

1 A bill to be entitled
2 An act relating to education funding; amending s. 218.503,
3 F.S.; providing for a reduction in salary for certain
4 school district employees when a state of financial
5 emergency within the district continues beyond a specified
6 period; amending s. 1002.53, F.S.; conforming provisions;
7 amending s. 1002.61, F.S.; increasing the number of
8 students authorized for a summer prekindergarten class;
9 conforming cross-references; amending s. 1002.63, F.S.;
10 eliminating certain eligibility requirements for
11 delivering a prekindergarten program during the school
12 year; amending s. 1002.71, F.S.; providing for separate
13 base student allocations for school-year and summer
14 prekindergarten programs; revising the formula for
15 calculating and reporting full-time equivalent student
16 enrollment; providing certain restrictions with respect to
17 a child who reenrolls in a prekindergarten program;
18 requiring that certain administrative procedures be
19 automated; decreasing the amount that an early learning
20 coalition may expend for administrative purposes; amending
21 s. 1002.73, F.S.; conforming provisions; amending s.
22 1003.03, F.S.; authorizing the Commissioner of Education
23 to recommend a greater reduction in the amount allocated
24 for transfer to a district's fixed capital outlay fund;
25 creating s. 1011.051, F.S.; requiring district school
26 boards to maintain a general fund balance sufficient to
27 address contingencies; specifying procedures for the
28 district to follow if the operating budget falls below

29 | specified percentages; requiring modification of
 30 | collective bargaining agreements under certain
 31 | circumstances; amending s. 1011.71, F.S.; authorizing the
 32 | purchase of certain enterprise resource software
 33 | applications with revenues from the district school tax
 34 | levy; revising provisions and eliminating restrictions
 35 | relating to the expenditure of revenues from the district
 36 | school tax levy; amending s. 1011.73, F.S.; conforming a
 37 | cross-reference; amending s. 1013.64, F.S.; conforming
 38 | provisions; requiring Merit Award Program awards for
 39 | personnel in 2008-2009 to be paid in fiscal year 2009-2010
 40 | to the extent funds are available and appropriated in
 41 | fiscal year 2009-2010; authorizing the waiver of penalty
 42 | for certain audit citations; incorporating by reference
 43 | certain calculations of the Florida Education Finance
 44 | Program for the 2008-2009 fiscal year; repealing s. 11 of
 45 | ch. 2008-142 and s. 2 of ch. 2008-213, Laws of Florida,
 46 | relating to the expiration and reversion of certain
 47 | district school tax provisions, to conform; providing for
 48 | contingent retroactive application of specified provisions
 49 | of the act; providing an effective date.

50 |
 51 | Be It Enacted by the Legislature of the State of Florida:

52 |
 53 | Section 1. Present subsections (4) and (5) of section
 54 | 218.503, Florida Statutes, are renumbered as subsections (5) and
 55 | (6), respectively, and a new subsection (4) is added to that
 56 | section to read:

57 | 218.503 Determination of financial emergency.--
 58 | (4) Notwithstanding ss. 1001.395 and 1001.47, if the
 59 | Commissioner of Education determines that the measures imposed
 60 | pursuant to subsection (3) have not eliminated a state of
 61 | financial emergency in a school district within 30 days after
 62 | the date the financial emergency was declared to exist, the
 63 | salary of each district school board member, the district
 64 | superintendent, and each district employee, except for classroom
 65 | teachers and other classroom instructional personnel, shall be
 66 | reduced proportionately in an amount necessary to provide for an
 67 | unreserved general fund balance of 2 percent of general fund
 68 | revenues in the district's operating budget.

69 | Section 2. Paragraph (c) of subsection (3) of section
 70 | 1002.53, Florida Statutes, is amended to read:

71 | 1002.53 Voluntary Prekindergarten Education Program;
 72 | eligibility and enrollment.--

73 | (3) The parent of each child eligible under subsection (2)
 74 | may enroll the child in one of the following programs:

75 | (c) A school-year prekindergarten program delivered by a
 76 | public school, ~~if offered by a school district that is eligible~~
 77 | ~~under s. 1002.63.~~

78 |
 79 | Except as provided in s. 1002.71(4), a child may not enroll in
 80 | more than one of these programs.

81 | Section 3. Subsections (4) and (7) of section 1002.61,
 82 | Florida Statutes, are amended to read:

83 | 1002.61 Summer prekindergarten program delivered by public
 84 | schools and private prekindergarten providers.--

85 (4) Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4)
 86 ~~1002.63(5)~~, each public school and private prekindergarten
 87 provider must have, for each prekindergarten class, at least one
 88 prekindergarten instructor who:

89 (a) Is a certified teacher; or

90 (b) Holds one of the educational credentials specified in
 91 s. 1002.55(4)(a) or (b).
 92

93 As used in this subsection, the term "certified teacher" means a
 94 teacher holding a valid Florida educator certificate under s.
 95 1012.56 who has the qualifications required by the district
 96 school board to instruct students in the summer prekindergarten
 97 program. In selecting instructional staff for the summer
 98 prekindergarten program, each school district shall give
 99 priority to teachers who have experience or coursework in early
 100 childhood education.

101 (7) Notwithstanding ss. 1002.55(3)(f) and 1002.63(7)
 102 ~~1002.63(8)~~, each prekindergarten class in the summer
 103 prekindergarten program, regardless of whether the class is a
 104 public school's or private prekindergarten provider's class,
 105 must be composed of at least 4 students but may not exceed 12 ~~10~~
 106 students beginning with the 2009 summer session. In order to
 107 protect the health and safety of students, each public school or
 108 private prekindergarten provider must also provide appropriate
 109 adult supervision for students at all times. This subsection
 110 does not supersede any requirement imposed on a provider under
 111 ss. 402.301-402.319.

112 Section 4. Section 1002.63, Florida Statutes, is amended

113 to read:

114 1002.63 School-year prekindergarten program delivered by
115 public schools.--

116 (1) Each school district ~~eligible under subsection (4)~~ may
117 administer the Voluntary Prekindergarten Education Program at
118 the district level for students enrolled under s. 1002.53(3)(c)
119 in a school-year prekindergarten program delivered by a public
120 school.

121 (2) Each school-year prekindergarten program delivered by
122 a public school must comprise at least 540 instructional hours.

123 (3) The district school board of each school district
124 ~~eligible under subsection (4)~~ shall determine which public
125 schools in the district may ~~are eligible to~~ deliver the
126 prekindergarten program during the school year.

127 ~~(4) To be eligible to deliver the prekindergarten program~~
128 ~~during the school year, each school district must meet both of~~
129 ~~the following requirements:~~

130 ~~(a) The district school board must certify to the State~~
131 ~~Board of Education that the school district:~~

132 1. ~~Has reduced the average class size in each classroom in~~
133 ~~accordance with s. 1003.03 and the schedule in s. 1(a), Art. IX~~
134 ~~of the State Constitution; and~~

135 2. ~~Has sufficient satisfactory educational facilities and~~
136 ~~capital outlay funds to continue reducing the average class size~~
137 ~~in each classroom in the district's elementary schools for each~~
138 ~~year in accordance with the schedule for class size reduction~~
139 ~~and to achieve full compliance with the maximum class sizes in~~
140 ~~s. 1(a), Art. IX of the State Constitution by the beginning of~~

141 ~~the 2010-2011 school year.~~

142 ~~(b) The Commissioner of Education must certify to the~~
143 ~~State Board of Education that the department has reviewed the~~
144 ~~school district's educational facilities, capital outlay funds,~~
145 ~~and projected student enrollment and concurs with the district~~
146 ~~school board's certification under paragraph (a).~~

147 (4)~~(5)~~ Each public school must have, for each
148 prekindergarten class, at least one prekindergarten instructor
149 who meets each requirement in s. 1002.55(3)(c) for a
150 prekindergarten instructor of a private prekindergarten
151 provider.

152 (5)~~(6)~~ Each prekindergarten instructor employed by a
153 public school delivering the school-year prekindergarten program
154 must be of good moral character, must be screened using the
155 level 2 screening standards in s. 435.04 before employment and
156 rescreened at least once every 5 years, must be denied
157 employment or terminated if required under s. 435.06, and must
158 not be ineligible to teach in a public school because his or her
159 educator certificate is suspended or revoked. This subsection
160 does not supersede employment requirements for instructional
161 personnel in public schools which are more stringent than the
162 requirements of this subsection.

163 (6)~~(7)~~ A public school prekindergarten provider may assign
164 a substitute instructor to temporarily replace a credentialed
165 instructor if the credentialed instructor assigned to a
166 prekindergarten class is absent, as long as the substitute
167 instructor is of good moral character and has been screened
168 before employment in accordance with level 2 background

169 screening requirements in chapter 435. This subsection does not
 170 supersede employment requirements for instructional personnel in
 171 public schools which are more stringent than the requirements of
 172 this subsection. The Agency for Workforce Innovation shall adopt
 173 rules to implement this subsection which shall include required
 174 qualifications of substitute instructors and the circumstances
 175 and time limits for which a public school prekindergarten
 176 provider may assign a substitute instructor.

177 (7)~~(8)~~ Each prekindergarten class in a public school
 178 delivering the school-year prekindergarten program must be
 179 composed of at least 4 students but may not exceed 18 students.
 180 In order to protect the health and safety of students, each
 181 school must also provide appropriate adult supervision for
 182 students at all times and, for each prekindergarten class
 183 composed of 11 or more students, must have, in addition to a
 184 prekindergarten instructor who meets the requirements of s.
 185 1002.55(3)(c), at least one adult prekindergarten instructor who
 186 is not required to meet those requirements but who must meet
 187 each requirement of subsection (5) ~~(6)~~.

188 (8)~~(9)~~ Each public school delivering the school-year
 189 prekindergarten program must:

190 (a) Register with the early learning coalition on forms
 191 prescribed by the Agency for Workforce Innovation; and

192 (b) Deliver the Voluntary Prekindergarten Education
 193 Program in accordance with this part.

194 Section 5. Subsections (3) and (4), paragraph (d) of
 195 subsection (6), and subsection (7) of section 1002.71, Florida
 196 Statutes, are amended to read:

197 | 1002.71 Funding; financial and attendance reporting.--
 198 | (3) (a) A separate ~~The~~ base student allocation per full-
 199 | time equivalent student in the Voluntary Prekindergarten
 200 | Education Program shall be provided in the General
 201 | Appropriations Act for a school-year prekindergarten program and
 202 | for a summer prekindergarten program. The base student
 203 | allocation for a school-year prekindergarten program ~~and~~ shall
 204 | be equal for each student, regardless of whether the student is
 205 | enrolled in a school-year prekindergarten program delivered by a
 206 | public school or a private prekindergarten provider. The base
 207 | student allocation for, a summer prekindergarten program shall
 208 | be equal for each student, regardless of whether the student is
 209 | enrolled in a summer prekindergarten program delivered by a
 210 | public school or a private prekindergarten provider, ~~or a~~
 211 | ~~school-year prekindergarten program delivered by a public~~
 212 | ~~school.~~
 213 | (b) Each county's allocation per full-time equivalent
 214 | student in the Voluntary Prekindergarten Education Program shall
 215 | be calculated annually by multiplying the base student
 216 | allocation provided in the General Appropriations Act by the
 217 | county's district cost differential provided in s. 1011.62(2).
 218 | Each private prekindergarten provider and public school shall be
 219 | paid in accordance with the county's allocation per full-time
 220 | equivalent student.
 221 | (c) The initial allocation shall be based on estimated
 222 | student enrollment in each coalition service area. The Agency
 223 | for Workforce Innovation shall reallocate funds among the
 224 | coalitions based on actual full-time equivalent student

225 enrollment in each coalition service area.

226 (d) For programs offered by school districts pursuant to
227 s. 1002.61 and beginning with the 2009 summer program, each
228 district's funding shall be based on a full-time equivalent
229 student enrollment that is evenly divisible by 12 ~~10~~. If the
230 result of dividing a district's full-time equivalent student
231 enrollment by 12 ~~10~~ is not a whole number, the district's
232 enrollment calculation shall be adjusted by adding the minimum
233 number of full-time equivalent students to produce a full-time
234 equivalent student enrollment calculation that is evenly
235 divisible by 12 ~~10~~.

236 (4) Notwithstanding s. 1002.53(3) and subsection (2):

237 (a) A child who, for any of the prekindergarten programs
238 listed in s. 1002.53(3), has not completed more than 10 percent
239 of the hours authorized to be reported for funding under
240 subsection (2) may withdraw from the program for good cause,
241 reenroll in one of the programs, and be reported for funding
242 purposes as a full-time equivalent student in the program for
243 which the child is reenrolled. The total funding for a child who
244 reenrolls in the same program shall not exceed one full-time
245 equivalent student.

246 (b) A child who has not substantially completed any of the
247 prekindergarten programs listed in s. 1002.53(3) may withdraw
248 from the program due to an extreme hardship that is beyond the
249 child's or parent's control, reenroll in one of the summer
250 programs, and be reported for funding purposes as a full-time
251 equivalent student in the summer program for which the child is
252 reenrolled.

253
254 A child may reenroll only once in a prekindergarten program
255 under this section. A child who reenrolls in a prekindergarten
256 program under this subsection may not subsequently withdraw from
257 the program and reenroll. The Agency for Workforce Innovation
258 shall establish criteria specifying whether a good cause exists
259 for a child to withdraw from a program under paragraph (a),
260 whether a child has substantially completed a program under
261 paragraph (b), and whether an extreme hardship exists which is
262 beyond the child's or parent's control under paragraph (b).

263 (6)

264 (d) The Agency for Workforce Innovation shall adopt, for
265 funding purposes, a uniform attendance policy for the Voluntary
266 Prekindergarten Education Program. The attendance policy must
267 apply statewide and apply equally to all private prekindergarten
268 providers and public schools. The attendance policy must
269 establish a minimum requirement for student attendance and
270 include the following provisions:

271 1. Beginning with the 2009-2010 fiscal year for school-
272 year programs and the 2009 summer program, a student who meets
273 the minimum requirement of 80 percent of the total number of
274 hours for the program may be reported as a full-time equivalent
275 student for funding purposes.

276 2. A student who does not meet the minimum requirement may
277 be reported only as a fractional part of a full-time equivalent
278 student, reduced pro rata based on the student's attendance.

279 3. A student who does not meet the minimum requirement may
280 be reported as a full-time equivalent student if the student is

281 absent for good cause in accordance with exceptions specified in
282 the uniform attendance policy.

283

284 The uniform attendance policy shall be used only for funding
285 purposes and does not prohibit a private prekindergarten
286 provider or public school from adopting and enforcing its
287 attendance policy under paragraphs (a) and (c).

288 (7) The Agency for Workforce Innovation shall require that
289 administrative expenditures be kept to the minimum necessary for
290 efficient and effective administration of the Voluntary
291 Prekindergarten Education Program. Administrative policies and
292 procedures shall be revised, to the maximum extent practicable,
293 to incorporate the use of automation and electronic submission
294 of forms, including those required for child eligibility and
295 enrollment, provider and class registration, and monthly
296 certification of attendance for payment. A school district may
297 use the attendance reporting system with which it transmits data
298 regarding K-12 students to the Department of Education for the
299 purpose of transmitting attendance data for prekindergarten
300 students to the early learning coalition. Beginning with the
301 2008-2009 fiscal year, each early learning coalition may retain
302 and expend no more than 4.85 ~~5~~ percent of the funds paid by the
303 coalition to private prekindergarten providers and public
304 schools under paragraph (5) (b). Funds retained by an early
305 learning coalition under this subsection may be used only for
306 administering the Voluntary Prekindergarten Education Program
307 and may not be used for the school readiness program or other
308 programs.

309 Section 6. Paragraphs (c) and (d) of subsection (2) of
 310 section 1002.73, Florida Statutes, are amended to read:

311 1002.73 Department of Education; powers and duties;
 312 accountability requirements.--

313 (2) The department shall adopt procedures for the
 314 department's:

315 ~~(c) Certification of school districts that are eligible to~~
 316 ~~deliver the school-year prekindergarten program under s.~~
 317 ~~1002.63.~~

318 (c)~~(d)~~ Administration of the statewide kindergarten
 319 screening and calculation of kindergarten readiness rates under
 320 s. 1002.69.

321 Section 7. Paragraph (a) of subsection (4) of section
 322 1003.03, Florida Statutes, is amended to read:

323 1003.03 Maximum class size.--

324 (4) ACCOUNTABILITY.--

325 (a)1. Beginning in the 2003-2004 fiscal year, if the
 326 department determines for any year that a school district has
 327 not reduced average class size as required in subsection (2) at
 328 the time of the third FEFP calculation, the department shall
 329 calculate an amount from the class size reduction operating
 330 categorical which is proportionate to the amount of class size
 331 reduction not accomplished. Upon verification of the
 332 department's calculation by the Florida Education Finance
 333 Program Appropriation Allocation Conference and not later than
 334 March 1 of each year, the Executive Office of the Governor shall
 335 transfer undistributed funds equivalent to the calculated amount
 336 from the district's class size reduction operating categorical

337 to an approved fixed capital outlay appropriation for class size
338 reduction in the affected district pursuant to s. 216.292(2)(d).
339 The amount of funds transferred shall be the lesser of the
340 amount verified by the Florida Education Finance Program
341 Appropriation Allocation Conference or the undistributed balance
342 of the district's class size reduction operating categorical.

343 2. In lieu of the transfer required by subparagraph 1.,
344 the Commissioner of Education may recommend a budget amendment,
345 subject to approval by the Legislative Budget Commission, to
346 transfer an alternative amount of funds from the district's
347 class size reduction operating categorical to its approved fixed
348 capital outlay account for class size reduction if the
349 commissioner finds that the State Board of Education has
350 reviewed evidence indicating that a district has been unable to
351 meet class size reduction requirements despite appropriate
352 effort to do so. The commissioner's budget amendment must be
353 submitted to the Legislative Budget Commission by February 15 of
354 each year.

355 3. For the 2007-2008 fiscal year and thereafter, if in any
356 fiscal year funds from a district's class size operating
357 categorical are required to be transferred to its fixed capital
358 outlay fund and the district's class size operating categorical
359 allocation in the General Appropriations Act for that fiscal
360 year has been reduced by a subsequent appropriation, the
361 Commissioner of Education may recommend a 50-percent ~~10-percent~~
362 reduction in the amount of the transfer.

363 Section 8. Section 1011.051, Florida Statutes, is created
364 to read:

365 1011.051 Guidelines for general funds.--The district
 366 school board shall maintain an unreserved general fund balance
 367 that is sufficient to address normal contingencies. If at any
 368 time the unreserved general fund in the district's approved
 369 operating budget falls below:

370 (1) Five percent of projected general fund revenues, the
 371 superintendent shall provide written notification to the
 372 district school board and the Commissioner of Education.

373 (2) Two percent of projected general fund revenues, the
 374 provisions of s. 447.4095 shall be followed for the purpose of
 375 modifying existing collective bargaining agreements as necessary
 376 to avoid a financial emergency within the school district as
 377 provided under part V of chapter 218. If the parties fail to
 378 reach agreement and proceed to implement the provisions of s.
 379 447.403, the superintendent shall provide written notification
 380 to the Commissioner of Education, the dispute shall be resolved
 381 through an expedited impasse hearing, and the timelines
 382 prescribed in s. 447.403(2)(c) shall apply.

383 Section 9. Paragraph (d) of subsection (2) and subsections
 384 (4) through (8) of section 1011.71, Florida Statutes, are
 385 amended, and paragraphs (k) and (l) are added to subsection (2)
 386 of that section, to read:

387 1011.71 District school tax.--

388 (2) In addition to the maximum millage levy as provided in
 389 subsection (1), each school board may levy not more than 1.75
 390 mills against the taxable value for school purposes for district
 391 schools, including charter schools at the discretion of the
 392 school board, to fund:

393 (d) The purchase, lease-purchase, or lease of new and
394 replacement equipment, and enterprise resource software
395 applications that are classified as capital assets in accordance
396 with definitions of the Governmental Accounting Standards Board,
397 have a useful life of at least 5 years, and are used to support
398 district-wide administration or state mandated reporting
399 requirements.

400 (k) Payment of the cost of premiums for property and
401 casualty insurance necessary to insure school district
402 educational and ancillary plants as required by ss.
403 1001.42(11)(d) and 1001.51(11)(k).

404 (l) The purchase, lease-purchase, or lease of driver's
405 education vehicles; motor vehicles used for the maintenance or
406 operation of plants and equipment; security vehicles; or
407 vehicles used in storing or distributing materials and
408 equipment.

409 ~~(4) A school district that has met the reduction~~
410 ~~requirements regarding class size for the 2008-2009 fiscal year~~
411 ~~pursuant to s. 1003.03 for K-12 students for whom the school~~
412 ~~district provides the educational facilities and governs~~
413 ~~operations and certifies to the Commissioner of Education that~~
414 ~~the district does not need all of its discretionary 1.75-mill~~
415 ~~capital improvement revenue for capital outlay purposes and all~~
416 ~~of the district's instructional space needs for the next 5 years~~
417 ~~can be met from capital outlay sources that the district~~
418 ~~reasonably expects to receive during the next 5 years from local~~
419 ~~revenues and from currently appropriated state facilities~~
420 ~~funding or from alternative scheduling or construction, leasing,~~

421 ~~rezoning, or technological methodologies that exhibit sound~~
422 ~~management may expend, subject to the provisions of s. 200.065,~~
423 ~~up to \$65 per unweighted full-time equivalent student from the~~
424 ~~revenue generated by the 2008-2009 millage levy authorized by~~
425 ~~subsection (2) to fund, in addition to expenditures authorized~~
426 ~~in paragraphs (2) (a) - (j), 2008-2009 expenses for the following:~~

427 ~~(a) The purchase, lease purchase, or lease of driver's~~
428 ~~education vehicles; motor vehicles used for the maintenance or~~
429 ~~operation of plants and equipment; security vehicles; or~~
430 ~~vehicles used in storing or distributing materials and~~
431 ~~equipment.~~

432 ~~(b) Payment of the cost of premiums for property and~~
433 ~~casualty insurance necessary to insure school district~~
434 ~~educational and ancillary plants. Operating revenues that are~~
435 ~~made available through the payment of property and casualty~~
436 ~~insurance premiums from revenues generated under this subsection~~
437 ~~may be expended only for nonrecurring operational expenditures~~
438 ~~of the school district.~~

439 ~~(4)~~(5) ~~Violations of the expenditure provisions in~~
440 ~~subsection (2) or subsection (4) shall result in an equal dollar~~
441 ~~reduction in the Florida Education Finance Program (FEFP) funds~~
442 ~~for the violating district in the fiscal year following the~~
443 ~~audit citation.~~

444 ~~(5)~~(6) ~~These taxes shall be certified, assessed, and~~
445 ~~collected as prescribed in s. 1011.04 and shall be expended as~~
446 ~~provided by law.~~

447 (6)~~(7)~~ Nothing in s. 1011.62(4)(a)1. shall in any way be
448 construed to increase the maximum school millage levies as
449 provided for in subsection (1).

450 (7)~~(8)~~ In addition to the maximum millage levied under
451 this section and the General Appropriations Act, a school
452 district may levy, by local referendum or in a general election,
453 additional millage for school operational purposes up to an
454 amount that, when combined with nonvoted millage levied under
455 this section, does not exceed the 10-mill limit established in
456 s. 9(b), Art. VII of the State Constitution. Any such levy shall
457 be for a maximum of 4 years and shall be counted as part of the
458 10-mill limit established in s. 9(b), Art. VII of the State
459 Constitution. Millage elections conducted under the authority
460 granted pursuant to this section are subject to s. 1011.73.
461 Funds generated by such additional millage do not become a part
462 of the calculation of the Florida Education Finance Program
463 total potential funds in 2001-2002 or any subsequent year and
464 must not be incorporated in the calculation of any hold-harmless
465 or other component of the Florida Education Finance Program
466 formula in any year. If an increase in required local effort,
467 when added to existing millage levied under the 10-mill limit,
468 would result in a combined millage in excess of the 10-mill
469 limit, any millage levied pursuant to this subsection shall be
470 considered to be required local effort to the extent that the
471 district millage would otherwise exceed the 10-mill limit.

472 Section 10. Subsection (2) of section 1011.73, Florida
473 Statutes, is amended to read:

474 1011.73 District millage elections.--

475 (2) MILLAGE AUTHORIZED NOT TO EXCEED 4 YEARS.--The
 476 district school board, pursuant to resolution adopted at a
 477 regular meeting, shall direct the county commissioners to call
 478 an election at which the electors within the school district may
 479 approve an ad valorem tax millage as authorized under s.
 480 1011.71(7) ~~1011.71(8)~~. Such election may be held at any time,
 481 except that not more than one such election shall be held during
 482 any 12-month period. Any millage so authorized shall be levied
 483 for a period not in excess of 4 years or until changed by
 484 another millage election, whichever is earlier. If any such
 485 election is invalidated by a court of competent jurisdiction,
 486 such invalidated election shall be considered not to have been
 487 held.

488 Section 11. Paragraph (b) of subsection (6) of section
 489 1013.64, Florida Statutes, is amended to read:

490 1013.64 Funds for comprehensive educational plant needs;
 491 construction cost maximums for school district capital
 492 projects.--Allocations from the Public Education Capital Outlay
 493 and Debt Service Trust Fund to the various boards for capital
 494 outlay projects shall be determined as follows:

495 (6)

496 (b)1. A district school board, including a district school
 497 board of an academic performance-based charter school district,
 498 must not use funds from the following sources: Public Education
 499 Capital Outlay and Debt Service Trust Fund; School District and
 500 Community College District Capital Outlay and Debt Service Trust
 501 Fund; Classrooms First Program funds provided in s. 1013.68;
 502 effort index grant funds provided in s. 1013.73; nonvoted 1.75-

503 mill ~~2-mill~~ levy of ad valorem property taxes provided in s.
 504 1011.71(2); Classrooms for Kids Program funds provided in s.
 505 1013.735; District Effort Recognition Program funds provided in
 506 s. 1013.736; or High Growth District Capital Outlay Assistance
 507 Grant Program funds provided in s. 1013.738 for any new
 508 construction of educational plant space with a total cost per
 509 student station, including change orders, that equals more than:

- 510 a. \$17,952 for an elementary school,
- 511 b. \$19,386 for a middle school, or
- 512 c. \$25,181 for a high school,

513
 514 (January 2006) as adjusted annually to reflect increases or
 515 decreases in the Consumer Price Index.

516 2. A district school board must not use funds from the
 517 Public Education Capital Outlay and Debt Service Trust Fund or
 518 the School District and Community College District Capital
 519 Outlay and Debt Service Trust Fund for any new construction of
 520 an ancillary plant that exceeds 70 percent of the average cost
 521 per square foot of new construction for all schools.

522 Section 12. Merit awards for instructional personnel and
 523 school-based administrators selected for the Merit Award Program
 524 in 2008-2009, pursuant to s. 1012.225, Florida Statutes, are
 525 required to be paid in fiscal year 2009-2010 only to the extent
 526 funds are available and specifically appropriated in fiscal year
 527 2009-2010.

528 Section 13. If the Commissioner of Education determines
 529 that a school district acted in good faith, he or she may waive
 530 the equal-dollar reduction required in s. 1011.71(4), Florida

531 Statutes, for expenditures for property and casualty insurance
532 made between May 1 and December 31, 2007, and for the audit
533 findings for the 2006-2007 fiscal year related to the purchase
534 of software.

535 Section 14. In order to implement Specific Appropriations
536 2, 3, and 35 through 38 of the Special Appropriations Act for
537 the 2008-2009 fiscal year, the calculations of the Florida
538 Education Finance Program for the 2008-2009 fiscal year in the
539 document entitled "Public School Funding - The Florida Education
540 Finance Program," dated January , 2009, and filed with the
541 Clerk of the House of Representatives are incorporated by
542 reference for the purpose of displaying the calculations used by
543 the Legislature, consistent with requirements of the Florida
544 Statutes, in making appropriations and reductions in
545 appropriations for the Florida Education Finance Program.

546 Section 15. Section 11 of chapter 2008-142 and section 2
547 of chapter 2008-213, Laws of Florida, are repealed.

548 Section 16. This act shall take effect February 1, 2009,
549 or upon becoming a law, whichever occurs later; however, if this
550 act becomes a law after February 1, 2009, ss. 1002.53, 1002.61,
551 1002.63, 1002.71, and 1002.73, Florida Statutes, as amended by
552 this act, shall operate retroactively to February 1, 2009.