

1
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

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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

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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

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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.

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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

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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

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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

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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, the dispute is subject to an expedited impasse
14 hearing. Notwithstanding subsections (3), (4), and (5), and
15 the rules adopted by the commission, the following procedures
16 shall apply:

17 1.a. The commission shall furnish the names of seven
18 special magistrates within 5 days after receiving notice of
19 impasse. If the parties are unable to agree upon a special
20 magistrate within 5 days after the date of the letter
21 transmitting the list of choices, the commission shall
22 immediately appoint a special magistrate. The special
23 magistrate shall set the hearing, which shall be held no later
24 than 15 days after the date of appointment of the special
25 magistrate. Within 5 days after the date of appointment of a
26 special magistrate, each party shall serve upon the special
27 magistrate and upon each other party a written list of issues
28 at impasse.

29 b. At the close of the hearing, the parties shall
30 summarize their arguments and may provide a written memorandum
31 in support of their positions.

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1 c. Within 10 days after the close of the hearing, the
2 special magistrate shall transmit a recommended decision to
3 the commission and the parties.

4 d. The recommended decision of the special magistrate
5 shall be deemed accepted by the parties, except as to those
6 recommendations that a party specifically rejects, by filing a
7 written notice with the commission and serving a copy on the
8 other party within 5 days after the date of the recommended
9 decision.

10 2. If a party rejects any part of the recommended
11 decision of the special magistrate, the parties shall proceed
12 directly to resolution of the impasse by the district school
13 board pursuant to paragraph (4)(d).

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

23
24 From the funds in Specific Appropriation 91, \$147,500,000 is
25 provided for the Special Teachers are Rewarded performance pay
26 plan (STAR plan). Funds shall be distributed to school
27 districts for performance pay rewards to instructional
28 personnel as defined in section 1012.01(2) (a)-(d), Florida
29 Statutes, in all K-12 schools in the district, in accordance
30 with the requirements of section 1012.22, Florida Statutes.
31 STAR Plan funds shall be allocated based on each district's

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1 proportion of the state total K-12 base funding, subject to
2 review and approval by the State Board of Education of the
3 district's STAR plan. The district's STAR plan may include
4 information from the district's instructional personnel
5 assessment system, and shall include instructional personnel
6 evaluation based on the performance of their students. The
7 Department of Education shall develop model methodologies that
8 ensure fairness and equity for all instructional personnel,
9 and shall provide technical assistance upon request.
10
11 Each school district that chooses to participate in the STAR
12 Plan shall submit its comprehensive STAR plan, which shall
13 include rewards for elementary, middle, and high school
14 instructional personnel, to the State Board of Education by
15 December 31, 2006. Any charter school that does not follow the
16 district's salary schedule may submit a separate proposal with
17 the district's plan. Charter school proposals shall be
18 included with the district plans or may be submitted
19 independently if the district does not submit a plan.
20 Districts that do not submit a plan by December 31, 2006,
21 shall not be eligible to receive STAR Plan funds. The State
22 Board shall review each district's STAR Plan within 45 days of
23 receipt and shall approve the plan or request revisions. If
24 requesting revisions, the State Board must identify the
25 specific area(s) of the proposed plan needing revision.
26 Districts must submit their revised plan by March 1, 2007. The
27 State Board shall review the revised plan and may either
28 approve the revised plan or deny the district eligibility to
29 receive STAR Plan funds for the 2006-2007 fiscal year. STAR
30 Plan funds shall not be recalculated during the fiscal year
31 except that funds allocated for districts that fail to adopt

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1 approved STAR Plans by April 1, 2007, shall be redistributed
2 to those districts that have approved plans in place by the
3 required date. The redistribution calculation shall be
4 verified by the Florida Education Finance Program
5 Appropriation Allocation Conference.

6
7 District STAR Plans must meet the following guidelines:

8
9 1. Eligibility - All instructional personnel are
10 automatically eligible to receive rewards for improved student
11 achievement without having to apply.

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

25
26 3. Evaluation instrument - Each district school board shall
27 select or develop an evaluation instrument. The instrument's
28 primary determining factor shall be the evaluation of improved
29 student achievement. The instrument's factors shall be scored
30 using the following categories, or categories that are
31 substantially similar in number and connotation:

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1 | unsatisfactory, needs improvement, satisfactory,
2 | high-performing, and outstanding. Instructional personnel must
3 | receive no unsatisfactory or needs improvement ratings and may
4 | receive no more than one satisfactory rating on the areas
5 | evaluated in order to receive a reward.

6 |
7 | 4. Instructional personnel evaluation based on student
8 | performance - District school boards shall determine
9 | appropriate methods to evaluate instructional personnel based
10 | on the performance of their students. The methods must measure
11 | improved student achievement during the course of the school
12 | year; and must be approved by the State Board of Education.

13 | a. Evaluation of improved student achievement for
14 | instructional personnel linked by course numbers to
15 | instruction in reading or math shall be determined by a
16 | standardized test.

17 | b. Evaluation of improved student achievement for
18 | instructional personnel not linked by course numbers to
19 | instruction in reading or math shall be determined by
20 | instruments that measure the Sunshine State Standards for the
21 | area, including challenging grade-level content and critical
22 | thinking skills. District school boards shall develop methods
23 | to evaluate improved student achievement in specialized areas,
24 | including exceptional student education, fine arts, career and
25 | technical education, and other specialties so that all
26 | instructional personnel are eligible for rewards.

27 | c. Evaluation of improved student achievement for
28 | secondary instructional personnel linked by course number to
29 | instruction in social studies or science may be assessed by a
30 | standardized test; by linking improved student achievement in
31 | reading or mathematics of the students enrolled in the

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1 instructional personnel's social studies or science class, as
2 measured by a standardized test; or by instruments that
3 measure the Sunshine State Standards for the area, including
4 challenging grade-level content and critical thinking skills.

5
6 District school board STAR Plan proposals may include a
7 methodology for performance pay rewards for district-selected
8 school-based leaders who supervise or directly assist the
9 instructional personnel whose student achievement results in a
10 STAR Plan reward.

11 Section 5. (1) The recurring sum of \$130,517,222 from
12 the General Revenue Fund and the nonrecurring sum of
13 \$16,982,778 from the Principal State School Trust Fund is
14 appropriated to the Department of Education for the 2006-2007
15 fiscal year as a supplemental appropriation for Aid to Local
16 Governments, Grants and Aids -- Florida Education Finance
17 Program. These funds shall be allocated among school districts
18 based on each district's proportion of the state total K-12
19 base funding and shall be expended for any of the following
20 purposes:

21 (a) To fund Special Teachers Are Rewarded (STAR)
22 performance pay plans that are implemented based on proviso
23 language following Specific Appropriation 91 in section 2 of
24 chapter 2006-25, Laws of Florida, in effect as of July 1,
25 2006. A district that has been requested by the State Board of
26 Education to submit a revised STAR plan must submit its
27 revised plan by May 1, 2007. The state board shall review the
28 revised plan and may either approve the revised plan or deny
29 the district eligibility to receive STAR plan funds for the
30 2006-2007 fiscal year;

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

9 (c) To fund performance pay policies approved by the
10 district school board which meet the requirements of s.
11 1012.225(1), (2), and (3), Florida Statutes.

12 (2) The amended policies adopted under paragraph
13 (1)(b) and the policies adopted under paragraph (1)(c) are
14 subject to negotiation as provided in chapter 447, Florida
15 Statutes, except that if an impasse occurs pursuant to s.
16 447.403, Florida Statutes, the procedures set forth in s.
17 447.403(2)(c), Florida Statutes, as created by this act, shall
18 apply. School districts receiving funds under this section
19 must comply with s. 1012.225(5)(c), Florida Statutes.

20 (3) Each school district shall refund the undisbursed
21 balance of its allotment from this appropriation as of
22 September 1, 2007, to the Department of Education. If such
23 funds are not remitted to the department by October 1, 2007,
24 the department shall withhold an equivalent amount from the
25 district's allocation from the Florida Education Finance
26 Program for the 2007-2008 fiscal year.

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

29 Section 7. Effective June 30, 2007, s.
30 1012.22(1)(c)4., Florida Statutes, is repealed. Rules adopted
31 by the State Board of Education pursuant to s. 1012.22,

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1 Florida Statutes, which are in conflict with this act are
2 suspended.

3 Section 8. Except as otherwise expressly provided in
4 this act, this act shall take effect upon becoming a law.

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