

## House Bill No. 5083

An act relating to education; amending s. 121.021, F.S.; deleting salary supplements for National Board for Professional Teaching Standards certification from the definition of "compensation" under the Florida Retirement System; amending s. 220.187, F.S.; revising provisions relating to norm-referenced tests for purposes of the Corporate Income Tax Credit Scholarship Program; amending s. 1001.451, F.S., relating to regional consortium service organizations; authorizing the Department of Education to appropriate a lesser amount of an incentive grant per school district and eligible member for a specified fiscal year; providing for the future expiration of such provisions; amending s. 1002.33, F.S.; excluding charter school Merit Award Program funds from the calculation of school district administrative fees; amending s. 1003.03, F.S.; revising provisions relating to implementation of maximum class size requirements; amending s. 1007.271, F.S.; deleting certain dual enrollment funding provisions; amending s. 1008.22, F.S.; deleting norm-referenced test requirements under the statewide assessment program; amending s. 1011.62, F.S.; revising provisions relating to the calculation of full-time equivalent membership for dual enrollment instruction; decreasing the value of full-time equivalent membership calculated for students enrolled in an International Baccalaureate course, an Advanced International Certificate of Education course, or an Advanced Placement course who meet certain requirements; deleting provisions relating to the calculation of additional full-time equivalent membership based on completion of high school level algebra courses; revising provisions relating to the calculation of additional full-time equivalent membership based on certification of successful completion of industry-certified career and professional academy programs; revising provisions relating to the final calculation of district required local effort; authorizing a district school board to transfer certain categorical funds for academic classroom instruction; requiring the department to report to the Legislature the amounts transferred and the activities for which the funds were expended; requiring a district school board to submit an amendment to the department if the school board transfers funds from its research-based reading instruction allocation; revising provisions relating to the calculation of declining unweighted full-time equivalent students; including the supplemental allocation for juvenile justice education programs in the calculation for allocations to districts for current operation; providing for the future expiration of certain provisions governing the transfer of categorical funds; amending s. 1011.71, F.S.; decreasing the maximum millage a school district may levy against the taxable value for school purposes; authorizing a school district to redirect up to a specified amount of millage if revenues are insufficient to cover payments due under a lease-purchase agreement; revising certain requirements for a school district with respect to expenditure of revenue generated by the district school tax millage; providing for future expiration of

such provisions; amending s. 1011.73, F.S.; conforming a cross-reference; amending s. 1012.225, F.S.; providing a deadline for submission of Merit Award Program plans by certain districts; amending s. 1012.72, F.S., relating to the Dale Hickam Excellent Teaching Program; providing that bonuses be provided for up to a certain period; eliminating as authorized expenditures the fee subsidy for National Board for Professional Teaching Standards certification, the portfolio preparation incentive, and the employer's share of Florida Retirement System contributions; deleting provisions to conform; revising provisions for the proration of funds; authorizing a school district to pay a certain percentage of bonuses when insufficient funds are available; amending s. 1013.45, F.S.; requiring a district school board to reuse existing construction documents or design criteria packages if feasible and practical; requiring the use of prototype design and construction under certain circumstances; providing an effective date.

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

Section 1. Paragraph (a) of subsection (22) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(22) “Compensation” means the monthly salary paid a member by his or her employer for work performed arising from that employment.

(a) Compensation shall include:

1. Overtime payments paid from a salary fund.
2. Accumulated annual leave payments.
3. Payments in addition to the employee's base rate of pay if all the following apply:
  - a. The payments are paid according to a formal written policy that applies to all eligible employees equally;
  - b. The policy provides that payments shall commence no later than the 11th year of employment;
  - c. The payments are paid for as long as the employee continues his or her employment; and
  - d. The payments are paid at least annually.
4. Amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code.

5. Payments made in lieu of a permanent increase in the base rate of pay, whether made annually or in 12 or 26 equal payments within a 12-month period, when the member's base pay is at the maximum of his or her pay range. When a portion of a member's annual increase raises his or her pay range and the excess is paid as a lump sum payment, such lump sum payment shall be compensation for retirement purposes.

~~6. Effective July 1, 2002, salary supplements made pursuant to s. 1012.72 requiring a valid National Board for Professional Standards certificate, notwithstanding the provisions of subparagraph 3.~~

Section 2. Paragraph (i) of subsection (9) of section 220.187, Florida Statutes is amended to read:

220.187 Credits for contributions to nonprofit scholarship-funding organizations.—

(9) DEPARTMENT OF EDUCATION OBLIGATIONS.—The Department of Education shall:

(i) ~~Maintain a list of~~ In accordance with State Board of Education rule, identify and select the nationally norm-referenced tests identified for purposes of satisfying the testing requirement in subparagraph (8)(c)2. The tests must meet that are comparable to the norm-referenced provisions of the Florida Comprehensive Assessment Test (FCAT) provided that the FCAT may be one of the tests selected. However, the Department of Education may approve the use of an additional assessment by the school if the assessment meets industry standards of quality in accordance with State Board of Education rule and comparability.

Section 3. Paragraph (c) is added to subsection (2) of section 1001.451, Florida Statutes, to read:

1001.451 Regional consortium service organizations.—In order to provide a full range of programs to larger numbers of students, minimize duplication of services, and encourage the development of new programs and services:

(2)

(c) Notwithstanding paragraph (a), the appropriation for the 2008-2009 fiscal year may be less than \$50,000 per school district and eligible member. If the amount appropriated is insufficient to provide \$50,000, the funds available must be prorated among all eligible districts and members. This paragraph expires July 1, 2009.

Section 4. Paragraph (a) of subsection (20) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(20) SERVICES.—

(a) A sponsor shall provide certain administrative and educational services to charter schools. These services shall include contract management services; full-time equivalent and data reporting services; exceptional student education administration services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the charter school, are provided by the school district at the request of the charter school; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the charter school is located. Student performance data for each student in a charter school, including, but not limited to, FCAT scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by the sponsor to a charter school in the same manner provided to other public schools in the district. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds defined in paragraph (17)(b) for all students. However, a sponsor may only withhold up to a 5-percent administrative fee for enrollment for up to and including 500 students. For charter schools with a population of 501 or more students, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may only be used for capital outlay purposes specified in s. 1013.62(2). Each charter school shall receive 100 percent of the funds awarded to that school pursuant to s. 1012.225. Sponsors shall not charge charter schools any additional fees or surcharges for administrative and educational services in addition to the maximum 5-percent administrative fee withheld pursuant to this paragraph.

Section 5. Paragraph (b) of subsection (2) of section 1003.03, Florida Statutes, is amended to read:

1003.03 Maximum class size.—

(2) IMPLEMENTATION.—

(b) Determination of the number of students per classroom in paragraph (a) shall be calculated as follows:

1. For fiscal years 2003-2004 through 2005-2006, the calculation for compliance for each of the 3 grade groupings shall be the average at the district level.

2. For fiscal years 2006-2007 through 2008-2009 ~~2007-2008~~, the calculation for compliance for each of the 3 grade groupings shall be the average at the school level.

3. For fiscal ~~year years~~ ~~2008-2009~~, 2009-2010, and thereafter, the calculation for compliance shall be at the individual classroom level.

4. For fiscal years 2006-2007 through 2009-2010 and thereafter, each teacher assigned to any classroom shall be included in the calculation for compliance.

Section 6. Subsection (2) of section 1007.271, Florida Statutes, is amended to read:

1007.271 Dual enrollment programs.—

(2) For the purpose of this section, an eligible secondary student is a student who is enrolled in a Florida public secondary school or in a Florida private secondary school which is in compliance with s. 1002.42(2) and conducts a secondary curriculum pursuant to s. 1003.43. Students enrolled in postsecondary instruction that is not creditable toward the high school diploma shall not be classified as dual enrollments. Students who are eligible for dual enrollment pursuant to this section shall be permitted to enroll in dual enrollment courses conducted during school hours, after school hours, and during the summer term. Instructional time for such enrollment may vary from 900 hours; however, the school district may only report the student for a maximum of 1.0 FTE, as provided in s. 1011.61(4). ~~Each semester of instruction that is eligible for high school and postsecondary credit shall be reported by school districts as 75 membership hours for purposes of FTE calculation.~~ Any student so enrolled is exempt from the payment of registration, tuition, and laboratory fees. Vocational-preparatory instruction, college-preparatory instruction, and other forms of precollegiate instruction, as well as physical education courses that focus on the physical execution of a skill rather than the intellectual attributes of the activity, are ineligible for inclusion in the dual enrollment program. Recreation and leisure studies courses shall be evaluated individually in the same manner as physical education courses for potential inclusion in the program.

Section 7. Paragraph (c) of subsection (3) and subsection (10) of section 1008.22, Florida Statutes, are amended to read:

1008.22 Student assessment program for public schools.—

(3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of the public schools, including schools operating for the purpose of providing educational services to youth in Department of Juvenile Justice programs. The commissioner may enter into contracts for the continued administration of the assessment, testing, and evaluation programs authorized and funded by the Legislature. Contracts may be initiated in 1 fiscal year and continue into the next and may be paid from the appropriations of either or both fiscal years. The commissioner is authorized to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed pursuant to law. Pursuant to the statewide assessment program, the commissioner shall:

(c) Develop and implement a student achievement testing program known as the Florida Comprehensive Assessment Test (FCAT) as part of the statewide assessment program to measure reading, writing, science, and mathematics. Other content areas may be included as directed by the commissioner. The assessment of reading and mathematics shall be administered annually in grades 3 through 10. The assessment of writing and science shall be administered at least once at the elementary, middle, and

high school levels. The commissioner must document the procedures used to ensure that the versions of the FCAT which are taken by students retaking the grade 10 FCAT are equally as challenging and difficult as the tests taken by students in grade 10 which contain performance tasks. The testing program must be designed so that:

1. The tests measure student skills and competencies adopted by the State Board of Education as specified in paragraph (a). The tests must measure and report student proficiency levels of all students assessed in reading, writing, mathematics, and science. The commissioner shall provide for the tests to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts. The commissioner shall obtain input with respect to the design and implementation of the testing program from state educators, assistive technology experts, and the public.

2. The testing program ~~shall be composed~~ will include a combination of norm-referenced and criterion-referenced tests that shall and include, to the extent determined by the commissioner, include test items ~~questions~~ that require the student to produce information or perform tasks in such a way that the skills and competencies he or she uses can be measured.

3. Each testing program, whether at the elementary, middle, or high school level, includes a test of writing in which students are required to produce writings that are then scored by appropriate and timely methods.

4. A score is designated for each subject area tested, below which score a student's performance is deemed inadequate. The school districts shall provide appropriate remedial instruction to students who score below these levels.

5. Except as provided in s. 1003.428(8)(b) or s. 1003.43(11)(b), students must earn a passing score on the grade 10 assessment test described in this paragraph or attain concordant scores as described in subsection (9) in reading, writing, and mathematics to qualify for a standard high school diploma. The State Board of Education shall designate a passing score for each part of the grade 10 assessment test. In establishing passing scores, the state board shall consider any possible negative impact of the test on minority students. The State Board of Education shall adopt rules which specify the passing scores for the grade 10 FCAT. Any such rules, which have the effect of raising the required passing scores, shall only apply to students taking the grade 10 FCAT for the first time after such rules are adopted by the State Board of Education.

6. Participation in the testing program is mandatory for all students attending public school, including students served in Department of Juvenile Justice programs, except as otherwise prescribed by the commissioner. If a student does not participate in the statewide assessment, the district must notify the student's parent and provide the parent with information regarding the implications of such nonparticipation. A parent must provide signed consent for a student to receive classroom instructional accommodations that would not be available or permitted on the statewide assessments

and must acknowledge in writing that he or she understands the implications of such instructional accommodations. The State Board of Education shall adopt rules, based upon recommendations of the commissioner, for the provision of test accommodations for students in exceptional education programs and for students who have limited English proficiency. Accommodations that negate the validity of a statewide assessment are not allowable in the administration of the FCAT. However, instructional accommodations are allowable in the classroom if included in a student's individual education plan. Students using instructional accommodations in the classroom that are not allowable as accommodations on the FCAT may have the FCAT requirement waived pursuant to the requirements of s. 1003.428(8)(b) or s. 1003.43(11)(b).

7. A student seeking an adult high school diploma must meet the same testing requirements that a regular high school student must meet.

8. District school boards must provide instruction to prepare students to demonstrate proficiency in the skills and competencies necessary for successful grade-to-grade progression and high school graduation. If a student is provided with instructional accommodations in the classroom that are not allowable as accommodations in the statewide assessment program, as described in the test manuals, the district must inform the parent in writing and must provide the parent with information regarding the impact on the student's ability to meet expected proficiency levels in reading, writing, and math. The commissioner shall conduct studies as necessary to verify that the required skills and competencies are part of the district instructional programs.

9. District school boards must provide opportunities for students to demonstrate an acceptable level of performance on an alternative standardized assessment approved by the State Board of Education following enrollment in summer academies.

10. The Department of Education must develop, or select, and implement a common battery of assessment tools that will be used in all juvenile justice programs in the state. These tools must accurately measure the skills and competencies established in the Sunshine State Standards.

11. For students seeking a special diploma pursuant to s. 1003.438, the Department of Education must develop or select and implement an alternate assessment tool that accurately measures the skills and competencies established in the Sunshine State Standards for students with disabilities under s. 1003.438.

The commissioner may, based on collaboration and input from school districts, design and implement student testing programs, for any grade level and subject area, necessary to effectively monitor educational achievement in the state, including the measurement of educational achievement of the Sunshine State Standards for students with disabilities. Development and refinement of assessments shall include universal design principles and accessibility standards that will prevent any unintended obstacles for students with disabilities while ensuring the validity and reliability of the test.

These principles should be applicable to all technology platforms and assistive devices available for the assessments. The field testing process and psychometric analyses for the statewide assessment program must include an appropriate percentage of students with disabilities and an evaluation or determination of the effect of test items on such students.

(10) **REPORTS.**—The Department of Education shall annually provide a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the following:

- (a) Longitudinal performance of students in mathematics and reading.
- (b) Longitudinal performance of students by grade level in mathematics and reading.
- (c) Longitudinal performance regarding efforts to close the achievement gap.
- ~~(d) Longitudinal performance of students on the norm-referenced component of the FCAT.~~

~~(d)~~(e) Other student performance data based on national norm-referenced and criterion-referenced tests, when available, and numbers of students who after 8th grade enroll in adult education rather than other secondary education.

Section 8. Paragraphs (i) and (l) through (v) of subsection (1), paragraph (b) of subsection (4), and subsections (6) and (8) of section 1011.62, Florida Statutes, as amended by chapter 2007-328, Laws of Florida, are amended, subsections (10) and (11) of that section are amended and renumbered as subsections (11) and (12), respectively, and a new subsection (10) is added to that section, to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) **COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.**—The following procedure shall be followed in determining the annual allocation to each district for operation:

(i) Calculation of full-time equivalent membership with respect to dual enrollment instruction.—Students enrolled in dual enrollment instruction pursuant to s. 1007.271 may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. Instructional time for dual enrollment may vary from 900 hours; however, the school district may only report the student for a maximum of 1.0 full-time equivalent student membership, as provided in s. 1011.61(4). Dual enrollment full-time equivalent student membership shall be calculated in an amount equal to the hours of instruction that would be necessary to earn the full-time equivalent student membership for an equiv-



alent course if it were taught in the school district. Each semester of instruction that is eligible for high school and postsecondary credit shall be reported by school districts as ~~75~~ membership hours for purposes of FTE calculation. Such Students in dual enrollment courses may also be calculated as the proportional shares of full-time equivalent enrollments they generate for a community college or university conducting the dual enrollment instruction. Early admission students shall be considered dual enrollments for funding purposes. Students may be enrolled in dual enrollment instruction provided by an eligible independent college or university and may be included in calculations of full-time equivalent student memberships for basic programs for grades 9 through 12 by a district school board. However, those provisions of law which exempt dual enrolled and early admission students from payment of instructional materials and tuition and fees, including laboratory fees, shall not apply to students who select the option of enrolling in an eligible independent institution. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Council for Independent Colleges and Schools, and which confers degrees as defined in s. 1005.02 shall be eligible for inclusion in the dual enrollment or early admission program. Students enrolled in dual enrollment instruction shall be exempt from the payment of tuition and fees, including laboratory fees. No student enrolled in college credit mathematics or English dual enrollment instruction shall be funded as a dual enrollment unless the student has successfully completed the relevant section of the entry-level examination required pursuant to s. 1008.30.

(l) Calculation of additional full-time equivalent membership based on international baccalaureate examination scores of students.—A value of 0.16 ~~0.24~~ full-time equivalent student membership shall be calculated for each student enrolled in an international baccalaureate course who receives a score of 4 or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an international baccalaureate diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. The school district shall distribute to each classroom teacher who provided international baccalaureate instruction:

1. A bonus in the amount of \$50 for each student taught by the International Baccalaureate teacher in each international baccalaureate course who receives a score of 4 or higher on the international baccalaureate examination.

2. An additional bonus of \$500 to each International Baccalaureate teacher in a school designated with a grade of “D” or “F” who has at least one student scoring 4 or higher on the international baccalaureate examination, regardless of the number of classes taught or of the number of students scoring a 4 or higher on the international baccalaureate examination.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(m) Calculation of additional full-time equivalent membership based on Advanced International Certificate of Education examination scores of students.—A value of ~~0.16~~ 0.24 full-time equivalent student membership shall be calculated for each student enrolled in a full-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of ~~0.08~~ 0.12 full-time equivalent student membership shall be calculated for each student enrolled in a half-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an Advanced International Certificate of Education diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. The school district shall distribute to each classroom teacher who provided Advanced International Certificate of Education instruction:

1. A bonus in the amount of \$50 for each student taught by the Advanced International Certificate of Education teacher in each full-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination. A bonus in the amount of \$25 for each student taught by the Advanced International Certificate of Education teacher in each half-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination.

2. An additional bonus of \$500 to each Advanced International Certificate of Education teacher in a school designated with a grade of “D” or “F” who has at least one student scoring E or higher on the full-credit Advanced International Certificate of Education examination, regardless of the number of classes taught or of the number of students scoring an E or higher on the full-credit Advanced International Certificate of Education examination.

3. Additional bonuses of \$250 each to teachers of half-credit Advanced International Certificate of Education classes in a school designated with a grade of “D” or “F” which has at least one student scoring an E or higher on the half-credit Advanced International Certificate of Education examination in that class. The maximum additional bonus for a teacher awarded in accordance with this subparagraph shall not exceed \$500 in any given school year. Teachers receiving an award under subparagraph 2. are not eligible for a bonus under this subparagraph.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(n) Calculation of additional full-time equivalent membership based on college board advanced placement scores of students.—A value of ~~0.16~~ 0.24 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each district

must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds. The school district shall distribute to each classroom teacher who provided advanced placement instruction:

1. A bonus in the amount of \$50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

2. An additional bonus of \$500 to each Advanced Placement teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

~~(o) Calculation of additional full-time equivalent membership based on completion of high school level algebra courses by students in grades 6 through 8.—A value of 0.088 full-time equivalent student membership shall be calculated for each student in grades 6 through 8 who completes a high school level algebra course and receives a grade of C or better. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 6 through 8. Each district must allocate the funds provided to the district for students in grades 6 through 8 who complete a high school level algebra course and receive a grade of C or better to the school that generated the funds.~~

~~(p) Calculation of supplemental allocation for juvenile justice education programs.—Beginning with the 2007-2008 General Appropriations Act, the total K-12 weighted full-time equivalent student membership in juvenile justice education programs in each school district shall be multiplied by the amount of the state average class-size reduction factor multiplied by the district's cost differential. An amount equal to the sum of this calculation shall be allocated in the FEFP to each school district to supplement other sources of funding for students in juvenile justice education programs.~~

(o)(q) Calculation of additional full-time equivalent membership based on certification of successful completion of industry-certified career and professional academy programs pursuant to s. 1003.492.—A value of 0.3 full-time equivalent student membership shall be calculated for each student who completes an industry-certified career and professional academy program under s. 1003.492 and who is issued the highest level of an industry certification and a high school diploma certificate. Such value shall be added to the total full-time equivalent student membership in secondary career education programs for grades 9 through 12 in the subsequent year for courses that were not funded through dual enrollment. The additional full-time equivalent membership authorized under this paragraph may not exceed 0.3 per student. Unless a different amount is specified in the General

Appropriations Act, the appropriation for this calculation is limited to \$15 ~~\$30~~ million annually. If the appropriation is insufficient to fully fund the total calculation, the appropriation shall be prorated.

~~(p)~~<sup>(r)</sup> Calculation of additional full-time equivalent membership for the Florida Virtual School.—The total reported full-time equivalent student membership for the Florida Virtual School shall be multiplied by 0.114, and such value shall be added to the total full-time equivalent student membership.

~~(q)~~<sup>(s)</sup> Year-round-school programs.—The Commissioner of Education is authorized to adjust student eligibility definitions, funding criteria, and reporting requirements of statutes and rules in order that year-round-school programs may achieve equivalent application of funding requirements with non-year-round-school programs.

~~(r)~~<sup>(t)</sup> Extended-school-year program.—It is the intent of the Legislature that students be provided additional instruction by extending the school year to 210 days or more. Districts may apply to the Commissioner of Education for funds to be used in planning and implementing an extended-school-year program. The Department of Education shall recommend to the Legislature the policies necessary for full implementation of an extended school year.

~~(s)~~<sup>(u)</sup> Determination of the basic amount for current operation.—The basic amount for current operation to be included in the Florida Education Finance Program for kindergarten through grade 12 for each district shall be the product of the following:

1. The full-time equivalent student membership in each program, multiplied by
2. The cost factor for each program, adjusted for the maximum as provided by paragraph (c), multiplied by
3. The base student allocation.

~~(t)~~<sup>(v)</sup> Computation for funding through the Florida Education Finance Program.—The State Board of Education may adopt rules establishing programs and courses for which the student may earn credit toward high school graduation.

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(b) Final calculation.—

1. The taxable value for school purposes certified by the Department of Revenue which is used in the fourth calculation with the annualized full-time student membership from the February student survey shall be the

~~final taxable value used in the final calculation. On September 1 of each year, the Department of Revenue shall certify to the Commissioner of Education the total of the prior year final taxable value for school purposes in each school district and the total for all school districts in the state. The commissioner shall use the final taxable value certified on September 1 for school purposes for each school district in the final calculation of the annual Florida Education Finance Program allocations.~~

2. For purposes of this paragraph, the final taxable value for school purposes shall be the taxable value for school purposes on which the tax bills are computed and mailed to the taxpayers, adjusted to reflect final administrative actions of value adjustment boards and judicial decisions pursuant to chapter 194. For each county that has not submitted a revised tax roll reflecting final value adjustment board actions and final judicial decisions, the Department of Revenue shall certify the most recent revision of the taxable value for school purposes. The value certified under subparagraph 1. on September 1 shall be the final taxable value for school purposes for that year, and no further adjustments shall be made, except those made pursuant to paragraph (12)(11)(b).

(6) CATEGORICAL FUNDS.—

(a) In addition to the basic amount for current operations for the FEFP as determined in subsection (1), the Legislature may appropriate categorical funding for specified programs, activities, or purposes.

(b) If a district school board finds and declares in a resolution adopted at a regular meeting of the school board that the funds received for any of the following categorical appropriations are urgently needed to maintain school board specified academic classroom instruction, the school board may consider and approve an amendment to the school district operating budget transferring the identified amount of the categorical funds to the appropriate account for expenditure:

1. Funds for student transportation.
2. Funds for safe schools.
3. Funds for supplemental academic instruction.
4. Funds for research-based reading instruction.
5. Funds for instructional materials if all instructional material purchases have been completed for that fiscal year, but no sooner than March 1, 2009.

(c) Each district school board shall include in its annual financial report to the Department of Education the amount of funds the school board transferred from each of the categorical funds identified in this subsection and the specific academic classroom instruction for which the transferred funds were expended. The Department of Education shall provide instructions and specify the format to be used in submitting this required information as a part of the district annual financial report. The Department of Education

shall submit a report to the Legislature that identifies by district and by categorical fund the amount transferred and the specific academic classroom activity for which the funds were expended.

(d) If a district school board transfers funds from its research-based reading instruction allocation, the board must also submit to the Department of Education an amendment describing the changes that the district is making to its reading plan approved pursuant to paragraph (9)(d).

(8) **DECLINE IN FULL-TIME EQUIVALENT STUDENTS.**—In those districts where there is a decline between prior year and current year unweighted FTE students, a percentage 50 percent of the decline in the unweighted FTE students as determined by the Legislature shall be multiplied by the prior year calculated FEFP per unweighted FTE student and shall be added to the allocation for that district. For this purpose, the calculated FEFP shall be computed by multiplying the weighted FTE students by the base student allocation and then by the district cost differential. If a district transfers a program to another institution not under the authority of the district's school board, including a charter technical career center, the decline is to be multiplied by a factor of 0.15. However, if the funds provided for the Florida Education Finance Program in the General Appropriations Act for any fiscal year are reduced by a subsequent appropriation for that fiscal year, the percent of the decline in the unweighted FTE students to be funded shall be determined by the Legislature and designated in the subsequent appropriation.

(10) CALCULATION OF SUPPLEMENTAL ALLOCATION FOR JUVENILE JUSTICE EDUCATION PROGRAMS.—The total K-12 weighted full-time equivalent student membership in juvenile justice education programs in each school district shall be multiplied by the amount of the state average class-size-reduction factor multiplied by the district's cost differential. An amount equal to the sum of this calculation shall be allocated in the FEFP to each school district to supplement other sources of funding for students in juvenile justice education programs.

(11)(10) QUALITY ASSURANCE GUARANTEE.—The Legislature may annually in the General Appropriations Act determine a percentage increase in funds per K-12 unweighted FTE as a minimum guarantee to each school district. The guarantee shall be calculated from prior year base funding per unweighted FTE student which shall include the adjusted FTE dollars as provided in subsection (12) (11), quality guarantee funds, and actual nonvoted discretionary local effort from taxes. From the base funding per unweighted FTE, the increase shall be calculated for the current year. The current year funds from which the guarantee shall be determined shall include the adjusted FTE dollars as provided in subsection (12) (11) and potential nonvoted discretionary local effort from taxes. A comparison of current year funds per unweighted FTE to prior year funds per unweighted FTE shall be computed. For those school districts which have less than the legislatively assigned percentage increase, funds shall be provided to guarantee the assigned percentage increase in funds per unweighted FTE student. Should appropriated funds be less than the sum of this calculated amount for all districts, the commissioner shall prorate each district's allocation. This provision shall be implemented to the extent specifically funded.

~~(12)~~(11) TOTAL ALLOCATION OF STATE FUNDS TO EACH DISTRICT FOR CURRENT OPERATION.—The total annual state allocation to each district for current operation for the FEFP shall be distributed periodically in the manner prescribed in the General Appropriations Act.

(a) The basic amount for current operation for the FEFP as determined in subsection (1), multiplied by the district cost differential factor as determined in subsection (2), plus the amounts provided for categorical components within the FEFP, plus the discretionary millage compression supplement as determined in subsection (5), the amount for the sparsity supplement as determined in subsection (7), the decline in full-time equivalent students as determined in subsection (8), the research-based reading instruction allocation as determined in subsection (9), the allocation for juvenile justice education programs as determined in subsection (10), and the quality assurance guarantee as determined in subsection ~~(11)~~ (10), less the required local effort as determined in subsection (4). If the funds appropriated for the purpose of funding the total amount for current operation as provided in this paragraph are not sufficient to pay the state requirement in full, the department shall prorate the available state funds to each district in the following manner:

1. Determine the percentage of proration by dividing the sum of the total amount for current operation, as provided in this paragraph for all districts collectively, and the total district required local effort into the sum of the state funds available for current operation and the total district required local effort.
2. Multiply the percentage so determined by the sum of the total amount for current operation as provided in this paragraph and the required local effort for each individual district.
3. From the product of such multiplication, subtract the required local effort of each district; and the remainder shall be the amount of state funds allocated to the district for current operation.

(b) The amount thus obtained shall be the net annual allocation to each school district. However, if it is determined that any school district received an underallocation or overallocation for any prior year because of an arithmetical error, assessment roll change required by final judicial decision, full-time equivalent student membership error, or any allocation error revealed in an audit report, the allocation to that district shall be appropriately adjusted. Beginning with audits for the 2001-2002 fiscal year, if the adjustment is the result of an audit finding in which group 2 FTE are reclassified to the basic program and the district weighted FTE are over the weighted enrollment ceiling for group 2 programs, the adjustment shall not result in a gain of state funds to the district. If the Department of Education audit adjustment recommendation is based upon controverted findings of fact, the Commissioner of Education is authorized to establish the amount of the adjustment based on the best interests of the state.

(c) The amount thus obtained shall represent the net annual state allocation to each district; however, notwithstanding any of the provisions herein,

each district shall be guaranteed a minimum level of funding in the amount and manner prescribed in the General Appropriations Act.

Section 9. The amendments to s. 1011.62(6), Florida Statutes, made by this act shall expire July 1, 2009, and the text of that subsection shall revert to that in existence on the day before the effective date of chapter 2007-328, Laws of Florida, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text that expire pursuant to this section.

Section 10. Section 1011.71, Florida Statutes, as amended by chapters 2007-328 and 2008-2, Laws of Florida, is amended to read:

1011.71 District school tax.—

(1) If the district school tax is not provided in the General Appropriations Act or the substantive bill implementing the General Appropriations Act, each district school board desiring to participate in the state allocation of funds for current operation as prescribed by s. 1011.62(~~12~~)(11) shall levy on the taxable value for school purposes of the district, exclusive of millage voted under the provisions of s. 9(b) or s. 12, Art. VII of the State Constitution, a millage rate not to exceed the amount certified by the commissioner as the minimum millage rate necessary to provide the district required local effort for the current year, pursuant to s. 1011.62(4)(a)1. In addition to the required local effort millage levy, each district school board may levy a nonvoted current operating discretionary millage. The Legislature shall prescribe annually in the appropriations act the maximum amount of millage a district may levy.

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

(a) New construction and remodeling projects, as set forth in s. 1013.64(3)(b) and (6)(b) and included in the district's educational plant survey pursuant to s. 1013.31, without regard to prioritization, sites and site improvement or expansion to new sites, existing sites, auxiliary facilities, athletic facilities, or ancillary facilities.

(b) Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies pursuant to s. 1013.15(2).

(c) The purchase, lease-purchase, or lease of school buses.

(d) The purchase, lease-purchase, or lease of new and replacement equipment.

(e) Payments for educational facilities and sites due under a lease-purchase agreement entered into by a district school board pursuant to s. 1003.02(1)(f) or s. 1013.15(2), not exceeding, in the aggregate, an amount equal to three-fourths of the proceeds from the millage levied by a district school board pursuant to this subsection.



- (f) Payment of loans approved pursuant to ss. 1011.14 and 1011.15.
- (g) Payment of costs directly related to complying with state and federal environmental statutes, rules, and regulations governing school facilities.
- (h) Payment of costs of leasing relocatable educational facilities, of renting or leasing educational facilities and sites pursuant to s. 1013.15(2), or of renting or leasing buildings or space within existing buildings pursuant to s. 1013.15(4).
- (i) Payment of the cost of school buses when a school district contracts with a private entity to provide student transportation services if the district meets the requirements of this paragraph.
1. The district's contract must require that the private entity purchase, lease-purchase, or lease, and operate and maintain, one or more school buses of a specific type and size that meet the requirements of s. 1006.25.
  2. Each such school bus must be used for the daily transportation of public school students in the manner required by the school district.
  3. Annual payment for each such school bus may not exceed 10 percent of the purchase price of the state pool bid.
  4. The proposed expenditure of the funds for this purpose must have been included in the district school board's notice of proposed tax for school capital outlay as provided in s. 200.065(10).
- (j) Payment of the cost of the opening day collection for the library media center of a new school.

(3) If the revenue from the millage authorized in subsection (2) is insufficient to make payments due under a lease-purchase agreement entered into prior to June 30, 2008, by a district school board pursuant to paragraph (2)(e), an amount up to 0.25 mills of the taxable value for school purposes within the school district shall be legally available for such payments, notwithstanding other restrictions on the use of such revenues imposed by law.

~~(4)(3) A school district that has met the reduction requirements regarding class size for the 2008-2009 fiscal current year pursuant to s. 1003.03 for K-12 students for whom the school district provides the educational facilities, has received an unqualified opinion on its financial statements for the preceding 3 years, has no material weaknesses or instances of material noncompliance noted in an audit for the preceding 3 years, and certifies to the Commissioner of Education that the district does not need all of its discretionary 1.75-mill capital improvement revenue for capital outlay purposes and all of the district's instructional space needs for the next 5 years can be met from capital outlay sources that the district reasonably expects to receive during the next 5 years from local revenues and from currently appropriated state facilities funding or from alternative scheduling or construction, leasing, rezoning, or technological methodologies that exhibit sound management may expend, subject to the provisions of s. 200.065, up to \$65 per unweighted full-time equivalent student from the revenue generated by the 2008-2009 millage levy authorized by subsection (2) to fund, in~~

addition to expenditures authorized in paragraphs (2)(a)-(j), 2008-2009 expenses for the following:

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

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

~~(5)(4)~~ Violations of the expenditure provisions in subsection (2) or subsection ~~(4)~~ ~~(3)~~ shall result in an equal dollar reduction in the Florida Education Finance Program (FEFP) funds for the violating district in the fiscal year following the audit citation.

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

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

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

Section 11. The amendments to subsection (3) of s. 1011.71, Florida Statutes, renumbered as subsection (4) by this act, shall expire July 1, 2009, and the text of that subsection shall revert to that in existence on the day before the effective date of chapter 2007-328, Laws of Florida, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of such text that expire pursuant to this section.

Section 12. Subsection (2) of section 1011.73, Florida Statutes, is amended to read:

1011.73 District millage elections.—

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

Section 13. Paragraph (e) is added to subsection (5) of section 1012.225, Florida Statutes, to read:

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

(5) **REVIEW OF PERFORMANCE-BASED PAY PLANS.**—

(e) Districts that do not have an approved plan for the 2008-2009 school year may submit a plan for the 2008-2009 school year by October 1, 2008.

Section 14. Section 1012.72, Florida Statutes, as amended by chapter 2007-328, Laws of Florida, is amended to read:

1012.72 Dale Hickam Excellent Teaching Program.—

(1) The Legislature recognizes that teachers play a critical role in preparing students to achieve the high levels of academic performance expected by the Sunshine State Standards. The Legislature further recognizes the importance of identifying and rewarding teaching excellence and of encouraging good teachers to become excellent teachers. The Legislature finds that the National Board ~~for~~ of Professional Teaching Standards (NBPTS) has established high and rigorous standards for accomplished teaching and has developed a national voluntary system for assessing and certifying teachers who demonstrate teaching excellence by meeting those standards. It is therefore the Legislature's intent ~~to provide incentives for teachers to seek NBPTS certification and~~ to reward teachers who demonstrate teaching excellence by attaining NBPTS certification and sharing their expertise with other teachers.

(2) The Dale Hickam Excellent Teaching Program is created to provide categorical funding for ~~monetary incentives and~~ bonuses for teaching excellence. The bonuses may be provided for initial certification for up to one 10-year period. The Department of Education shall distribute to each school district ~~or to the NBPTS~~ an amount as prescribed annually by the Legislature for the Dale Hickam Excellent Teaching Program. For purposes of this section, the Florida School for the Deaf and the Blind shall be considered a

school district. Unless otherwise provided in the General Appropriations Act, each distribution shall be the sum of the amounts earned for the following ~~incentives and bonuses~~:

~~(a) A fee subsidy to be paid by the Department of Education to the NBPTS on behalf of each individual who is an employee of a district school board or a public school within the school district, who is certified by the district to have demonstrated satisfactory teaching performance pursuant to s. 1012.34 and who satisfies the prerequisites for participating in the NBPTS certification program, and who agrees, in writing, to pay 10 percent of the NBPTS participation fee and to participate in the NBPTS certification program during the school year for which the fee subsidy is provided. The fee subsidy for each eligible participant shall be an amount equal to 90 percent of the fee charged for participating in the NBPTS certification program. The fee subsidy is a one-time award and may not be duplicated for any individual.~~

~~(b) A portfolio-preparation incentive of \$150 paid by the Department of Education to each teacher employed by a district school board or a public school within a school district who is participating in the NBPTS certification program. The portfolio-preparation incentive is a one-time award paid during the school year for which the NBPTS fee subsidy is provided.~~

~~(a)(e)~~ An annual bonus equal to 10 percent of the prior fiscal year's statewide average salary for classroom teachers to be distributed to the school district to be paid to each individual who holds NBPTS certification and is employed by the district school board or by a public school within the school district. The district school board shall distribute the annual bonus to each individual who meets the requirements of this paragraph and who is certified annually by the district to have demonstrated satisfactory teaching performance pursuant to s. 1012.34. The annual bonus may be paid as a single payment or divided into not more than three payments.

~~(b)(d)~~ An annual bonus equal to 10 percent of the prior fiscal year's statewide average salary for classroom teachers to be distributed to the school district to be paid to each individual who meets the requirements of paragraph ~~(a)~~ (e) and agrees, in writing, to provide the equivalent of 12 workdays of mentoring and related services to public school teachers within the state who do not hold NBPTS certification. Related services must include instruction in helping teachers work more effectively with the families of their students. The district school board shall distribute the annual bonus in a single payment following the completion of all required mentoring and related services for the year. It is not the intent of the Legislature to remove excellent teachers from their assigned classrooms; therefore, credit may not be granted by a school district or public school for mentoring or related services provided during student contact time during the 196 days of required service for the school year.

~~(c)(e)~~ The employer's share of social security and Medicare taxes ~~and Florida Retirement System contributions~~ for those teachers who qualify for NBPTS certification and receive bonus amounts under paragraph (a) or paragraph (b).

~~A teacher for whom the state pays the certification fee and who does not complete the certification program or does not teach in a public school of this state for at least 1 year after completing the certification program must repay the amount of the certification fee to the state. However, a teacher who completes the certification program but fails to be awarded NBPTS certification is not required to repay the amount of the certification fee if the teacher meets the 1-year teaching requirement. Repayment is not required of a teacher who does not complete the certification program or fails to fulfill the teaching requirement because of the teacher's death or disability or because of other extenuating circumstances as determined by the State Board of Education.~~

~~(3)(a) In addition to any other remedy available under the law, any person who is a recipient of a certification fee subsidy paid to the NBPTS and who is an employee of the state or any of its political subdivisions is considered to have consented, as a condition of employment, to the voluntary or involuntary withholding of wages to repay to the state the amount of such a certification fee subsidy awarded under this section. Any such employee who defaults on the repayment of such a certification fee subsidy must, within 60 days after service of a notice of default by the Department of Education to the employee, establish a repayment schedule which must be agreed to by the department and the employee, for repaying the defaulted sum through payroll deductions. The department may not require the employee to pay more than 10 percent of the employee's pay per pay period under such a repayment schedule or plan. If the employee fails to establish a repayment schedule within the specified period of time or fails to meet the terms and conditions of the agreed upon or approved repayment schedule as authorized by this subsection, the employee has breached an essential condition of employment and is considered to have consented to the involuntary withholding of wages or salary for the repayment of the certification fee subsidy.~~

~~(b) A person who is employed by the state, or any of its political subdivisions, may not be dismissed for having defaulted on the repayment of the certification fee subsidy to the state.~~

~~(4) The State Board of Education may adopt rules pursuant to ss. 120.536 and 120.54 as necessary to administer the provisions for payment of the fee subsidies, incentives, and bonuses and for the repayment of defaulted certification fee subsidies under this section.~~

~~(3)(5) If the funds available in any fiscal year are insufficient to pay in full the annual bonuses for certification and for providing mentoring and related services, payments for providing mentoring and related services shall be prorated among the eligible recipients. If the mentoring and related services are prorated, school districts may pay a portion or all of the balance. If funds are insufficient to pay in full the annual bonuses for certification, payments of bonuses for certification shall be prorated among the eligible recipients.~~

Section 15. Subsection (4) of section 1013.45, Florida Statutes, is amended to read:

1013.45 Educational facilities contracting and construction techniques.—

(4) Except as otherwise provided in this section and s. 481.229, the services of a registered architect must be used for the development of plans for the erection, enlargement, or alteration of any educational facility. The services of a registered architect are not required for a minor renovation project for which the construction cost is less than \$50,000 or for the placement or hookup of relocatable educational facilities that conform with standards adopted under s. 1013.37. However, boards must provide compliance with building code requirements and ensure that these structures are adequately anchored for wind resistance as required by law. A district school board shall ~~Boards are encouraged to consider the reuse of existing construction documents or design criteria packages if~~ where such reuse is feasible and practical. If a school district's 5-year educational facilities work plan includes the construction of two or more new schools for students in the same grade group and program, such as elementary, middle, or high school, the district school board shall require that prototype design and construction be used for the construction of these schools. Notwithstanding s. 287.055, a board may purchase the architectural services for the design of educational or ancillary facilities under an existing contract agreement for professional services held by a district school board in the State of Florida, provided that the purchase is to the economic advantage of the purchasing board, the services conform to the standards prescribed by rules of the State Board of Education, and such reuse is not without notice to, and permission from, the architect of record whose plans or design criteria are being reused. Plans shall be reviewed for compliance with the state requirements for educational facilities. Rules adopted under this section must establish uniform prequalification, selection, bidding, and negotiation procedures applicable to construction management contracts and the design-build process. This section does not supersede any small, woman-owned or minority-owned business enterprise preference program adopted by a board. Except as otherwise provided in this section, the negotiation procedures applicable to construction management contracts and the design-build process must conform to the requirements of s. 287.055. A board may not modify any rules regarding construction management contracts or the design-build process.

Section 16. This act shall take effect July 1, 2008.

Approved by the Governor June 10, 2008.

Filed in Office Secretary of State June 10, 2008.