

By the Committee on Education Pre-K - 12; and Senator Wise

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1 A bill to be entitled
2 An act relating to education personnel; providing a
3 short title; amending s. 1012.34, F.S.; revising
4 provisions related to the evaluation of instructional
5 personnel and school administrators; requiring that
6 the Department of Education approve school district
7 evaluation systems; requiring the Department of
8 Education to collect evaluation information from
9 school districts and to report such information to the
10 Governor and Legislature; providing requirements for
11 the evaluation systems; requiring the Commissioner of
12 Education to select formulas for school districts to
13 use in measuring growth in learning by students;
14 requiring the State Board of Education to adopt
15 formulas; conforming provisions to changes made by the
16 act; amending s. 1008.22, F.S.; revising provisions
17 requiring school districts to develop and implement
18 end-of-course assessments; amending s. 1012.22, F.S.;
19 revising the powers and duties of the district school
20 board with respect to school district compensation and
21 salary schedules; requiring that certain performance
22 criteria be included in the adopted schedules;
23 revising the differentiated pay provisions; creating
24 s. 1012.335, F.S.; providing definitions; revising the
25 contract requirements for instructional personnel
26 hired on or after a certain date; requiring that the
27 State Board of Education adopt rules defining the term
28 "just cause"; providing guidelines for such term;
29 providing that certain individuals who are hired as

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30 instructional personnel are ineligible for contracts
31 issued under s. 1012.33, F.S.; amending s. 1002.33,
32 F.S.; requiring charter schools to adopt a salary
33 schedule for instructional personnel and school
34 administrators which meets certain requirements;
35 requiring charter schools to comply with requirements
36 relating to personnel evaluation procedures and
37 criteria and certain contracts; amending s. 1003.621,
38 F.S.; providing additional requirements for personnel
39 in academically high-performing school districts;
40 amending s. 1012.07, F.S.; revising the methodology
41 for determining critical teacher shortage areas;
42 amending s. 1012.2315, F.S.; providing additional
43 reporting requirements concerning instructional
44 personnel and school administrator assignments;
45 amending s. 1012.27, F.S.; revising the criteria for
46 transfer requests by teachers; conforming provisions
47 to changes made by the act; amending s. 1012.28, F.S.;
48 authorizing a principal to refuse to accept the
49 placement or transfer of instructional personnel under
50 certain circumstances; amending s. 1012.33, F.S.;
51 revising provisions relating to contracts with certain
52 education personnel; requiring that a district school
53 board's decision to retain personnel be primarily
54 based on the employee's performance; repealing s.
55 1012.52, F.S., relating to legislative intent for
56 teacher quality; amending s. 1012.795, F.S.;
57 conforming provisions to changes made by the act;
58 authorizing school districts to seek an exemption from

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59 the State Board of Education from the requirement of
60 certain laws; authorizing the State Board of Education
61 to adopt rules; providing that a certain specified
62 provision of law does not apply to any rulemaking
63 required to administer the act; providing for the
64 repeal of certain special acts or general laws of
65 local application related to instructional personnel
66 in public schools or school districts; providing an
67 exception; providing for severability; providing for
68 application of a specified provision of the act;
69 providing effective dates.

70

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

72

73 Section 1. This act may be cited as the "Race to the Top
74 for Student Success Act."

75 Section 2. Effective upon this act becoming a law, section
76 1012.34, Florida Statutes, is amended to read:

77 1012.34 Personnel evaluation ~~Assessment~~ procedures and
78 criteria.—

79 (1) EVALUATION APPROVAL AND REPORTING.—

80 (a) For the purpose of increasing student achievement by
81 improving the quality of instructional, administrative, and
82 supervisory services in the public schools of the state, the
83 district school superintendent shall establish procedures for
84 evaluating ~~assessing~~ the performance of duties and
85 responsibilities of all instructional, administrative, and
86 supervisory personnel employed by the school district. Each
87 school district shall annually report to the Department of

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88 Education the evaluation results of its evaluation system for
89 instructional personnel and school administrators.

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

97 (c) By December 1 of each year, the Commissioner of
98 Education shall report to the Governor, the President of the
99 Senate, and the Speaker of the House of Representatives the
100 approval and implementation status of each district's evaluation
101 system, including the aggregate performance results and findings
102 from the monitoring process for: classroom teachers, but
103 excluding substitute teachers; instructional personnel, as
104 defined in s. 1012.01(2)(b)-(d); and school administrators.

105 (2) EVALUATION SYSTEM REQUIREMENTS.—The evaluation systems
106 must ~~The following conditions must be considered in the design~~
107 of the district's instructional personnel assessment system:

108 (a) ~~The system must~~ Be designed to support effective
109 instruction and student achievement, and the results must be
110 used to inform district and school level improvement plans.

111 (b) ~~The system must~~ Provide appropriate instruments,
112 procedures, and criteria for continuous quality improvement of
113 the professional skills, and the results must be used to inform
114 the professional development of instructional personnel and
115 school administrators.

116 (c) ~~The system must~~ Include a mechanism to examine

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117 performance data from multiple sources, which includes giving
118 ~~give~~ parents an opportunity to provide input into employee
119 performance evaluations ~~assessments~~ when appropriate.

120 (d) Identify ~~In addition to addressing generic teaching~~
121 ~~competencies, districts must determine~~ those teaching fields for
122 which special evaluation procedures and criteria will be
123 developed.

124 (e) Differentiate among four levels of performance, which
125 include the following:

126 1. Highly effective.

127 2. Effective.

128 3. Needs improvement or, for instructional personnel in the
129 first 3 years of employment or in the first year of a new
130 teaching assignment who need improvement, developing.

131 4. Unsatisfactory.

132

133 The Commissioner of Education shall consult with experts and
134 classroom teachers in developing the criteria for the
135 performance levels. In developing the criteria for the
136 performance levels, the Commissioner of Education shall consult
137 with a person appointed by each of the following associations:
138 the Florida School Boards Association, the Florida Association
139 of District School Superintendents, and the Florida Education
140 Association. Each district school board may establish a peer
141 assistance process. The plan may provide a mechanism for
142 assistance of persons who are placed on performance probation as
143 well as offer assistance to other employees who request it.

144 (f) ~~The district school board shall~~ Provide for training
145 programs that are based upon guidelines provided by the

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146 department ~~of Education~~ to ensure that all individuals who have
147 ~~with~~ evaluation responsibilities understand the proper use of
148 the evaluation assessment criteria and procedures.

149 (g) Include a process for monitoring the effective and
150 consistent use of evaluation criteria by supervisors and
151 administrators.

152 (h) Include a process for evaluating the effectiveness of
153 the system itself in improving the level of instruction and
154 learning in the district's schools.

155
156 In addition, each district school board may establish a peer
157 assistance process. This process may be a part of the regular
158 evaluation system or used to assist employees placed on
159 performance probation, beginning teachers, or those who request
160 assistance.

161 (3) EVALUATION CRITERIA.—The evaluation assessment
162 procedure for instructional personnel and school administrators
163 must be ~~primarily~~ based on the performance of students assigned
164 to their classrooms or schools, as provided in this section
165 ~~appropriate~~. Pursuant to this section, a school district's
166 performance evaluation assessment is not limited to basing
167 unsatisfactory performance of instructional personnel and school
168 administrators solely upon student performance, but may include
169 other criteria approved to evaluate assess instructional
170 personnel and school administrators' performance, or any
171 combination of student performance and other approved criteria.
172 The procedures must comply with, but are not limited to, the
173 following requirements:

174 (a) An evaluation assessment must be conducted for each

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

189 1. Performance of students. The evaluation must base at
190 least 50 percent of the results on data and indicators of
191 student learning growth assessed annually by state assessments
192 or, for subjects and grade levels not measured by the state
193 assessments, by district assessments as provided in s.
194 1008.22 (8). The school district must use the state-adopted
195 measure of student growth for all courses associated with state
196 assessments and must select comparable measures of student
197 growth for other grades and subjects as provided in subsection
198 (8).

199 a. For classroom teachers, excluding substitute teachers,
200 the student growth portion of the evaluation must include growth
201 data, as defined in subsection (8), for students assigned to the
202 teacher over the course of at least 3 years. If less than 3
203 years of data are available, the school district must include

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204 the years for which data are available and may reduce the
205 percentage of the evaluation based on student growth to not less
206 than 40 percent.

207 b. For instructional personnel who are not classroom
208 teachers, the student growth portion of the evaluation must
209 include growth data on state assessments, as defined in
210 subsection (8), for students assigned to the instructional
211 personnel over the course of at least 3 years, or may include a
212 combination of growth data and other measurable student outcomes
213 that are specific to the personnel assignment, provided that the
214 student growth data account for not less than 30 percent of the
215 evaluation. If less than 3 years of student growth data are
216 available, the district must include the years for which data
217 are available and may reduce the percentage of the evaluation
218 based on student growth to not less than 20 percent.

219 c. For school administrators, the student growth portion of
220 the evaluation must include growth data, as defined in
221 subsection (8), for students assigned to the school over the
222 course of at least 3 years. If less than 3 years of data are
223 available, the district must include the years for which data
224 are available, and may reduce the percentage of the evaluation
225 based on student growth to not less than 40 percent.

226 2. Instructional practice. For classroom teachers, criteria
227 must include indicators based on each of the Florida Educator
228 Accomplished Practices adopted by the State Board of Education.
229 For instructional personnel who are not classroom teachers,
230 performance criteria must be based on indicators of the Florida
231 Educator Accomplished Practices and may include specific job-
232 performance expectations related to student support.

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233 3. Instructional leadership. For school administrators,
234 criteria must include indicators based on each of the leadership
235 standards adopted by the State Board of Education under s.
236 1012.986, including the following: performance measures related
237 to the effectiveness of the instructional personnel in the
238 school; the administrator's appropriate use of evaluation
239 criteria and procedures; recruitment and retention of effective
240 and highly effective classroom teachers; improvement in the
241 percentage of classroom teachers evaluated at the effective or
242 highly effective level; management of human, financial, and
243 material resources so as to maximize the share of resources used
244 for direct instruction, as opposed to overhead or other
245 purposes; and other leadership practices that result in improved
246 student outcomes. The system must include a means to give
247 parents and instructional personnel an opportunity to provide
248 input into the administrator's performance evaluation, when
249 appropriate.

250 4. Professional responsibilities. This criteria must
251 include other professional responsibilities and employment
252 requirements, as established by the State Board of Education and
253 through policies of the district school board.

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

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

258 ~~4. Ability to plan and deliver instruction and the use of~~
259 ~~technology in the classroom.~~

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

261 ~~6. Ability to establish and maintain a positive~~

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262 ~~collaborative relationship with students' families to increase~~
263 ~~student achievement.~~

264 ~~7. Other professional competencies, responsibilities, and~~
265 ~~requirements as established by rules of the State Board of~~
266 ~~Education and policies of the district school board.~~

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

270 (c) The individual responsible for supervising the employee
271 must evaluate ~~assess~~ the employee's performance. The evaluation
272 system may provide for the evaluator to consider input from
273 other personnel trained under paragraph (2)(f). The evaluator
274 must submit a written report of the evaluation ~~assessment~~ to the
275 district school superintendent for the purpose of reviewing the
276 employee's contract. The evaluator must submit the written
277 report to the employee no later than 10 days after the
278 evaluation ~~assessment~~ takes place. The evaluator must discuss
279 the written report of the evaluation ~~assessment~~ with the
280 employee. The employee shall have the right to initiate a
281 written response to the evaluation ~~assessment~~, and the response
282 shall become a permanent attachment to his or her personnel
283 file.

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

289 (4) NOTIFICATION OF UNSATISFACTORY PERFORMANCE.—If an
290 employee is not performing his or her duties in a satisfactory

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291 manner, the evaluator shall notify the employee in writing of
292 such determination. The notice must describe such unsatisfactory
293 performance and include notice of the following procedural
294 requirements:

295 (a)~~1.~~ Upon delivery of a notice of unsatisfactory
296 performance, the evaluator must confer with the employee, make
297 recommendations with respect to specific areas of unsatisfactory
298 performance, and provide assistance in helping to correct
299 deficiencies within a prescribed period of time.

300 (b)~~1.2.a.~~ If the employee holds a professional service
301 contract as provided in s. 1012.33, the employee shall be placed
302 on performance probation and governed by the provisions of this
303 section for 90 calendar days following the receipt of the notice
304 of unsatisfactory performance to demonstrate corrective action.
305 School holidays and school vacation periods are not counted when
306 calculating the 90-calendar-day period. During the 90 calendar
307 days, the employee who holds a professional service contract
308 must be evaluated periodically and apprised of progress achieved
309 and must be provided assistance and inservice training
310 opportunities to help correct the noted performance
311 deficiencies. At any time during the 90 calendar days, the
312 employee who holds a professional service contract may request a
313 transfer to another appropriate position with a different
314 supervising administrator; however, if a transfer is granted, it
315 does not extend the period for correcting performance
316 deficiencies.

317 2.b. Within 14 days after the close of the 90 calendar
318 days, the evaluator must evaluate ~~assess~~ whether the performance
319 deficiencies have been corrected and forward a recommendation to

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320 the district school superintendent. Within 14 days after
321 receiving the evaluator's recommendation, the district school
322 superintendent must notify the employee who holds a professional
323 service contract in writing whether the performance deficiencies
324 have been satisfactorily corrected and whether the district
325 school superintendent will recommend that the district school
326 board continue or terminate his or her employment contract. If
327 the employee wishes to contest the district school
328 superintendent's recommendation, the employee must, within 15
329 days after receipt of the district school superintendent's
330 recommendation, submit a written request for a hearing. The
331 hearing shall be conducted at the district school board's
332 election in accordance with one of the following procedures:

333 a.~~(I)~~ A direct hearing conducted by the district school
334 board within 60 days after receipt of the written appeal. The
335 hearing shall be conducted in accordance with the provisions of
336 ss. 120.569 and 120.57. A majority vote of the membership of the
337 district school board shall be required to sustain the district
338 school superintendent's recommendation. The determination of the
339 district school board shall be final as to the sufficiency or
340 insufficiency of the grounds for termination of employment; or

341 b.~~(II)~~ A hearing conducted by an administrative law judge
342 assigned by the Division of Administrative Hearings of the
343 Department of Management Services. The hearing shall be
344 conducted within 60 days after receipt of the written appeal in
345 accordance with chapter 120. The recommendation of the
346 administrative law judge shall be made to the district school
347 board. A majority vote of the membership of the district school
348 board shall be required to sustain or change the administrative

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349 law judge's recommendation. The determination of the district
350 school board shall be final as to the sufficiency or
351 insufficiency of the grounds for termination of employment.

352 (5)-(4) ADDITIONAL NOTIFICATIONS.—The district school
353 superintendent shall notify the department of any instructional
354 personnel who receive two consecutive unsatisfactory evaluations
355 and who have been given written notice by the district that
356 their employment is being terminated or is not being renewed or
357 that the district school board intends to terminate, or not
358 renew, their employment. The department shall conduct an
359 investigation to determine whether action shall be taken against
360 the certificateholder pursuant to s. 1012.795(1)(e).

361 ~~(5) The district school superintendent shall develop a~~
362 ~~mechanism for evaluating the effective use of assessment~~
363 ~~criteria and evaluation procedures by administrators who are~~
364 ~~assigned responsibility for evaluating the performance of~~
365 ~~instructional personnel. The use of the assessment and~~
366 ~~evaluation procedures shall be considered as part of the annual~~
367 ~~assessment of the administrator's performance. The system must~~
368 ~~include a mechanism to give parents and teachers an opportunity~~
369 ~~to provide input into the administrator's performance~~
370 ~~assessment, when appropriate.~~

371 (6) LIMITATIONS. ~~Nothing in This section does not shall be~~
372 ~~construed to~~ grant a probationary employee a right to continued
373 employment beyond the term of his or her contract.

374 (7) ANNUAL REVIEW AND REVISIONS TO THE SCHOOL DISTRICT
375 EVALUATION SYSTEM.—The district school board shall establish a
376 procedure for annually reviewing instructional personnel and
377 school administrator evaluation ~~assessment~~ systems to determine

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378 compliance with this section. All substantial revisions to an
379 approved system must be reviewed and approved by the district
380 school board before being used to evaluate ~~assess~~ instructional
381 personnel and school administrators. Upon request by a school
382 district, the department shall provide assistance in developing,
383 improving, or reviewing an evaluation ~~assessment~~ system.

384 (8) MEASUREMENT OF STUDENT GROWTH IN LEARNING.—

385 (a) By June 1, 2011, the Commissioner of Education shall
386 select a formula to measure individual student growth on the
387 Florida Comprehensive Assessment Test administered under s.
388 1008.22(3)(c)1. The formula must take into account each
389 student's prior performance, grade level, and subject. In the
390 development of the formula, the Commissioner of Education shall
391 consider other factors, including, but not limited to, student
392 attendance, student disciplinary records, student disabilities,
393 and student English language proficiency. The formula may not
394 set different expectations for student growth based on gender,
395 race, ethnicity, or socioeconomic status. The commissioner shall
396 select additional formulas as appropriate for the remainder of
397 the statewide assessments included in s. 1008.22, beginning the
398 2011-2012 school year, and continue to select formulas as new
399 assessments are implemented into the state system. The State
400 Board of Education shall adopt all formulas into rule, and shall
401 adopt the formula for the FCAT into rule by October 1, 2012.

402 (b) Beginning with the 2011-2012 school year, each district
403 shall measure the growth in learning of each student using the
404 commissioner-adopted student growth measure for courses
405 associated with the FCAT. Each district shall implement
406 additional growth measures selected by the commissioner under

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407 paragraph (a) as they become available. Beginning with the 2014-
408 2015 school year, each school district shall measure the growth
409 in learning for each student using a comparable measure of
410 student growth for other grades and subjects for which the
411 school district has selected appropriate student assessments
412 under s. 1008.22(8). The Department of Education shall provide
413 model student growth measures that school districts may adopt
414 for this purpose.

415 (c) A school district may request through the evaluation
416 system approval process to use a student achievement measure
417 rather than a growth measure for courses for which achievement
418 is a more appropriate measure of instructional personnel
419 performance. A school district may request to use a combination
420 of growth and achievement.

421 (d) A school district may request through the evaluation
422 system approval process to include student growth demonstrated
423 on state assessments as a percentage of the evaluation of
424 classroom teachers who are assigned to courses not associated
425 with state assessments, if the growth remains based upon the
426 students assigned to the teacher and the percentage of growth
427 for the teacher's assigned content area, as measured by the
428 district-selected assessment, is the greater percentage.

429 (e) For classroom teachers of courses for which the
430 district has not implemented appropriate assessments under s.
431 1008.22(8) or for which the school district has not adopted a
432 comparable measure of student growth under paragraphs (b)-(d),
433 student growth must be measured by the growth in learning of the
434 classroom teacher's students on state assessments, or, for
435 courses in which enrolled students do not take the state

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436 assessment, measurable learning targets must be established
437 based upon the goals of the school improvement plan and approved
438 by the school principal. A district school superintendent may
439 assign instructional team student learning growth to
440 instructional personnel in lieu of overall student learning
441 growth of the school in reading and mathematics based upon the
442 state assessment program under s. 1008.22.

443 (9)-(8) RULEMAKING.-The State Board of Education shall adopt
444 rules pursuant to ss. 120.536(1) and 120.54 which, that
445 establish uniform procedures guidelines for the submission,
446 review, and approval of district evaluation systems and
447 reporting requirements procedures for the annual evaluation
448 assessment of instructional personnel and school administrators;
449 the standards for each performance level required under
450 subsection (2) to ensure sufficient differentiation in
451 performance on the evaluation to measure the effectiveness of an
452 employee and consistency in meaning across school districts; the
453 measurement of student growth in learning and associated
454 implementation procedures required under subsection (8); a
455 process to permit instructional personnel to review the class
456 roster for accuracy and to correct any mistakes relating to the
457 identity of students for whom the individual is responsible; and
458 a process for monitoring school district implementation of
459 evaluations systems in accordance with this section and that
460 include criteria for evaluating professional performance.

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

463 1008.22 Student assessment program for public schools.-

464 (8) LOCAL ASSESSMENTS.-

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465 (a) Measurement of the learning gains of students in all
466 subjects and grade levels other than subjects and grade levels
467 required for the state student achievement testing program is
468 the responsibility of the school districts.

469 (b) Beginning with the 2014-2015 school year, each school
470 district shall administer for each course offered in the
471 district a student assessment that measures mastery of the
472 content, as described in the state-adopted course description,
473 at the necessary level of rigor for the course. Such assessments
474 may include:

475 1. Statewide assessments.

476 2. Other standardized assessments, including nationally
477 recognized standardized assessments.

478 3. Industry certification examinations.

479 4. District-developed or selected end-of-course
480 assessments.

481
482 This paragraph shall be implemented as the Commissioner of
483 Education identifies methods to assist and support districts in
484 the development and acquisition of assessments, as described in
485 paragraph (c).

486 (c) The Commissioner of Education shall identify methods to
487 assist and support districts in the development and acquisition
488 of assessments required under this subsection. Methods may
489 include the development of item banks, facilitation of the
490 sharing of developed tests among districts, and technical
491 assistance in best professional practices of test development
492 based on state-adopted curriculum standards, administration, and
493 security.

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

496 1012.22 Public school personnel; powers and duties of the
497 district school board.—The district school board shall:

498 (1) Designate positions to be filled, prescribe
499 qualifications for those positions, and provide for the
500 appointment, compensation, promotion, suspension, and dismissal
501 of employees as follows, subject to the requirements of this
502 chapter:

503 (c) *Compensation and salary schedules.*—

504 1. Definitions.—As used in this paragraph, the term:

505 a. “Salary schedule” means the schedule or schedules used
506 to provide the base pay for district school board personnel.

507 b. “Adjustment” means an addition to the base salary
508 schedule which is not a bonus, but becomes part of the
509 employee’s permanent base salary and is considered compensation
510 under s. 121.021(22).

511 c. “Supplement” means an annual addition to the base salary
512 schedule for the term of the negotiated supplement as long as
513 the employee continues his or her employment for the purpose of
514 the supplement. A supplement does not become part of the
515 employee’s continuing base salary but is considered compensation
516 under s. 121.021(22).

517 d. “Grandfathered salary schedule” means the schedule or
518 schedules adopted by a school district before July 1, 2014.

519 e. “Performance salary schedule” means the schedule or
520 schedules adopted by a school district pursuant to subparagraph
521 3.

522 f. “Instructional personnel” means instructional personnel

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523 as defined in s. 1012.01(2)(a)-(d), excluding substitute
524 teachers.

525 g. "School administrator" means school administrators as
526 defined in s. 1012.01(3)(c).

527 2. Grandfathered salary schedule.—The district school board
528 shall adopt a salary schedule or salary schedules to be used as
529 the basis for paying all school employees hired before July 1,
530 2014. In determining the grandfathered salary schedule for
531 instructional personnel, a district school board must base a
532 portion of each employee's compensation upon performance
533 demonstrated under s. 1012.34 and shall provide differentiated
534 pay for both instructional personnel and school administrators
535 based upon district-determined factors, including, but not
536 limited to, additional responsibilities, school demographics,
537 critical shortage areas, and level of job-performance
538 difficulties. Instructional personnel hired before July 1, 2014,
539 shall remain on the grandfathered salary schedule for as long as
540 the employee remains employed by the school district. However,
541 such instructional personnel may choose, at any time, to opt
542 into the performance salary schedule adopted under subparagraph
543 3. Once an individual has chosen to opt into the performance
544 salary schedule, he or she may not return to the grandfathered
545 salary schedule.

546 3. Performance salary schedule.—By July 1, 2014, the
547 district school board shall adopt a performance salary schedule
548 that provides annual salary adjustments for instructional
549 personnel and school administrators based upon performance
550 determined under s. 1012.34. Employees hired on or after July 1,
551 2014, or employees who choose to move from the grandfathered

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552 salary schedule to the performance salary schedule shall be
553 compensated pursuant to the performance salary schedule once
554 they have received appropriate evaluation for this purpose,
555 except that an instructional employee whose evaluation uses
556 solely student growth measures established under s.
557 1012.34(8)(e) shall remain under the grandfathered salary
558 schedule until his or her teaching assignment changes or the
559 district establishes comparable measures of student learning
560 growth, as defined under that section and rules of the State
561 Board of Education.

562 a. Base salary.—The base salary shall be established as
563 follows:

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

569 (II) Instructional personnel or school administrators new
570 to the district, returning to the district after a break in
571 service without an authorized leave of absence, or appointed for
572 the first time to a position in the district in the capacity of
573 instructional personnel or school administrators shall be placed
574 on the performance salary schedule in accordance with the
575 collective bargaining contract, if such contract exists.

576 b. Salary adjustments.—Salary adjustments for highly
577 effective or effective performance shall be established as
578 follows:

579 (I) The annual salary adjustment under the performance
580 salary schedule for an employee rated as highly effective must

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581 be greater than the highest annual salary adjustment available
582 to an employee of the same classification through any other
583 salary schedule adopted by the district.

584 (II) The annual salary adjustment under the performance
585 salary schedule for an employee rated as effective must be equal
586 to at least 50 percent and no more than 75 percent of the annual
587 adjustment provided for a highly effective employee of the same
588 classification.

589 (III) The performance salary schedule shall not provide an
590 annual salary adjustment for employees who receive a rating
591 other than highly effective or effective for the year.

592 c. Salary supplements.—In addition to the schedules for
593 salary adjustments, each school district shall provide a
594 schedule for salary supplements that include, but are not
595 limited to, the following:

596 (I) Assignment to a Title-I-eligible school;

597 (II) Assignment to a school in the bottom two categories of
598 the school improvement system under s. 1008.33 such that the
599 supplement remains in force for at least 1 year following
600 improved performance in that school;

601 (III) Certification and teaching in critical teacher
602 shortage areas. Statewide critical teacher shortage areas shall
603 be identified by the State Board of Education. However, the
604 district school board may define additional areas of critical
605 shortage within the school district and may remove areas
606 identified by the State Board of Education that do not apply
607 within the school district; and

608 (IV) Assignment of additional academic responsibilities.

609 d. Cost-of-living adjustments.—A district school board may

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610 provide a cost-of-living salary adjustment if:

611 (I) The adjustment does not discriminate among comparable
612 classes of employees based upon the salary schedule under which
613 they are compensated.

614 (II) Does not exceed 50 percent of the annual adjustment
615 provided to instructional personnel rated as effective.

616 e. Advanced degrees.—A district school board may not use
617 advanced degrees in setting a salary schedule for instructional
618 personnel or school administrators hired on or after July 1,
619 2011, unless the advanced degree is held in the individual's
620 area of certification and is only a salary supplement.

621
622 If budget constraints in any given year limit a district school
623 board's ability to fully fund all adopted salary schedules, the
624 performance salary schedule shall not be reduced, either on the
625 basis of total cost or the value of individual awards, in a
626 manner that is proportionally greater than reductions to any
627 other salary schedules adopted by the district. ~~The district~~
628 ~~school board shall adopt a salary schedule or salary schedules~~
629 ~~designed to furnish incentives for improvement in training and~~
630 ~~for continued efficient service to be used as a basis for paying~~
631 ~~all school employees and fix and authorize the compensation of~~
632 ~~school employees on the basis thereof.~~

633 ~~2. A district school board, in determining the salary~~
634 ~~schedule for instructional personnel, must base a portion of~~
635 ~~each employee's compensation on performance demonstrated under~~
636 ~~s. 1012.34, must consider the prior teaching experience of a~~
637 ~~person who has been designated state teacher of the year by any~~
638 ~~state in the United States, and must consider prior professional~~

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639 ~~experience in the field of education gained in positions in~~
640 ~~addition to district level instructional and administrative~~
641 ~~positions.~~

642 ~~3. In developing the salary schedule, the district school~~
643 ~~board shall seek input from parents, teachers, and~~
644 ~~representatives of the business community.~~

645 ~~4. Beginning with the 2007-2008 academic year, each~~
646 ~~district school board shall adopt a salary schedule with~~
647 ~~differentiated pay for both instructional personnel and school-~~
648 ~~based administrators. The salary schedule is subject to~~
649 ~~negotiation as provided in chapter 447 and must allow~~
650 ~~differentiated pay based on district-determined factors,~~
651 ~~including, but not limited to, additional responsibilities,~~
652 ~~school demographics, critical shortage areas, and level of job~~
653 ~~performance difficulties.~~

654 ~~(e) *Transfer and promotion.*—The district school board shall~~
655 ~~act on recommendations of the district school superintendent~~
656 ~~regarding transfer and promotion of any employee. The district~~
657 ~~school superintendent's primary consideration in recommending an~~
658 ~~individual for a promotion must be the individual's demonstrated~~
659 ~~effectiveness under s. 1012.34.~~

660 Section 5. Section 1012.335, Florida Statutes, is created
661 to read:

662 1012.335 Contracts with instructional personnel hired on or
663 after July 1, 2011.—

664 (1) DEFINITIONS.—For purposes of this section, the term:

665 (a) "Instructional personnel" means those personnel defined
666 in s. 1012.01(2)(a)-(d), excluding substitute teachers.

667 (b) "Probationary contract" means an employment contract

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668 for a period of 1 school year awarded to instructional personnel
669 upon initial employment in a school district. Probationary
670 contract employees may be dismissed without cause or may resign
671 without breach of contract.

672 (c) "Annual contract" means an employment contract for a
673 period of no longer than 1 school year which the district school
674 board may choose to award or not award without cause.

675 (2) EMPLOYMENT.—

676 (a) Beginning July 1, 2011, each individual newly hired as
677 instructional personnel by a Florida school district shall be
678 employed based upon the requirements of this section.

679 (b) The district school board may issue an annual contract
680 to instructional personnel who have successfully completed the
681 probationary contract or may award an additional annual contract
682 if the individual:

683 1. Holds a professional certificate or temporary
684 certificate issued pursuant to s. 1012.56 and rules of the State
685 Board of Education.

686 2. Has been recommended by the district school
687 superintendent for the annual contract based upon the
688 individual's evaluation, as determined under s. 1012.34, and
689 approved by the district school board.

690 3. Has not received two consecutive unsatisfactory
691 evaluations under s. 1012.34, two unsatisfactory evaluations
692 within a 3-year period under s. 1012.34, or three evaluations of
693 needs improvement within any 5-year period under s. 1012.34.

694 (3) VIOLATION OF ANNUAL CONTRACT.—Instructional personnel
695 who accept an offer in writing from the district school board
696 and who leave their position without prior release from the

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697 district school board are subject to the jurisdiction of the
698 Education Practices Commission.

699 (4) SUSPENSION OR DISMISSAL OF CLASSROOM TEACHERS ON ANNUAL
700 CONTRACT.—Instructional personnel who have an annual contract
701 may be suspended or dismissed at any time during the term of the
702 contract for just cause as provided in subsection (5). The
703 district school board must notify the instructional personnel in
704 writing whenever charges are made against the instructional
705 personnel, and the district school board may suspend him or her
706 without pay. However, if the charges are not sustained, the
707 instructional personnel shall be immediately reinstated and his
708 or her back pay shall be paid. In order to contest the charges,
709 the instructional personnel must, within 15 days after receipt
710 of the written notice, submit a written request for a hearing to
711 the district school board. The district school board or a
712 subcommittee thereof shall conduct a direct hearing within 60
713 days after receipt of the written appeal. The hearing shall be
714 conducted in accordance with ss. 120.569 and 120.57. A majority
715 vote of the membership of the district school board is required
716 to sustain the superintendent's recommendation. The district
717 school board's determination is final as to the sufficiency or
718 insufficiency of the grounds for suspension without pay or
719 dismissal. Any decision that is adverse to the instructional
720 personnel may be appealed by the instructional personnel
721 pursuant to s. 120.68 if the appeal is filed within 30 days
722 after the decision of the district school board.

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

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- 726 (a) Immorality.
- 727 (b) Misconduct in office.
- 728 (c) Incompetency.
- 729 (d) Gross insubordination.
- 730 (e) Willful neglect of duty.
- 731 (f) Being convicted or found guilty of, or entering a plea
732 of guilty to, regardless of adjudication of guilt, any crime
733 involving moral turpitude.
- 734 (6) LIMITATION.—An individual newly hired by a school
735 district under this section as instructional personnel is
736 ineligible for any contract issued under s. 1012.33.
- 737 Section 6. Paragraph (b) of subsection (16) of section
738 1002.33, Florida Statutes, is amended to read:
- 739 1002.33 Charter schools.—
- 740 (16) EXEMPTION FROM STATUTES.—
- 741 (b) Additionally, a charter school shall be in compliance
742 with the following statutes:
- 743 1. Section 286.011, relating to public meetings and
744 records, public inspection, and criminal and civil penalties.
- 745 2. Chapter 119, relating to public records.
- 746 3. Section 1003.03, relating to the maximum class size,
747 except that the calculation for compliance pursuant to s.
748 1003.03 shall be the average at the school level.
- 749 4. Section 1012.22(1)(c), relating to compensation and
750 salary schedules.
- 751 5. Section 1012.33(5), relating to workforce reductions.
- 752 6. Section 1012.335, relating to contracts with
753 instructional personnel hired on or after July 1, 2011.
- 754 7. Section 1012.34, relating to performance evaluations for

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755 instructional personnel and school administrators.

756 Section 7. Paragraph (h) of subsection (2) of section
757 1003.621, Florida Statutes, is amended to read:

758 1003.621 Academically high-performing school districts.—It
759 is the intent of the Legislature to recognize and reward school
760 districts that demonstrate the ability to consistently maintain
761 or improve their high-performing status. The purpose of this
762 section is to provide high-performing school districts with
763 flexibility in meeting the specific requirements in statute and
764 rules of the State Board of Education.

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

770 (h) Sections 1012.22(1)(c) and 1012.27(2), relating to
771 differentiated compensation and salary schedules and public
772 school personnel, respectively; s. 1012.34, relating to
773 personnel evaluation procedures and criteria; and ss. 1012.33
774 and 1012.335, relating to contracts with instructional
775 personnel, staff, supervisors, and school administrators ~~pay and~~
776 ~~performance-pay policies for school administrators and~~
777 ~~instructional personnel. Professional service contracts are~~
778 ~~subject to the provisions of ss. 1012.33 and 1012.34.~~

779 Section 8. Section 1012.07, Florida Statutes, is amended to
780 read:

781 1012.07 Identification of critical teacher shortage areas.—

782 ~~(1) As used in ss. 1009.57, 1009.58, and 1009.59, The term~~
783 "critical teacher shortage area" means high-need content areas

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784 ~~applies to mathematics, science, career education, and high-~~
785 ~~priority high priority~~ location areas identified by. the State
786 Board of Education ~~may identify career education programs having~~
787 ~~critical teacher shortages~~. The State Board of Education shall
788 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to
789 annually identify ~~other~~ critical teacher shortage areas ~~and high~~
790 ~~priority location areas~~. The state board must ~~shall~~ also
791 consider current and emerging educational requirements and
792 workforce demands ~~teacher characteristics such as ethnic~~
793 ~~background, race, and sex~~ in determining critical teacher
794 shortage areas. School grade levels may also be designated
795 critical teacher shortage areas. Individual district school
796 boards may identify and submit other critical teacher shortage
797 areas. Such submissions ~~shortages~~ must be aligned to current and
798 emerging educational requirements and workforce demands in order
799 to be certified to ~~and~~ approved by the State Board of Education.
800 High priority location areas shall be in high-density, low-
801 economic urban schools, and low-density, low-economic rural
802 schools, and schools identified as lowest performing under s.
803 1008.33(4)(b) ~~shall include schools which meet criteria which~~
804 ~~include, but are not limited to, the percentage of free lunches,~~
805 ~~the percentage of students under Chapter I of the Education~~
806 ~~Consolidation and Improvement Act of 1981, and the faculty~~
807 ~~attrition rate.~~

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

810 Section 9. Subsection (5) of section 1012.2315, Florida
811 Statutes, is amended to read:

812 1012.2315 Assignment of teachers.-

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813 (5) REPORTS ~~REPORT.~~—

814 (a) The Department of Education shall annually report the
815 percentage of classroom teachers and school administrators by
816 district and by school based on performance ratings reported by
817 each school district under s. 1012.34. The data must be reported
818 via the department's website in a manner that is accessible by
819 the public.

820 (b) Each school district shall annually report to the
821 parent of any student who is assigned to a classroom teacher or
822 school administrator having a performance rating of
823 "unsatisfactory," "needs improvement," or a combination of
824 "unsatisfactory" or "needs improvement" for 3 consecutive years
825 or more. Schools graded "D" or "F" shall annually report their
826 ~~teacher-retention rate. Included in this report shall be reasons~~
827 ~~listed for leaving by each teacher who left the school for any~~
828 ~~reason.~~

829 Section 10. Subsections (1) and (2) of section 1012.27,
830 Florida Statutes, are amended to read:

831 1012.27 Public school personnel; powers and duties of
832 district school superintendent.—The district school
833 superintendent is responsible for directing the work of the
834 personnel, subject to the requirements of this chapter, and in
835 addition the district school superintendent shall perform the
836 following:

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

838 (a) Recommend to the district school board duties and
839 responsibilities which need to be performed and positions which
840 need to be filled to make possible the development of an
841 adequate school program in the district.

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842 (b) Recommend minimum qualifications of personnel for these
843 various positions, and nominate in writing persons to fill such
844 positions.

845
846 The district school superintendent's recommendations for filling
847 instructional positions at the school level must consider
848 nominations received from school principals of the respective
849 schools. Before transferring a teacher who holds a professional
850 teaching certificate from one school to another, including a
851 transfer requested under s. 1012.33, the district school
852 superintendent shall consult with the principal of the receiving
853 school and allow the principal to review the teacher's records,
854 including student performance demonstrated under s. 1012.34, and
855 interview the teacher. If, in the judgment of the principal,
856 students would not benefit from the placement, an alternative
857 placement may be sought. A principal may refuse the placement in
858 accordance with s. 1012.28(6).

859 (2) COMPENSATION AND SALARY SCHEDULES.—Prepare and
860 recommend to the district school board for adoption a salary
861 schedule or salary schedules in accordance with s. 1012.22. ~~The~~
862 ~~district school superintendent must recommend a salary schedule~~
863 ~~for instructional personnel which bases a portion of each~~
864 ~~employee's compensation on performance demonstrated under s.~~
865 ~~1012.34. In developing the recommended salary schedule, the~~
866 ~~district school superintendent shall include input from parents,~~
867 ~~teachers, and representatives of the business community.~~
868 ~~Beginning with the 2007-2008 academic year, the recommended~~
869 ~~salary schedule for classroom teachers shall be consistent with~~
870 ~~the district's differentiated pay policy based upon s. 1012.22.~~

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871 Section 11. Present subsection (6) of section 1012.28,
872 Florida Statutes, is renumbered as subsection (7), and a new
873 subsection (6) is added to that section, to read:

874 1012.28 Public school personnel; duties of school
875 principals.-

876 (6) A principal may refuse to accept the placement or
877 transfer of instructional personnel by the district school
878 superintendent to his or her school unless the instructional
879 personnel has a performance rating of "effective" or "highly
880 effective" under s. 1012.34.

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

884 1012.33 Contracts with instructional staff, supervisors,
885 and school principals.-

886 (1) (a) Each person employed as a member of the
887 instructional staff in any district school system shall be
888 properly certified pursuant to s. 1012.56 or s. 1012.57 or
889 employed pursuant to s. 1012.39 and shall be entitled to and
890 shall receive a written contract as specified in this section.
891 All such contracts, except continuing contracts as specified in
892 subsection (4), shall contain provisions for dismissal during
893 the term of the contract only for just cause. Just cause
894 includes, but is not limited to, the following instances, as
895 defined by rule of the State Board of Education: immorality,
896 misconduct in office, incompetency, two consecutive annual
897 performance ratings of "unsatisfactory" under s. 1012.34, two
898 annual performance ratings of "unsatisfactory" within a 3-year
899 period under s. 1012.34, three annual performance ratings of

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900 "needs improvement" within any 5-year period under s. 1012.34,
901 gross insubordination, willful neglect of duty, or being
902 convicted or found guilty of, or entering a plea of guilty to,
903 regardless of adjudication of guilt, any crime involving moral
904 turpitude.

905 (3) (a) Each district school board shall provide a
906 professional service contract as prescribed herein. Each member
907 of the instructional staff who completed the following
908 requirements prior to July 1, 1984, shall be entitled to and
909 shall be issued a continuing contract in the form prescribed by
910 rules of the state board pursuant to s. 231.36, Florida Statutes
911 (1981). Each member of the instructional staff who completes the
912 following requirements on or after July 1, 1984, shall be
913 entitled to and shall be issued a professional service contract
914 in the form prescribed by rules of the state board as provided
915 herein:

916 1. The member must hold a professional certificate as
917 prescribed by s. 1012.56 and rules of the State Board of
918 Education.

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

922 3. The member must have been recommended by the district
923 school superintendent for such contract and reappointed by the
924 district school board based on effective or highly effective
925 ~~successful performance demonstrated under s. 1012.34 of duties~~
926 ~~and demonstration of professional competence.~~

927 4. For any person newly employed as a member of the
928 instructional staff after June 30, 1997, the initial annual

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929 contract shall include a 97-day probationary period during which
930 time the employee's contract may be terminated without cause or
931 the employee may resign without breach of contract.

932 (5) If ~~Should~~ a district school board has ~~have~~ to choose
933 from among its personnel ~~who are on continuing contracts or~~
934 ~~professional service contracts~~ as to which should be retained at
935 a school or in the school district, such decisions shall be
936 based upon the performance evaluation under s. 1012.34, with
937 primary consideration given to those personnel within the
938 affected area whose students' growth in learning is greater ~~made~~
939 ~~pursuant to the terms of a collectively bargained agreement,~~
940 ~~when one exists. If no such agreement exists, the district~~
941 ~~school board shall prescribe rules to handle reductions in~~
942 ~~workforce.~~

943 Section 13. Section 1012.52, Florida Statutes, is repealed.

944 Section 14. Paragraph (h) of subsection (1) of section
945 1012.795, Florida Statutes, is amended to read:

946 1012.795 Education Practices Commission; authority to
947 discipline.—

948 (1) The Education Practices Commission may suspend the
949 educator certificate of any person as defined in s. 1012.01(2)
950 or (3) for up to 5 years, thereby denying that person the right
951 to teach or otherwise be employed by a district school board or
952 public school in any capacity requiring direct contact with
953 students for that period of time, after which the holder may
954 return to teaching as provided in subsection (4); may revoke the
955 educator certificate of any person, thereby denying that person
956 the right to teach or otherwise be employed by a district school
957 board or public school in any capacity requiring direct contact

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958 with students for up to 10 years, with reinstatement subject to
959 the provisions of subsection (4); may revoke permanently the
960 educator certificate of any person thereby denying that person
961 the right to teach or otherwise be employed by a district school
962 board or public school in any capacity requiring direct contact
963 with students; may suspend the educator certificate, upon an
964 order of the court or notice by the Department of Revenue
965 relating to the payment of child support; or may impose any
966 other penalty provided by law, if the person:

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

969 Section 15. (1) Any school district that receives a grant
970 of at least \$75 million from a private foundation for the
971 purpose of improving the effectiveness of teachers within the
972 school district may seek an annual exemption from the State
973 Board of Education from requirements of the amendments made by
974 this act to ss. 1012.22 and 1012.34, Florida Statutes.

975 (2) In order to receive approval from the State Board of
976 Education for an exemption under this section, a school district
977 must demonstrate to the State Board of Education that it is
978 implementing the following:

979 (a) A teacher evaluation system that uses student
980 performance as the single greatest component of the teacher's
981 evaluation.

982 (b) A teacher compensation system that awards salary
983 increases based on sustained student performance.

984 (c) A teacher contract system that awards contracts based
985 on student performance.

986 (3) The State Board of Education shall annually renew a

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987 school district's exemption if the school district provides a
988 progress report that demonstrates that the school district
989 continues to meet the requirements of subsection (2).

990 (4) The State Board of Education shall adopt rules pursuant
991 to ss. 120.536(1) and 120.54, Florida Statutes, to establish the
992 procedures for applying for an exemption under this section.

993 Section 16. Chapter 2010-279, Laws of Florida, does not
994 apply to any rulemaking required to administer this act.

995 Section 17. The provisions of any special act or general
996 law of local application relating to contracts for instructional
997 personnel in public schools or school districts in effect on or
998 before the effective date of this act are repealed, with the
999 exception of chapter 75-384, Laws of Florida.

1000 Section 18. If any provision of this act or its application
1001 to any person or circumstance is held invalid, the invalidity
1002 does not affect other provisions or applications of the act
1003 which can be given effect without the invalid provision or
1004 application, and to this end the provisions of this act are
1005 severable.

1006 Section 19. The amendments made by this act to s. 1012.33,
1007 Florida Statutes, apply to contracts newly entered into,
1008 extended, or readopted on or after July 1, 2011, and to all
1009 contracts entered into on or after July 1, 2014.

1010 Section 20. Except as otherwise expressly provided in this
1011 act and except for this section, which shall take effect upon
1012 this act becoming a law, this act shall take effect July 1,
1013 2011.