

By Senator Legg

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A bill to be entitled

An act relating to education accountability; amending s. 1008.22, F.S.; revising requirements for the administration of local assessments; transferring provisions relating to district school board policies regarding assessments; restricting the amount of school hours that a school district may dedicate to administer specified assessments; requiring a school district to secure consent of a student's parent if school hours dedicated to the administration of local assessments exceed the threshold amount; authorizing a student to take an examination or assessment adopted pursuant to State Board of Education rule; amending s. 1012.34, F.S.; revising the percentage thresholds for performance evaluation criteria for instructional personnel and school administrators; specifying standards for the content and the administration of local assessments; specifying requirements for eligibility of salary adjustments for instructional personnel or school administrators; requiring the state board to adopt rules by a certain date; amending s. 1012.22, F.S.; conforming provisions to changes made by the act; amending s. 1008.34, F.S.; adding references to school improvement ratings; authorizing a school district to request approval from the state board to use student performance results on new statewide assessments for diagnostic and baseline purposes; requiring a district school superintendent to submit the waiver request to the Commissioner of

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Education; specifying required content of a waiver request; requiring the commissioner to review and make recommendations to the state board regarding each waiver request; specifying conditions and requirements for a school that is granted a waiver for the 2014-2015 school year; providing for expiration; providing an effective date.

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

Section 1. Subsection (6) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(6) LOCAL ASSESSMENTS.—

(a) Measurement of student performance in all subjects and grade levels, except those subjects and grade levels measured under the statewide, standardized assessment program described in this section, is the responsibility of the school districts.

~~(b) Except for those subjects and grade levels measured under the statewide, standardized assessment program, beginning with the 2014-2015 school year, each school district shall administer for each course offered in the district a local assessment that measures student mastery of course content at the necessary level of rigor for the course. As adopted pursuant to State Board of Education rule, course content is set forth in the state standards required by s. 1003.41 and in the course description. Local assessments may include:~~

~~1. Statewide assessments.~~

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

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59 ~~recognized standardized assessments.~~

60 ~~3. Industry certification assessments.~~

61 ~~4. District-developed or district-selected end-of-course~~
62 ~~assessments.~~

63 ~~5. Teacher-selected or principal-selected assessments.~~

64 ~~(c) Each district school board must adopt policies for~~
65 ~~selection, development, administration, and scoring of local~~
66 ~~assessments and for collection of assessment results. Local~~
67 ~~assessments implemented under subparagraphs (b)4. and 5. may~~
68 ~~include a variety of assessment formats, including, but not~~
69 ~~limited to, project-based assessments, adjudicated performances,~~
70 ~~and practical application assignments. For all English Language~~
71 ~~Arts, mathematics, science, and social studies courses offered~~
72 ~~in the district that are used to meet graduation requirements~~
73 ~~under s. 1002.3105, s. 1003.4281, or s. 1003.4282 and that are~~
74 ~~not otherwise assessed by statewide, standardized assessments,~~
75 ~~the district school board must select the assessments described~~
76 ~~in subparagraphs (b)1.-4.~~

77 ~~(d)~~ The Commissioner of Education shall identify methods to
78 assist and support districts in the development and acquisition
79 of local assessments ~~required under this subsection~~. Methods may
80 include developing item banks, facilitating the sharing of
81 developed tests among school districts, acquiring assessments
82 from state and national curriculum-area organizations, and
83 providing technical assistance in best professional practices of
84 test development based upon state-adopted curriculum standards,
85 administration, and security.

86 ~~(c)-(e)~~ Each school district shall establish schedules for
87 the administration of any district-required local ~~district-~~

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88 ~~mandated~~ assessment and approve the schedules as an agenda item
89 at a district school board meeting. A school district may not
90 schedule more than 5 percent of total school hours to administer
91 statewide, standardized assessments and district-required local
92 assessments. If a school district requires more than 5 percent
93 of total school hours to administer district-required local
94 assessments, the district must secure written consent from a
95 student's parent before administering the district-required
96 local assessments. Notwithstanding this paragraph, a student
97 may, within a school year, choose to take an examination or
98 assessment adopted pursuant to State Board of Education rule
99 pursuant to this section and s. 1008.30. The school district
100 shall publish its ~~the~~ testing schedules on its website, clearly
101 specifying the district-required local ~~district-mandated~~
102 assessments, and report the schedules to the Department of
103 Education by October 1 of each year.

104 Section 2. Paragraph (a) of subsection (3) and subsections
105 (7) and (8) of section 1012.34, Florida Statutes, are amended to
106 read:

107 1012.34 Personnel evaluation procedures and criteria.—

108 (3) EVALUATION PROCEDURES AND CRITERIA.—Instructional
109 personnel and school administrator performance evaluations must
110 be based upon the performance of students assigned to their
111 classrooms or schools, as provided in this section. Pursuant to
112 this section, a school district's performance evaluation is not
113 limited to basing unsatisfactory performance of instructional
114 personnel and school administrators solely upon student
115 performance, but may include other criteria approved to evaluate
116 instructional personnel and school administrators' performance,

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or any combination of student performance and other approved criteria. Evaluation procedures and criteria must comply with, but are not limited to, the following:

(a) A performance evaluation must be conducted for each employee at least once a year, except that a classroom teacher, as defined in s. 1012.01(2)(a), excluding substitute teachers, who is newly hired by the district school board must be observed and evaluated at least twice in the first year of teaching in the school district. The performance evaluation must be based upon sound educational principles and contemporary research in effective educational practices. The evaluation criteria must include:

1. Performance of students.—At least 40 ~~50~~ percent of a performance evaluation must be based upon data and indicators of student learning growth assessed annually by statewide assessments or, for subjects and grade levels not measured by statewide assessments, by school district assessments pursuant to subsection (7) ~~as provided in s. 1008.22(6)~~. Each school district must use the formula adopted pursuant to paragraph (7)(a) for measuring student learning growth in all courses associated with statewide assessments and must select an equally appropriate formula for measuring student learning growth for all other grades and subjects, except as otherwise provided in subsection (7).

a. For classroom teachers, as defined in s. 1012.01(2)(a), excluding substitute teachers, the student learning growth portion of the evaluation must include growth data for students assigned to the teacher over the course of at least 3 years. If less than 3 years of data are available, the years for which

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146 data are available must be used and the percentage of the
147 evaluation based upon student learning growth may be reduced to
148 not less than 30 ~~40~~ percent.

149 b. For instructional personnel who are not classroom
150 teachers, the student learning growth portion of the evaluation
151 must include growth data on statewide assessments for students
152 assigned to the instructional personnel over the course of at
153 least 3 years, or may include a combination of student learning
154 growth data and other measurable student outcomes that are
155 specific to the assigned position, provided that the student
156 learning growth data accounts for not less than 30 percent of
157 the evaluation. If less than 3 years of student growth data are
158 available, the years for which data are available must be used
159 and the percentage of the evaluation based upon student learning
160 growth may be reduced to not less than 20 percent.

161 c. For school administrators, the student learning growth
162 portion of the evaluation must include growth data for students
163 assigned to the school over the course of at least 3 years. If
164 less than 3 years of data are available, the years for which
165 data are available must be used and the percentage of the
166 evaluation based upon student learning growth may be reduced to
167 not less than 30 ~~40~~ percent.

168 2. Instructional practice.—At least 30 percent of a
169 performance evaluation ~~criteria used~~ when annually observing
170 classroom teachers, as defined in s. 1012.01(2)(a), excluding
171 substitute teachers, must include indicators based upon each of
172 the Florida Educator Accomplished Practices adopted by the State
173 Board of Education. For instructional personnel who are not
174 classroom teachers, evaluation criteria must be based upon

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indicators of the Florida Educator Accomplished Practices and may include specific job expectations related to student support.

3. Instructional leadership.—At least 30 percent of a performance evaluation for school administrators, evaluation criteria must include indicators based upon each of the leadership standards adopted by the State Board of Education under s. 1012.986, including performance measures related to the effectiveness of classroom teachers 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 instructional personnel evaluated at the highly effective or effective level, and other leadership practices that result in student learning growth. The system may include a means to give parents and instructional personnel an opportunity to provide input into the administrator's performance evaluation.

4. Professional and job responsibilities.—For instructional personnel and school administrators, no more than 30 percent of a performance evaluation must include other professional and job responsibilities ~~must be included~~ as adopted by the State Board of Education. The district school board may identify additional professional and job responsibilities.

(7) MEASUREMENT OF STUDENT LEARNING GROWTH; STATE AND LOCAL ASSESSMENTS.—

(a) The Commissioner of Education shall approve a formula to measure individual student learning growth on the statewide, standardized assessments in English Language Arts and mathematics administered under s. 1008.22. The formula must take

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into consideration each student's prior academic performance. The formula must not set different expectations for student learning growth based upon a student's gender, race, ethnicity, or socioeconomic status. In the development of the formula, the commissioner shall consider other factors such as a student's attendance record, disability status, or status as an English language learner. The commissioner shall select additional formulas as appropriate for the remainder of the statewide assessments included under s. 1008.22 and continue to select formulas as new assessments are implemented in the state system. After the commissioner approves the formula to measure individual student learning growth, the State Board of Education shall adopt these formulas in rule.

(b) For courses associated with the statewide, standardized assessments under s. 1008.22, each school district shall measure student learning growth using the formulas approved by the commissioner under paragraph (a) ~~for courses associated with the statewide, standardized assessments administered under s. 1008.22~~ no later than the school year immediately following the year the formula is approved by the commissioner.

(c) For grades and subjects not assessed by statewide, standardized assessments, but otherwise locally assessed pursuant to paragraph (d) ~~as required under s. 1008.22(6),~~ each school district shall measure performance of students using a methodology determined by the district. The department shall provide models for measuring performance of students which school districts may adopt. However, for a course that is not measured by a statewide, standardized assessment:

1. ~~(c) For a course that is not measured by a statewide,~~

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~~standardized assessment,~~ A school district may request, through the evaluation system approval process, to use a student's achievement level rather than student learning growth if achievement is demonstrated to be a more appropriate measure of classroom teacher performance. A school district may also request to use a combination of student learning growth and achievement, if appropriate.

~~2.(d) For a course that is not measured by a statewide, standardized assessment,~~ A school district may request, through the evaluation system approval process, that the performance evaluation for the classroom teacher assigned to that course include the learning growth of his or her students on one or more statewide, standardized assessments. The request must clearly explain the rationale supporting the request.

~~3.(e)~~ For purposes of this section and only for the 2014-2015 school year, a school district may use measurable learning targets on local assessments administered under paragraph (d) and s. 1008.22(6) to evaluate the performance of students portion of a classroom teacher's evaluation ~~for courses that are not assessed by statewide, standardized assessments.~~ Learning targets must be approved by the school principal. A district school superintendent may assign to instructional personnel in an instructional team the student learning growth of the instructional team's students on statewide assessments. This subparagraph ~~paragraph~~ expires July 1, 2015.

(d)1. Pursuant to s. 1008.22(6), school districts are responsible for the measurement of student performance in all subjects and grade levels, except those subjects and grade levels measured under the statewide, standardized assessment

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program. For subjects and grade levels not measured under the statewide, standardized program, each school district is responsible for administering local assessments that measure student mastery of course content at the necessary level of rigor. As adopted pursuant to State Board of Education rule, course content is set forth in the state standards required by s. 1003.41 and in the course description. Local assessments may include:

a. Statewide assessments.

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

c. Industry certification assessments.

d. District-developed or district-selected assessments.

e. Teacher-selected or principal-selected assessments.

2. Each district school board must adopt policies for selection, development, administration, and scoring of local assessments and for collection of assessment results. Local assessments may include a variety of assessment formats, including, but not limited to, project-based assessments, adjudicated performances, and practical application assignments. For all English Language Arts, mathematics, science, and social studies courses offered in the district which are used to meet graduation requirements under s. 1002.3105, s. 1003.4281, or s. 1003.4282 and which are not otherwise assessed by statewide, standardized assessments, the district school board must select the assessments described in sub-subparagraphs (d)1.a.-d. For an instructional personnel employee or school administrator to be eligible for salary adjustment under the performance salary schedule, pursuant to s. 1012.22, the student performance

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component of his or her performance evaluation must be based on
an assessment described in sub-subparagraphs (d)1.a.-d. using a
methodology determined by the school district pursuant to
paragraph (c).

(8) RULEMAKING.—No later than August 1, 2015, the State
Board of Education shall adopt rules pursuant to ss. 120.536(1)
and 120.54 which establish uniform procedures for the
submission, review, and approval of district evaluation systems
and reporting requirements for the annual evaluation of
instructional personnel and school administrators; specific,
discrete standards for each performance level required under
subsection (2) to ensure clear and sufficient differentiation in
the performance levels and to provide consistency in meaning
across school districts; the measurement of student learning
growth and associated implementation procedures required under
subsection (7); and a process for monitoring school district
implementation of evaluation systems in accordance with this
section. Specifically, the rules shall establish student
performance levels that if not met will result in the employee
receiving an unsatisfactory performance evaluation rating. In
like manner, the rules shall establish a student performance
level that must be met in order for an employee to receive a
highly effective rating and a student learning growth standard
that must be met in order for an employee to receive an
effective rating.

Section 3. Paragraph (c) of subsection (1) of section
1012.22, Florida Statutes, is amended to read:

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

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

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

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

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

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

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

g. "Supplement" means an annual addition to the base salary 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 shall be considered compensation

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under s. 121.021(22).

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

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

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

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

4. Grandfathered salary schedule.—

a. 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. Instructional personnel on annual contract as of July 1, 2014, shall be placed on the performance salary schedule adopted under subparagraph 5. Instructional personnel on continuing contract or professional service contract may opt into the performance salary schedule if the employee relinquishes such contract and agrees to be employed on an annual contract under s. 1012.335. Such an employee shall be placed on the performance salary schedule and may not return to continuing contract or professional service contract status. Any employee who opts into the performance salary schedule may not return to the grandfathered salary schedule.

b. In determining the grandfathered salary schedule for

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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.

5. Performance salary schedule.—By July 1, 2014, the district school board shall adopt a performance salary schedule that provides annual salary adjustments for instructional personnel and school administrators based upon performance determined under s. 1012.34. Employees hired on or after July 1, 2014, or employees who choose to move from the grandfathered salary schedule to the performance salary schedule shall be compensated pursuant to the performance salary schedule once they have received the appropriate performance evaluation for this purpose. However, a classroom teacher whose performance evaluation uses ~~utilizes~~ student learning growth measures established under s. 1012.34(7)(c)3. ~~s. 1012.34(7)(c)~~ shall remain under the grandfathered salary schedule until his or her teaching assignment changes to a subject for which there is a statewide, standardized assessment or district-required local ~~an~~ assessment or the school district establishes equally appropriate measures of student learning growth as defined under s. 1012.34 and rules of the State Board of Education.

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

(I) The base salary for instructional personnel or school

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administrators who opt into the performance salary schedule shall be the salary paid in the prior year, including adjustments only.

(II) Beginning July 1, 2014, instructional personnel or school administrators new to the district, returning to the district after a break in service without an authorized leave of absence, or appointed for the first time to a position in the district in the capacity of instructional personnel or school administrator shall be placed on the performance salary schedule.

b. Salary adjustments.—Salary adjustments for highly effective or effective performance shall be established as 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 an employee who receives a rating other than highly effective or effective for the year.

c. Salary supplements.—In addition to the salary adjustments, each district school board shall provide for salary supplements for activities that must include, but are not

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limited to:

(I) Assignment to a Title I eligible school.

(II) Assignment to a school that earned a grade of "F" or three consecutive grades of "D" pursuant to s. 1008.34 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 under s. 1012.07. However, the district school board may identify other areas of critical shortage within the school district for purposes of this sub-sub-subparagraph and may remove areas identified by the state board which do not apply within the school district.

(IV) Assignment of additional academic responsibilities.

If budget constraints in any given year limit a district school board's ability to fully fund all adopted salary schedules, the performance salary schedule may ~~shall~~ not be reduced on the basis of total cost or the value of individual awards in a manner that is proportionally greater than reductions to any other salary schedules adopted by the district.

Section 4. Subsection (7) of section 1008.34, Florida Statutes, is amended to read:

1008.34 School grading system; school report cards; district grade.—

(7) TRANSITION.—School grades pursuant to this section and school improvement ratings pursuant to s. 1008.341 for the 2013-2014 school year shall be calculated based on statutes and rules in effect on June 30, 2014. To assist in the transition to 2014-

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2015 school grades and school improvement ratings, calculated based on new statewide, standardized assessments administered pursuant to s. 1008.22, the 2014-2015 school grades and school improvement ratings shall serve as an informational baseline for schools to work toward improved performance in future years.

Accordingly, notwithstanding any other provision of law:

(a) A school may not be required to select and implement a turnaround option pursuant to s. 1008.33 in the 2015-2016 school year based on the school's 2014-2015 grade or school improvement rating under s. 1008.341, as applicable.

(b)1. A school or approved provider under s. 1002.45 that receives the same or a lower school grade or school improvement rating for the 2014-2015 school year compared to the 2013-2014 school year is not subject to sanctions or penalties that would otherwise occur as a result of the 2014-2015 school grade or rating. A charter school system or a school district designated as high performing may not lose the designation based on the 2014-2015 school grades of any of the schools within the charter school system or school district, as applicable.

2. The Florida School Recognition Program established under s. 1008.36 shall continue to be implemented as otherwise provided in the General Appropriations Act.

(c) For purposes of determining grade 3 retention pursuant to s. 1008.25(5) and high school graduation pursuant to s. 1003.4282, student performance on the 2014-2015 statewide, standardized assessments shall be linked to 2013-2014 student performance expectations.

This subsection is repealed July 1, 2017.

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494 Section 5. School district contingency plan.—
495 Notwithstanding s. 1008.34(7), Florida Statutes, a school
496 district may, by supermajority vote of the district school
497 board, request approval from the State Board of Education to
498 waive all requirements and benefits outlined in s. 1008.34(7),
499 Florida Statutes, and instead use results from student
500 performance on the new statewide, standardized assessments
501 administered in the 2014-2015 school year pursuant to s.
502 1008.22, Florida Statutes, for diagnostic and baseline purposes
503 only.

504 (1) A school district's request must be submitted to the
505 Commissioner of Education by the school district superintendent,
506 during the period from the last day of administration of
507 statewide, standardized assessments through June 5, 2015, in
508 accordance with the guidelines established by the commissioner.
509 At a minimum, the request, must include identification of:

510 (a) The scope of the request, to apply either to the school
511 district or to a school or certain schools within the school
512 district. The request must be made at a district or school
513 level. The request may not be made at a grade level, a subject-
514 area level or another level.

515 (b) The reason for the request, including a description of
516 the systemic or unique implementation failure. Quantifiable data
517 substantiating the reason for such failure must accompany the
518 request. A school district's inability to assess the minimum
519 percentage of students pursuant to ss. 1008.34 and 1008.341,
520 Florida Statutes, does not, in itself, constitute a reasonable
521 justification for requesting the waiver under this section.

522 (c) The school district's corrective action plan and

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certification that the identified implementation failure must be resolved in time for successful administration of the statewide, standardized assessments during the 2015-2016 school year and each school year thereafter. The district must identify how the district plans to allocate resources and technical assistance that the district needs from the Department of Education to facilitate the district's successful resolution of deficiencies.

(d) The school district's plan for using the diagnostic data to facilitate continuous improvement in student performance and the effectiveness of schools, instructional personnel, and school administrators; public reporting on the performance of students, schools, and the district; and informing parents about instruction associated with remediation and retention and options available to students including acceleration, graduation, and school choice. The district must also describe its plans for implementing student progression plans, performance evaluations of instructional personnel and school administrators, performance salary schedule requirements, and other uses as identified by the commissioner.

(2) The commissioner shall review each request for a waiver and consult with the applicable school district superintendent. The commissioner shall make, and provide reasons for, recommendations to the State Board of Education regarding granting or denying a request for waiver. The state board shall consider recommendations made by the commissioner to approve or deny school district requests. Notwithstanding any other provision of law, the commissioner's recommendation to approve may, after consultation with the school district superintendent, include conditional requirements that must apply if approved by

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the state board. The decision of the state board is final.

(3) For only the 2014-2015 school year, if a waiver is granted under this section:

(a) A school or a school district may not receive a school grade, school improvement rating, or school district grade, as applicable.

(b) A school may, at the school district's discretion, choose to use new statewide, standardized assessment results in performance evaluations of instructional personnel and school administrators.

(c) A school district shall continue to have its student performance results included in the statewide, standardized assessment results published by the department pursuant to s. 1008.22, Florida Statutes.

(d) A school shall forfeit eligibility to earn school recognition funds pursuant to s. 1008.36, Florida Statutes, as provided in the General Appropriations Act.

(e) A school district shall forfeit the district's eligibility to earn the designation and benefits associated with high performing school districts pursuant to s. 1003.621, Florida Statutes.

This section expires July 1, 2016.

Section 6. This act shall take effect upon becoming a law.