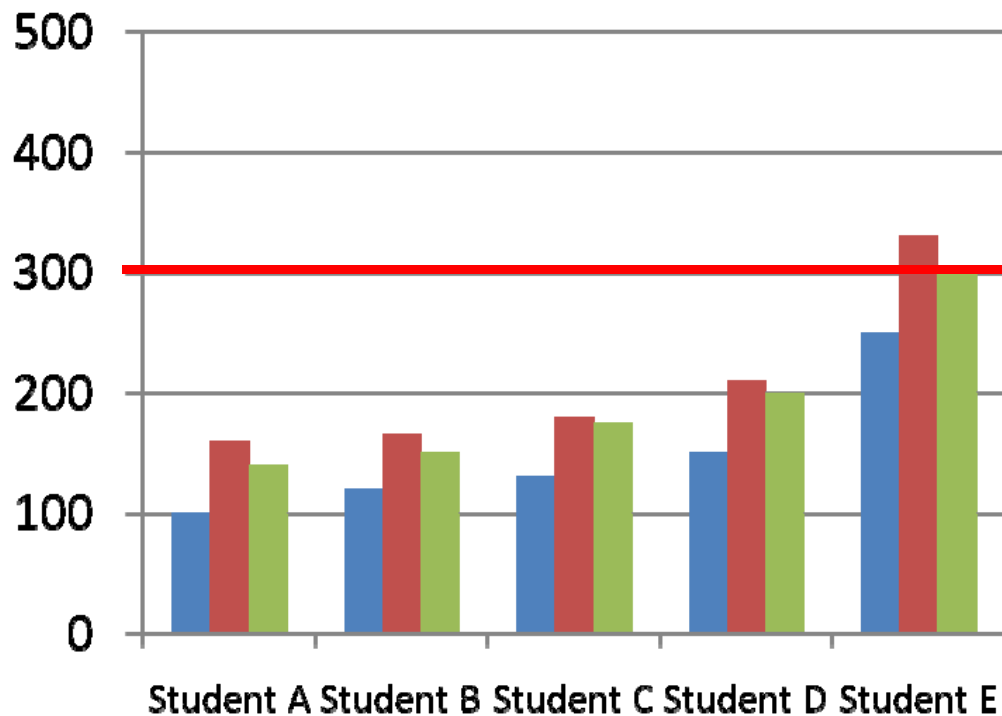
■ Prior Performance ■ Current Performance

■ Prior Performance ■ Current Performance⁴

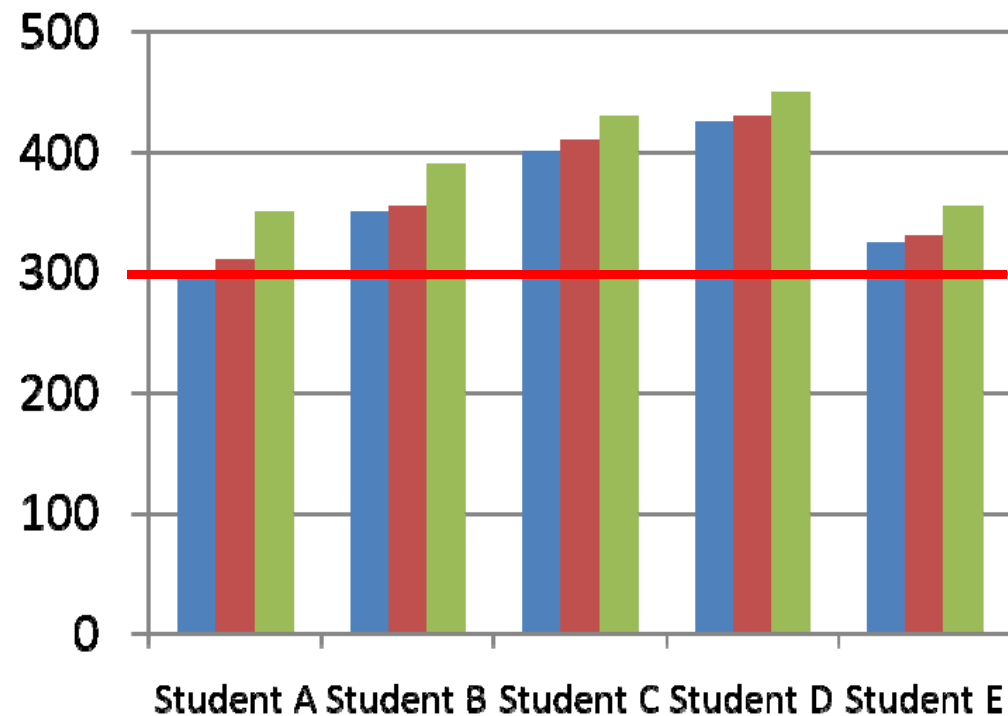
Value-Added Example

- 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.

Teacher X



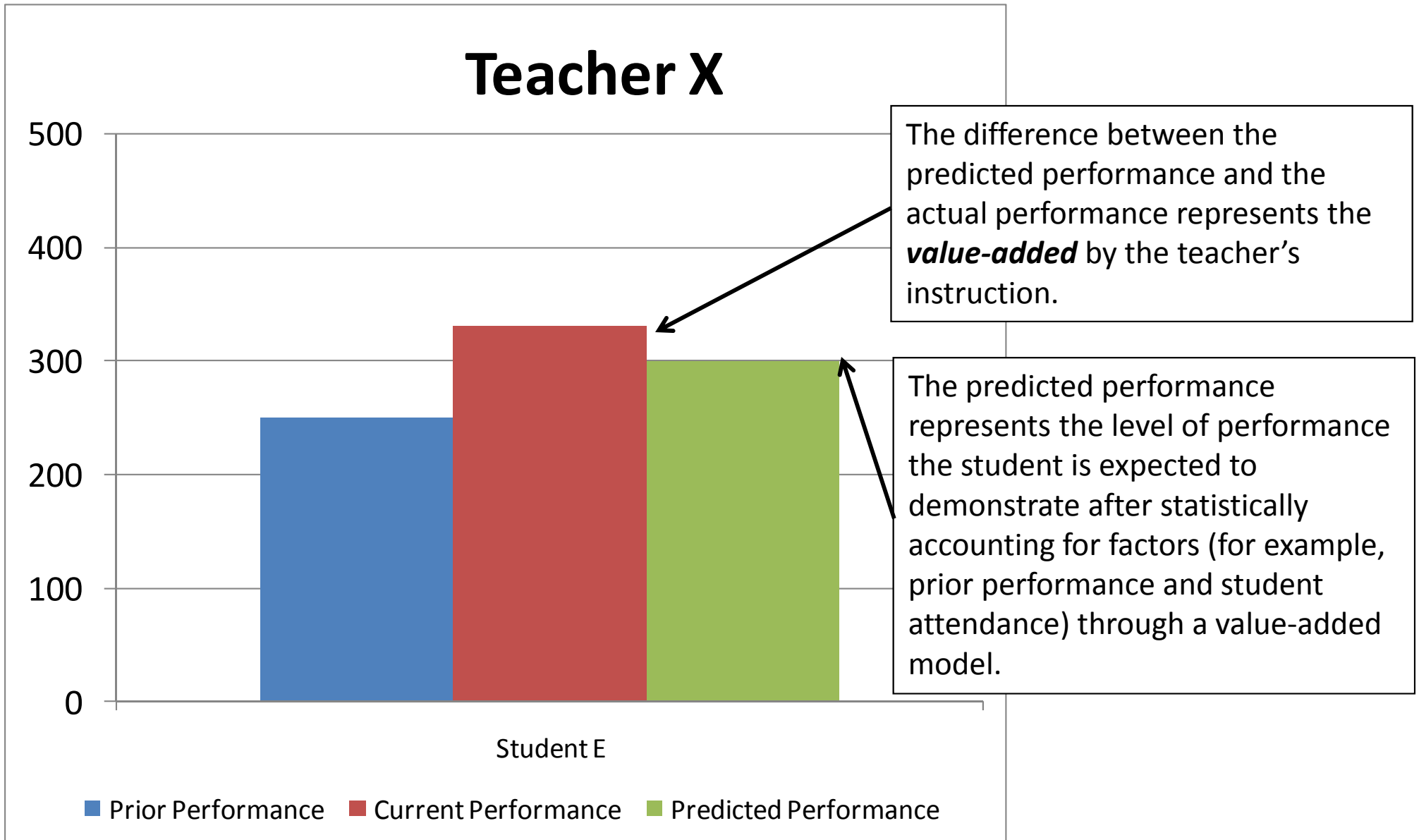
Teacher Y



■ Prior Performance ■ Current Performance
■ Predicted Performance

■ Prior Performance ■ Current Performance
■ Predicted Performance

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.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Education Pre-K - 12 Committee

BILL: SB 736

INTRODUCER: Senator Wise

SUBJECT: Education Personnel

DATE: February 7, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	Pre-meeting
2.	_____	_____	BEA	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill is a comprehensive education personnel initiative that provides for a reform of the evaluations of instructional personnel and school administrators; compensation; and employment practices. The bill provides for the following:

Performance Evaluations for Instructional Personnel and School Administrators

- Requires the Commissioner of Education (Commissioner) to establish a learning growth model for school district use for the Florida Comprehensive Assessment Test (FCAT) to measure the effectiveness of instructional personnel and school administrators based on what a student learns;
- Provides that 50 percent of an evaluation is based on student performance over a 3-year period, with the remainder of the evaluation based on instructional practice or leadership, as applicable;

Compensation for Performance

- Requires school districts to establish a new performance salary schedule by July 1, 2014, that provides annual salary increases based upon the performance evaluation;
- Allows current teachers and school administrators to remain on the current salary schedule with an option to move to the new performance salary schedule;
- Beginning with instructional personnel hired on or after July 1, 2011, prohibits a district school board from using advanced degrees to set the salary schedule unless the advanced degree is held in the individual's area of certification;

- Provides for earning additional salary supplements for differentiated pay based on assignment to a high priority location, certification and teaching in critical teacher shortage areas, or assignment of additional academic responsibilities;

Employment

- Eliminates professional service contracts for instructional personnel newly-hired, beginning July 1, 2011;
- Revises the criteria for renewal of contracts by tying renewal to the performance evaluation; and
- Clarifies that just cause under a professional service contract includes unsatisfactory performance on the individual's evaluation.

This bill substantially amends sections 1002.33, 1003.621, 1008.22, 1012.07, 1012.2315, 1012.22, 1012.27, 1012.28, 1012.33, 1012.34, 1012.795; creates section 1012.335; and repeals section 1012.52, of the Florida Statutes.

II. Present Situation:

Education Reform

Florida's education system is now ranked fifth in the nation, according to Education Week's 2010 Quality Counts Report.¹ This year's increase follows continuing trends of improvement that saw the state ranked 8th last year, 10th in 2009, and 14th in 2008, up from 31st in 2007.² The state has also received accolades for narrowing the achievement gap among more groups of students than most other states.³

Florida's success is based on measuring student performance and rewarding results. The Florida School Recognition Program provides public recognition and financial awards to schools that have sustained high student performance or schools that demonstrate substantial improvement in student performance.

Florida's education reform efforts have resulted in laudable progress for students and schools. Despite these accomplishments, 61 percent of tenth grade students read below grade level in 2009-2010, meaning that these students had limited or minimal success with grade-level content.⁴

The labor market demands in a global economy underscore the need for a marked departure from current educational practices. In 2009, 15-year-old students in the United States ranked 14th in reading literacy, 17th in science literacy, and 25th in mathematics literacy among the 34 Organisation for Economic Co-Operation and Development (OECD) member countries.⁵ The

¹ See <http://www.edweek.org/ew/toc/2010/01/14/index.html>.

² Florida Department of Education, February 7, 2011.

³ *Gauging the Gaps: A Deeper Look at Student Achievement*, The Education Trust, January 2010.

See http://www.edtrust.org/sites/edtrust.org/files/publications/files/NAEP%20Gap_0.pdf.

⁴ Florida Department of Education, June 2010. See <http://fcats.fldoe.org/mediapacket/2010/>.

⁵ National Center for Education Statistics, *Highlights from PISA 2009*, U.S. Department of Education. The OECD is an international organization that helps governments foster prosperity and fight poverty through economic growth and financial stability. See <http://www.oecd.org/>. The OECD's Programme for International Student Assessment (PISA) is an international

OECD notes that global drivers increasingly focus on “21st century competencies” and that the quantity and quality of learning become central, with the accompanying concern that traditional educational approaches are insufficient.⁶ The recently released report by the Harvard Graduate School of Education recommends an examination of the experience of OECD countries, especially those with the best developed career education systems, to address a more demanding labor market and widening skills and opportunities gaps.⁷

Instructional Quality

A consensus of research finds that the single greatest indicator of student achievement is the quality of the teacher in the classroom.⁸ Despite this research, the state continues to have an evaluation system, compensation system, and employment system that does not sufficiently take into consideration student performance.

Evaluations

Recent federal policy changes tacitly recognize the flaws in educator performance evaluations and the absence of a performance management system that gives educators the tools they need to be effective, supports their development, rewards their accomplishments, and holds them accountable for results. The American Recovery and Reinvestment Act of 2009 (ARRA) provides \$4.3 billion for the Race to the Top Fund, a competitive grant program designed to encourage and reward states that are implementing significant education reforms across four education areas: implementing standards and assessments, improving teacher effectiveness and achieving equity in teacher distribution, improving the collection and use of data, and supporting struggling schools.⁹

To receive funds, a state must provide assurance that it will improve teacher effectiveness and comply with the requirements that school programs and targeted assistance schools provide instruction by highly qualified teachers, that poor and minority students are not taught at higher rates than other students by inexperienced, unqualified, or out-of-field teachers, and that it will evaluate and publicly report progress with respect to these requirements.¹⁰ The criteria include the extent to which a state differentiates the effectiveness of teachers and principals and uses this information for decisions on evaluation, compensation, promotion, termination, and tenure.¹¹ Under the criteria, teacher and principal effectiveness would be judged in significant part by

study that is administered every three years. The 2009 assessment focused on reading. Rather than examining how well students have learned the school curriculum, PISA looks at how well prepared they are for life beyond school.

⁶ OECD, *The Nature of Learning: Using Research to Inspire Practice*, September 9, 2010.

<http://www.oecd.org/dataoecd/8/35/45984003.pdf>.

⁷ Harvard Graduate School of Education, *Pathways to Prosperity, Meeting the Challenge of Preparing Young Americans for the 21st Century*, February 2011.

⁸ See *Teacher Quality*, Florida Senate Issue Brief 2010-313, available at:

http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-313ed.pdf.

⁹ ARRA, Public Law 111-5, section 14005(d)(2),(3),(4), and (5). See also section 14006 which provides for incentive grants to states that have made significant progress in meeting the objectives in paragraphs (2),(3),(4), and (5) of section 14005(d).

¹⁰ 20 U.S.C. section 6311(b)(8)(C).

¹¹ Federal Register, Vol. 74, No. 221, *Final Priorities, Requirements, Definitions, and Selection*

Criteria, November 18, 2009, and *Supplemental Information*, Federal Register, Vol. 75, No. 17, January 27, 2010. See

<http://www2.ed.gov/legislation/FedRegister/finrule/2009-4/111809a.html>. The U.S. DOE proposes the use of \$4 billion for this initiative and a potential for \$350 million to support the development of assessments by a consortia of states.

student growth.¹² On August 24, 2010, Florida was awarded a \$700,000,000 Race to the Top grant. Sixty-five of Florida's 67 school districts signed a memorandum of understanding to participate in the grant. The districts have developed and bargained scopes of work to carry out those reforms and receive grant dollars to do so over the next four years.¹³

Compensation for Performance

Most school district compensation systems are not aligned with the state's primary needs: improving student achievement and placing the best teachers where they are needed most. The traditional salary schedule rewards teachers for years of experience, irrespective of whether that experience benefits students. Talented instructional personnel and school administrators are compensated at the same rate as ineffective personnel, or worse.

Employment

Without a robust evaluation system, school districts do not have sufficient means to tie continued employment to effective work. The current system creates an automatic renewal of employment with as little as three years of teaching, unless the district school superintendent "charges" an employee with unsatisfactory performance. As a result, it can take up to two years or more to terminate an ineffective employee who has received a professional service contract. Students can actually regress in learning with an ineffective teacher, while the process to terminate grinds forward.

III. Effect of Proposed Changes:

The bill focuses on student success by revising and modernizing three main areas: evaluations, performance pay, and employment. The bill reinforces Florida's successful Race to the Top application.

Performance Evaluations

Performance of Students

Most school districts' evaluation systems do not appear to comply with current law. For example, the Auditor General recently reviewed 11 school district financial or operational audit reports for FY 2009-2010. All 11 districts were found to have deficiencies with respect to the evaluation requirements in s. 1012.34(3), F.S.¹⁴ In addition, the Auditor General's preliminary and tentative findings report found 24 of an additional 27 school districts had a preliminary and tentative finding related to s. 1012.34(3), F.S.¹⁵ Many evaluation systems do not weight student performance as the primary factor in the evaluation of instructional personnel. Despite a requirement in law to develop local assessments more than 10 years ago for subjects and grade levels not assessed by the FCAT, most districts have not developed assessments to measure student learning for purposes of evaluating the effectiveness of their instructional personnel or

¹² *Id.*

¹³ DOE bill analysis, February 7, 2011. This includes 62 traditional districts and 3 lab schools. The following school districts are not participating in the grant: Baker, Dixie, Hamilton, Palm Beach, and Suwannee.

¹⁴ See Brevard (2011-060), Calhoun (2011-048), Duval (2011-042), Gulf (2011-067), Hernando (2011-034), Indian River (2011-055), Martin (2011-056), Manatee (2011-050), Osceola (2011-051), Pasco (2011-072), and Walton (2011-066).

¹⁵ See email correspondence from Ted Sauerbeck, Deputy Auditor General, dated February 7, 2011, on file with the committee.

school administrators.¹⁶ School districts that have developed assessments do not appear confident in their validity.¹⁷ Current practice results in almost a completely subjective evaluation, without using any objective data. As a result, school districts may not objectively know who the best teachers are, which teachers need help to perfect their instruction, and which teachers need to seek a different profession.

The bill attempts to reinforce Florida's successful Race to the Top grant application, which requires 50 percent of an individual's evaluation to be based on student learning growth or achievement.¹⁸ The bill specifies that 50 percent of an instructional personnel or school administrator's evaluation is based upon the performance of the students assigned to these individuals. This provision would place a significant focus on student outcomes in determining the effectiveness of instructional personnel and school administrators.

Learning Growth Model

Under Florida's Race to the Top Memorandum of Understanding, the Department of Education is required to develop a student learning growth model that takes into consideration unique student characteristics, challenges, and other factors that affect student performance.¹⁹ School districts are required to measure student growth based on the performance of students on the state-required assessments.²⁰ Moreover, school districts must use the state-adopted teacher-level student growth measure as the primary factor of the teacher and principal evaluation systems.²¹

Under the bill, the Commissioner would establish a learning growth model for the FCAT to measure the effectiveness of a classroom teacher or school administrator based on what a student learns. The model would use the student's prior performance, while considering factors that may be outside a teacher's control, such as a student's attendance, discipline, disability, or English language proficiency. However, the model may not take into consideration a student's gender, race, ethnicity, or socioeconomic status. The legislation does not specify that student growth is the same for all students.

School districts would be required to use the state's learning growth model for FCAT-related courses beginning in the 2011-2012 school year. School districts must use comparable measures of student growth for other grades and subjects with the department's assistance, if needed. Additionally, districts would be permitted to request alternatives to the growth measure if justified.

The DOE is pursuing a contract for assistance with constructing Florida's value added student growth measure as a part of the Race to the Top grant.²² Value added measures will form the

¹⁶ See s. 57, ch. 99-398, L.O.F., codified in s. 1012.34(3), F.S. See also s. 1008.22(8), F.S.

¹⁷ See testimony by Duval County Public Schools Superintendent of Schools, Ed Pratt-Dannals, before the Education Pre-K – 12 Committee, Workshop and Panel Discussion on Instructional Quality, January 26, 2011, on file with the committee.

¹⁸ See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(ii), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

¹⁹ *Id.* at (D)(2)(i).

²⁰ *Id.*

²¹ *Id.* at (D)(2)(ii).

²² See http://www.fldoe.org/news/2010/2010_11_08-3.asp.

basis of the student performance aspect of the new evaluation system, relying on calculations that are able to account for a variety of student variables.²³

Evaluation Criteria

The current evaluation system does not connect meaningful evidence of student performance to continued employment and compensation. For the last two years, districts reported that less than one percent of classroom teachers received an unsatisfactory evaluation.²⁴

Components of the evaluation system described in the bill are divided into three parts: performance of students, instructional practice or leadership, (for instructional or administrative personnel, respectively), and professional responsibilities. The evaluation system must differentiate among four levels: highly effective; effective; needs improvement or, for instructional personnel in the first three years of employment or in the first year of a new teaching assignment, developing; and unsatisfactory. Florida's Race to the Top Memorandum of Understanding required a comprehensive range of ratings beyond a simple satisfactory or unsatisfactory, including "effective" and "highly effective".²⁵ The Commissioner of Education would be required to consult with classroom teachers and experts in developing the performance levels for the evaluation system.

Fifty percent of the evaluation for classroom teachers and other instructional personnel would be based on student performance for students assigned to them over a 3-year period. For other instructional personnel, a school district may include specific job-performance expectations related to student support and use growth data and other measurable student outcomes specific to the individual's assignment, as long as the growth accounts for at least 30 percent of the evaluation. The remainder of the evaluation would be based on the Florida Educator Accomplished Practices and professional responsibilities.

Fifty percent of a school administrator's evaluation would also be based on student performance over a 3-year period. The remainder of the evaluation would be based on indicators that include the recruitment and retention of effective or highly effective teachers, improvement in the percentage of classroom teachers evaluated at the effective or highly effective level, management of the school to maximize resources for direct instruction, other leadership practices that result in improved student outcomes, and professional responsibilities.

If less than 3 years of student growth data is available for an evaluation, the district must include the years for which data is available and may reduce the percentage of the evaluation based on student growth to not less than 40 percent for classroom teachers and school administrators and not less than 20 percent for other instructional personnel.

Under Florida's Race to the Top Memorandum of Understanding, school districts are required to use state assessments or district-selected assessments to measure student growth for purposes of

²³ Value-added modeling (VAM) is a collection of complex statistical techniques that use student test score data. It is referred to as value-added in that it estimates how much teachers and schools add to the academic growth of entering students, while accounting for other factors that impact student learning, such as prior performance.

²⁴ DOE bill analysis for SB 736, February 7, 2011.

²⁵ See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(ii), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

improving teacher and principal effectiveness.²⁶ The assessments must be aligned to state standards. School districts may develop or select the assessments or use valid, rigorous national assessments.²⁷ The bill requires school districts, beginning with the 2014-2015 school year, to administer local assessments that measure student mastery of the content. The school district can use statewide assessments, other standardized assessments, industry certification examinations, or district-developed or selected end-of-course assessments. The bill phases in the local assessments requirement by tying the requirement to the Commissioner of Education identifying methods to assist districts such as through item banks, the sharing of developed assessments among districts, or other methods.

If a district has not implemented an assessment for a course or has not adopted a comparable measure of student growth, two alternative growth measures may be used for a classroom teacher who teaches the course: student growth on statewide assessments or based on 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. These provisions would be in place until July 1, 2015, at which point the school districts would have selected appropriate local assessments.

Florida's Race to the Top Memorandum of Understanding requires multiple evaluations for each first-year teacher.²⁸ Accordingly, the bill requires teachers to be evaluated at least twice in the first year of teaching. Finally, evaluations of instructional personnel and school administrators may include parent and peer input.

Compensation for Performance

Under the current compensation system, most individuals are paid on a "steps and lanes" approach, in which salary schedules list increments of pay that are typically tied to years of experience and academic degrees.²⁹ The current system rewards or, alternatively punishes, instructional personnel irrespective of performance. In most school district compensation systems, the largest rewards are tied to the final five years before retirement, while salary increases for new teachers would increase at a significantly reduced rate.

Florida's Race to the Top Memorandum of Understanding requires the most significant gains in salary to be tied to effectiveness under an individual's annual evaluation.³⁰ This bill ties the evaluation to the salary schedule for instructional personnel or school administrators hired on or after July 1, 2014. Student outcomes would have a potentially significant affect on future compensation. The salaries of quality teachers, other instructional personnel, and school administrators would grow more quickly, while those of poor performing employees would not.

²⁶ *Id.* at (D)(2)(i).

²⁷ *Id.*

²⁸ *Id.* at (D)(2)(iii).

²⁹ *Performance Pay*, Florida Senate Issue Brief 2011-214, December 2010 available at <http://www.flsenate.gov/Committees/InterimReports/2011/2011-214ed.pdf>.

³⁰ See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(iv)(b), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

The new salary schedule would require a base salary schedule with the following salary increases:

- A highly effective teacher or school administrator, as determined by his or her evaluation, would receive a salary increase that must be greater than the highest annual salary adjustment available to that individual through any other salary schedule adopted by the school district.
- An effective teacher or school administrator, as determined by his or her evaluation, would receive a salary increase between 50 and 75 percent of the annual salary increase provided to a highly effective employee.
- A teacher or administrator under any other performance rating would not be eligible for a salary increase.

Current teachers and school administrators could remain on their current salary schedule as long as they remain employed by the school district. They may also opt to participate in the new performance salary schedule, but the option is irrevocable.

Florida's Race to the Top Memorandum of Understanding requires differentiated pay for additional academic responsibilities, school demographics, critical teaching shortage areas and level of job-performance difficulties.³¹ The bill comports with Race to the Top by requiring school districts to provide opportunities for instructional personnel and school administrators to earn additional salary supplements for assignment to a high priority location (e.g., a Title I eligible school or an eligible low-performing school), certification and teaching in critical teacher shortage areas, or assignment of additional academic responsibilities. This provision allows districts to attract and compensate classroom teachers in high-need areas, such as STEM (Science, Technology, Engineering, and Mathematics), who will better prepare students to graduate ready to meet the demands of the global economy.

Beginning with instructional personnel hired on or after July 1, 2011, a district school board may not use advanced degrees in setting the salary schedule unless the advanced degree is held in the instructional personnel's areas of certification. The bill awards compensation for advanced degrees in these areas notwithstanding the research, which indicates that advanced degrees have little, or in some circumstances, a deleterious effect on student learning.³²

When budget constraints limit a school board's ability to fully fund all adopted salary schedules, the bill prohibits the board from disproportionately reducing performance pay schedules.

Employment

As discussed above, current practice divorces student performance under the evaluation from employment or contracting decisions. Once granted a professional service contract after as little as three years, the law provides for automatic renewal of the contract unless the superintendent "charges" the employee with unsatisfactory performance.³³ The process for removing an

³¹ *Id.*

³² See *Teacher Quality and Student Achievement: Making the Most of Recent Research*, Laura Goe and Leslie M. Stickler, National Comprehensive Center for Teacher Quality, March 2008.

³³ See s. 1012.33(3)(e), F.S.

individual under a professional service contract for unsatisfactory performance may take over a year and, in some instances, two years or more.³⁴ Meanwhile, the individual may still be in the classroom with students regressing because of ineffective instruction.

Florida's Race to the Top Memorandum of Understanding requires employment decisions and contract decisions to be tied to effectiveness as demonstrated through the annual evaluation.³⁵ The bill revises the employment parameters under which a school district would award contracts for instructional personnel hired in a Florida school district on or after July 1, 2011. In effect, professional service contracts and tenure would not be given to any instructional personnel hired on or after that date. Instead, these individuals would be employed on the basis of an annual contract. This gives school districts greater flexibility in meeting student instructional needs by retaining effective employees and quickly removing poor performing employees.

The probationary contract would not extend beyond one year. An employee would be dismissed at any time for just cause or may resign without creating a breach of the contract.

Upon successful completion of a probationary contract, a classroom teacher would be eligible to receive an annual contract. The contract may not exceed one year in duration and the school board can choose to renew or not renew without cause. Instructional personnel may receive an annual contract if he or she:

- Holds a temporary or professional certificate as prescribed by s. 1012.56, F.S., and State Board of Education rules; and
- Is recommended by the superintendent for the contract and approved by the district school board.

However, districts would be prohibited from renewing an annual contract if the individual receives:

- Two consecutive unsatisfactory evaluations;
- Two unsatisfactory evaluations within a 3-year period; or
- Three needs improvement evaluations within any 5-year period.

Instructional personnel with an annual contract may be suspended or dismissed at any time for just cause, which includes poor performance. If charges against an employee are not sustained, he or she would be immediately reinstated with back pay.

Performance evaluation results would also be used in making decisions related to the transfer and placement of employees and workforce reductions. Additionally, each school district must annually report to the parent of a student who is assigned to a classroom teacher or school administrator with an unsatisfactory evaluation, needs improvement, or a combination of unsatisfactory or needs improvement for three consecutive years. Finally, the bill provides that

³⁴ See testimony of Okaloosa County School District, Superintendent of Schools, Alexis Tibbetts, Ph.D., Senate Committee on Education Pre-K – 12, Presentation on the Termination of Ineffective Teachers, March 26, 2009.

³⁵ See Florida's Race to the Top Memorandum of Understanding for Phase 2, (D)(2)(iv)(c)-(d), available at: <http://www.fldoe.org/ARRA/pdf/phase2mou.pdf>.

two consecutive annual performance unsatisfactory evaluations is just cause for terminating an individual with a professional service contract.

Application to Charter School

Florida law specifies that all charter schools are considered public schools and are exempt from certain laws and rules.³⁶ The bill holds charter schools to the same standard as other public schools with respect to performance evaluations for instructional personnel and school administrators, assessments, performance pay and salary schedules, contracts with instructional personnel, and workforce reductions. It is unclear whether the DOE would review and approve a charter school's evaluation system.

Other

For school districts that receive a grant of \$75 million or more from a private foundation to improve teacher effectiveness, the bill provides an annual renewable exemption to the requirements for performance pay and evaluations, provided specific criteria are met.

In conformance with the bill's new contracting provisions, the bill repeals certain special laws or general laws of local application regarding contracting provisions for instructional personnel and school administrators in public schools. At this juncture, it appears the local tenure acts of Duval and Volusia, relating to public schools, would be repealed. Hillsborough County's special act would not be repealed in conformity with the annual exemption it is eligible for, as discussed above.

Other Potential Implications:

Initiatives at the state and national level are increasingly linking evaluations, performance pay, and employment decisions for effective teachers and principals with student achievement. The provisions of the bill could enable meaningful decision-making for performance evaluations and compensation and provide incentives for educators to remain focused on the academic growth of their students.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁶ s. 1002.33(16), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of this bill is indeterminate.

According to the DOE, there will be additional costs to the districts for monitoring the use of evaluation criteria by supervisors and administrators.

As part of Florida's funding in Race to the Top, the DOE will assist school districts in their development of assessment items that may be used for locally developed assessments.³⁷ Specifically, the DOE will provide the following:

- Resources for districts to develop assessment items for "hard to measure" content areas, including Physical and Health Education, Fine Arts, and World Languages;
- Assessment items for core academic areas (Math, Social Studies, Science, Language Arts, and Spanish) for grade levels and content areas that are not already tested by FCAT or state end-of-course assessments; and
- Development of a technology platform that will provide districts secure access to high-quality assessment items and tools for the creation and administration of student assessments.

The DOE notes that over the next three years the grant will provide funding for the development of end-of-course exams in most subject areas. The DOE also noted that additional resources or user charges will be necessary to maintain an assessment item bank or platform at the conclusion of the grant period.

According to the DOE, there are over 400 charter schools in Florida. The DOE reports that there will be a significant impact on its staff to review the evaluation systems for these schools.

It is not anticipated that the bill revises the total funds for instructional personnel and school administrator compensation.

³⁷ DOE bill analysis of SB 736, February 7, 2011, on file with the committee.

VI. Technical Deficiencies:

Lines 375 and 388 identify the FCAT as the only assessment used in the student growth measurement system. An amendment would clarify that end-of-course assessments may also be used as they become available.

Line 409-423 provides for measuring student growth for teachers for whom student assessments or growth measures have not been established. This provision expires July 1, 2015. The bill is silent on how teachers who teach courses without growth measures or assessments will be evaluated after July 1, 2015.

A reference to school administrators should be added to line 513 for consistency. The term “appraisal” on line 1018 should be changed to “evaluation” for consistency.

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.



709132

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 125
and insert:
teaching assignment who need improvement, developing.



563120

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 165 - 166
and insert:
employee at least once a year, except that a newly hired
classroom teacher must be evaluated at least twice in the first
year of teaching in the school district.



805612

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 260 - 262
and insert:
must evaluate ~~assess~~ the employee's performance. The evaluation system may provide for the evaluator to consider input from other personnel trained under paragraph (2) (f). The evaluator must



612934

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 273 - 276
and insert:

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



512022

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 422 - 423
and insert:
state assessment program under s. 1008.22.



330606

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 424 - 435
and insert:

(9) ~~(8)~~ RULEMAKING.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 which, ~~that~~ establish uniform procedures ~~guidelines~~ for the submission, review, and approval of district evaluation systems and reporting requirements ~~procedures~~ for the annual evaluation assessment of instructional personnel and school administrators; the standards for each performance level required under subsection (2) to ensure sufficient differentiation in



330606

13 performance on the evaluation to measure the effectiveness of an
14 employee and consistency in meaning across school districts; the
15 measurement of student growth in learning and associated
16 implementation procedures required under subsection (8); and a
17 process for monitoring school district implementation of
18 evaluations systems in accordance with this section ~~and that~~
19 ~~include criteria for evaluating professional performance.~~



715902

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 450

and insert:

1. Statewide assessments.



962808

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 525 - 526
and insert:
determined under s. 1012.34. Employees hired on or after July 1, 2014, or employees who choose to move from the grandfathered salary schedule to the performance salary schedule shall be compensated pursuant to the performance salary



127032

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 590 - 594
and insert:

e. Advanced degrees.—A district school board may not use advanced degrees in setting a salary schedule for instructional personnel or school administrators hired on or after July 1, 2011, unless the advanced degree is held in the individual's area of certification and is only a salary supplement.



388840

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Montford) recommended the following:

Senate Substitute for Amendment (127032)

Delete lines 590 - 594.

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565800

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete line 708

and insert:

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

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Between lines 27 and 28

insert:



565800

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providing that certain individuals that are hired as
instructional personnel are ineligible for contracts
issued under s. 1012.33, F.S.;



686678

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 868 - 869
and insert:
misconduct in office, incompetency, two consecutive annual performance ratings of "unsatisfactory" under s. 1012.34, two annual performance ratings of "unsatisfactory" within a 3-year period under s. 1012.34, three annual performance ratings of "needs improvement" within any 5-year period under s. 1012.34,
gross



917082

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment (with directory amendment)

Delete lines 900 - 970.

===== **D I R E C T O R Y C L A U S E A M E N D M E N T**=====

And the directory clause is amended as follows:

Delete lines 853 - 855

and insert:

Section 12. Paragraph (a) of subsection (1), paragraph (a) of subsection (3), and subsection (5) of section 1012.33, Florida Statutes, are amended to read:



241698

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 302
and insert:
supervising administrator; however,

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756856

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 1018
and insert:

(a) A teacher evaluation system that uses student



945024

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment (with title amendment)

Between lines 1031 and 1032
insert:
Section 16. Chapter 2010-279, Laws of Florida, does not apply to any rulemaking required to administer this act.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 58

and insert:

to adopt rules; providing that a certain specified



945024

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provision of law does not apply to any rulemaking
required to administer the act; providing for the
repeal of certain



371368

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete lines 372 - 394
and insert:

(8) MEASUREMENT OF STUDENT GROWTH IN LEARNING.-

(a) By June 1, 2011, the Commissioner of Education shall select a formula to measure individual student growth on the Florida Comprehensive Assessment Test administered under s. 1008.22(3)(c)1. The formula must take into account each student's prior performance, grade level, and subject. In the development of the formula, the Commissioner of Education shall consider other factors, including, but not limited to, student



371368

13 attendance, student disciplinary records, student disabilities,
14 and student English language proficiency. The formula may not
15 set different expectations for student growth based on gender,
16 race, ethnicity, or socioeconomic status. The commissioner shall
17 select additional formulas as appropriate for the remainder of
18 the statewide assessments included in s. 1008.22, beginning the
19 2011-2012 school year, and continue to select formulas as new
20 assessments are implemented into the state system. The State
21 Board of Education shall adopt all formulas into rule, and shall
22 adopt the formula for the FCAT into rule by October 1, 2012.

23 (b) Beginning with the 2011-2012 school year, each district
24 shall measure the growth in learning of each student using the
25 commissioner-adopted student growth measure for courses
26 associated with the FCAT. Each district shall implement
27 additional growth measures selected by the commissioner under
28 paragraph (a) as they become available. Beginning with the 2014-
29 2015 school year, each school district shall measure the growth
30 in learning for each student using a comparable measure of
31 student growth for other grades and subjects for which the
32 school district has selected appropriate student assessments
33 under s. 1008.22(8). The Department of Education shall provide
34 model student growth measures that school districts may adopt
35 for this purpose.

36
37 ===== T I T L E A M E N D M E N T =====

38 And the title is amended as follows:

39 Delete lines 11 - 13

40 and insert:

41 the evaluation systems; requiring the Commissioner of



371368

42 Education to select formulas for school districts to
43 use in measuring growth in learning by students;
44 requiring the State Board of Education to adopt
45 formulas;



290950

LEGISLATIVE ACTION

Senate	.	House
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The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete lines 537 - 549
and insert:

(I) The base salary for instructional personnel or school administrators who opt into the performance salary schedule shall be the salary paid in the prior year, including adjustments only, in accordance with the collective bargaining contract, if such contract exists.

(II) Instructional personnel or school administrators new to the district, returning to the district after a break in service without an authorized leave of absence, or appointed for



290950

13 the first time to a position in the district in the capacity of
14 instructional personnel or school administrators shall be placed
15 on the performance salary schedule in accordance with the
16 collective bargaining contract, if such contract exists.



447876

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 119

and insert:

(e) Differentiate among four levels of



615446

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Wise) recommended the following:

Senate Amendment

Delete line 631
and insert:
school superintendent's primary consideration in recommending an individual for a promotion



510866

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Montford) recommended the following:

Senate Amendment

Delete line 130
and insert:
performance levels. In developing the criteria for the
performance levels, the Commissioner of Education shall consult
with a person appointed by each of the following associations:
the Florida School Boards Association, the Florida Association
of District School Superintendents, and the Florida Education
Association. ~~Each district school board may establish a~~



360654

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Montford) recommended the following:

Senate Amendment

Delete line 432
and insert:
under subsection (8); a process to permit instructional
personnel to review the class roster for accuracy and to correct
any mistakes relating to the identity of students for whom the
individual is responsible; and a process for monitoring district



689840

LEGISLATIVE ACTION

Senate

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House

The Committee on Education Pre-K - 12 (Montford) recommended the following:

Senate Amendment

Delete lines 649 - 667
and insert:

(d) "Professional performance contract" means an employment contract for instructional personnel for a period of 3 school years, which shall be renewed for additional 3-year periods as long as the individual has not received two consecutive unsatisfactory evaluations under s. 1012.34, two unsatisfactory evaluations within a 3-year period under s. 1012.34, or three evaluations of needs improvement within any 5-year period under s. 1012.34.



689840

13 (2) EMPLOYMENT—

14 (a) Beginning on July 1, 1011, each individual newly hired
15 as instructional personnel by a Florida school district shall
16 receive a probationary contract.

17 (b) The district school board may issue an annual contract
18 to instructional personnel who have successfully completed the
19 probationary contract if the individual:

20 1. Holds a professional certificate or temporary
21 certificate issued pursuant to s. 1012.56 and rules of the State
22 Board of Education.

23 2. Has been recommended by the district school
24 superintendent for the annual contract based upon the
25 individual's evaluation, as determined under s. 1012.34, and
26 approved by the district school board.

27 (c) Upon completion of no less than 3 years of employment
28 in the same school district within a 5-year period, except for
29 leave duly authorized and granted, instructional personnel
30 recommended for additional employment shall be awarded a
31 professional performance contract. Instructional personnel may
32 be required to serve a fourth year of employment before becoming
33 eligible to receive a professional performance contract when
34 prescribed by the district school board for good reason.

35 1. A professional performance contract may be offered by a
36 district school board to instructional personnel only if the
37 individual:

38 a. Holds a professional certificate or temporary
39 certificate as prescribed by s. 1012.56 and rules of the State
40 Board of Education.

41 b. Has been recommended by the district school



689840

42 superintendent for further employment and approved by the
43 district school board based on successful performance of duties
44 and demonstration of professional competence under s. 1012.34.

45 c. Has not received two consecutive unsatisfactory
46 evaluations under s. 1012.34, two unsatisfactory evaluations
47 within a 3-year period under s. 1012.34, or three evaluations of
48 needs improvement within any 5-year period under s. 1012.34.

49 2. A district school board may issue a professional
50 performance contract after July 1, 2011, to any instructional
51 personnel staff member who has previously held a professional
52 performance contract, a professional service contract, or a
53 continuing contract in the same or another school district
54 within this state. Any instructional personnel staff member who
55 holds a professional service contract or a continuing contract
56 may, but is not required to, exchange such contract for a
57 professional performance contract in the same district.

58 3. If a professional performance contract is not renewed by
59 the district school board based on performance of duties and
60 demonstration of professional competence of the individual under
61 s. 1012.34, upon the recommendation of the superintendent and
62 upon the approval of the district school board, the individual
63 may be appointed to up to three additional annual contracts or
64 not be offered an additional contract. At the time of making
65 such recommendation to the district school board, the
66 superintendent shall state the performance-based reason for his
67 or her recommendation and the district school board shall take
68 final action on such recommendation.