

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

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

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

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

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 \$130,517,222 shall revert unallocated to the General Revenue

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281 Fund and \$16,982,778 shall revert unallocated to the Principal
282 State School Trust Fund on the effective date of this section,
283 and the following proviso language following Specific
284 Appropriation 91 in section 2 of chapter 2006-25, Laws of
285 Florida, is repealed:

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

304
305 Each school district that chooses to participate in the STAR
306 Plan shall submit its comprehensive STAR plan, which shall
307 include rewards for elementary, middle, and high school
308 instructional personnel, to the State Board of Education by

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

330
331 District STAR Plans must meet the following guidelines:

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

336

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

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

361
362 4. Instructional personnel evaluation based on student
363 performance - District school boards shall determine appropriate
364 methods to evaluate instructional personnel based on the

365 performance of their students. The methods must measure improved
366 student achievement during the course of the school year; and
367 must be approved by the State Board of Education.

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

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

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

390
391 District school board STAR Plan proposals may include a
392 methodology for performance pay rewards for district-selected

393 school-based leaders who supervise or directly assist the
394 instructional personnel whose student achievement results in a
395 STAR Plan reward.

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

405 (a) To fund Special Teachers Are Rewarded performance pay
406 plans (STAR Plans) that are implemented based on proviso
407 language following Specific Appropriation 91 in section 2 of
408 chapter 2006-25, Laws of Florida, in effect as of July 1, 2006.
409 A district that has been requested by the State Board of
410 Education to submit a revised STAR Plan must submit its revised
411 plan by May 1, 2007. The state board shall review the revised
412 plan and may either approve the revised plan or deny the
413 district eligibility to receive STAR Plan funds for the 2006-
414 2007 fiscal year.

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

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421 amount of funds the district disbursed under its policy for the
422 2005-2006 school year.

423 (c) To fund performance pay policies approved by the
424 district school board which meet the requirements of s.
425 1012.225(1), (2), and (3), Florida Statutes.

426 (2) The amended policies adopted under paragraph (1)(b)
427 and the policies adopted under paragraph (1)(c) are subject to
428 negotiation as provided in chapter 447, Florida Statutes, except
429 that if an impasse occurs pursuant to s. 447.403, Florida
430 Statutes, a mediator or special magistrate shall be appointed
431 only if both parties agree to such appointment. If a party does
432 not agree to such appointment, the appointment shall be
433 considered waived and the parties shall proceed directly to
434 resolution of the impasse by the district school board pursuant
435 to s. 447.403(4)(d), Florida Statutes. School districts
436 receiving funds under this section must comply with s.
437 1012.225(5)(c), Florida Statutes.

438 (3) Each school district shall refund the undisbursed
439 balance of its allotment from this appropriation as of September
440 1, 2007, to the Department of Education. If such funds are not
441 remitted to the department by October 1, 2007, the department
442 shall withhold an equivalent amount from the district's
443 allocation from the Florida Education Finance Program for the
444 2007-2008 fiscal year.

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

447 Section 7. Effective June 30, 2007, s. 1012.22(1)(c)4.,
448 Florida Statutes, is repealed. Rules adopted by the State Board

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449 | of Education pursuant to s. 1012.22, Florida Statutes, which are
450 | in conflict with this act are suspended.

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