

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

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 1012.225, Florida Statutes, is
2 created to read:

3 1012.225 Merit Award Program for Instructional
4 Personnel and School-Based Administrators.--

5 (1) ELIGIBILITY.--In order to be eligible for funding
6 under this section, a district school board must adopt a Merit
7 Award Program plan that provides for an assessment and bases a
8 portion of each employee's compensation on the performance of
9 students assigned to his or her classroom or school. Charter
10 schools may participate in the program by using the district's
11 Merit Award Program plan or may adopt an alternative Merit
12 Award Program plan as provided in paragraph (5)(b). All
13 instructional personnel, as defined in s. 1012.01(2)(a)-(d),
14 and school-based administrators, as defined in s.
15 1012.01(3)(c), are eligible as individuals or as instructional
16 teams to receive merit awards, except that districts need not
17 include part-time or substitute teachers in the Merit Award
18 Program plan. The district school board may not require
19 instructional personnel or school-based administrators to
20 apply for an award, or make any presentation, in order to be
21 assessed for or receive a merit award. A plan is subject to
22 negotiation as provided in chapter 447. The Department of
23 Education may not distribute any portion of pro rata funding
24 to a district, or to a district for a charter school within
25 the district, if the district or charter school chooses not to
26 adopt a Merit Award Program plan under this section.
27 Undistributed funds shall be considered unobligated and shall
28 revert to the fund from which the appropriation was made in
29 accordance with s. 216.301.

30 (2) PAY SUPPLEMENTS STRUCTURE.--Merit Award Program
31 plans shall provide for the annual disbursement of merit-based

1 pay supplements to high-performing employees in the manner
2 described in this subsection.

3 (a) Each Merit Award Program plan must designate the
4 top instructional personnel and school-based administrators to
5 be outstanding performers and pay to each, by September 1 of
6 the following school year, a merit-based pay supplement of at
7 least 5 percent of his or her salary. The top instructional
8 personnel and school-based administrators must include at
9 least 20 percent and no more than 80 percent of the district's
10 instructional personnel and school-based administrators. Pay
11 supplements shall be funded from moneys appropriated by the
12 Legislature under this section and from any additional funds
13 that are designated by the district for the Merit Award
14 Program. By October 1 of each year, each school district shall
15 provide documentation to the Department of Education
16 concerning the expenditure of legislative appropriations for
17 merit-based pay, and shall refund undisbursed appropriations
18 to the department. If such undisbursed funds are not remitted
19 to the department by November 1, the department shall withhold
20 an equivalent amount from the district's allocation of
21 appropriations made under s. 1011.62.

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

25 (c) Merit-based pay supplements shall be awarded in
26 addition to any general increase or other adjustments to
27 salaries which are made by a school district. An employee's
28 eligibility for or receipt of merit-based pay supplements
29 shall not adversely affect that employee's opportunity to
30 qualify for or to receive any other compensation that is made

31

1 generally available to other similarly situated district
2 school board employees.

3 (3) ASSESSMENT.--

4 (a) The school district's assessment of an
5 instructional personnel staff member must consider the
6 performance of students assigned to his or her classroom or,
7 in the case of co-teaching or team teaching, within his or her
8 sphere of responsibility.

9 (b) The assessment of a school-based administrator
10 must consider the performance of students assigned to his or
11 her school.

12 (c) A district school board must evaluate student
13 performance for purposes of this section based upon student
14 academic proficiency and gains in learning, as measured by
15 statewide standardized tests, or by the use of a securely
16 administered testing instrument that is valid as determined by
17 the district school board and that must be based on the
18 Sunshine State Standards for subjects and grades not measured
19 by a statewide assessment program.

20 (d) Other performance-related assessment criteria
21 adopted by the district school board may include indicators
22 that relate to the following criteria:

23 1. The ability to maintain appropriate discipline.

24 2. A high level of literacy and outstanding knowledge
25 of subject matter.

26 3. The ability to plan and deliver high-quality
27 instruction and the high-quality use of technology in the
28 classroom.

29 4. The ability to use diagnostic and assessment data
30 and design and to implement differentiated instructional
31

1 strategies in order to meet individual student needs for
2 remediation or acceleration.

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

6 6. The Florida Educator Accomplished Practices and any
7 other professional competencies, responsibilities, and
8 requirements, as established by rules of the State Board of
9 Education and policies of the district school board.

10 7. For school-based administrators, in addition to
11 subparagraphs 1.-6.:

12 a. The ability to manage human, financial, and
13 material resources so as to maximize the share of resources
14 used for direct instruction, as opposed to overhead or other
15 purposes; and

16 b. The ability to recruit and retain high-performing
17 teachers.

18 8. Other appropriate factors identified by the
19 district school board.

20 (4) DUTIES.--

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

24 (b) The department shall provide technical assistance
25 to school districts for the purpose of aiding the development
26 of Merit Award Program plans. The advice and recommendations
27 offered by the department under this paragraph are not subject
28 to the requirements of chapter 120. The department shall
29 review and approve model Merit Award Program plans for
30 potential use by districts or charter schools.

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

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

19 (b) Any charter school that does not follow the school
20 district's salary schedule may submit a separate proposal with
21 the district's plan. Charter school proposals shall be
22 included with the school district plans or may be submitted
23 independently if the district does not submit a plan. Charter
24 school proposals must follow the district's plan or an
25 alternative model plan approved by the department under
26 paragraph (4)(b).

27 (c) Each district school board shall establish a
28 procedure to annually review both the assessment and
29 compensation components of its plan in order to determine
30 compliance with this section. After this review and by October
31 1 of each year, the district school board shall submit a

1 report to the Commissioner of Education, along with supporting
2 documentation that will enable the commissioner to verify the
3 district's compliance with this section during the prior
4 school year. The commissioner shall submit a report to the
5 Governor, the President of the Senate, and the Speaker of the
6 House of Representatives certifying those school district or
7 charter school plans that do not comply with this section or
8 whose plans were not implemented in accordance with this
9 section by December 1 of each year.

10 (d) For purposes of the 2007-2008 school year, the
11 plan submitted as required in paragraph (a) applies to the
12 2007-2008 school year as well as the 2008-2009 school year.
13 Thereafter, all plans submitted and approved within the
14 timelines set forth in paragraph (a) apply to the following
15 school year.

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

20 (7) RULEMAKING.--The State Board of Education shall
21 adopt rules pursuant to ss. 120.536(1) and 120.54 to
22 administer this section.

23 Section 2. Paragraph (c) is added to subsection (2) of
24 section 447.403, Florida Statutes, to read:

25 447.403 Resolution of impasses.--

26 (2)

27 (c) If the district school board is the public
28 employer and an impasse is declared under subsection (1)
29 involving a dispute of a Merit Award Program Plan under s.
30 1012.225, no mediator or special magistrate shall be appointed
31 unless both parties agree to such an appointment. If a party

1 does not agree to an appointment, the appointment shall be
2 considered waived and the parties shall proceed directly to
3 resolution of the impasse by the district school board
4 pursuant to paragraph (4)(d).

5 Section 3. From the general revenue funds appropriated
6 pursuant to Specific Appropriation 91 in section 2 of chapter
7 2006-25, Laws of Florida, the sum of \$147,500,000 is rescinded
8 and shall revert unallocated to the General Revenue Fund on
9 the effective date of this section, and the following proviso
10 language following Specific Appropriation 91 in section 2 of
11 chapter 2006-25, Laws of Florida, is repealed:

12
13 From the funds in Specific Appropriation 91, \$147,500,000 is
14 provided for the Special Teachers are Rewarded performance pay
15 plan (STAR plan). Funds shall be distributed to school
16 districts for performance pay rewards to instructional
17 personnel as defined in section 1012.01(2) (a)-(d), Florida
18 Statutes, in all K-12 schools in the district, in accordance
19 with the requirements of section 1012.22, Florida Statutes.
20 STAR Plan funds shall be allocated based on each district's
21 proportion of the state total K-12 base funding, subject to
22 review and approval by the State Board of Education of the
23 district's STAR plan. The district's STAR plan may include
24 information from the district's instructional personnel
25 assessment system, and shall include instructional personnel
26 evaluation based on the performance of their students. The
27 Department of Education shall develop model methodologies that
28 ensure fairness and equity for all instructional personnel,
29 and shall provide technical assistance upon request.

1 Each school district that chooses to participate in the STAR
2 Plan shall submit its comprehensive STAR plan, which shall
3 include rewards for elementary, middle, and high school
4 instructional personnel, to the State Board of Education by
5 December 31, 2006. Any charter school that does not follow the
6 district's salary schedule may submit a separate proposal with
7 the district's plan. Charter school proposals shall be
8 included with the district plans or may be submitted
9 independently if the district does not submit a plan.
10 Districts that do not submit a plan by December 31, 2006,
11 shall not be eligible to receive STAR Plan funds. The State
12 Board shall review each district's STAR Plan within 45 days of
13 receipt and shall approve the plan or request revisions. If
14 requesting revisions, the State Board must identify the
15 specific area(s) of the proposed plan needing revision.
16 Districts must submit their revised plan by March 1, 2007. The
17 State Board shall review the revised plan and may either
18 approve the revised plan or deny the district eligibility to
19 receive STAR Plan funds for the 2006-2007 fiscal year. STAR
20 Plan funds shall not be recalculated during the fiscal year
21 except that funds allocated for districts that fail to adopt
22 approved STAR Plans by April 1, 2007, shall be redistributed
23 to those districts that have approved plans in place by the
24 required date. The redistribution calculation shall be
25 verified by the Florida Education Finance Program
26 Appropriation Allocation Conference.
27
28 District STAR Plans must meet the following guidelines:
29
30
31

- 1 | 1. Eligibility - All instructional personnel are
2 | automatically eligible to receive rewards for improved student
3 | achievement without having to apply.
4 |
- 5 | 2. Determination of number of rewards - The district plan
6 | shall utilize funds received under this program for rewards of
7 | at least 5 percent of the base pay of the best performing 25
8 | percent of instructional personnel. Districts shall use any
9 | remaining funds to provide bonuses to additional instructional
10 | personnel or school-based leaders pursuant to their plans.
11 | District school boards are encouraged to provide additional
12 | rewards to instructional personnel they determine to be
13 | outstanding. District school boards shall distribute funds for
14 | State Board approved charter school plans to charter schools
15 | based on each charter school's proportion of the district's
16 | total K-12 base funding.
17 |
- 18 | 3. Evaluation instrument - Each district school board shall
19 | select or develop an evaluation instrument. The instrument's
20 | primary determining factor shall be the evaluation of improved
21 | student achievement. The instrument's factors shall be scored
22 | using the following categories, or categories that are
23 | substantially similar in number and connotation:
24 | unsatisfactory, needs improvement, satisfactory,
25 | high-performing, and outstanding. Instructional personnel must
26 | receive no unsatisfactory or needs improvement ratings and may
27 | receive no more than one satisfactory rating on the areas
28 | evaluated in order to receive a reward.
29 |
- 30 | 4. Instructional personnel evaluation based on student
31 | performance - District school boards shall determine

1 appropriate methods to evaluate instructional personnel based
2 on the performance of their students. The methods must measure
3 improved student achievement during the course of the school
4 year; and must be approved by the State Board of Education.

5 a. Evaluation of improved student achievement for
6 instructional personnel linked by course numbers to
7 instruction in reading or math shall be determined by a
8 standardized test.

9 b. Evaluation of improved student achievement for
10 instructional personnel not linked by course numbers to
11 instruction in reading or math shall be determined by
12 instruments that measure the Sunshine State Standards for the
13 area, including challenging grade-level content and critical
14 thinking skills. District school boards shall develop methods
15 to evaluate improved student achievement in specialized areas,
16 including exceptional student education, fine arts, career and
17 technical education, and other specialties so that all
18 instructional personnel are eligible for rewards.

19 c. Evaluation of improved student achievement for
20 secondary instructional personnel linked by course number to
21 instruction in social studies or science may be assessed by a
22 standardized test; by linking improved student achievement in
23 reading or mathematics of the students enrolled in the
24 instructional personnel's social studies or science class, as
25 measured by a standardized test; or by instruments that
26 measure the Sunshine State Standards for the area, including
27 challenging grade-level content and critical thinking skills.

28
29 District school board STAR Plan proposals may include a
30 methodology for performance pay rewards for district-selected
31 school-based leaders who supervise or directly assist the

1 instructional personnel whose student achievement results in a
2 STAR Plan reward.

3 Section 4. The recurring sum of \$147,500,000 from the
4 General Revenue Fund is appropriated to the Department of
5 Education for the 2006-2007 fiscal year as a supplemental
6 appropriation for Aid to Local Governments, Grants and Aids --
7 Florida Education Finance Program. These funds shall be
8 allocated among school districts based on each district's
9 proportion of the state total K-12 base funding and shall be
10 expended for any of the following purposes:

11 (1) To fund Special Teachers Are Rewarded (STAR)
12 performance pay plans that are implemented based on proviso
13 language following Specific Appropriation 91 in section 2 of
14 chapter 2006-25, Laws of Florida;

15 (2) To fund performance pay policies adopted pursuant
16 to s. 1012.22, Florida Statutes; or

17 (3) To fund performance pay policies approved by the
18 district school board which distribute performance pay to the
19 top performing instructional personnel and school-based
20 administrators. The top performing instructional personnel and
21 school-based administrators must include at least 20 percent
22 and no more than 80 percent of the school district's
23 instructional personnel and school-based administrators. The
24 policies are subject to negotiation as provided in chapter
25 447, Florida Statutes, except that if an impasse occurs
26 pursuant to s. 447.403, Florida Statutes, a mediator or
27 special magistrate shall be appointed only if both parties
28 agree to such appointment. If a party does not agree to such
29 appointment, the appointment shall be considered waived and
30 the parties shall proceed directly to resolution of the

1 impasse by the district school board pursuant to s.
2 447.403(4)(d), Florida Statutes.

3
4 Each school district shall refund the undisbursed balance of
5 its allotment from this appropriation as of September 1, 2007,
6 to the Department of Education. If such funds are not remitted
7 to the department by October 1, 2007, the department shall
8 withhold an equivalent amount from the district's allocation
9 from the Florida Education Finance Program for the 2007-2008
10 fiscal year.

11 Section 5. Section 3 of chapter 2006-26, Laws of
12 Florida, is repealed.

13 Section 6. Effective June 30, 2007, s.
14 1012.22(1)(c)4., Florida Statutes, is repealed. Rules adopted
15 by the State Board of Education pursuant to s. 1012.22,
16 Florida Statutes, which are in conflict with this act are
17 suspended.

18 Section 7. This act shall take effect upon becoming a
19 law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 1226

The committee substitute creates the Merit Award Program, a voluntary performance pay program for instructional personnel and school-based administrators. The committee substitute provides for the following:

-School districts must adopt plans that designate outstanding performers to receive a merit-based pay supplement of at least 5 percent of his or her salary.

-Top performers must include at least 20 percent, but no more than 80 percent of the district's instructional and school administrative personnel.

-School districts determine eligibility for the pay supplement based on student academic proficiency and learning gains, as measured by statewide standardized assessments, local district-determined assessments, and other district-determined factors.

The committee substitute allows charter schools to participate in the program and provides for the reversion of funds for school districts that elect to not participate in the program.

Finally, the committee substitute repeals s. 1012.22(1)(c)4., F.S., and the Special Teachers Are Rewarded (STAR) plan proviso, and reappropriates \$147.5 million to the Department of Education for Fiscal Year 2006-2007 to allocate to school districts to fund STAR performance pay plans, performance pay plans adopted under section 1012.22, F.S., or performance pay policies approved by the district school board under the bill.