

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

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29 | for review; requiring the commissioner to identify
30 | required revisions in a district's plan; requiring that
31 | any revision made to a plan be reviewed by the
32 | commissioner; requiring each school board to annually
33 | document its compliance to the Commissioner of Education;
34 | requiring a report to the Governor and the Legislature;
35 | authorizing the State Board of Education to adopt rules;
36 | requiring school districts to be able to administer end-
37 | of-course examinations with certain exceptions; amending
38 | s. 447.403, F.S.; providing a procedure for resolving an
39 | impasse with respect to a dispute involving a Merit Award
40 | Program plan; requiring that a specified portion of
41 | general revenue funds revert to the General Revenue Fund;
42 | repealing a specified portion of Specific Appropriation 91
43 | in s. 2, ch. 2006-25, Laws of Florida; providing an
44 | appropriation and specifying purposes; repealing s. 3, ch.
45 | 2006-26, Laws of Florida, relating to an implementing
46 | provision for the Special Teachers Are Rewarded
47 | performance pay plan (STAR Plan); repealing s.
48 | 1012.22(1)(c)4., F.S., relating to a performance-pay
49 | policy for school administrators and instructional
50 | personnel; suspending rules adopted by the State Board of
51 | Education that are in conflict with such provisions;
52 | providing effective dates.

53 |
54 | Be It Enacted by the Legislature of the State of Florida:

55 |
56 | Section 1. Section 1012.225, Florida Statutes, is created

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57 | to read:

58 | 1012.225 Merit Award Program for instructional personnel
59 | and school-based administrators.--

60 | (1) ELIGIBILITY.--In order to be eligible for funding
61 | under this section, a district school board must adopt a Merit
62 | Award Program plan that provides for an assessment and a merit
63 | award based on the performance of students assigned to the
64 | employee's classroom or school pursuant to paragraph (3)(a) or
65 | paragraph (3)(b). Charter schools may participate in the program
66 | by using the district's Merit Award Program plan or may adopt an
67 | alternative Merit Award Program plan as provided in paragraph
68 | (5)(b). All instructional personnel, as defined in s.
69 | 1012.01(2)(a)-(d), and school-based administrators, as defined
70 | in s. 1012.01(3)(c), are eligible as individuals or as
71 | instructional teams to receive merit awards, with the exception
72 | of substitute teachers. In order to receive a merit award as an
73 | instructional team under this section, team members must be
74 | assessed on the performance of students assigned to the team
75 | members' classrooms or within the members' sphere of academic
76 | responsibility. The district school board may not require
77 | instructional personnel or school-based administrators to apply
78 | for an award, or make any presentation, in order to be assessed
79 | for or receive a merit award. A plan is subject to negotiation
80 | as provided in chapter 447. The Department of Education may not
81 | distribute any portion of pro rata funding to a district, or to
82 | a district for a charter school within the district, if the
83 | district or charter school chooses not to adopt a Merit Award
84 | Program plan under this section. Undistributed funds shall be

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85 considered unobligated and shall revert to the fund from which
86 the appropriation was made in accordance with s. 216.301.

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

91 (a) Each Merit Award Program plan must designate the top
92 instructional personnel and school-based administrators to be
93 outstanding performers and pay to each such employee who remains
94 employed in a Florida public school, by September 1 of the
95 following school year, a merit-based pay supplement of at least
96 5 percent of the average teacher's salary for that school
97 district not to exceed 10 percent of the average teacher's
98 salary for that school district. The amount of a merit award may
99 not be based on length of service or base salary. Pay
100 supplements shall be funded from moneys appropriated by the
101 Legislature under this section and from any additional funds
102 that are designated by the district for the Merit Award Program.
103 School districts are not required to implement this section
104 unless the program is specifically funded by the Legislature. By
105 October 1 of each year, each school district shall provide
106 documentation to the Department of Education concerning the
107 expenditure of legislative appropriations for merit-based pay,
108 and shall refund undisbursed appropriations to the department.
109 If such undisbursed funds are not remitted to the department by
110 November 1, the department shall withhold an equivalent amount
111 from the district's allocation of appropriations made under s.
112 1011.62.

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

116 (c) Merit-based pay supplements shall be awarded in
 117 addition to any general increase or other adjustments to
 118 salaries which are made by a school district. An employee's
 119 eligibility for or receipt of merit-based pay supplements shall
 120 not adversely affect that employee's opportunity to qualify for
 121 or to receive any other compensation that is made generally
 122 available to other similarly situated district school board
 123 employees.

124 (3) ASSESSMENT.--

125 (a) The school district's assessment of an instructional
 126 personnel staff member must consider the performance of students
 127 assigned to his or her classroom or, in the case of co-teaching
 128 or team teaching, within his or her sphere of academic
 129 responsibility.

130 (b) The assessment of a school-based administrator must
 131 consider the performance of students assigned to his or her
 132 school.

133 (c) A district school board must evaluate student
 134 performance for purposes of this section based upon student
 135 academic proficiency or gains in learning or both, as measured
 136 by statewide standardized tests, or, for subjects and grades
 137 that are not measured by the statewide assessment program, by
 138 national, state, or district-determined testing instruments that
 139 measure the Sunshine State Standards, curriculum frameworks, or
 140 course descriptions for the content area assigned and grade

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141 level taught. This portion of the employee assessment shall be
142 weighted at not less than 60 percent of the overall evaluation.

143 (d) For purposes of this section, measures adopted by the
144 district school board to assess instructional personnel and
145 school-based administrators must balance student performance
146 based on academic proficiency and gains in learning so that top-
147 performing eligible employees have an opportunity to receive an
148 award under this section.

149 (e) Using assessment criteria adopted by the district
150 school board, a professional practices component for the
151 assessment of instructional personnel must be based on the
152 principal's assessment of the instructional personnel and the
153 assessment of school-based administrators must be based on the
154 district superintendent's assessment of the administrator. This
155 portion of the employee assessment shall be weighted at up to 40
156 percent of the overall evaluation. Performance-related
157 assessment criteria adopted by the district school board for
158 personnel assessments by principals and superintendents shall
159 include:

- 160 1. The ability to maintain appropriate discipline.
161 2. The outstanding knowledge of subject matter, with the
162 ability to plan and deliver high-quality instruction and the
163 high-quality use of technology in the classroom.
164 3. The ability to use diagnostic and assessment data and
165 design and to implement differentiated instructional strategies
166 in order to meet individual student needs for remediation or
167 acceleration.
168 4. The ability to establish and maintain a positive

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169 collaborative relationship with students' families for the
170 purpose of increasing student achievement.

171 5. The Florida Educator Accomplished Practices and any
172 other professional competencies, responsibilities, and
173 requirements, as established by rules of the State Board of
174 Education and policies of the district school board.

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

177 a. The ability to manage human, financial, and material
178 resources so as to maximize the share of resources used for
179 direct instruction, as opposed to overhead or other purposes;
180 and

181 b. The ability to recruit and retain high-performing
182 teachers.

183 7. Other appropriate factors identified by the district
184 school board.

185 (4) DUTIES.--

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

189 (b)1. Upon request, the department shall provide technical
190 assistance to school districts for the purpose of aiding the
191 development of Merit Award Program plans. The advice and
192 recommendations offered by the department under this paragraph
193 are not subject to the requirements of chapter 120.

194 2. The department shall collect and disseminate best
195 practices for district-determined testing instruments and Merit
196 Award Program plans.

197 (5) REVIEW OF PERFORMANCE-BASED PAY PLANS.--
 198 (a) Each participating district school board must submit
 199 its Merit Award Program plan to the Commissioner of Education
 200 for review by October 1 of each year. The plan must include the
 201 negotiated, district-adopted plan or charter school adopted plan
 202 if the district does not submit a plan intended for use in the
 203 following year. The commissioner shall complete a review of each
 204 plan submitted and determine compliance with the requirements of
 205 this section by November 15 of each year. If a submitted plan
 206 fails to meet the requirements of this section, the commissioner
 207 must identify in writing the specific revisions that are
 208 required. Revised plans must be finalized and resubmitted by a
 209 school district, or by a charter school if the district does not
 210 submit a plan, for the commissioner's review by January 31 of
 211 each year. The commissioner shall certify those school district
 212 or charter school plans that do not comply with this section to
 213 the Governor, the President of the Senate, and the Speaker of
 214 the House of Representatives by February 15 of each year.
 215 (b) Any charter school that does not follow the school
 216 district's salary schedule may adopt its own performance-based
 217 plan in accordance with this section. Charter school proposals
 218 shall be included with the school district plans or may be
 219 submitted independently if the district does not submit a plan.
 220 (c) Each district school board shall establish a procedure
 221 to annually review both the assessment and compensation
 222 components of its plan in order to determine compliance with
 223 this section. After this review and by October 1 of each year,
 224 the district school board shall submit a report to the

225 Commissioner of Education, along with supporting documentation
 226 that will enable the commissioner to verify the district's
 227 compliance with this section during the prior school year. The
 228 commissioner shall submit a report to the Governor, the
 229 President of the Senate, and the Speaker of the House of
 230 Representatives certifying those school district or charter
 231 school plans that do not comply with this section or whose plans
 232 were not implemented in accordance with this section by December
 233 1 of each year.

234 (d) For purposes of the 2007-2008 school year, the plan
 235 submitted as required in paragraph (a) applies to the 2007-2008
 236 school year as well as the 2008-2009 school year. Thereafter,
 237 all plans submitted and approved within the timelines set forth
 238 in paragraph (a) apply to the following school year.

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

243 (7) RULEMAKING.--The State Board of Education shall adopt
 244 rules relating to the calculation of average teacher salaries
 245 per district, reporting formats, and the review of plan
 246 procedures pursuant to ss. 120.536(1) and 120.54 for purposes of
 247 administering this section. The State Board of Education must
 248 initiate the rulemaking process within 30 days after this
 249 section becomes law.

250 Section 2. Beginning with the 2007-2008 school year,
 251 school districts that participate in the Merit Award Program
 252 under s. 1012.225, Florida Statutes, must be able to administer

253 end-of-course examinations based on the Sunshine State Standards
 254 in order to measure a student's understanding and mastery of the
 255 entire course in all grade groupings and subjects for any year
 256 in which the districts participate in the program. The statewide
 257 standardized assessment, College Board Advanced Placement
 258 Examination, International Baccalaureate examination, Advanced
 259 International Certificate of Education examination, or
 260 examinations resulting in national industry certification
 261 recognized by the Agency for Workforce Innovation satisfy the
 262 requirements of this section for the respective grade groupings
 263 and subjects assessed by these examinations and assessments.

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

266 447.403 Resolution of impasses.--

267 (2)

268 (c) If the district school board is the public employer
 269 and an impasse is declared under subsection (1) involving a
 270 dispute of a Merit Award Program plan under s. 1012.225, no
 271 mediator or special magistrate shall be appointed unless both
 272 parties agree to such an appointment. If a party does not agree
 273 to an appointment, the appointment shall be considered waived
 274 and the parties shall proceed directly to resolution of the
 275 impasse by the district school board pursuant to paragraph
 276 (4) (d) .

277 Section 4. From the general revenue funds appropriated
 278 pursuant to Specific Appropriation 91 in section 2 of chapter
 279 2006-25, Laws of Florida, the sum of \$147,500,000 is rescinded
 280 and shall revert unallocated to the General Revenue Fund on the

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281 effective date of this section, and the following proviso
282 language following Specific Appropriation 91 in section 2 of
283 chapter 2006-25, Laws of Florida, is repealed:

284
285 From the funds in Specific Appropriation 91, \$147,500,000 is
286 provided for the Special Teachers are Rewarded performance pay
287 plan (STAR plan). Funds shall be distributed to school districts
288 for performance pay rewards to instructional personnel as
289 defined in section 1012.01(2) (a)-(d), Florida Statutes, in all
290 K-12 schools in the district, in accordance with the
291 requirements of section 1012.22, Florida Statutes. STAR Plan
292 funds shall be allocated based on each district's proportion of
293 the state total K-12 base funding, subject to review and
294 approval by the State Board of Education of the district's STAR
295 plan. The district's STAR plan may include information from the
296 district's instructional personnel assessment system, and shall
297 include instructional personnel evaluation based on the
298 performance of their students. The Department of Education shall
299 develop model methodologies that ensure fairness and equity for
300 all instructional personnel, and shall provide technical
301 assistance upon request.

302
303 Each school district that chooses to participate in the STAR
304 Plan shall submit its comprehensive STAR plan, which shall
305 include rewards for elementary, middle, and high school
306 instructional personnel, to the State Board of Education by
307 December 31, 2006. Any charter school that does not follow the
308 district's salary schedule may submit a separate proposal with

309 the district's plan. Charter school proposals shall be included
310 with the district plans or may be submitted independently if the
311 district does not submit a plan. Districts that do not submit a
312 plan by December 31, 2006, shall not be eligible to receive STAR
313 Plan funds. The State Board shall review each district's STAR
314 Plan within 45 days of receipt and shall approve the plan or
315 request revisions. If requesting revisions, the State Board must
316 identify the specific area(s) of the proposed plan needing
317 revision. Districts must submit their revised plan by March 1,
318 2007. The State Board shall review the revised plan and may
319 either approve the revised plan or deny the district eligibility
320 to receive STAR Plan funds for the 2006-2007 fiscal year. STAR
321 Plan funds shall not be recalculated during the fiscal year
322 except that funds allocated for districts that fail to adopt
323 approved STAR Plans by April 1, 2007, shall be redistributed to
324 those districts that have approved plans in place by the
325 required date. The redistribution calculation shall be verified
326 by the Florida Education Finance Program Appropriation
327 Allocation Conference.

328

329 District STAR Plans must meet the following guidelines:

330

331 1. Eligibility - All instructional personnel are automatically
332 eligible to receive rewards for improved student achievement
333 without having to apply.

334

335 2. Determination of number of rewards - The district plan shall
336 utilize funds received under this program for rewards of at

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337 | least 5 percent of the base pay of the best performing 25
338 | percent of instructional personnel. Districts shall use any
339 | remaining funds to provide bonuses to additional instructional
340 | personnel or school-based leaders pursuant to their plans.
341 | District school boards are encouraged to provide additional
342 | rewards to instructional personnel they determine to be
343 | outstanding. District school boards shall distribute funds for
344 | State Board approved charter school plans to charter schools
345 | based on each charter school's proportion of the district's
346 | total K-12 base funding.

347 |
348 | 3. Evaluation instrument - Each district school board shall
349 | select or develop an evaluation instrument. The instrument's
350 | primary determining factor shall be the evaluation of improved
351 | student achievement. The instrument's factors shall be scored
352 | using the following categories, or categories that are
353 | substantially similar in number and connotation: unsatisfactory,
354 | needs improvement, satisfactory, high-performing, and
355 | outstanding. Instructional personnel must receive no
356 | unsatisfactory or needs improvement ratings and may receive no
357 | more than one satisfactory rating on the areas evaluated in
358 | order to receive a reward.

359 |
360 | 4. Instructional personnel evaluation based on student
361 | performance - District school boards shall determine appropriate
362 | methods to evaluate instructional personnel based on the
363 | performance of their students. The methods must measure improved
364 | student achievement during the course of the school year; and

365 must be approved by the State Board of Education.

366 a. Evaluation of improved student achievement for
367 instructional personnel linked by course numbers to instruction
368 in reading or math shall be determined by a standardized test.

369 b. Evaluation of improved student achievement for
370 instructional personnel not linked by course numbers to
371 instruction in reading or math shall be determined by
372 instruments that measure the Sunshine State Standards for the
373 area, including challenging grade-level content and critical
374 thinking skills. District school boards shall develop methods to
375 evaluate improved student achievement in specialized areas,
376 including exceptional student education, fine arts, career and
377 technical education, and other specialties so that all
378 instructional personnel are eligible for rewards.

379 c. Evaluation of improved student achievement for
380 secondary instructional personnel linked by course number to
381 instruction in social studies or science may be assessed by a
382 standardized test; by linking improved student achievement in
383 reading or mathematics of the students enrolled in the
384 instructional personnel's social studies or science class, as
385 measured by a standardized test; or by instruments that measure
386 the Sunshine State Standards for the area, including challenging
387 grade-level content and critical thinking skills.

388
389 District school board STAR Plan proposals may include a
390 methodology for performance pay rewards for district-selected
391 school-based leaders who supervise or directly assist the
392 instructional personnel whose student achievement results in a

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393 STAR Plan reward.

394 Section 5. (1) The recurring sum of \$147,500,000 from the
395 General Revenue Fund is appropriated to the Department of
396 Education for the 2006-2007 fiscal year as a supplemental
397 appropriation for Aid to Local Governments, Grants and Aids --
398 Florida Education Finance Program. These funds shall be
399 allocated among school districts based on each district's
400 proportion of the state total K-12 base funding and shall be
401 expended for any of the following purposes:

402 (a) To fund Special Teachers Are Rewarded performance pay
403 plans (STAR Plans) that are implemented based on proviso
404 language following Specific Appropriation 91 in section 2 of
405 chapter 2006-25, Laws of Florida, in effect as of July 1, 2006.
406 A district that has been requested by the State Board of
407 Education to submit a revised STAR Plan must submit its revised
408 plan by May 1, 2007. The state board shall review the revised
409 plan and may either approve the revised plan or deny the
410 district eligibility to receive STAR Plan funds for the 2006-
411 2007 fiscal year.

412 (b) To fund performance pay policies adopted pursuant to
413 s. 1012.22, Florida Statutes, if a district school board amends
414 its policy to conform to s. 1012.225(1), (2), and (3), Florida
415 Statutes, prior to the disbursement of funds. However, a school
416 district that does not amend its plan as described in this
417 paragraph may disburse funds only in an amount equal to the
418 amount of funds the district disbursed under its policy for the
419 2005-2006 school year.

420 (c) To fund performance pay policies approved by the

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421 district school board which meet the requirements of s.
422 1012.225(1), (2), and (3), Florida Statutes.

423 (2) The amended policies adopted under paragraph (1)(b)
424 and the policies adopted under paragraph (1)(c) are subject to
425 negotiation as provided in chapter 447, Florida Statutes, except
426 that if an impasse occurs pursuant to s. 447.403, Florida
427 Statutes, a mediator or special magistrate shall be appointed
428 only if both parties agree to such appointment. If a party does
429 not agree to such appointment, the appointment shall be
430 considered waived and the parties shall proceed directly to
431 resolution of the impasse by the district school board pursuant
432 to s. 447.403(4)(d), Florida Statutes. School districts
433 receiving funds under this section must comply with s.
434 1012.225(5)(c), Florida Statutes.

435 (3) Each school district shall refund the undisbursed
436 balance of its allotment from this appropriation as of September
437 1, 2007, to the Department of Education. If such funds are not
438 remitted to the department by October 1, 2007, the department
439 shall withhold an equivalent amount from the district's
440 allocation from the Florida Education Finance Program for the
441 2007-2008 fiscal year.

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

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

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448 | Section 8. Except as otherwise expressly provided in this
449 | act, this act shall take effect upon becoming a law.