

1                   A bill to be entitled  
2       An act relating to a review under the Open Government  
3       Sunset Review Act; amending s. 1008.23, F.S.;  
4       repealing a duplicative exemption from public record  
5       requirements for certain examination and assessment  
6       instruments; expanding an exemption from public record  
7       requirements for examination and assessment  
8       instruments to include such instruments when held by  
9       certain entities; requiring the State Board of  
10      Education and the Board of Governors to adopt certain  
11      rules and regulations, respectively, governing the  
12      retention and disposal process for specified records;  
13      removing a provision requiring the State Board of  
14      Education and Board of Governors to adopt certain  
15      rules and regulations, respectively, governing access  
16      to specified records; authorizing specified entities  
17      to disclose exempt information to certain entities;  
18      requiring specified entities to disclose exempt  
19      information in certain circumstances; providing  
20      construction; extending the scheduled repeal of the  
21      exemption; providing a statement of public necessity;  
22      providing an effective date.

23  
24   Be It Enacted by the Legislature of the State of Florida:  
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26       **Section 1. Section 1008.23, Florida Statutes, is amended**  
27 **to read:**

28       1008.23 Confidentiality of assessment instruments.—

29       ~~(1) All examination and assessment instruments, including~~  
30 ~~developmental materials and workpapers directly related thereto,~~  
31 ~~which are prepared, prescribed, or administered pursuant to ss.~~  
32 ~~1002.69, 1003.52, 1003.56, 1007.25, 1007.35, 1008.22, 1008.25,~~  
33 ~~and 1012.56 shall be confidential and exempt from s. 119.07(1)~~  
34 ~~and s. 24(a), Art. I of the State Constitution. Provisions~~  
35 ~~governing access, maintenance, and destruction of such~~  
36 ~~instruments and related materials shall be prescribed by rules~~  
37 ~~of the State Board of Education.~~

38       (1)(a)-(2)(a) All examination and assessment instruments,  
39 including developmental materials and workpapers directly  
40 related thereto, which are held ~~prepared, prescribed, or~~  
41 ~~administered~~ by a public school, a district school board, a  
42 Florida College System institution, a state university, a board  
43 of trustees, or the Department of Education, the State Board of  
44 Education, or the Board of Governors shall be confidential and  
45 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
46 Constitution.

47       (b) The State Board of Education and the Board of  
48 Governors shall adopt rules or regulations, respectively,  
49 establishing retention schedules and a disposal process for  
50 records described in paragraph (a).

51        (c)1. Any entity listed in paragraph (a) may disclose the  
52 information made confidential and exempt from public record  
53 requirements by this section to any other entity listed in that  
54 paragraph.

55        2. A public school, district school board, Florida College  
56 System institution, or state university must, upon request,  
57 disclose the information made confidential and exempt from  
58 public record requirements by this section to the Department of  
59 Education, the State Board of Education, or the Board of  
60 Governors.

61        (d) Nothing in this section shall be construed to limit,  
62 abridge, or infringe on the rights of students and parents with  
63 respect to student records and education records pursuant to ss.  
64 1002.20 and 1002.22

65        ~~(b) Provisions governing access, maintenance, and~~  
66 ~~destruction of the instruments and related materials identified~~  
67 ~~under paragraph (a) shall be prescribed by rules of the State~~  
68 ~~Board of Education and regulations of the Board of Governors,~~  
69 ~~respectively.~~

70        (2)(3) This section is subject to the Open Government  
71 Sunset Review Act in accordance with s. 119.15 and shall stand  
72 repealed on October 2, 2031 ~~October 2, 2026~~, unless reviewed and  
73 saved from repeal through reenactment by the Legislature.

74        **Section 2.** The Legislature finds that it is a public  
75 necessity to exempt from s. 119.07(1), Florida Statutes, and s.

24(a), Article I of the State Constitution, examination and  
assessment instruments, including developmental materials and  
workpapers directly related thereto, which are held by a public  
school, a district school board, a Florida College System  
institution, a state university, a board of trustees, the  
Department of Education, the State Board of Education, or the  
Board of Governors. Public schools and district school boards  
routinely develop, license, and administer recurring classroom,  
course, school, and district assessments, frequently drawing  
upon secure item banks and developmental materials used across  
schools and administrations. Public disclosure of test items,  
prompts, answer keys, scoring rubrics, item specifications,  
field-testing materials, and related developmental workpapers  
would enable cheating and academic dishonesty, compromise the  
validity and reliability of local assessments, undermine fair  
measurement of student learning and program effectiveness, and  
necessitate significant public expenditures to replace  
compromised instruments and rebuild secure item banks. The  
boards of trustees of Florida College System institutions and  
state universities, as well the State Board of Education and the  
Board of Governors, oversee institutions that develop, license,  
and administer examinations and assessment instruments and in  
that role receive such information, which, if made public, would  
enable cheating and academic dishonesty, compromise the validity  
and reliability of examinations and assessments, undermine fair

measurement of student learning and program effectiveness, and  
necessitate significant public expenditures to replace  
compromised instruments and rebuild secure item banks. As such  
the Legislature finds that the harm that may result from the  
release of such examination and assessment instruments outweighs  
any public benefit that may be derived from disclosure.

**Section 3.** This act shall take effect upon becoming a law.