

CHAPTER 2011-37

Committee Substitute for House Bill No. 7087 and House Bill No. 7091

An act relating to education law repeals; repealing s. 445.049, F.S., relating to the creation of the Digital Divide Council in the Department of Education; repealing s. 817.567, F.S., relating to making false claims of academic degree or title; repealing s. 1001.291, F.S., which provides for implementation of a pilot project relating to discounted computers and Internet access for low-income students; repealing s. 1004.50, F.S., relating to the Institute on Urban Policy and Commerce; repealing s. 1004.51, F.S., relating to the Community and Faith-based Organizations Initiative and the Library Technology Access Partnership; repealing s. 1004.52, F.S., relating to the community computer access grant program; repealing s. 1004.95, F.S., relating to adult literacy centers; repealing s. 1004.97, F.S., relating to the Florida Literacy Corps; repealing s. 1004.04(11) and (12), F.S., relating to the Preteacher and Teacher Education Pilot Programs and the Teacher Education Pilot Programs for High-Achieving Students; repealing s. 1009.54, F.S., relating to the Critical Teacher Shortage Program; repealing s. 1009.57, F.S., relating to the Florida Teacher Scholarship and Forgivable Loan Program; repealing s. 1009.58, F.S., relating to the critical teacher shortage tuition reimbursement program; repealing s. 1009.59, F.S., relating to the Critical Teacher Shortage Student Loan Forgiveness Program; repealing s. 1012.225, F.S., relating to the Merit Award Program for Instructional Personnel and School-Based Administrators; repealing s. 1012.2251, F.S., relating to the administration of end-of-course examinations for the Merit Award Program; repealing s. 447.403(2)(c), F.S., relating to the resolution of an impasse involving a dispute of a Merit Award Program plan, to conform; amending ss. 1002.33, 1003.52, 1009.40, 1009.94, 1011.62, and 1012.07, F.S.; conforming provisions to changes made by the act; repealing s. 1012.33(3)(a), (b), and (c), F.S., relating to professional service contracts for instructional staff; amending s. 1008.22, F.S.; deleting a provision requiring that certain middle school students who earned high school credit in Algebra I take the Algebra I end-of-course assessment during the 2010-2011 school year; providing effective dates.

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

- Section 1. Section 445.049, Florida Statutes, is repealed.
- Section 2. Section 817.567, Florida Statutes, is repealed.
- Section 3. Section 1001.291, Florida Statutes, is repealed.
- Section 4. Section 1004.50, Florida Statutes, is repealed.
- Section 5. Section 1004.51, Florida Statutes, is repealed.

Section 6. Section 1004.52, Florida Statutes, is repealed.

Section 7. Section 1004.95, Florida Statutes, is repealed.

Section 8. Section 1004.97, Florida Statutes, is repealed.

Section 9. Subsections (11) and (12) of section 1004.04, Florida Statutes, are repealed.

Section 10. Sections 1009.54, 1009.57, 1009.58, and 1009.59, Florida Statutes, are repealed.

Section 11. Sections 1012.225 and 1012.2251, Florida Statutes, are repealed.

Section 12. Paragraph (c) of subsection (2) of section 447.403, Florida Statutes, is repealed.

Section 13. Paragraph (a) of subsection (20) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(20) SERVICES.—

(a)1. A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school, that any funds due to the charter school under the federal lunch program be paid to the charter school as soon as the charter school begins serving food under the federal lunch program, and that the charter school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the sponsor or the school district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district.

2. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 250

students. For charter schools with a population of 251 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2).

3. In addition, a sponsor may withhold only up to a 5-percent administrative fee for enrollment for up to and including 500 students within a system of charter schools which meets all of the following:

- a. Includes both conversion charter schools and nonconversion charter schools;
- b. Has all schools located in the same county;
- c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;
- d. Has the same governing board; and
- e. Does not contract with a for-profit service provider for management of school operations.

4. The difference between the total administrative fee calculation and the amount of the administrative fee withheld pursuant to subparagraph 3. may be used for instructional and administrative purposes as well as for capital outlay purposes specified in s. 1013.62(2).

5. ~~Each charter school shall receive 100 percent of the funds awarded to that school pursuant to s. 1012.225.~~ Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

Section 14. Subsection (10) of section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(10) The district school board shall recruit and train teachers who are interested, qualified, or experienced in educating students in juvenile justice programs. Students in juvenile justice programs shall be provided a wide range of educational programs and opportunities including textbooks, technology, instructional support, and other resources available to students in public schools. Teachers assigned to educational programs in juvenile justice settings in which the district school board operates the educational program shall be selected by the district school board in consultation with the director of the juvenile justice facility. Educational programs in juvenile justice facilities shall have access to the substitute teacher pool utilized by the district school board. ~~Full-time teachers working in juvenile justice schools, whether employed by a district school board or a provider, shall be~~

eligible for the critical teacher shortage tuition reimbursement program as defined by s. 1009.58 and other teacher recruitment and retention programs.

Section 15. Paragraph (a) of subsection (1) of section 1009.40, Florida Statutes, is amended to read:

1009.40 General requirements for student eligibility for state financial aid awards and tuition assistance grants.—

(1)(a) The general requirements for eligibility of students for state financial aid awards and tuition assistance grants consist of the following:

1. Achievement of the academic requirements of and acceptance at a state university or community college; a nursing diploma school approved by the Florida Board of Nursing; a Florida college, university, or community college which is accredited by an accrediting agency recognized by the State Board of Education; any Florida institution the credits of which are acceptable for transfer to state universities; any career center; or any private career institution accredited by an accrediting agency recognized by the State Board of Education.

2. Residency in this state for no less than 1 year preceding the award of aid or a tuition assistance grant for a program established pursuant to s. 1009.50, s. 1009.505, s. 1009.51, s. 1009.52, s. 1009.53, ~~s. 1009.54~~, s. 1009.56, ~~s. 1009.57~~, s. 1009.60, s. 1009.62, s. 1009.68, s. 1009.72, s. 1009.73, s. 1009.77, s. 1009.89, or s. 1009.891. Residency in this state must be for purposes other than to obtain an education. Resident status for purposes of receiving state financial aid awards shall be determined in the same manner as resident status for tuition purposes pursuant to s. 1009.21.

3. Submission of certification attesting to the accuracy, completeness, and correctness of information provided to demonstrate a student's eligibility to receive state financial aid awards or tuition assistance grants. Falsification of such information shall result in the denial of any pending application and revocation of any award or grant currently held to the extent that no further payments shall be made. Additionally, students who knowingly make false statements in order to receive state financial aid awards or tuition assistance grants commit a misdemeanor of the second degree subject to the provisions of s. 837.06 and shall be required to return all state financial aid awards or tuition assistance grants wrongfully obtained.

Section 16. Paragraph (c) of subsection (2) of section 1009.94, Florida Statutes, is amended to read:

1009.94 Student financial assistance database.—

(2) For purposes of this section, financial assistance includes:

(c) Any financial assistance provided under s. 1009.50, s. 1009.505, s. 1009.51, s. 1009.52, s. 1009.53, ~~s. 1009.54~~, s. 1009.55, s. 1009.56, ~~s. 1009.57~~, s.

1009.60, s. 1009.62, s. 1009.68, s. 1009.70, s. 1009.701, s. 1009.72, s. 1009.73, s. 1009.74, s. 1009.77, s. 1009.89, or s. 1009.891.

Section 17. Paragraph (d) of subsection (7) of section 1011.62, Florida Statutes, is amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(7) DETERMINATION OF SPARSITY SUPPLEMENT.—

(d) Each district's allocation of sparsity supplement funds shall be adjusted in the following manner:

1. A maximum discretionary levy per FTE value for each district shall be calculated by dividing the value of each district's maximum discretionary levy by its FTE student count.

2. A state average discretionary levy value per FTE shall be calculated by dividing the total maximum discretionary levy value for all districts by the state total FTE student count.

3. A total potential funds per FTE for each district shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds, ~~Merit Award Program funds~~, and the minimum guarantee funds, for each district by its FTE student count.

4. A state average total potential funds per FTE shall be calculated by dividing the total potential funds, not including Florida School Recognition Program funds, ~~Merit Award Program funds~~, and the minimum guarantee funds, for all districts by the state total FTE student count.

5. For districts that have a levy value per FTE as calculated in subparagraph 1. higher than the state average calculated in subparagraph 2., a sparsity wealth adjustment shall be calculated as the product of the difference between the state average levy value per FTE calculated in subparagraph 2. and the district's levy value per FTE calculated in subparagraph 1. and the district's FTE student count and -1. However, no district shall have a sparsity wealth adjustment that, when applied to the total potential funds calculated in subparagraph 3., would cause the district's total potential funds per FTE to be less than the state average calculated in subparagraph 4.

6. Each district's sparsity supplement allocation shall be calculated by adding the amount calculated as specified in paragraphs (a) and (b) and the wealth adjustment amount calculated in this paragraph.

Section 18. Section 1012.07, Florida Statutes, is amended to read:

1012.07 Identification of critical teacher shortage areas.—

~~(1) As used in ss. 1009.57, 1009.58, and 1009.59, The term “critical teacher shortage area” applies to mathematics, science, career education, and high priority location areas. The State Board of Education may identify career education programs having critical teacher shortages. The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to annually identify other critical teacher shortage areas and high priority location areas. The state board shall also consider teacher characteristics such as ethnic background, race, and sex in determining critical teacher shortage areas. School grade levels may also be designated critical teacher shortage areas. Individual district school boards may identify other critical teacher shortage areas. Such shortages must be certified to and approved by the State Board of Education. High priority location areas shall be in high-density, low-economic urban schools and low-density, low-economic rural schools and shall include schools which meet criteria which include, but are not limited to, the percentage of free lunches, the percentage of students under Chapter I of the Education Consolidation and Improvement Act of 1981, and the faculty attrition rate.~~

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

Section 19. Effective July 1, 2011, paragraphs (a), (b), and (c) of subsection (3) of section 1012.33, Florida Statutes, are repealed.

Section 20. Paragraph (c) of subsection (3) of section 1008.22, Florida Statutes, is amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program as follows:

1. The Florida Comprehensive Assessment Test (FCAT) measures a student's content knowledge and skills in reading, writing, science, and

mathematics. The content knowledge and skills assessed by the FCAT must be aligned to the core curricular content established in the Next Generation Sunshine State Standards. Other content areas may be included as directed by the commissioner. Comprehensive assessments of reading and mathematics shall be administered annually in grades 3 through 10 except, beginning with the 2010-2011 school year, the administration of grade 9 FCAT Mathematics shall be discontinued, and beginning with the 2011-2012 school year, the administration of grade 10 FCAT Mathematics shall be discontinued, except as required for students who have not attained minimum performance expectations for graduation as provided in paragraph (9)(c). FCAT Writing and FCAT Science shall be administered at least once at the elementary, middle, and high school levels except, beginning with the 2011-2012 school year, the administration of FCAT Science at the high school level shall be discontinued.

2.a. End-of-course assessments for a subject shall be administered in addition to the comprehensive assessments required under subparagraph 1. End-of-course assessments must be rigorous, statewide, standardized, and developed or approved by the department. The content knowledge and skills assessed by end-of-course assessments must be aligned to the core curricular content established in the Next Generation Sunshine State Standards.

(I) Statewide, standardized end-of-course assessments in mathematics shall be administered according to this sub-sub-subparagraph. Beginning with the 2010-2011 school year, all students enrolled in Algebra I or an equivalent course must take the Algebra I end-of-course assessment. ~~Students who earned high school credit in Algebra I while in grades 6 through 8 during the 2007-2008 through 2009-2010 school years and who have not taken Grade 10 FCAT Mathematics must take the Algebra I end-of-course assessment during the 2010-2011 school year.~~ For students entering grade 9 during the 2010-2011 school year and who are enrolled in Algebra I or an equivalent, each student's performance on the end-of-course assessment in Algebra I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 in the 2011-2012 school year, a student who is enrolled in Algebra I or an equivalent must earn a passing score on the end-of-course assessment in Algebra I or attain an equivalent score as described in subsection (11) in order to earn course credit. Beginning with the 2011-2012 school year, all students enrolled in geometry or an equivalent course must take the geometry end-of-course assessment. For students entering grade 9 during the 2011-2012 school year, each student's performance on the end-of-course assessment in geometry shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a passing score on the end-of-course assessment in geometry or attain an equivalent score as described in subsection (11) in order to earn course credit.

(II) Statewide, standardized end-of-course assessments in science shall be administered according to this sub-sub-subparagraph. Beginning with the 2011-2012 school year, all students enrolled in Biology I or an equivalent course must take the Biology I end-of-course assessment. For the 2011-2012

school year, each student's performance on the end-of-course assessment in Biology I shall constitute 30 percent of the student's final course grade. Beginning with students entering grade 9 during the 2012-2013 school year, a student must earn a passing score on the end-of-course assessment in Biology I in order to earn course credit.

b. During the 2012-2013 school year, an end-of-course assessment in civics education shall be administered as a field test at the middle school level. During the 2013-2014 school year, each student's performance on the statewide, standardized end-of-course assessment in civics education shall constitute 30 percent of the student's final course grade. Beginning with the 2014-2015 school year, a student must earn a passing score on the end-of-course assessment in civics education in order to pass the course and receive course credit.

c. The commissioner may select one or more nationally developed comprehensive examinations, which may include, but need not be limited to, examinations for a College Board Advanced Placement course, International Baccalaureate course, or Advanced International Certificate of Education course, or industry-approved examinations to earn national industry certifications identified in the Industry Certification Funding List, pursuant to rules adopted by the State Board of Education, for use as end-of-course assessments under this paragraph, if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the core curricular content established for the course in the Next Generation Sunshine State Standards. The commissioner may collaborate with the American Diploma Project in the adoption or development of rigorous end-of-course assessments that are aligned to the Next Generation Sunshine State Standards.

d. Contingent upon funding provided in the General Appropriations Act, including the appropriation of funds received through federal grants, the Commissioner of Education shall establish an implementation schedule for the development and administration of additional statewide, standardized end-of-course assessments in English/Language Arts II, Algebra II, chemistry, physics, earth/space science, United States history, and world history. Priority shall be given to the development of end-of-course assessments in English/Language Arts II. The Commissioner of Education shall evaluate the feasibility and effect of transitioning from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an end-of-course assessment in English/Language Arts II. The commissioner shall report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011.

3. The testing program shall measure student content knowledge and skills adopted by the State Board of Education as specified in paragraph (a) and measure and report student performance levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors,

public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

4. The testing program shall be composed of criterion-referenced tests that shall, to the extent determined by the commissioner, include test items that require the student to produce information or perform tasks in such a way that the core content knowledge and skills he or she uses can be measured.

5. FCAT Reading, Mathematics, and Science and all statewide, standardized end-of-course assessments shall measure the content knowledge and skills a student has attained on the assessment by the use of scaled scores and achievement levels. Achievement levels shall range from 1 through 5, with level 1 being the lowest achievement level, level 5 being the highest achievement level, and level 3 indicating satisfactory performance on an assessment. For purposes of FCAT Writing, student achievement shall be scored using a scale of 1 through 6 and the score earned shall be used in calculating school grades. A score shall be designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

6. The State Board of Education shall, by rule, designate a passing score for each part of the grade 10 assessment test and end-of-course assessments. Any rule that has the effect of raising the required passing scores may apply only to students taking the assessment for the first time after the rule is adopted by the State Board of Education. Except as otherwise provided in this subparagraph and as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on grade 10 FCAT Reading and grade 10 FCAT Mathematics or attain concordant scores as described in subsection (10) in order to qualify for a standard high school diploma.

7. In addition to designating a passing score under subparagraph 6., the State Board of Education shall also designate, by rule, a score for each statewide, standardized end-of-course assessment which indicates that a student is high achieving and has the potential to meet college-readiness standards by the time the student graduates from high school.

8. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. A student who has not earned passing scores on the grade 10 FCAT as provided in subparagraph 6. must participate in each retake of the assessment until the student earns passing scores or achieves scores on a standardized assessment which are concordant with passing scores pursuant to subsection (10). If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent

must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT or an end-of-course assessment. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT or an end-of-course assessment may have the FCAT or an end-of-course assessment requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

9. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

10. District school boards must provide instruction to prepare students in the core curricular content established in the Next Generation Sunshine State Standards adopted under s. 1003.41, including the core content knowledge and skills necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected performance levels in reading, writing, mathematics, and science. The commissioner shall conduct studies as necessary to verify that the required core curricular content is part of the district instructional programs.

11. District school boards must provide opportunities for students to demonstrate an acceptable performance level on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

12. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the core curricular content established in the Next Generation Sunshine State Standards.

13. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the core curricular content established in the Next Generation Sunshine State Standards for students with disabilities under s. 1003.438.

14. The Commissioner of Education shall establish schedules for the administration of statewide assessments and the reporting of student test results. When establishing the schedules for the administration of statewide assessments, the commissioner shall consider the observance of religious and school holidays. The commissioner shall, by August 1 of each year, notify each school district in writing and publish on the department's Internet website the testing and reporting schedules for, at a minimum, the school year following the upcoming school year. The testing and reporting schedules shall require that:

a. There is the latest possible administration of statewide assessments and the earliest possible reporting to the school districts of student test results which is feasible within available technology and specific appropriations; however, test results for the FCAT must be made available no later than the week of June 8. Student results for end-of-course assessments must be provided no later than 1 week after the school district completes testing for each course.

b. Beginning with the 2010-2011 school year, FCAT Writing is not administered earlier than the week of March 1 and a comprehensive statewide assessment of any other subject is not administered earlier than the week of April 15.

c. A statewide, standardized end-of-course assessment is administered during a 3-week period at the end of the course. The commissioner shall select a 3-week administration period for assessments that meets the intent of end-of-course assessments and provides student results prior to the end of the course. School districts shall select 1 testing week within the 3-week administration period for each end-of-course assessment. For an end-of-course assessment administered at the end of the first semester, the commissioner shall determine the most appropriate testing dates based on a school district's academic calendar.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Next Generation Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test. These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

Section 21. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor May 5, 2011.

Filed in Office Secretary of State May 5, 2011.