

By Senator Wise

5-01149A-11

2011736\_\_

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 that the State Board  
12      of Education adopt a formula for school districts to  
13      use in measuring growth in learning by students;  
14      conforming provisions to changes made by the act;  
15      amending s. 1008.22, F.S.; revising provisions  
16      requiring school districts to develop and implement  
17      end-of-course assessments; amending s. 1012.22, F.S.;  
18      revising the powers and duties of the district school  
19      board with respect to school district compensation and  
20      salary schedules; requiring that certain performance  
21      criteria be included in the adopted schedules;  
22      revising the differentiated pay provisions; creating  
23      s. 1012.335, F.S.; providing definitions; revising the  
24      contract requirements for instructional personnel  
25      hired on or after a certain date; requiring that the  
26      State Board of Education adopt rules defining the term  
27      "just cause"; providing guidelines for such term;  
28      amending s. 1002.33, F.S.; requiring charter schools  
29      to adopt a salary schedule for instructional personnel

5-01149A-11

2011736\_\_

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

5-01149A-11

2011736\_\_

special acts or general laws of local application related to instructional personnel in public schools or school districts; providing an exception; providing for severability; providing for application of a specified provision of the act; providing effective dates.

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

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

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

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

(1) EVALUATION APPROVAL AND REPORTING.—

(a) For the purpose of increasing student achievement by improving the quality of instructional, administrative, and supervisory services in the public schools of the state, the district school superintendent shall establish procedures for evaluating ~~assessing~~ the performance of duties and responsibilities of all instructional, administrative, and supervisory personnel employed by the school district. Each school district shall annually report to the Department of Education the evaluation results of its evaluation system for instructional personnel and school administrators.

(b) The Department of Education must approve each district's evaluation systems for its instructional personnel and school administrators ~~instructional personnel assessment~~

5-01149A-11

2011736\_\_

88 ~~system.~~ The Department of Education shall monitor each  
89 district's implementation of its instructional personnel and  
90 school administrator evaluation system for compliance with this  
91 section.

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

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

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

106 ~~(b) The system must~~ Provide appropriate instruments,  
107 procedures, and criteria for continuous quality improvement of  
108 the professional skills, and the results must be used to inform  
109 the professional development of instructional personnel and  
110 school administrators.

111 ~~(c) The system must~~ Include a mechanism to examine  
112 performance data from multiple sources, which includes giving  
113 ~~give~~ parents an opportunity to provide input into employee  
114 performance evaluations ~~assessments~~ when appropriate.

115 ~~(d) Identify~~ In addition to addressing generic teaching  
116 ~~competencies, districts must determine~~ those teaching fields for

5-01149A-11

2011736\_\_

117 which special evaluation procedures and criteria will be  
118 developed.

119 (e) Differentiate among at least four levels of  
120 performance, which include the following:

121 1. Highly effective.

122 2. Effective.

123 3. Needs improvement or, for instructional personnel in the  
124 first 3 years of employment or in the first year of a new  
125 teaching assignment, developing.

126 4. Unsatisfactory.

127  
128 The Commissioner of Education shall consult with experts and  
129 classroom teachers in developing the criteria for the  
130 performance levels. ~~Each district school board may establish a~~  
131 ~~peer assistance process. The plan may provide a mechanism for~~  
132 ~~assistance of persons who are placed on performance probation as~~  
133 ~~well as offer assistance to other employees who request it.~~

134 (f) ~~The district school board shall~~ Provide for training  
135 programs that are based upon guidelines provided by the  
136 department ~~of Education~~ to ensure that all individuals who have  
137 ~~with~~ evaluation responsibilities understand the proper use of  
138 the evaluation ~~assessment~~ criteria and procedures.

139 (g) Include a process for monitoring the effective and  
140 consistent use of evaluation criteria by supervisors and  
141 administrators.

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

5-01149A-11

2011736\_\_

146 In addition, each district school board may establish a peer  
147 assistance process. This process may be a part of the regular  
148 evaluation system or used to assist employees placed on  
149 performance probation, beginning teachers, or those who request  
150 assistance.

151 (3) EVALUATION CRITERIA.—The evaluation ~~assessment~~  
152 procedure for instructional personnel and school administrators  
153 must be ~~primarily~~ based on the performance of students assigned  
154 to their classrooms or schools, as provided in this section  
155 ~~appropriate~~. Pursuant to this section, a school district's  
156 performance evaluation ~~assessment~~ is not limited to basing  
157 unsatisfactory performance of instructional personnel and school  
158 administrators solely upon student performance, but may include  
159 other criteria approved to evaluate ~~assess~~ instructional  
160 personnel and school administrators' performance, or any  
161 combination of student performance and other approved criteria.  
162 The procedures must comply with, but are not limited to, the  
163 following requirements:

164 (a) An evaluation ~~assessment~~ must be conducted for each  
165 employee at least once a year, except that a first-year teacher  
166 must be evaluated at least twice in the first year of teaching.  
167 The evaluation ~~assessment~~ must be based upon sound educational  
168 principles and contemporary research in effective educational  
169 practices. ~~The assessment must primarily use data and indicators~~  
170 ~~of improvement in student performance assessed annually as~~  
171 ~~specified in s. 1008.22 and may consider results of peer reviews~~  
172 ~~in evaluating the employee's performance. Student performance~~  
173 ~~must be measured by state assessments required under s. 1008.22~~  
174 ~~and by local assessments for subjects and grade levels not~~

5-01149A-11

2011736\_\_

175 ~~measured by the state assessment program.~~ The evaluation  
176 ~~assessment~~ criteria must include, but need ~~are~~ not be limited  
177 to, indicators of ~~that relate to~~ the following:

178 1. Performance of students. The evaluation must base at  
179 least 50 percent of the results on data and indicators of  
180 student learning growth assessed annually by state assessments  
181 or, for subjects and grade levels not measured by the state  
182 assessments, by district assessments as provided in s.  
183 1008.22(8). The school district must use the state-adopted  
184 measure of student growth for all courses associated with state  
185 assessments and must select comparable measures of student  
186 growth for other grades and subjects as provided in subsection  
187 (8).

188 a. For classroom teachers, excluding substitute teachers,  
189 the student growth portion of the evaluation must include growth  
190 data, as defined in subsection (8), for students assigned to the  
191 teacher over the course of at least 3 years. If less than 3  
192 years of data are available, the school district must include  
193 the years for which data are available and may reduce the  
194 percentage of the evaluation based on student growth to not less  
195 than 40 percent.

196 b. For instructional personnel who are not classroom  
197 teachers, the student growth portion of the evaluation must  
198 include growth data on state assessments, as defined in  
199 subsection (8), for students assigned to the instructional  
200 personnel over the course of at least 3 years, or may include a  
201 combination of growth data and other measurable student outcomes  
202 that are specific to the personnel assignment, provided that the  
203 student growth data account for not less than 30 percent of the

5-01149A-11

2011736\_\_

evaluation. If less than 3 years of student growth data are available, the district must include the years for which data are available and may reduce the percentage of the evaluation based on student growth to not less than 20 percent.

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

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

3. Instructional leadership. For school administrators, criteria must include indicators based on each of the leadership standards adopted by the State Board of Education under s. 1012.986, including the following: performance measures related to the effectiveness of the instructional personnel in the school; the administrator's appropriate use of evaluation criteria and procedures; recruitment and retention of effective and highly effective classroom teachers; improvement in the percentage of classroom teachers evaluated at the effective or highly effective level; management of human, financial, and material resources so as to maximize the share of resources used



5-01149A-11

2011736\_\_

for direct instruction, as opposed to overhead or other  
purposes; and other leadership practices that result in improved  
student outcomes. The system must include a means to give  
parents and instructional personnel an opportunity to provide  
input into the administrator's performance evaluation, when  
appropriate.

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

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

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

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

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

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

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

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

(c) The individual responsible for supervising the employee  
must evaluate ~~assess~~ the employee's performance. The school  
district's evaluation system may provide for the supervisor to

5-01149A-11

2011736\_\_

consider input from other trained evaluators. The evaluator must submit a written report of the evaluation ~~assessment~~ to the district school superintendent for the purpose of reviewing the employee's contract. The evaluator must submit the written report to the employee no later than 10 days after the evaluation ~~assessment~~ takes place. The evaluator must discuss the written report of the evaluation ~~assessment~~ with the employee. The employee shall have the right to initiate a written response to the evaluation ~~assessment~~, and the response shall become a permanent attachment to his or her personnel file.

(d) A school district may amend an individual's evaluation based upon assessment data from the current year if the data become available within 60 days after the close of the school year.

(4) NOTIFICATION OF UNSATISFACTORY PERFORMANCE.—If an employee is not performing his or her duties in a satisfactory manner, the evaluator shall notify the employee in writing of such determination. The notice must describe such unsatisfactory performance and include notice of the following procedural requirements:

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

(b)1.2.a. If the employee holds a professional service contract as provided in s. 1012.33, the employee shall be placed on performance probation and governed by the provisions of this

5-01149A-11

2011736\_\_

291 section for 90 calendar days following the receipt of the notice  
292 of unsatisfactory performance to demonstrate corrective action.  
293 School holidays and school vacation periods are not counted when  
294 calculating the 90-calendar-day period. During the 90 calendar  
295 days, the employee who holds a professional service contract  
296 must be evaluated periodically and apprised of progress achieved  
297 and must be provided assistance and inservice training  
298 opportunities to help correct the noted performance  
299 deficiencies. At any time during the 90 calendar days, the  
300 employee who holds a professional service contract may request a  
301 transfer to another appropriate position with a different  
302 supervising administrator, as provided in s. 1012.33; however,  
303 if a transfer is granted, it does not extend the period for  
304 correcting performance deficiencies.

305 ~~2.b.~~ Within 14 days after the close of the 90 calendar  
306 days, the evaluator must evaluate ~~assess~~ whether the performance  
307 deficiencies have been corrected and forward a recommendation to  
308 the district school superintendent. Within 14 days after  
309 receiving the evaluator's recommendation, the district school  
310 superintendent must notify the employee who holds a professional  
311 service contract in writing whether the performance deficiencies  
312 have been satisfactorily corrected and whether the district  
313 school superintendent will recommend that the district school  
314 board continue or terminate his or her employment contract. If  
315 the employee wishes to contest the district school  
316 superintendent's recommendation, the employee must, within 15  
317 days after receipt of the district school superintendent's  
318 recommendation, submit a written request for a hearing. The  
319 hearing shall be conducted at the district school board's

5-01149A-11

2011736\_\_

election in accordance with one of the following procedures:

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

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

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

5-01149A-11

2011736\_\_

349       ~~(5) The district school superintendent shall develop a~~  
350 ~~mechanism for evaluating the effective use of assessment~~  
351 ~~criteria and evaluation procedures by administrators who are~~  
352 ~~assigned responsibility for evaluating the performance of~~  
353 ~~instructional personnel. The use of the assessment and~~  
354 ~~evaluation procedures shall be considered as part of the annual~~  
355 ~~assessment of the administrator's performance. The system must~~  
356 ~~include a mechanism to give parents and teachers an opportunity~~  
357 ~~to provide input into the administrator's performance~~  
358 ~~assessment, when appropriate.~~

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

362       (7) ANNUAL REVIEW AND REVISIONS TO THE SCHOOL DISTRICT  
363 EVALUATION SYSTEM. ~~The district school board shall establish a~~  
364 ~~procedure for~~ annually reviewing instructional personnel and  
365 school administrator evaluation ~~assessment~~ systems to determine  
366 compliance with this section. All substantial revisions to an  
367 approved system must be reviewed and approved by the district  
368 school board before being used to evaluate ~~assess~~ instructional  
369 personnel and school administrators. Upon request by a school  
370 district, the department shall provide assistance in developing,  
371 improving, or reviewing an evaluation ~~assessment~~ system.

372       (8) MEASUREMENT OF STUDENT GROWTH IN LEARNING. ~~—~~

373       (a) By June 1, 2011, the Commissioner of Education shall  
374 adopt a formula to measure individual student growth on the  
375 Florida Comprehensive Assessment Test administered under s.  
376 1008.22(3)(c)1. The formula must take into account each  
377 student's prior performance, grade level, and subject. In the

5-01149A-11

2011736\_\_

development of the formula, the Commissioner of Education shall consider other factors, including, but not limited to, student attendance, student disciplinary records, student disabilities, and student English language proficiency. The formula may not set different expectations for student growth based on gender, race, ethnicity, or socioeconomic status. The State Board of Education shall adopt the formula into rule by October 1, 2012.

(b) Beginning with the 2011-2012 school year, each district shall measure the growth in learning of each student using the commissioner-adopted student growth measure for courses associated with the FCAT. Beginning with the 2014-2015 school year, each school district shall measure the growth in learning for each student using a comparable measure of student growth for other grades and subjects for which the school district has selected appropriate student assessments under s. 1008.22(8). The Department of Education shall provide model student growth measures that school districts may adopt for this purpose.

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

(d) A school district may request through the evaluation system approval process to include student growth demonstrated on state assessments as a percentage of the evaluation of classroom teachers who are assigned to courses not associated with state assessments, if the growth remains based upon the students assigned to the teacher and the percentage of growth

5-01149A-11

2011736\_\_

for the teacher's assigned content area, as measured by the district-selected assessment, is the greater percentage.

(e) For classroom teachers of courses for which the district has not implemented appropriate assessments under s. 1008.22(8) or for which the school district has not adopted a comparable measure of student growth under paragraphs (b)-(d), student growth must be measured by the growth in learning of the classroom teacher's students on state assessments, or, for courses in which enrolled students do not take the state assessment, measurable learning targets must be established based upon the goals of the school improvement plan and approved by the school principal. A district school superintendent may assign instructional team student learning growth to instructional personnel in lieu of overall student learning growth of the school in reading and mathematics based upon the state assessment program under s. 1008.22. This paragraph expires July 1, 2015.

~~(9)(8)~~ RULEMAKING.—The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 which, ~~that~~ establish uniform procedures ~~guidelines~~ for the submission, review, and approval of district procedures for the annual evaluation ~~assessment~~ of instructional personnel and school administrators; the standards for each performance level required under subsection (2); the measurement of student growth in learning and associated implementation procedures required under subsection (8); and a process for monitoring district implementation of evaluation systems in accordance with this section ~~and that include criteria for evaluating professional performance.~~

5-01149A-11

2011736\_\_

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

1008.22 Student assessment program for public schools.—

(8) LOCAL ASSESSMENTS.—

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

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

1. Statewide assessments under this section.

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

3. Industry certification examinations.

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

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

(c) The Commissioner of Education shall identify methods to assist and support districts in the development and acquisition of assessments required under this subsection. Methods may include the development of item banks, facilitation of the



5-01149A-11

2011736\_\_

sharing of developed tests among districts, and technical assistance in best professional practices of test development based on state-adopted curriculum standards, administration, and security.

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

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

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

(c) *Compensation and salary schedules.*—

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

a. "Salary schedule" means the schedule or schedules used to provide the base pay for district school board personnel.

b. "Adjustment" means an addition to the base salary schedule which is not a bonus, but becomes part of the employee's permanent base salary and is considered compensation under s. 121.021(22).

c. "Supplement" means an annual addition to the base salary schedule for the term of the negotiated supplement as long as the employee continues his or her employment for the purpose of the supplement. A supplement does not become part of the employee's continuing base salary but is considered compensation under s. 121.021(22).

d. "Grandfathered salary schedule" means the schedule or schedules adopted by a school district before July 1, 2014.

5-01149A-11

2011736\_\_

e. "Performance salary schedule" means the schedule or schedules adopted by a school district pursuant to subparagraph 3.

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

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

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

3. Performance salary schedule.—By July 1, 2014, the district school board shall adopt a performance salary schedule

5-01149A-11

2011736\_\_

523 that provides annual salary adjustments for instructional  
524 personnel and school administrators based upon performance  
525 determined under s. 1012.34. Employees hired on or after July 1,  
526 2014, shall be compensated pursuant to the performance salary  
527 schedule once they have received appropriate evaluation for this  
528 purpose, except that an instructional employee whose evaluation  
529 uses solely student growth measures established under s.  
530 1012.34(8) (e) shall remain under the grandfathered salary  
531 schedule until his or her teaching assignment changes or the  
532 district establishes comparable measures of student learning  
533 growth, as defined under that section and rules of the State  
534 Board of Education.

535 a. Base salary.—The base salary shall be established as  
536 follows:

537 (I) The base salary for all instructional personnel and  
538 school administrators returning subsequent to the 2014-2015  
539 school year shall be the salary paid in the prior year,  
540 including adjustments only. The total salary and adjustments  
541 shall be prorated based upon the respective contract days for  
542 the school year.

543 (II) Instructional personnel or school administrators new  
544 to the district, returning to the district after a break in  
545 service without an authorized leave of absence, or appointed for  
546 the first time to a position in the district in the capacity of  
547 instructional personnel or school administrators shall be placed  
548 on the performance salary schedule in accordance with the  
549 collective bargaining contract.

550 b. Salary adjustments.—Salary adjustments for highly  
551 effective or effective performance shall be established as

5-01149A-11

2011736\_\_

follows:

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

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

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

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

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

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

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

5-01149A-11

2011736\_\_

581 within the school district; and

582 (IV) Assignment of additional academic responsibilities.

583 d. Cost-of-living adjustments.—A district school board may  
584 provide a cost-of-living salary adjustment if:

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

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

590 e. Advanced degrees.—Beginning with instructional personnel  
591 hired on or after July 1, 2011, a district school board may not  
592 use advanced degrees in setting a salary schedule unless the  
593 advanced degree is held in the instructional personnel's area of  
594 certification.

595  
596 If budget constraints in any given year limit a district school  
597 board's ability to fully fund all adopted salary schedules, the  
598 performance salary schedule shall not be reduced, either on the  
599 basis of total cost or the value of individual awards, in a  
600 manner that is proportionally greater than reductions to any  
601 other salary schedules adopted by the district. ~~The district~~  
602 ~~school board shall adopt a salary schedule or salary schedules~~  
603 ~~designed to furnish incentives for improvement in training and~~  
604 ~~for continued efficient service to be used as a basis for paying~~  
605 ~~all school employees and fix and authorize the compensation of~~  
606 ~~school employees on the basis thereof.~~

607 ~~2. A district school board, in determining the salary~~  
608 ~~schedule for instructional personnel, must base a portion of~~  
609 ~~each employee's compensation on performance demonstrated under~~

5-01149A-11

2011736\_\_

s. 1012.34, ~~must consider the prior teaching experience of a person who has been designated state teacher of the year by any state in the United States, and must consider prior professional experience in the field of education gained in positions in addition to district level instructional and administrative positions.~~

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

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

(e) *Transfer and promotion.*—The district school board shall act on recommendations of the district school superintendent regarding transfer and promotion of any employee. The district school board's primary consideration in approving a promotion must be the individual's demonstrated effectiveness under s. 1012.34.

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

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

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

5-01149A-11

2011736\_\_

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

641       (b) "Probationary contract" means an employment contract  
642 for a period of 1 school year awarded to instructional personnel  
643 upon initial employment in a school district. Probationary  
644 contract employees may be dismissed without cause or may resign  
645 without breach of contract.

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

649       (2) EMPLOYMENT.—

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

653       (b) The district school board may issue an annual contract  
654 to instructional personnel who have successfully completed the  
655 probationary contract or may award an additional annual contract  
656 if the individual:

657       1. Holds a professional certificate or temporary  
658 certificate issued pursuant to s. 1012.56 and rules of the State  
659 Board of Education.

660       2. Has been recommended by the district school  
661 superintendent for the annual contract based upon the  
662 individual's evaluation, as determined under s. 1012.34, and  
663 approved by the district school board.

664       3. Has not received two consecutive unsatisfactory  
665 evaluations under s. 1012.34, two unsatisfactory evaluations  
666 within a 3-year period under s. 1012.34, or three evaluations of  
667 needs improvement within any 5-year period under s. 1012.34.

5-01149A-11

2011736\_\_

668       (3) VIOLATION OF ANNUAL CONTRACT.—Instructional personnel  
669 who accept an offer in writing from the district school board  
670 and who leave their position without prior release from the  
671 district school board are subject to the jurisdiction of the  
672 Education Practices Commission.

673       (4) SUSPENSION OR DISMISSAL OF CLASSROOM TEACHERS ON ANNUAL  
674 CONTRACT.—Instructional personnel who have an annual contract  
675 may be suspended or dismissed at any time during the term of the  
676 contract for just cause as provided in subsection (5). The  
677 district school board must notify the instructional personnel in  
678 writing whenever charges are made against the instructional  
679 personnel, and the district school board may suspend him or her  
680 without pay. However, if the charges are not sustained, the  
681 instructional personnel shall be immediately reinstated and his  
682 or her back pay shall be paid. In order to contest the charges,  
683 the instructional personnel must, within 15 days after receipt  
684 of the written notice, submit a written request for a hearing to  
685 the district school board. The district school board or a  
686 subcommittee thereof shall conduct a direct hearing within 60  
687 days after receipt of the written appeal. The hearing shall be  
688 conducted in accordance with ss. 120.569 and 120.57. A majority  
689 vote of the membership of the district school board is required  
690 to sustain the superintendent's recommendation. The district  
691 school board's determination is final as to the sufficiency or  
692 insufficiency of the grounds for suspension without pay or  
693 dismissal. Any decision that is adverse to the instructional  
694 personnel may be appealed by the instructional personnel  
695 pursuant to s. 120.68 if the appeal is filed within 30 days  
696 after the decision of the district school board.



5-01149A-11

2011736\_\_

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

(a) Immorality.

(b) Misconduct in office.

(c) Incompetency.

(d) Gross insubordination.

(e) Willful neglect of duty.

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

(g) Unsatisfactory performance, as described in s. 1012.34.

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

1002.33 Charter schools.—

(16) EXEMPTION FROM STATUTES.—

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

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

2. Chapter 119, relating to public records.

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

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

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

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

5-01149A-11

2011736\_\_

726        7. Section 1012.34, relating to performance evaluations for  
727 instructional personnel and school administrators.

728        Section 7. Paragraph (h) of subsection (2) of section  
729 1003.621, Florida Statutes, is amended to read:

730        1003.621 Academically high-performing school districts.—It  
731 is the intent of the Legislature to recognize and reward school  
732 districts that demonstrate the ability to consistently maintain  
733 or improve their high-performing status. The purpose of this  
734 section is to provide high-performing school districts with  
735 flexibility in meeting the specific requirements in statute and  
736 rules of the State Board of Education.

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

742        (h) Sections 1012.22(1)(c) and 1012.27(2), relating to  
743 differentiated compensation and salary schedules and public  
744 school personnel, respectively; s. 1012.34, relating to  
745 personnel evaluation procedures and criteria; and ss. 1012.33  
746 and 1012.335, relating to contracts with instructional  
747 personnel, staff, supervisors, and school administrators ~~pay and~~  
748 ~~performance-pay policies for school administrators and~~  
749 ~~instructional personnel. Professional service contracts are~~  
750 ~~subject to the provisions of ss. 1012.33 and 1012.34.~~

751        Section 8. Section 1012.07, Florida Statutes, is amended to  
752 read:

753        1012.07 Identification of critical teacher shortage areas.—

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

5-01149A-11

2011736\_\_

755 "critical teacher shortage area" means high-need content areas  
756 ~~applies to mathematics, science, career education, and high-~~  
757 ~~priority high priority~~ location areas identified by the State  
758 Board of Education ~~may identify career education programs having~~  
759 ~~critical teacher shortages~~. The State Board of Education shall  
760 adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to  
761 annually identify ~~other~~ critical teacher shortage areas ~~and high~~  
762 ~~priority location areas~~. The state board must ~~shall~~ also  
763 consider current and emerging educational requirements and  
764 workforce demands ~~teacher characteristics such as ethnic~~  
765 ~~background, race, and sex~~ in determining critical teacher  
766 shortage areas. School grade levels may also be designated  
767 critical teacher shortage areas. Individual district school  
768 boards may identify and submit other critical teacher shortage  
769 areas. Such submissions ~~shortages~~ must be aligned to current and  
770 emerging educational requirements and workforce demands in order  
771 to be ~~certified to and~~ approved by the State Board of Education.  
772 High priority location areas shall be in high-density, low-  
773 economic urban schools, ~~and~~ low-density, low-economic rural  
774 schools, and schools identified as lowest performing under s.  
775 1008.33(4)(b) ~~shall include schools which meet criteria which~~  
776 ~~include, but are not limited to, the percentage of free lunches,~~  
777 ~~the percentage of students under Chapter I of the Education~~  
778 ~~Consolidation and Improvement Act of 1981, and the faculty~~  
779 ~~attrition rate.~~

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

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

5-01149A-11

2011736\_\_

1012.2315 Assignment of teachers.—

(5) REPORTS ~~REPORT~~.—

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

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

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

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

(1) POSITIONS, QUALIFICATIONS, AND NOMINATIONS.—

(a) Recommend to the district school board duties and responsibilities which need to be performed and positions which need to be filled to make possible the development of an

5-01149A-11

2011736\_\_

adequate school program in the district.

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

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

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

5-01149A-11

2011736\_\_

~~the district's differentiated pay policy based upon s. 1012.22.~~

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

1012.28 Public school personnel; duties of school principals.—

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

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

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

(1)(a) Each person employed as a member of the instructional staff in any district school system shall be properly certified pursuant to s. 1012.56 or s. 1012.57 or employed pursuant to s. 1012.39 and shall be entitled to and shall receive a written contract as specified in this section. All such contracts, except continuing contracts as specified in subsection (4), shall contain provisions for dismissal during the term of the contract only for just cause. Just cause includes, but is not limited to, the following instances, as defined by rule of the State Board of Education: immorality, misconduct in office, incompetency, two consecutive annual performance ratings of "unsatisfactory" under s. 1012.34, gross insubordination, willful neglect of duty, or being convicted or

5-01149A-11

2011736\_\_

found guilty of, or entering a plea of guilty to, regardless of adjudication of guilt, any crime involving moral turpitude.

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

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

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

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

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

5-01149A-11

2011736\_\_

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

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

2. An employee notified of unsatisfactory performance may request an opportunity to be considered for a transfer to another appropriate position, with a different supervising administrator, for the subsequent year of employment. If the request for the transfer is granted and is consistent with s. 1012.28(6), the district school superintendent shall annually report to the department the total number of employees transferred pursuant to this subparagraph, where they were transferred, and the annual performance level of the employee as determined under s. 1012.34 ~~what, if any, remediation was implemented to remediate the unsatisfactory performance.~~

3. During the subsequent evaluation period ~~year~~, the employee shall be provided assistance and inservice training



5-01149A-11

2011736\_\_

opportunities to help correct the noted performance deficiencies. The employee shall also be evaluated periodically so that he or she will be kept apprised of progress achieved.

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

a. A direct hearing conducted by the district school board within 60 days of receipt of the written appeal. The hearing shall be conducted in accordance with the provisions of ss. 120.569 and 120.57. A majority vote of the membership of the district school board shall be required to sustain the district school superintendent's recommendation. The determination of the

5-01149A-11

2011736\_\_

958 district school board shall be final as to the sufficiency or  
959 insufficiency of the grounds for termination of employment; or

960 b. A hearing conducted by an administrative law judge  
961 assigned by the Division of Administrative Hearings of the  
962 Department of Management Services. The hearing shall be  
963 conducted within 60 days of receipt of the written appeal in  
964 accordance with chapter 120. The recommendation of the  
965 administrative law judge shall be made to the district school  
966 board. A majority vote of the membership of the district school  
967 board shall be required to sustain or change the administrative  
968 law judge's recommendation. The determination of the district  
969 school board shall be final as to the sufficiency or  
970 insufficiency of the grounds for termination of employment.

971 (5) If ~~Should~~ a district school board has ~~have~~ to choose  
972 from among its personnel ~~who are on continuing contracts or~~  
973 ~~professional service contracts~~ as to which should be retained at  
974 a school or in the school district, such decisions shall be  
975 based upon the performance evaluation under s. 1012.34, with  
976 primary consideration given to those personnel within the  
977 affected area whose students' growth in learning is greater ~~made~~  
978 ~~pursuant to the terms of a collectively bargained agreement,~~  
979 ~~when one exists. If no such agreement exists, the district~~  
980 ~~school board shall prescribe rules to handle reductions in~~  
981 ~~workforce.~~

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

983 Section 14. Paragraph (h) of subsection (1) of section  
984 1012.795, Florida Statutes, is amended to read:

985 1012.795 Education Practices Commission; authority to  
986 discipline.-

5-01149A-11

2011736\_\_

(1) The Education Practices Commission may suspend the educator certificate of any person as defined in s. 1012.01(2) or (3) for up to 5 years, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for that period of time, after which the holder may return to teaching as provided in subsection (4); may revoke the educator certificate of any person, thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students for up to 10 years, with reinstatement subject to the provisions of subsection (4); may revoke permanently the educator certificate of any person thereby denying that person the right to teach or otherwise be employed by a district school board or public school in any capacity requiring direct contact with students; may suspend the educator certificate, upon an order of the court or notice by the Department of Revenue relating to the payment of child support; or may impose any other penalty provided by law, if the person:

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

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

(2) In order to receive approval from the State Board of Education for an exemption under this section, a school district

5-01149A-11

2011736\_\_

1016 must demonstrate to the State Board of Education that it is  
1017 implementing the following:

1018 (a) A teacher appraisal system that uses student  
1019 performance as the single greatest component of the teacher's  
1020 evaluation.

1021 (b) A teacher compensation system that awards salary  
1022 increases based on sustained student performance.

1023 (c) A teacher contract system that awards contracts based  
1024 on student performance.

1025 (3) The State Board of Education shall annually renew a  
1026 school district's exemption if the school district provides a  
1027 progress report that demonstrates that the school district  
1028 continues to meet the requirements of subsection (2).

1029 (4) The State Board of Education shall adopt rules pursuant  
1030 to ss. 120.536(1) and 120.54, Florida Statutes, to establish the  
1031 procedures for applying for an exemption under this section.

1032 Section 16. The provisions of any special act or general  
1033 law of local application relating to contracts for instructional  
1034 personnel in public schools or school districts in effect on or  
1035 before the effective date of this act are repealed, with the  
1036 exception of chapter 75-384, Laws of Florida.

1037 Section 17. If any provision of this act or its application  
1038 to any person or circumstance is held invalid, the invalidity  
1039 does not affect other provisions or applications of the act  
1040 which can be given effect without the invalid provision or  
1041 application, and to this end the provisions of this act are  
1042 severable.

1043 Section 18. The amendments made by this act to s. 1012.33,  
1044 Florida Statutes, apply to contracts newly entered into,

5-01149A-11

2011736\_\_

1045 extended, or readopted on or after July 1, 2011, and to all  
1046 contracts entered into on or after July 1, 2014.

1047       Section 19. Except as otherwise expressly provided in this  
1048 act and except for this section, which shall take effect upon  
1049 this act becoming a law, this act shall take effect July 1,  
1050 2011.