

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; requiring the commissioner to
19 identify methods to assist school districts; amending s.
20 1012.22, F.S.; revising provisions relating to
21 instructional personnel and school administrator
22 compensation and salary schedules; providing requirements
23 for a performance salary schedule, a grandfathered salary
24 schedule, adjustments, and supplements; revising criteria
25 for the promotion of instructional personnel; creating s.
26 1012.335, F.S.; providing criteria for employment
27 contracts for instructional personnel hired on or after
28 July 1, 2011; providing definitions; providing grounds for

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

57 retain personnel be primarily based on the employee's
 58 performance; repealing s. 1012.52, F.S., relating to
 59 legislative intent and findings to improve student
 60 achievement and teacher quality; amending s. 1012.795,
 61 F.S.; conforming provisions to changes made by the act;
 62 authorizing exemption from requirements for performance
 63 evaluation systems and compensation and salary schedules
 64 for certain school districts; providing requirements for
 65 State Board of Education approval and renewal of
 66 exemptions; providing for review and repeal; providing
 67 that specified provisions of law do not apply to
 68 rulemaking required to administer the act; providing for
 69 the repeal of certain special acts or general laws of
 70 local application relating to contracts for instructional
 71 personnel or school administrators; providing for
 72 application of specified provisions of the act; providing
 73 for severability; providing effective dates.

74

75 Be It Enacted by the Legislature of the State of Florida:

76

77 Section 1. This act may be cited as the "Student Success
 78 Act."

79 Section 2. Effective upon this act becoming a law, section
 80 1012.34, Florida Statutes, is amended to read:

81 1012.34 Personnel evaluation ~~Assessment~~ procedures and
 82 criteria.—

83 (1) EVALUATION SYSTEM APPROVAL AND REPORTING.—

84 (a) For the purpose of increasing student learning growth

85 by improving the quality of instructional, administrative, and
86 supervisory services in the public schools of the state, the
87 district school superintendent shall establish procedures for
88 evaluating ~~assessing~~ the performance of duties and
89 responsibilities of all instructional, administrative, and
90 supervisory personnel employed by the school district. The
91 district school superintendent shall annually report the
92 evaluation results of instructional personnel and school
93 administrators to the Department of Education in addition to the
94 information required under subsection (5).

95 (b) The department ~~of Education~~ must approve each school
96 district's instructional personnel and school administrator
97 evaluation systems ~~assessment system~~. The department shall
98 monitor each district's implementation of its instructional
99 personnel and school administrator evaluation systems for
100 compliance with the requirements of this section.

101 (c) By December 1, 2012, the Commissioner of Education
102 shall report to the Governor, the President of the Senate, and
103 the Speaker of the House of Representatives the approval and
104 implementation status of each school district's instructional
105 personnel and school administrator evaluation systems. The
106 report shall include performance evaluation results for the
107 prior school year for instructional personnel and school
108 administrators using the four levels of performance specified in
109 paragraph (2) (e). The performance evaluation results for
110 instructional personnel shall be disaggregated by classroom
111 teachers, as defined in s. 1012.01(2) (a), excluding substitute
112 teachers, and all other instructional personnel, as defined in

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113 s. 1012.01(2)(b)-(d). The commissioner shall continue to report,
114 by December 1 each year thereafter, each school district's
115 performance evaluation results and the status of any evaluation
116 system revisions requested by a school district pursuant to
117 subsection (6).

118 (2) EVALUATION SYSTEM REQUIREMENTS.—The evaluation systems
119 for instructional personnel and school administrators must
120 ~~following conditions must be considered in the design of the~~
121 ~~district's instructional personnel assessment system:~~

122 (a) ~~The system must~~ Be designed to support effective
123 instruction and student learning growth, and performance
124 evaluation results must be used when developing district and
125 school level improvement plans.

126 (b) ~~The system must~~ Provide appropriate instruments,
127 procedures, and criteria for continuous quality improvement of
128 the professional skills of instructional personnel and school
129 administrators, and performance evaluation results must be used
130 when identifying professional development opportunities.

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

135 (d) Identify ~~In addition to addressing generic teaching~~
136 ~~competencies, districts must determine~~ those teaching fields for
137 which special evaluation procedures and criteria are necessary
138 ~~will be developed.~~

139 (e) Differentiate among four levels of performance as
140 follows:

- 141 1. Highly effective.
 142 2. Effective.
 143 3. Needs improvement or, for instructional personnel in
 144 the first 3 years of employment who need improvement,
 145 developing.

146 4. Unsatisfactory. ~~Each district school board may~~
 147 ~~establish a peer assistance process. The plan may provide a~~
 148 ~~mechanism for assistance of persons who are placed on~~
 149 ~~performance probation as well as offer assistance to other~~
 150 ~~employees who request it.~~

151 (f) ~~The district school board shall~~ Provide for training
 152 programs that are based upon guidelines provided by the
 153 department ~~of Education~~ to ensure that all individuals with
 154 evaluation responsibilities understand the proper use of the
 155 evaluation assessment criteria and procedures.

156 (g) Include a process for monitoring and evaluating the
 157 effective and consistent use of the evaluation criteria by
 158 employees with evaluation responsibilities.

159 (h) Include a process for monitoring and evaluating the
 160 effectiveness of the system itself in improving instruction and
 161 student learning.

162
 163 In addition, each district school board may establish a peer
 164 assistance process. This process may be a part of the regular
 165 evaluation system or used to assist employees placed on
 166 performance probation, newly hired classroom teachers, or
 167 employees who request assistance.

168 (3) EVALUATION PROCEDURES AND CRITERIA. ~~The assessment~~

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169 ~~procedure for~~ Instructional personnel and school administrator
170 performance evaluations ~~administrators~~ must be ~~primarily~~ based
171 upon ~~on~~ the performance of students assigned to their classrooms
172 or schools, as provided in this section ~~appropriate~~. Pursuant to
173 this section, a school district's performance evaluation
174 ~~assessment~~ is not limited to basing unsatisfactory performance
175 of instructional personnel and school administrators solely upon
176 student performance, but may include other criteria approved to
177 evaluate ~~assess~~ instructional personnel and school
178 administrators' performance, or any combination of student
179 performance and other approved criteria. Evaluation ~~The~~
180 procedures and criteria must comply with, but are not limited
181 to, the following ~~requirements~~:

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

197 ~~assessment criteria must include, but are not limited to,~~
198 ~~indicators that relate to the following:~~

199 1. Performance of students. At least 50 percent of a
200 performance evaluation must be based upon data and indicators of
201 student learning growth assessed annually by statewide
202 assessments or, for subjects and grade levels not measured by
203 statewide assessments, by school district assessments as
204 provided in s. 1008.22(8). Each school district must use the
205 formula adopted pursuant to paragraph (7)(a) for measuring
206 student learning growth in all courses associated with statewide
207 assessments and must select an equally appropriate formula for
208 measuring student learning growth for all other grades and
209 subjects, except as otherwise provided in subsection (7).

210 a. For classroom teachers, as defined in s. 1012.01(2)(a),
211 excluding substitute teachers, the student learning growth
212 portion of the evaluation must include growth data for students
213 assigned to the teacher over the course of at least 3 years. If
214 less than 3 years of data are available, the years for which
215 data are available must be used and the percentage of the
216 evaluation based upon student learning growth may be reduced to
217 not less than 40 percent.

218 b. For instructional personnel who are not classroom
219 teachers, the student learning growth portion of the evaluation
220 must include growth data on statewide assessments for students
221 assigned to the instructional personnel over the course of at
222 least 3 years, or may include a combination of student learning
223 growth data and other measureable student outcomes that are
224 specific to the assigned position, provided that the student

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225 learning growth data accounts for not less than 30 percent of
226 the evaluation. If less than 3 years of student growth data are
227 available, the years for which data are available must be used
228 and the percentage of the evaluation based upon student learning
229 growth may be reduced to not less than 20 percent.

230 c. For school administrators, the student learning growth
231 portion of the evaluation must include growth data for students
232 assigned to the school over the course of at least 3 years. If
233 less than 3 years of data are available, the years for which
234 data are available must be used and the percentage of the
235 evaluation based upon student learning growth may be reduced to
236 not less than 40 percent.

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

246 3. Instructional leadership. For school administrators,
247 evaluation criteria must include indicators based upon each of
248 the leadership standards adopted by the State Board of Education
249 pursuant to s. 1012.986, including performance measures related
250 to the effectiveness of classroom teachers in the school, the
251 administrator's appropriate use of evaluation criteria and
252 procedures, recruitment and retention of effective and highly

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253 effective classroom teachers, improvement in the percentage of
254 instructional personnel evaluated at the highly effective or
255 effective level, and other leadership practices that result in
256 student learning growth. The system may include a means to give
257 parents and instructional personnel an opportunity to provide
258 input into the administrator's performance evaluation.

259 4. Professional and job responsibilities. For
260 instructional personnel and school administrators, other
261 professional and job responsibilities must be included as
262 adopted by the State Board of Education. The district school
263 board may identify additional professional and job
264 responsibilities.

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

266 ~~3. Knowledge of subject matter. The district school board~~
267 ~~shall make special provisions for evaluating teachers who are~~
268 ~~assigned to teach out-of-field.~~

269 ~~4. Ability to plan and deliver instruction and the use of~~
270 ~~technology in the classroom.~~

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

272 ~~6. Ability to establish and maintain a positive~~
273 ~~collaborative relationship with students' families to increase~~
274 ~~student achievement.~~

275 ~~7. Other professional competencies, responsibilities, and~~
276 ~~requirements as established by rules of the State Board of~~
277 ~~Education and policies of the district school board.~~

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

281 (c) The individual responsible for supervising the
 282 employee must evaluate ~~assess~~ the employee's performance. The
 283 evaluation system may provide for the evaluator to consider
 284 input from other personnel trained under paragraph (2) (f). The
 285 evaluator must submit a written report of the evaluation
 286 ~~assessment~~ to the district school superintendent for the purpose
 287 of reviewing the employee's contract. The evaluator must submit
 288 the written report to the employee no later than 10 days after
 289 the evaluation ~~assessment~~ takes place. The evaluator must
 290 discuss the written evaluation report ~~of assessment~~ with the
 291 employee. The employee shall have the right to initiate a
 292 written response to the evaluation ~~assessment~~, and the response
 293 shall become a permanent attachment to his or her personnel
 294 file.

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

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

307 (a) ~~1.~~ Upon delivery of a notice of unsatisfactory
 308 performance, the evaluator must confer with the employee who

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309 holds a professional service contract, make recommendations with
310 respect to specific areas of unsatisfactory performance, and
311 provide assistance in helping to correct deficiencies within a
312 prescribed period of time.

313 (b)1.2.a. ~~If~~ The employee who holds a professional service
314 contract ~~as provided in s. 1012.33, the employee~~ shall be placed
315 on performance probation and governed by ~~the provisions of this~~
316 section for 90 calendar days following the receipt of the notice
317 of unsatisfactory performance to demonstrate corrective action.
318 School holidays and school vacation periods are not counted when
319 calculating the 90-calendar-day period. During the 90 calendar
320 days, the employee who holds a professional service contract
321 must be evaluated periodically and apprised of progress achieved
322 and must be provided assistance and inservice training
323 opportunities to help correct the noted performance
324 deficiencies. At any time during the 90 calendar days, the
325 employee who holds a professional service contract may request a
326 transfer to another appropriate position with a different
327 supervising administrator; however, if a transfer is granted
328 pursuant to ss. 1012.27(1) and 1012.28(6), it does not extend
329 the period for correcting performance deficiencies.

330 2.b. Within 14 days after the close of the 90 calendar
331 days, the evaluator must evaluate ~~assess~~ whether the performance
332 deficiencies have been corrected and forward a recommendation to
333 the district school superintendent. Within 14 days after
334 receiving the evaluator's recommendation, the district school
335 superintendent must notify the employee who holds a professional
336 service contract in writing whether the performance deficiencies

337 have been satisfactorily corrected and whether the district
338 school superintendent will recommend that the district school
339 board continue or terminate his or her employment contract. If
340 the employee wishes to contest the district school
341 superintendent's recommendation, the employee must, within 15
342 days after receipt of the district school superintendent's
343 recommendation, submit a written request for a hearing. The
344 hearing shall be conducted at the district school board's
345 election in accordance with one of the following procedures:

346 a.~~(I)~~ A direct hearing conducted by the district school
347 board within 60 days after receipt of the written appeal. The
348 hearing shall be conducted in accordance with ~~the provisions of~~
349 ss. 120.569 and 120.57. A majority vote of the membership of the
350 district school board shall be required to sustain the district
351 school superintendent's recommendation. The determination of the
352 district school board shall be final as to the sufficiency or
353 insufficiency of the grounds for termination of employment; or

354 b.~~(II)~~ A hearing conducted by an administrative law judge
355 assigned by the Division of Administrative Hearings of the
356 Department of Management Services. The hearing shall be
357 conducted within 60 days after receipt of the written appeal in
358 accordance with chapter 120. The recommendation of the
359 administrative law judge shall be made to the district school
360 board. A majority vote of the membership of the district school
361 board shall be required to sustain or change the administrative
362 law judge's recommendation. The determination of the district
363 school board shall be final as to the sufficiency or
364 insufficiency of the grounds for termination of employment.

365 (5)-(4) ADDITIONAL NOTIFICATIONS.—The district school
 366 superintendent shall annually notify the department of any
 367 instructional personnel or school administrators who receive two
 368 consecutive unsatisfactory evaluations. The district school
 369 superintendent shall also notify the department of any
 370 instructional personnel or school administrators ~~and who are~~
 371 ~~have been~~ given written notice by the district of intent to
 372 terminate or not renew ~~that their employment is being terminated~~
 373 ~~or is not being renewed or that the district school board~~
 374 ~~intends to terminate, or not renew, their employment.~~ The
 375 department shall conduct an investigation to determine whether
 376 action shall be taken against the certificateholder pursuant to
 377 s. 1012.795(1)(c).

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

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

391 (6)-(7) ANNUAL REVIEW OF AND REVISIONS TO THE SCHOOL
 392 DISTRICT EVALUATION SYSTEMS.—The district school board shall

393 | establish a procedure for annually reviewing instructional
 394 | personnel and school administrator evaluation ~~assessment~~ systems
 395 | to determine compliance with this section. All substantial
 396 | revisions to an approved system must be reviewed and approved by
 397 | the district school board before being used to evaluate ~~assess~~
 398 | instructional personnel or school administrators. Upon request
 399 | by a school district, the department shall provide assistance in
 400 | developing, improving, or reviewing an evaluation ~~assessment~~
 401 | system.

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

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

421 shall adopt these formulas by rule.

422 (b) Beginning in the 2011-2012 school year, each school
423 district shall measure student learning growth using the formula
424 approved by the commissioner under paragraph (a) for courses
425 associated with the FCAT. Each school district shall implement
426 the additional student learning growth measures selected by the
427 commissioner under paragraph (a) for the remainder of the
428 statewide assessments included under s. 1008.22 as they become
429 available. Beginning in the 2014-2015 school year, for grades
430 and subjects not assessed by statewide assessments but otherwise
431 assessed as required under s. 1008.22(8), each school district
432 shall measure student learning growth using an equally
433 appropriate formula. The department shall provide models for
434 measuring student learning growth which school districts may
435 adopt.

436 (c) For a course that is not measured by a statewide
437 assessment, a school district may request, through the
438 evaluation system approval process, to use a student achievement
439 measure rather than a student learning growth measure if
440 achievement is demonstrated to be a more appropriate measure of
441 classroom teacher performance. A school district may also
442 request to use a combination of student learning growth and
443 achievement, if appropriate.

444 (d) If the student learning growth in a course is not
445 measured by a statewide assessment but is measured by a school
446 district assessment, a school district may request, through the
447 evaluation system approval process, that the performance
448 evaluation for the classroom teacher assigned to that course

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449 include the learning growth of his or her students on FCAT
450 Reading or FCAT Mathematics. The request must clearly explain
451 the rationale supporting the request. However, the classroom
452 teacher's performance evaluation must give greater weight to
453 student learning growth on the district assessment.

454 (e) For classroom teachers of courses for which the
455 district has not implemented appropriate assessments under s.
456 1008.22(8) or for which the school district has not adopted an
457 equally appropriate measure of student learning growth under
458 paragraphs (b)-(d), student learning growth must be measured by
459 the growth in learning of the classroom teacher's students on
460 statewide assessments, or, for courses in which enrolled
461 students do not take the statewide assessments, measurable
462 learning targets must be established based upon the goals of the
463 school improvement plan and approved by the school principal. A
464 district school superintendent may assign to instructional
465 personnel in an instructional team the student learning growth
466 of the instructional team's students on statewide assessments.
467 This paragraph expires July 1, 2015.

468 (8) RULEMAKING.—The State Board of Education shall adopt
469 rules pursuant to ss. 120.536(1) and 120.54 ~~which, that~~
470 establish uniform ~~procedures~~ guidelines for the submission,
471 review, and approval of district evaluation systems and
472 ~~reporting requirements~~ procedures for the annual evaluation
473 ~~assessment~~ of instructional personnel and school administrators;
474 specific, discrete standards for each performance level required
475 under subsection (2) to ensure clear and sufficient
476 differentiation in the performance levels and to provide

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477 consistency in meaning across school districts; the measurement
478 of student learning growth and associated implementation
479 procedures required under subsection (7); and a process for
480 monitoring school district implementation of evaluation systems
481 in accordance with this section ~~that include criteria for~~
482 ~~evaluating professional performance.~~ Specifically, the rules
483 shall establish a student learning growth standard that, if not
484 met, will result in the employee receiving an unsatisfactory
485 performance evaluation rating. In like manner, the rules shall
486 establish a student learning growth standard that must be met in
487 order for an employee to receive a highly effective rating and a
488 student learning growth standard that must be met in order for
489 an employee to receive an effective rating.

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

492 1008.22 Student assessment program for public schools.—

493 (8) LOCAL ASSESSMENTS.—

494 (a) Measurement of the learning gains of students in all
495 subjects and grade levels other than subjects and grade levels
496 required for the state student achievement testing program is
497 the responsibility of the school districts.

498 (b) Beginning with the 2014-2015 school year, each school
499 district shall administer for each course offered in the
500 district a student assessment that measures mastery of the
501 content, as described in the state-adopted course description,
502 at the necessary level of rigor for the course. Such assessments
503 may include:

504 1. Statewide assessments.

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505 2. Other standardized assessments, including nationally
 506 recognized standardized assessments.

507 3. Industry certification examinations.

508 4. District-developed or district-selected end-of-course
 509 assessments.

510 (c) The Commissioner of Education shall identify methods
 511 to assist and support districts in the development and
 512 acquisition of assessments required under this subsection.
 513 Methods may include developing item banks, facilitating the
 514 sharing of developed tests among school districts, acquiring
 515 assessments from state and national curriculum-area
 516 organizations, and providing technical assistance in best
 517 professional practices of test development based upon state-
 518 adopted curriculum standards, administration, and security.

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

521 1012.22 Public school personnel; powers and duties of the
 522 district school board.—The district school board shall:

523 (1) Designate positions to be filled, prescribe
 524 qualifications for those positions, and provide for the
 525 appointment, compensation, promotion, suspension, and dismissal
 526 of employees as follows, subject to the requirements of this
 527 chapter:

528 (c) Compensation and salary schedules.—

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

530 a. "Adjustment" means an addition to the base salary
 531 schedule that is not a bonus and becomes part of the employee's
 532 permanent base salary and shall be considered compensation under

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533 s. 121.021(22).

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

537 c. "Instructional personnel" means instructional personnel
538 as defined in s. 1012.01(2) (a)-(d), excluding substitute
539 teachers.

540 d. "Performance salary schedule" means the salary schedule
541 or schedules adopted by a district school board pursuant to
542 subparagraph 5.

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

545 f. "School administrator" means a school administrator as
546 defined in s. 1012.01(3) (c).

547 g. "Supplement" means an annual addition to the base
548 salary for the term of the negotiated supplement as long as the
549 employee continues his or her employment for the purpose of the
550 supplement. A supplement does not become part of the employee's
551 continuing base salary but shall be considered compensation
552 under s. 121.021(22).

553 2. Cost-of-living adjustment.—A district school board may
554 provide a cost-of-living salary adjustment if the adjustment:

555 a. Does not discriminate among comparable classes of
556 employees based upon the salary schedule under which they are
557 compensated.

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

560 3. Advanced degrees.—A district school board may not use

561 advanced degrees in setting a salary schedule for instructional
562 personnel or school administrators hired on or after July 1,
563 2011, unless the advanced degree is held in the individual's
564 area of certification and is only a salary supplement.

565 4. Grandfathered salary schedule.—

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

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

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

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

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

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

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617 administrator shall be placed on the performance salary
618 schedule.

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

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

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

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

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

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

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

644 (III) Certification and teaching in critical teacher

645 shortage areas. Statewide critical teacher shortage areas shall
646 be identified by the State Board of Education pursuant to s.
647 1012.07. However, the district school board may identify other
648 areas of critical shortage within the school district for
649 purposes of this sub-sub-subparagraph and may remove areas
650 identified by the state board that do not apply within the
651 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, on the basis
657 of either 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 successfully completed a probationary contract with the
 722 district school board and have received one or more annual
 723 contracts from the district school board.

724 (c) An annual contract may be awarded 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 annual performance
734 evaluation ratings of unsatisfactory, two annual performance
735 evaluation ratings of unsatisfactory within a 3-year period, or
736 three consecutive annual performance evaluation ratings of needs
737 improvement or a combination of needs improvement and
738 unsatisfactory under s. 1012.34.

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

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

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757 receipt of the written appeal. The hearing shall be conducted in
758 accordance with ss. 120.569 and 120.57. A majority vote of the
759 membership of the district school board shall be required to
760 sustain the district school superintendent's recommendation. The
761 district school board's determination is final as to the
762 sufficiency or insufficiency of the grounds for suspension
763 without pay or dismissal. Any such decision adverse to the
764 employee may be appealed by the employee pursuant to s. 120.68.

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

768 (a) Immorality.

769 (b) Misconduct in office.

770 (c) Incompetency.

771 (d) Gross insubordination.

772 (e) Willful neglect of duty.

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

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

779 Section 6. Paragraph (b) of subsection (16) of section
780 1002.33, Florida Statutes, is amended to read:

781 1002.33 Charter schools.—

782 (16) EXEMPTION FROM STATUTES.—

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

785 1. Section 286.011, relating to public meetings and
 786 records, public inspection, and criminal and civil penalties.

787 2. Chapter 119, relating to public records.

788 3. Section 1003.03, relating to the maximum class size,
 789 except that the calculation for compliance pursuant to s.
 790 1003.03 shall be the average at the school level.

791 4. Section 1012.22(1)(c), relating to compensation and
 792 salary schedules.

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

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

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

799 Section 7. Paragraph (h) of subsection (2) of section
 800 1003.621, Florida Statutes, is amended to read:

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

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

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813 (h) Sections 1012.22(1)(c) and 1012.27(2), relating to
 814 public school personnel compensation and salary schedules; s.
 815 1012.34, relating to personnel evaluation procedures and
 816 criteria; and ss. 1012.33 and 1012.335, relating to contracts
 817 with instructional personnel, staff, supervisors, and school
 818 administrators differentiated pay and performance pay policies
 819 for school administrators and instructional personnel.
 820 ~~Professional service contracts are subject to the provisions of~~
 821 ~~ss. 1012.33 and 1012.34.~~

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

824 1006.09 Duties of school principal relating to student
 825 discipline and school safety.—

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

836 Section 9. Section 1012.07, Florida Statutes, is amended
 837 to read:

838 1012.07 Identification of critical teacher shortage
 839 areas.—

840 ~~(1) As used in ss. 1009.57, 1009.58, and 1009.59, The term~~

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841 "critical teacher shortage area" means high-need content areas
842 ~~applies to mathematics, science, career education, and high-~~
843 ~~priority high priority~~ location areas identified by the State
844 Board of Education ~~may identify career education programs having~~
845 ~~critical teacher shortages~~. The State Board of Education shall
846 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
847 annually identify ~~other~~ critical teacher shortage areas ~~and high~~
848 ~~priority location areas~~. The state board must ~~shall also~~
849 consider current and emerging educational requirements and
850 workforce demands ~~teacher characteristics such as ethnic~~
851 ~~background, race, and sex~~ in determining critical teacher
852 shortage areas. School grade levels may also be designated
853 critical teacher shortage areas. Individual district school
854 boards may identify and submit other critical teacher shortage
855 areas. Such submissions ~~shortages~~ must be aligned to current and
856 emerging educational requirements and workforce demands in order
857 to be certified to and approved by the State Board of Education.
858 High-priority ~~High priority~~ location areas shall be in high-
859 density, low-economic urban schools, and low-density, low-
860 economic rural schools, and schools identified as lowest
861 performing under s. 1008.33(4)(b) ~~shall include schools which~~
862 ~~meet criteria which include, but are not limited to, the~~
863 ~~percentage of free lunches, the percentage of students under~~
864 ~~Chapter I of the Education Consolidation and Improvement Act of~~
865 ~~1981, and the faculty attrition rate.~~

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

868 Section 10. Subsection (5) of section 1012.2315, Florida

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869 Statutes, is amended to read:

870 1012.2315 Assignment of teachers.—

871 (5) REPORT.—

872 (a) Beginning July 1, 2012, the Department of Education
873 shall annually report on its website, in a manner that is
874 accessible to the public, the performance rating data reported
875 by district school boards under s. 1012.34. The report must
876 include the percentage of classroom teachers, instructional
877 personnel, and school administrators receiving each performance
878 rating aggregated by school district and by school.

879 (b) Notwithstanding the provisions of s. 1012.31(3)(a)2.,
880 each school district shall annually report to a parent the fact
881 that his or her child has been assigned to a classroom teacher
882 or school administrator having two consecutive annual
883 performance evaluation ratings of unsatisfactory under s.
884 1012.34, two annual performance evaluation ratings of
885 unsatisfactory within a 3-year period under s. 1012.34, or three
886 consecutive annual performance evaluation ratings of needs
887 improvement or a combination of needs improvement and
888 unsatisfactory under s. 1012.34. Schools graded "D" or "F" shall
889 ~~annually report their teacher-retention rate. Included in this~~
890 ~~report shall be reasons listed for leaving by each teacher who~~
891 ~~left the school for any reason.~~

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

894 1012.27 Public school personnel; powers and duties of
895 district school superintendent.—The district school
896 superintendent is responsible for directing the work of the

897 personnel, subject to the requirements of this chapter, and in
 898 addition the district school superintendent shall perform the
 899 following:

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

901 (a) Recommend to the district school board duties and
 902 responsibilities which need to be performed and positions which
 903 need to be filled to make possible the development of an
 904 adequate school program in the district.

905 (b) Recommend minimum qualifications of personnel for
 906 these various positions, and nominate in writing persons to fill
 907 such positions.

908
 909 The district school superintendent's recommendations for filling
 910 instructional positions at the school level must consider
 911 nominations received from school principals of the respective
 912 schools. Before transferring a teacher who holds a professional
 913 teaching certificate from one school to another, the district
 914 school superintendent shall consult with the principal of the
 915 receiving school and allow the principal to review the teacher's
 916 records, including student performance demonstrated under s.
 917 1012.34, and interview the teacher. If, in the judgment of the
 918 principal, students would not benefit from the placement, an
 919 alternative placement may be sought. A principal may refuse the
 920 placement in accordance with s. 1012.28(6).

921 (2) COMPENSATION AND SALARY SCHEDULES.—Prepare and
 922 recommend to the district school board for adoption a salary
 923 schedule or salary schedules in accordance with s. 1012.22. ~~The~~
 924 ~~district school superintendent must recommend a salary schedule~~

925 ~~for instructional personnel which bases a portion of each~~
 926 ~~employee's compensation on performance demonstrated under s.~~
 927 ~~1012.34. In developing the recommended salary schedule, the~~
 928 ~~district school superintendent shall include input from parents,~~
 929 ~~teachers, and representatives of the business community.~~
 930 ~~Beginning with the 2007-2008 academic year, the recommended~~
 931 ~~salary schedule for classroom teachers shall be consistent with~~
 932 ~~the district's differentiated pay policy based upon s. 1012.22.~~

933 Section 12. Subsection (3) of section 1012.28, Florida
 934 Statutes, is amended, present subsection (6) is renumbered as
 935 subsection (7) and amended, and a new subsection (6) is added to
 936 that section, to read:

937 1012.28 Public school personnel; duties of school
 938 principals.—

939 (3) Each school principal is responsible for the
 940 performance of all personnel employed by the district school
 941 board and assigned to the school to which the principal is
 942 assigned. The school principal shall faithfully and effectively
 943 apply the personnel evaluation ~~assessment~~ system approved by the
 944 ~~district school board~~ pursuant to s. 1012.34.

945 (6) A principal may refuse to accept the placement or
 946 transfer of instructional personnel by the district school
 947 superintendent to his or her school unless the instructional
 948 personnel has a performance rating of effective or highly
 949 effective under s. 1012.34.

950 (7) ~~(6)~~ A school principal who fails to comply with this
 951 section shall be ineligible for any portion of the performance
 952 pay ~~policy incentive~~ and differentiated pay under s. 1012.22.

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

956 1012.33 Contracts with instructional staff, supervisors,
 957 and school principals.—

958 (1) (a) Each person employed as a member of the
 959 instructional staff in any district school system shall be
 960 properly certified pursuant to s. 1012.56 or s. 1012.57 or
 961 employed pursuant to s. 1012.39 and shall be entitled to and
 962 shall receive a written contract as specified in this section.
 963 All such contracts, except continuing contracts as specified in
 964 subsection (4), shall contain provisions for dismissal during
 965 the term of the contract only for just cause. Just cause
 966 includes, but is not limited to, the following instances, as
 967 defined by rule of the State Board of Education: immorality,
 968 misconduct in office, incompetency, two consecutive annual
 969 performance evaluation ratings of unsatisfactory under s.
 970 1012.34, two annual performance evaluation ratings of
 971 unsatisfactory within a 3-year period under s. 1012.34, three
 972 consecutive annual performance evaluation ratings of needs
 973 improvement or a combination of needs improvement and
 974 unsatisfactory under s. 1012.34, gross insubordination, willful
 975 neglect of duty, or being convicted or found guilty of, or
 976 entering a plea of guilty to, regardless of adjudication of
 977 guilt, any crime involving moral turpitude.

978 (3) (a) Each district school board shall provide a
 979 professional service contract as prescribed herein. Each member
 980 of the instructional staff who completed the following

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981 requirements prior to July 1, 1984, shall be entitled to and
982 shall be issued a continuing contract in the form prescribed by
983 rules of the state board pursuant to s. 231.36, Florida Statutes
984 (1981). Each member of the instructional staff who completes the
985 following requirements on or after July 1, 1984, shall be
986 entitled to and shall be issued a professional service contract
987 in the form prescribed by rules of the state board as provided
988 herein:

989 1. The member must hold a professional certificate as
990 prescribed by s. 1012.56 and rules of the State Board of
991 Education.

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

995 3. The member must have been recommended by the district
996 school superintendent for such contract and reappointed by the
997 district school board based on successful performance of duties
998 and demonstration of professional competence.

999 4. For any person newly employed as a member of the
1000 instructional staff after June 30, 1997, the initial annual
1001 contract shall include a 97-day probationary period during which
1002 time the employee's contract may be terminated without cause or
1003 the employee may resign without breach of contract.

1004 (b) The professional service contract shall be effective
1005 at the beginning of the school fiscal year following the
1006 completion of all requirements therefor.

1007 (c) The period of service provided herein may be extended
1008 to 4 years when prescribed by the district school board and

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1009 | agreed to in writing by the employee at the time of
 1010 | reappointment.

1011 | ~~(d) A district school board may issue a continuing~~
 1012 | ~~contract prior to July 1, 1984, and may issue a professional~~
 1013 | ~~service contract subsequent to July 1, 1984, to any employee who~~
 1014 | ~~has previously held a professional service contract or~~
 1015 | ~~continuing contract in the same or another district within this~~
 1016 | ~~state. Any employee who holds a continuing contract may, but is~~
 1017 | ~~not required to, exchange such continuing contract for a~~
 1018 | ~~professional service contract in the same district.~~

1019 | (d) ~~(e)~~ A professional service contract shall be renewed
 1020 | each year unless:

1021 | 1. The district school superintendent, after receiving the
 1022 | recommendations required by s. 1012.34, charges the employee
 1023 | with unsatisfactory performance and notifies the employee of
 1024 | performance deficiencies as required by s. 1012.34; or

1025 | 2. The employee receives two consecutive annual
 1026 | performance evaluation ratings of unsatisfactory under s.
 1027 | 1012.34, two annual performance evaluation ratings of
 1028 | unsatisfactory within a 3-year period under s. 1012.34, or three
 1029 | consecutive annual performance evaluation ratings of needs
 1030 | improvement or a combination of needs improvement and
 1031 | unsatisfactory under s. 1012.34. ~~An employee who holds a~~
 1032 | ~~professional service contract on July 1, 1997, is subject to the~~
 1033 | ~~procedures set forth in paragraph (f) during the term of the~~
 1034 | ~~existing professional service contract. The employee is subject~~
 1035 | ~~to the procedures set forth in s. 1012.34(3)(d) upon the next~~
 1036 | ~~renewal of the professional service contract; however, if the~~

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1037 ~~employee is notified of performance deficiencies before the next~~
 1038 ~~contract renewal date, the procedures of s. 1012.34(3)(d) do not~~
 1039 ~~apply until the procedures set forth in paragraph (f) have been~~
 1040 ~~exhausted and the professional service contract is subsequently~~
 1041 ~~renewed.~~

1042 ~~(f) The district school superintendent shall notify an~~
 1043 ~~employee who holds a professional service contract on July 1,~~
 1044 ~~1997, in writing, no later than 6 weeks prior to the end of the~~
 1045 ~~postschool conference period, of performance deficiencies which~~
 1046 ~~may result in termination of employment, if not corrected during~~
 1047 ~~the subsequent year of employment (which shall be granted for an~~
 1048 ~~additional year in accordance with the provisions in subsection~~
 1049 ~~(1)). Except as otherwise hereinafter provided, this action~~
 1050 ~~shall not be subject to the provisions of chapter 120, but the~~
 1051 ~~following procedures shall apply:~~

1052 ~~1. On receiving notice of unsatisfactory performance, the~~
 1053 ~~employee, on request, shall be accorded an opportunity to meet~~
 1054 ~~with the district school superintendent, or his or her designee,~~
 1055 ~~for an informal review of the determination of unsatisfactory~~
 1056 ~~performance.~~

1057 ~~2. An employee notified of unsatisfactory performance may~~
 1058 ~~request an opportunity to be considered for a transfer to~~
 1059 ~~another appropriate position, with a different supervising~~
 1060 ~~administrator, for the subsequent year of employment. If the~~
 1061 ~~request for the transfer is granted, the district school~~
 1062 ~~superintendent shall annually report to the department the total~~
 1063 ~~number of employees transferred pursuant to this subparagraph,~~
 1064 ~~where they were transferred, and what, if any, remediation was~~

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1065 ~~implemented to remediate the unsatisfactory performance.~~

1066 ~~3. During the subsequent year, the employee shall be~~
1067 ~~provided assistance and inservice training opportunities to help~~
1068 ~~correct the noted performance deficiencies. The employee shall~~
1069 ~~also be evaluated periodically so that he or she will be kept~~
1070 ~~apprised of progress achieved.~~

1071 ~~4. Not later than 6 weeks prior to the close of the~~
1072 ~~postschool conference period of the subsequent year, the~~
1073 ~~district school superintendent, after receiving and reviewing~~
1074 ~~the recommendation required by s. 1012.34, shall notify the~~
1075 ~~employee, in writing, whether the performance deficiencies have~~
1076 ~~been corrected. If so, a new professional service contract shall~~
1077 ~~be issued to the employee. If the performance deficiencies have~~
1078 ~~not been corrected, the district school superintendent may~~
1079 ~~notify the district school board and the employee, in writing,~~
1080 ~~that the employee shall not be issued a new professional service~~
1081 ~~contract; however, if the recommendation of the district school~~
1082 ~~superintendent is not to issue a new professional service~~
1083 ~~contract, and if the employee wishes to contest such~~
1084 ~~recommendation, the employee will have 15 days from receipt of~~
1085 ~~the district school superintendent's recommendation to demand,~~
1086 ~~in writing, a hearing. In such hearing, the employee may raise~~
1087 ~~as an issue, among other things, the sufficiency of the district~~
1088 ~~school superintendent's charges of unsatisfactory performance.~~
1089 ~~Such hearing shall be conducted at the district school board's~~
1090 ~~election in accordance with one of the following procedures:~~

1091 ~~a. A direct hearing conducted by the district school board~~
1092 ~~within 60 days of receipt of the written appeal. The hearing~~

1093 ~~shall be conducted in accordance with the provisions of ss.~~
 1094 ~~120.569 and 120.57. A majority vote of the membership of the~~
 1095 ~~district school board shall be required to sustain the district~~
 1096 ~~school superintendent's recommendation. The determination of the~~
 1097 ~~district school board shall be final as to the sufficiency or~~
 1098 ~~insufficiency of the grounds for termination of employment; or~~
 1099 ~~b. A hearing conducted by an administrative law judge~~
 1100 ~~assigned by the Division of Administrative Hearings of the~~
 1101 ~~Department of Management Services. The hearing shall be~~
 1102 ~~conducted within 60 days of receipt of the written appeal in~~
 1103 ~~accordance with chapter 120. The recommendation of the~~
 1104 ~~administrative law judge shall be made to the district school~~
 1105 ~~board. A majority vote of the membership of the district school~~
 1106 ~~board shall be required to sustain or change the administrative~~
 1107 ~~law judge's recommendation. The determination of the district~~
 1108 ~~school board shall be final as to the sufficiency or~~
 1109 ~~insufficiency of the grounds for termination of employment.~~
 1110 ~~(g) Beginning July 1, 2001, for each employee who enters~~
 1111 ~~into a written contract, pursuant to this section, in a school~~
 1112 ~~district in which the employee was not employed as of June 30,~~
 1113 ~~2001, or was employed as of June 30, 2001, but has since broken~~
 1114 ~~employment with that district for 1 school year or more, for~~
 1115 ~~purposes of pay, a district school board must recognize and~~
 1116 ~~accept each year of full-time public school teaching service~~
 1117 ~~earned in the State of Florida for which the employee received a~~
 1118 ~~satisfactory performance evaluation; however, an employee may~~
 1119 ~~voluntarily waive this provision. Instructional personnel~~
 1120 ~~employed pursuant to s. 121.091(9)(b) and (c) are exempt from~~

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1121 ~~the provisions of this paragraph.~~

1122 (5) If workforce reduction is needed, a district school
 1123 board must retain employees at a school or in the school
 1124 district based upon educational program needs and the
 1125 performance evaluations of employees within the affected program
 1126 areas. Within the program areas requiring reduction, the
 1127 employee with the lowest performance evaluations must be the
 1128 first to be released; the employee with the next lowest
 1129 performance evaluations must be the second to be released; and
 1130 reductions shall continue in like manner until the needed number
 1131 of reductions has occurred. A district school board may not
 1132 prioritize retention of employees based upon seniority. Should a
 1133 ~~district school board have to choose from among its personnel~~
 1134 ~~who are on continuing contracts or professional service~~
 1135 ~~contracts as to which should be retained, such decisions shall~~
 1136 ~~be made pursuant to the terms of a collectively bargained~~
 1137 ~~agreement, when one exists. If no such agreement exists, the~~
 1138 ~~district school board shall prescribe rules to handle reductions~~
 1139 ~~in workforce.~~

1140 Section 14. Section 1012.52, Florida Statutes, is
 1141 repealed.

1142 Section 15. Paragraph (h) of subsection (1) of section
 1143 1012.795, Florida Statutes, is amended to read:

1144 1012.795 Education Practices Commission; authority to
 1145 discipline.—

1146 (1) The Education Practices Commission may suspend the
 1147 educator certificate of any person as defined in s. 1012.01(2)
 1148 or (3) for up to 5 years, thereby denying that person the right

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1149 | to teach or otherwise be employed by a district school board or
1150 | public school in any capacity requiring direct contact with
1151 | students for that period of time, after which the holder may
1152 | return to teaching as provided in subsection (4); may revoke the
1153 | educator certificate of any person, thereby denying that person
1154 | the right to teach or otherwise be employed by a district school
1155 | board or public school in any capacity requiring direct contact
1156 | with students for up to 10 years, with reinstatement subject to
1157 | the provisions of subsection (4); may revoke permanently the
1158 | educator certificate of any person thereby denying that person
1159 | the right to teach or otherwise be employed by a district school
1160 | board or public school in any capacity requiring direct contact
1161 | with students; may suspend the educator certificate, upon an
1162 | order of the court or notice by the Department of Revenue
1163 | relating to the payment of child support; or may impose any
1164 | other penalty provided by law, if the person:

1165 | (h) Has breached a contract, as provided in s. 1012.33(2)
1166 | or s. 1012.335.

1167 | Section 16. (1) Notwithstanding any other provision of
1168 | this act, a school district that received an exemption under
1169 | Florida's Race to the Top Memorandum of Understanding for Phase
1170 | 2, as provided in section (D)(2)(ii) of the memorandum, is
1171 | allowed to base 40 percent, instead of 50 percent, of
1172 | instructional personnel and school administrator performance
1173 | evaluations upon student learning growth under s. 1012.34,
1174 | Florida Statutes, as amended by this act. The school district is
1175 | also exempt from the amendments to s. 1012.22(1)(c), Florida
1176 | Statutes, made by this act. The exemptions described in this

1177 subsection are effective for the 2011-2012 school year and are
 1178 effective for each school year thereafter if the school district
 1179 receives annual approval by the State Board of Education.

1180 (2) The State Board of Education shall base its approval
 1181 upon demonstration by the school district of the following:

1182 (a) The instructional personnel and school administrator
 1183 evaluation systems base at least 40 percent of an employee's
 1184 performance evaluation upon student performance and that student
 1185 performance is the single greatest component of an employee's
 1186 evaluation.

1187 (b) The instructional personnel and school administrator
 1188 evaluation systems adopt the Commissioner of Education's student
 1189 learning growth formula for statewide assessments as provided
 1190 under s. 1012.34(7), Florida Statutes, as created by this act.

1191 (c) The school district's instructional personnel and
 1192 school administrator compensation system awards salary increases
 1193 based upon sustained student performance.

1194 (d) The school district's contract system awards
 1195 instructional personnel and school administrators based upon
 1196 student performance and removes ineffective employees.

1197 (e) Beginning with the 2014-2015 school year and each
 1198 school year thereafter, student learning growth based upon
 1199 performance on statewide assessments under s. 1008.22, Florida
 1200 Statutes, must have significantly improved compared to student
 1201 learning growth in the district in 2011-2012 and significantly
 1202 improved compared to other school districts.

1203 (3) The State Board of Education shall annually renew a
 1204 school district's exemptions if the school district demonstrates

1205 that it meets the requirements of subsection (2). If the
 1206 exemptions are not renewed, the school district must comply with
 1207 the requirements and laws described in subsection (1) by the
 1208 beginning of the next school year immediately following the loss
 1209 of the exemptions.

1210 (4) The State Board of Education shall adopt rules
 1211 pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to
 1212 establish the procedures for applying for the exemptions and the
 1213 criteria for renewing the exemptions.

1214
 1215 This section shall be repealed August 1, 2017, unless reviewed
 1216 and reenacted by the Legislature.

1217 Section 17. Chapter 2010-279, Laws of Florida, does not
 1218 apply to any rulemaking required to administer this act.

1219 Section 18. The provisions of any special act or general
 1220 law of local application relating to contracts for instructional
 1221 personnel or school administrators in public schools or school
 1222 districts in effect on or before the effective date of this act
 1223 are repealed.

1224 Section 19. The amendments made by this act to s. 1012.33,
 1225 Florida Statutes, apply to contracts newly entered into,
 1226 extended, or readopted on or after July 1, 2011, and to all
 1227 contracts entered into on or after July 1, 2014.

1228 Section 20. If any provision of this act or its
 1229 application to any person or circumstance is held invalid, the
 1230 invalidity does not affect other provisions or applications of
 1231 the act which can be given effect without the invalid provision
 1232 or application, and to this end the provisions of this act are

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1233 | severable.

1234 | Section 21. Except as otherwise expressly provided in this
1235 | act and except for this section, which shall take effect upon
1236 | this act becoming a law, this act shall take effect July 1,
1237 | 2011.