

By the Committees on Education Pre-K - 12 Appropriations;  
 Education Pre-K - 12; and Senators Gaetz and Rich

602-2082-07

1   A bill to be entitled  
 2                   An act relating to a merit award program for  
 3                   district school board employees; creating s.  
 4                   1012.225, F.S.; establishing the Merit Award  
 5                   Program for instructional personnel and  
 6                   school-based administrators; requiring that a  
 7                   district school board adopt a Merit Award  
 8                   Program plan in order to receive funding under  
 9                   the program; authorizing charter schools to  
 10                  participate in the program or adopt an  
 11                  alternative plan; providing for the plan to be  
 12                  subject to ch. 447, F.S., relating to  
 13                  collective bargaining; providing for the  
 14                  reversion of funds that are not distributed  
 15                  when a district or charter school chooses not  
 16                  to adopt a plan; providing a formula for  
 17                  disbursing merit-based pay supplements to  
 18                  high-performing employees; requiring each  
 19                  school district to document to the Department  
 20                  of Education the district's expenditures under  
 21                  its plan; requiring that undisbursed funds be  
 22                  remitted to the department; providing that the  
 23                  merit-based pay supplements are in addition to  
 24                  other salary adjustments; providing  
 25                  requirements for assessing instructional  
 26                  personnel and school-based administrators which  
 27                  include evaluating student performance;  
 28                  requiring district school boards to inform  
 29                  employees of the criteria for evaluations under  
 30                  the plan; requiring the department to provide  
 31                  technical assistance to school districts in

1 developing program plans and to disseminate  
2 best practices; requiring each participating  
3 district school board to submit its plan to the  
4 Commissioner of Education for review; requiring  
5 the commissioner to identify required revisions  
6 in a district's plan; requiring that any  
7 revision made to a plan be reviewed by the  
8 commissioner; requiring each school board to  
9 annually document its compliance to the  
10 Commissioner of Education; requiring a report  
11 to the Governor and the Legislature;  
12 authorizing the State Board of Education to  
13 adopt rules; requiring school districts to be  
14 able to administer end-of-course examinations  
15 with certain exceptions; amending s. 447.403,  
16 F.S.; providing a procedure for resolving an  
17 impasse with respect to a dispute involving a  
18 Merit Award Program Plan; requiring that a  
19 specified portion of general revenue funds  
20 revert to the General Revenue Fund; repealing a  
21 specified portion of Specific Appropriation 91  
22 in s. 2, ch. 2006-25, Laws of Florida;  
23 providing an appropriation and specifying  
24 purposes; repealing s. 3, ch. 2006-26, Laws of  
25 Florida, relating to an implementing provision  
26 for the Special Teachers Are Rewarded  
27 performance pay plan (STAR Plan); repealing s.  
28 1012.22(1)(c)4., F.S., relating to a  
29 performance-pay policy for school  
30 administrators and instructional personnel;  
31 suspending rules adopted by the State Board of

1 Education which are in conflict with such  
2 provisions; providing effective dates.

3  
4 Be It Enacted by the Legislature of the State of Florida:

5  
6 Section 1. Section 1012.225, Florida Statutes, is  
7 created to read:

8 1012.225 Merit Award Program for Instructional  
9 Personnel and School-Based Administrators.--

10 (1) ELIGIBILITY.--In order to be eligible for funding  
11 under this section, a district school board must adopt a Merit  
12 Award Program plan that provides for an assessment and a merit  
13 award based on the performance of students assigned to the  
14 employee's classroom or school pursuant to paragraph (3)(a) or  
15 paragraph (3)(b). Charter schools may participate in the  
16 program by using the district's Merit Award Program plan or  
17 may adopt an alternative Merit Award Program plan as provided  
18 in paragraph (5)(b). All instructional personnel, as defined  
19 in s. 1012.01(2)(a)-(d), and school-based administrators, as  
20 defined in s. 1012.01(3)(c), are eligible as individuals or as  
21 instructional teams to receive merit awards, with the  
22 exception of substitute teachers. In order to receive a merit  
23 award as an instructional team under this section, team  
24 members must be assessed on the performance of students  
25 assigned to the team members' classrooms or within the  
26 members' academic sphere of responsibility. The district  
27 school board may not require instructional personnel or  
28 school-based administrators to apply for an award, or make any  
29 presentation, in order to be assessed for or receive a merit  
30 award. A plan is subject to negotiation as provided in chapter  
31 447. The Department of Education may not distribute any

1 portion of pro rata funding to a district, or to a district  
2 for a charter school within the district, if the district or  
3 charter school chooses not to adopt a Merit Award Program plan  
4 under this section. Undistributed funds shall be considered  
5 unobligated and shall revert to the fund from which the  
6 appropriation was made in accordance with s. 216.301.

7 (2) PAY SUPPLEMENTS STRUCTURE.--Merit Award Program  
8 plans shall provide for the annual disbursement of merit-based  
9 pay supplements to high-performing employees in the manner  
10 described in this subsection.

11 (a) Each Merit Award Program plan must designate the  
12 top instructional personnel and school-based administrators to  
13 be outstanding performers and pay to each such employee who  
14 remains employed by a Florida public school, by September 1 of  
15 the following school year, a merit-based pay supplement of at  
16 least 5 percent of the average teacher's salary for that  
17 school district not to exceed 10 percent of the average  
18 teacher's salary for that school district. The amount of a  
19 merit award may not be based on length of service or base  
20 salary. Pay supplements shall be funded from moneys  
21 appropriated by the Legislature under this section and from  
22 any additional funds that are designated by the district for  
23 the Merit Award Program. School districts are not required to  
24 implement this section unless the program is specifically  
25 funded by the Legislature. By October 1 of each year, each  
26 school district shall provide documentation to the Department  
27 of Education concerning the expenditure of legislative  
28 appropriations for merit-based pay, and shall refund  
29 undisbursed appropriations to the department. If such  
30 undisbursed funds are not remitted to the department by  
31 November 1, the department shall withhold an equivalent amount

1 from the district's allocation of appropriations made under s.  
2 1011.62.

3 (b) A Merit Award Program plan may include additional  
4 pay supplements under this section for employees who manifest  
5 exemplary work attendance.

6 (c) Merit-based pay supplements shall be awarded in  
7 addition to any general increase or other adjustments to  
8 salaries which are made by a school district. An employee's  
9 eligibility for or receipt of merit-based pay supplements  
10 shall not adversely affect that employee's opportunity to  
11 qualify for or to receive any other compensation that is made  
12 generally available to other similarly situated district  
13 school board employees.

14 (3) ASSESSMENT.--

15 (a) The school district's assessment of an  
16 instructional personnel staff member must consider the  
17 performance of students assigned to his or her classroom or,  
18 in the case of co-teaching or team teaching, within his or her  
19 academic sphere of responsibility.

20 (b) The assessment of a school-based administrator  
21 must consider the performance of students assigned to his or  
22 her school.

23 (c) A district school board must evaluate student  
24 performance for purposes of this section based upon student  
25 academic proficiency or gains in learning or both, as measured  
26 by statewide standardized tests, or, for subjects and grades  
27 that are not measured by the statewide assessment program, by  
28 national, state, or district-determined testing instruments  
29 that measure the Sunshine State Standards, curriculum  
30 frameworks, or course descriptions for the content area  
31 assigned and grade level taught. This portion of the employee

1 assessment shall be weighted at not less than 60 percent of  
2 the overall evaluation.

3 (d) For purposes of this section, measures adopted by  
4 the district school board to assess instructional personnel  
5 and school-based administrators must balance student  
6 performance based on academic proficiency and gains in  
7 learning so that top-performing eligible employees have an  
8 opportunity to receive an award under this section.

9 (e) Using assessment criteria adopted by the district  
10 school board, a professional practices component for the  
11 assessment of instructional personnel must be based on the  
12 principal's assessment of the instructional personnel and the  
13 assessment of school-based administrators must be based on the  
14 district superintendent's assessment of the administrator.  
15 This portion of the employee assessment shall be weighted at  
16 up to 40 percent of the overall evaluation.

17 Performance-related assessment criteria adopted by the  
18 district school board for personnel assessments by principals  
19 and superintendents shall include:

20 1. The ability to maintain appropriate discipline.

21 2. The outstanding knowledge of subject matter, with  
22 the ability to plan and deliver high-quality instruction and  
23 the high-quality use of technology in the classroom.

24 3. The ability to use diagnostic and assessment data  
25 and design and to implement differentiated instructional  
26 strategies in order to meet individual student needs for  
27 remediation or acceleration.

28 4. The ability to establish and maintain a positive  
29 collaborative relationship with students' families for the  
30 purpose of increasing student achievement.

31

1           5. The Florida Educator Accomplished Practices and any  
2 other professional competencies, responsibilities, and  
3 requirements, as established by rules of the State Board of  
4 Education and policies of the district school board.

5           6. For school-based administrators, in addition to  
6 subparagraphs 1.-5.:

7           a. The ability to manage human, financial, and  
8 material resources so as to maximize the share of resources  
9 used for direct instruction, as opposed to overhead or other  
10 purposes; and

11           b. The ability to recruit and retain high-performing  
12 teachers.

13           7. Other appropriate factors identified by the  
14 district school board.

15           (4) DUTIES.--

16           (a) Each district school board shall inform its  
17 employees of the criteria and procedures associated with the  
18 school district's Merit Award Program plan.

19           (b)1. Upon request, the department shall provide  
20 technical assistance to school districts for the purpose of  
21 aiding the development of Merit Award Program plans. The  
22 advice and recommendations offered by the department under  
23 this paragraph are not subject to the requirements of chapter  
24 120.

25           2. The department shall collect and disseminate best  
26 practices for district-determined testing instruments and  
27 Merit Award Program plans.

28           (5) REVIEW OF PERFORMANCE-BASED PAY PLANS.--

29           (a) Each participating district school board must  
30 submit its Merit Award Program plan to the Commissioner of  
31 Education for review by October 1 of each year. The plan must

1 include the negotiated, district-adopted plan or charter  
2 school adopted plan if the district does not submit a plan  
3 intended for use in the following year. The commissioner shall  
4 complete a review of each plan submitted and determine  
5 compliance with the requirements of this section by November  
6 15 of each year. If a submitted plan fails to meet the  
7 requirements of this section, the commissioner must identify  
8 in writing the specific revisions that are required. Revised  
9 plans must be finalized and resubmitted by a school district,  
10 or by a charter school if the district does not submit a plan,  
11 for the commissioner's review by January 31 of each year. The  
12 commissioner shall certify those school district or charter  
13 school plans that do not comply with this section to the  
14 Governor, the President of the Senate, and the Speaker of the  
15 House of Representatives by February 15 of each year.

16 (b) Any charter school that does not follow the school  
17 district's salary schedule may adopt its own performance-based  
18 plan in accordance with this section. Charter school proposals  
19 shall be included with the school district plans or may be  
20 submitted independently if the district does not submit a  
21 plan.

22 (c) Each district school board shall establish a  
23 procedure to annually review both the assessment and  
24 compensation components of its plan in order to determine  
25 compliance with this section. After this review and by October  
26 1 of each year, the district school board shall submit a  
27 report to the Commissioner of Education, along with supporting  
28 documentation that will enable the commissioner to verify the  
29 district's compliance with this section during the prior  
30 school year. The commissioner shall submit a report to the  
31 Governor, the President of the Senate, and the Speaker of the



1 House of Representatives certifying those school district or  
2 charter school plans that do not comply with this section or  
3 whose plans were not implemented in accordance with this  
4 section by December 1 of each year.

5 (d) For purposes of the 2007-2008 school year, the  
6 plan submitted as required in paragraph (a) applies to the  
7 2007-2008 school year as well as the 2008-2009 school year.  
8 Thereafter, all plans submitted and approved within the  
9 timelines set forth in paragraph (a) apply to the following  
10 school year.

11 (6) SUBSEQUENT REVISIONS OF APPROVED PLANS.--Any  
12 revision to an approved Merit Award Program plan must be  
13 approved by the district school board and reviewed by the  
14 commissioner to determine compliance with this section.

15 (7) RULEMAKING.--The State Board of Education shall  
16 adopt rules relating to the calculation of average teacher  
17 salaries per district, reporting formats, and the review of  
18 plan procedures pursuant to ss. 120.536(1) and 120.54 for  
19 purposes of administering this section. The State Board of  
20 Education must initiate the rulemaking process within 30 days  
21 after this act becomes law.

22 Section 2. Beginning with the 2007-2008 school year,  
23 school districts that participate in the Merit Award Program  
24 under s. 1012.225, Florida Statutes, must be able to  
25 administer end-of-course examinations based on the Sunshine  
26 State Standards in order to measure a student's understanding  
27 and mastery of the entire course in all grade groupings and  
28 subjects for any year in which the districts participate in  
29 the program. The statewide standardized assessment, College  
30 Board Advanced Placement Examination, International  
31 Baccalaureate examination, Advanced International Certificate

1 of Education examination, or examinations resulting in  
2 national industry certification recognized by the Agency for  
3 Workforce Innovation satisfy the requirements of this section  
4 for the respective grade groupings and subjects assessed by  
5 these examinations and assessments.

6 Section 3. Paragraph (c) is added to subsection (2) of  
7 section 447.403, Florida Statutes, to read:

8 447.403 Resolution of impasses.--

9 (2)

10 (c) If the district school board is the public  
11 employer and an impasse is declared under subsection (1)  
12 involving a dispute of a Merit Award Program Plan under s.  
13 1012.225, no mediator or special magistrate shall be appointed  
14 unless both parties agree to such an appointment. If a party  
15 does not agree to an appointment, the appointment shall be  
16 considered waived and the parties shall proceed directly to  
17 resolution of the impasse by the district school board  
18 pursuant to paragraph (4)(d).

19 Section 4. From the general revenue funds appropriated  
20 pursuant to Specific Appropriation 91 in section 2 of chapter  
21 2006-25, Laws of Florida, the sum of \$147,500,000 is rescinded  
22 and \$130,517,222 shall revert unallocated to the General  
23 Revenue Fund and \$16,982,778 shall revert unallocated to the  
24 Principal State School Trust Fund on the effective date of  
25 this section, and the following proviso language following  
26 Specific Appropriation 91 in section 2 of chapter 2006-25,  
27 Laws of Florida, is repealed:

28  
29 From the funds in Specific Appropriation 91, \$147,500,000 is  
30 provided for the Special Teachers are Rewarded performance pay  
31 plan (STAR plan). Funds shall be distributed to school

1 | districts for performance pay rewards to instructional  
2 | personnel as defined in section 1012.01(2) (a)-(d), Florida  
3 | Statutes, in all K-12 schools in the district, in accordance  
4 | with the requirements of section 1012.22, Florida Statutes.  
5 | STAR Plan funds shall be allocated based on each district's  
6 | proportion of the state total K-12 base funding, subject to  
7 | review and approval by the State Board of Education of the  
8 | district's STAR plan. The district's STAR plan may include  
9 | information from the district's instructional personnel  
10 | assessment system, and shall include instructional personnel  
11 | evaluation based on the performance of their students. The  
12 | Department of Education shall develop model methodologies that  
13 | ensure fairness and equity for all instructional personnel,  
14 | and shall provide technical assistance upon request.

15 |  
16 | Each school district that chooses to participate in the STAR  
17 | Plan shall submit its comprehensive STAR plan, which shall  
18 | include rewards for elementary, middle, and high school  
19 | instructional personnel, to the State Board of Education by  
20 | December 31, 2006. Any charter school that does not follow the  
21 | district's salary schedule may submit a separate proposal with  
22 | the district's plan. Charter school proposals shall be  
23 | included with the district plans or may be submitted  
24 | independently if the district does not submit a plan.

25 | Districts that do not submit a plan by December 31, 2006,  
26 | shall not be eligible to receive STAR Plan funds. The State  
27 | Board shall review each district's STAR Plan within 45 days of  
28 | receipt and shall approve the plan or request revisions. If  
29 | requesting revisions, the State Board must identify the  
30 | specific area(s) of the proposed plan needing revision.

31 | Districts must submit their revised plan by March 1, 2007. The

1 State Board shall review the revised plan and may either  
2 approve the revised plan or deny the district eligibility to  
3 receive STAR Plan funds for the 2006-2007 fiscal year. STAR  
4 Plan funds shall not be recalculated during the fiscal year  
5 except that funds allocated for districts that fail to adopt  
6 approved STAR Plans by April 1, 2007, shall be redistributed  
7 to those districts that have approved plans in place by the  
8 required date. The redistribution calculation shall be  
9 verified by the Florida Education Finance Program  
10 Appropriation Allocation Conference.

11

12 District STAR Plans must meet the following guidelines:

13

14 1. Eligibility - All instructional personnel are  
15 automatically eligible to receive rewards for improved student  
16 achievement without having to apply.

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18 2. Determination of number of rewards - The district plan  
19 shall utilize funds received under this program for rewards of  
20 at least 5 percent of the base pay of the best performing 25  
21 percent of instructional personnel. Districts shall use any  
22 remaining funds to provide bonuses to additional instructional  
23 personnel or school-based leaders pursuant to their plans.  
24 District school boards are encouraged to provide additional  
25 rewards to instructional personnel they determine to be  
26 outstanding. District school boards shall distribute funds for  
27 State Board approved charter school plans to charter schools  
28 based on each charter school's proportion of the district's  
29 total K-12 base funding.

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31

1 3. Evaluation instrument - Each district school board shall  
2 select or develop an evaluation instrument. The instrument's  
3 primary determining factor shall be the evaluation of improved  
4 student achievement. The instrument's factors shall be scored  
5 using the following categories, or categories that are  
6 substantially similar in number and connotation:  
7 unsatisfactory, needs improvement, satisfactory,  
8 high-performing, and outstanding. Instructional personnel must  
9 receive no unsatisfactory or needs improvement ratings and may  
10 receive no more than one satisfactory rating on the areas  
11 evaluated in order to receive a reward.

12  
13 4. Instructional personnel evaluation based on student  
14 performance - District school boards shall determine  
15 appropriate methods to evaluate instructional personnel based  
16 on the performance of their students. The methods must measure  
17 improved student achievement during the course of the school  
18 year; and must be approved by the State Board of Education.

19 a. Evaluation of improved student achievement for  
20 instructional personnel linked by course numbers to  
21 instruction in reading or math shall be determined by a  
22 standardized test.

23 b. Evaluation of improved student achievement for  
24 instructional personnel not linked by course numbers to  
25 instruction in reading or math shall be determined by  
26 instruments that measure the Sunshine State Standards for the  
27 area, including challenging grade-level content and critical  
28 thinking skills. District school boards shall develop methods  
29 to evaluate improved student achievement in specialized areas,  
30 including exceptional student education, fine arts, career and  
31

1 technical education, and other specialties so that all  
2 instructional personnel are eligible for rewards.

3 c. Evaluation of improved student achievement for  
4 secondary instructional personnel linked by course number to  
5 instruction in social studies or science may be assessed by a  
6 standardized test; by linking improved student achievement in  
7 reading or mathematics of the students enrolled in the  
8 instructional personnel's social studies or science class, as  
9 measured by a standardized test; or by instruments that  
10 measure the Sunshine State Standards for the area, including  
11 challenging grade-level content and critical thinking skills.

12  
13 District school board STAR Plan proposals may include a  
14 methodology for performance pay rewards for district-selected  
15 school-based leaders who supervise or directly assist the  
16 instructional personnel whose student achievement results in a  
17 STAR Plan reward.

18 Section 5. (1) The recurring sum of \$130,517,222 from  
19 the General Revenue Fund and the nonrecurring sum of  
20 \$16,982,778 from the Principal State School Trust Fund is  
21 appropriated to the Department of Education for the 2006-2007  
22 fiscal year as a supplemental appropriation for Aid to Local  
23 Governments, Grants and Aids -- Florida Education Finance  
24 Program. These funds shall be allocated among school districts  
25 based on each district's proportion of the state total K-12  
26 base funding and shall be expended for any of the following  
27 purposes:

28 (a) To fund Special Teachers Are Rewarded (STAR)  
29 performance pay plans that are implemented based on proviso  
30 language following Specific Appropriation 91 in section 2 of  
31 chapter 2006-25, Laws of Florida, in effect as of July 1,

1 2006. A district that has been requested by the State Board of  
2 Education to submit a revised STAR plan must submit its  
3 revised plan by May 1, 2007. The state board shall review the  
4 revised plan and may either approve the revised plan or deny  
5 the district eligibility to receive STAR plan funds for the  
6 2006-2007 fiscal year;

7 (b) To fund performance pay policies adopted pursuant  
8 to s. 1012.22, Florida Statutes, if a district school board  
9 amends its policy to conform to s. 1012.225(1), (2), and (3),  
10 Florida Statutes, prior to the disbursement of funds. However,  
11 a school district that does not amend its plan as described in  
12 this subsection may disburse funds only in an amount equal to  
13 the amount of funds the district disbursed under its policy  
14 for the 2005-2006 school year; or

15 (c) To fund performance pay policies approved by the  
16 district school board which meet the requirements of s.  
17 1012.225(1), (2), and (3), Florida Statutes.

18 (2) The amended policies adopted under paragraph  
19 (1)(b) and the policies adopted under paragraph (1)(c) are  
20 subject to negotiation as provided in chapter 447, Florida  
21 Statutes, except that if an impasse occurs pursuant to s.  
22 447.403, Florida Statutes, a mediator or special magistrate  
23 shall be appointed only if both parties agree to such  
24 appointment. If a party does not agree to such appointment,  
25 the appointment shall be considered waived and the parties  
26 shall proceed directly to resolution of the impasse by the  
27 district school board pursuant to s. 447.403(4)(d), Florida  
28 Statutes. School districts receiving funds under this section  
29 must comply with s. 1012.225(5)(c), Florida Statutes.

30 (3) Each school district shall refund the undisbursed  
31 balance of its allotment from this appropriation as of

1 September 1, 2007, to the Department of Education. If such  
2 funds are not remitted to the department by October 1, 2007,  
3 the department shall withhold an equivalent amount from the  
4 district's allocation from the Florida Education Finance  
5 Program for the 2007-2008 fiscal year.

6 Section 6. Section 3 of chapter 2006-26, Laws of  
7 Florida, is repealed.

8 Section 7. Effective June 30, 2007, s.  
9 1012.22(1)(c)4., Florida Statutes, is repealed. Rules adopted  
10 by the State Board of Education pursuant to s. 1012.22,  
11 Florida Statutes, which are in conflict with this act are  
12 suspended.

13 Section 8. Except as otherwise expressly provided in  
14 this act, this act shall take effect upon becoming a law.  
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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   CS for SB 1226

4 The Committee Substitute:

5 -Requires school districts to adopt plans for outstanding  
6 performers to receive a merit-based pay supplement of at least  
7 5 percent, but no more than 10 percent of the district average  
8 teacher salary;

9 -Revises the criteria for determining eligibility for the  
10 merit-based pay supplements to require at least 60 percent of  
11 the overall personnel evaluation to relate to student  
12 performance and up to 40 percent to relate to professional  
13 practices;

14 -Provides that districts determine eligibility for the  
15 merit-based pay supplement based upon student academic  
16 proficiency, learning gains, or both, as measured by statewide  
17 standardized assessments and local district-determined  
18 assessments, as well as other performance factors;

19 -Requires districts that participate in the merit award  
20 program to be able to administer end-of-course examinations in  
21 all grades and subjects by the 2007-2008 school year and  
22 identifies assessments that already meet the requirement;

23 -Provides that if districts choose to use funds for STAR  
24 plans, they have until May 1, 2007, to submit revised STAR  
25 plans to the State Board of Education for approval;

26 -Permits a district to fund a performance pay plan adopted  
27 under s. 1012.22, F.S., if the district amends the plan to  
28 conform to the bill. Otherwise, a district may only disburse  
29 an amount equal to what the district disbursed under the plan  
30 for the 2005-2006 school year;

31 -Provides that districts are not required to implement the  
merit award program unless it is funded by the Legislature;

-Eliminates the requirement for districts to designate at  
least 20 percent, but no more than 80 percent of the  
district's instructional and school administrative personnel  
as top performers; and

-Clarifies the amount and the funding source for the  
rescission, reversion, and reappropriation of the \$147.5  
million appropriation for the 2006-2007 merit program.