

1                                   A bill to be entitled  
2       An act relating to education; amending s. 121.021, F.S.;  
3       deleting salary supplements for National Board for  
4       Professional Teaching Standards certification from the  
5       definition of "compensation" under the Florida Retirement  
6       System; amending s. 1002.33, F.S.; excluding charter  
7       school Merit Award Program funds from the calculation of  
8       school district administrative fees; amending s. 1007.271,  
9       F.S.; deleting dual enrollment funding provisions;  
10      amending s. 1011.62, F.S.; revising provisions relating to  
11      the calculation of full-time equivalent membership for  
12      dual enrollment instruction; authorizing a district school  
13      board to transfer certain categorical funds for academic  
14      classroom instruction; requiring the Department of  
15      Education to report to the Legislature the amounts  
16      transferred and the activities for which the funds were  
17      expended; requiring a district school board to report to  
18      the department if the school board transfers funds from  
19      its allocation for research-based reading instruction;  
20      providing for future expiration of certain provisions;  
21      amending s. 1011.71, F.S.; revising requirements for  
22      school district expenditure of revenue generated by the  
23      district school tax millage; providing for future  
24      expiration of such provisions; amending s. 1012.72, F.S.,  
25      relating to the Dale Hickam Excellent Teaching Program;  
26      eliminating as authorized expenditures the fee subsidy for  
27      National Board for Professional Teaching Standards  
28      certification, the portfolio preparation incentive, the

29 | bonus for mentoring and related services, and the  
 30 | employer's share of Florida Retirement System  
 31 | contributions; revising the requirements by which a  
 32 | teacher may qualify for a bonus; deleting provisions to  
 33 | conform; providing an effective date.

34 |

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

36 |

37 | Section 1. Paragraph (a) of subsection (22) of section  
 38 | 121.021, Florida Statutes, is amended to read:

39 | 121.021 Definitions.--The following words and phrases as  
 40 | used in this chapter have the respective meanings set forth  
 41 | unless a different meaning is plainly required by the context:

42 | (22) "Compensation" means the monthly salary paid a member  
 43 | by his or her employer for work performed arising from that  
 44 | employment.

45 | (a) Compensation shall include:

- 46 | 1. Overtime payments paid from a salary fund.
- 47 | 2. Accumulated annual leave payments.
- 48 | 3. Payments in addition to the employee's base rate of pay
- 49 | if all the following apply:

50 | a. The payments are paid according to a formal written  
 51 | policy that applies to all eligible employees equally;

52 | b. The policy provides that payments shall commence no  
 53 | later than the 11th year of employment;

54 | c. The payments are paid for as long as the employee  
 55 | continues his or her employment; and

56 | d. The payments are paid at least annually.

57 4. Amounts withheld for tax sheltered annuities or  
 58 deferred compensation programs, or any other type of salary  
 59 reduction plan authorized under the Internal Revenue Code.

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

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

71 Section 2. Paragraph (a) of subsection (20) of section  
 72 1002.33, Florida Statutes, is amended to read:

73 1002.33 Charter schools.--

74 (20) SERVICES.--

75 (a) A sponsor shall provide certain administrative and  
 76 educational services to charter schools. These services shall  
 77 include contract management services; full-time equivalent and  
 78 data reporting services; exceptional student education  
 79 administration services; services related to eligibility and  
 80 reporting duties required to ensure that school lunch services  
 81 under the federal lunch program, consistent with the needs of  
 82 the charter school, are provided by the school district at the  
 83 request of the charter school; test administration services,  
 84 including payment of the costs of state-required or district-

PCB PBC 08-05

ORIGINAL

2008

85 required student assessments; processing of teacher certificate  
86 data services; and information services, including equal access  
87 to student information systems that are used by public schools  
88 in the district in which the charter school is located. Student  
89 performance data for each student in a charter school,  
90 including, but not limited to, FCAT scores, standardized test  
91 scores, previous public school student report cards, and student  
92 performance measures, shall be provided by the sponsor to a  
93 charter school in the same manner provided to other public  
94 schools in the district. A total administrative fee for the  
95 provision of such services shall be calculated based upon up to  
96 5 percent of the available funds defined in paragraph (17)(b)  
97 for all students. However, a sponsor may only withhold up to a  
98 5-percent administrative fee for enrollment for up to and  
99 including 500 students. For charter schools with a population of  
100 501 or more students, the difference between the total  
101 administrative fee calculation and the amount of the  
102 administrative fee withheld may only be used for capital outlay  
103 purposes specified in s. 1013.62(2). Funds awarded pursuant to  
104 s. 1012.225 shall not be subject to the maximum 5-percent  
105 administrative fee withheld pursuant to this paragraph. Sponsors  
106 shall not charge charter schools any additional fees or  
107 surcharges for administrative and educational services in  
108 addition to the maximum 5-percent administrative fee withheld  
109 pursuant to this paragraph.

110 Section 3. Subsection (2) of section 1007.271, Florida  
111 Statutes, is amended to read:

112 1007.271 Dual enrollment programs.--

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

139 Section 4. Paragraph (i) of subsection (1) and subsection  
 140 (6) of section 1011.62, Florida Statutes, as amended by chapter  
 141 2007-328, Laws of Florida, are amended to read:

142 1011.62 Funds for operation of schools.--If the annual  
 143 allocation from the Florida Education Finance Program to each  
 144 district for operation of schools is not determined in the  
 145 annual appropriations act or the substantive bill implementing  
 146 the annual appropriations act, it shall be determined as  
 147 follows:

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

152 (i) Calculation of full-time equivalent membership with  
 153 respect to dual enrollment instruction.--Students enrolled in  
 154 dual enrollment instruction pursuant to s. 1007.271 may be  
 155 included in calculations of full-time equivalent student  
 156 memberships for basic programs for grades 9 through 12 by a  
 157 district school board. Instructional time for dual enrollment  
 158 may vary from 900 hours; however, the school district may only  
 159 report the student for a maximum of 1.0 full-time equivalent  
 160 student membership, as provided in s. 1011.61(4). With the  
 161 exception of early admission dual enrollment as defined in s.  
 162 1007.271(7), dual enrollment full-time equivalent student  
 163 membership shall be calculated in an amount equal to the hours  
 164 of instruction that would be necessary to earn the full-time  
 165 equivalent student membership for an equivalent course if it  
 166 were taught in the school district. The dual enrollment full-

167 time equivalent student membership for early admission dual  
 168 enrollment students as defined in s. 1007.271(7) shall be  
 169 calculated by dividing the number of college credit hours by 30.  
 170 ~~Each semester of instruction that is eligible for high school~~  
 171 ~~and postsecondary credit shall be reported by school districts~~  
 172 ~~as 75 membership hours for purposes of FTE calculation. Such~~  
 173 Students in dual enrollment courses may also be calculated as  
 174 the proportional shares of full-time equivalent enrollments they  
 175 generate for a community college or university conducting the  
 176 dual enrollment instruction. ~~Early admission students shall be~~  
 177 ~~considered dual enrollments for funding purposes.~~ Students may  
 178 be enrolled in dual enrollment instruction provided by an  
 179 eligible independent college or university and may be included  
 180 in calculations of full-time equivalent student memberships for  
 181 basic programs for grades 9 through 12 by a district school  
 182 board. However, those provisions of law which exempt dual  
 183 enrolled and early admission students from payment of  
 184 instructional materials and tuition and fees, including  
 185 laboratory fees, shall not apply to students who select the  
 186 option of enrolling in an eligible independent institution. An  
 187 independent college or university which is located and chartered  
 188 in Florida, is not for profit, is accredited by the Commission  
 189 on Colleges of the Southern Association of Colleges and Schools  
 190 or the Accrediting Council for Independent Colleges and Schools,  
 191 and ~~which~~ confers degrees as defined in s. 1005.02 shall be  
 192 eligible for inclusion in the dual enrollment or early admission  
 193 program. Students enrolled in dual enrollment instruction shall  
 194 be exempt from the payment of tuition and fees, including

195 laboratory fees. No student enrolled in college credit  
 196 mathematics or English dual enrollment instruction shall be  
 197 funded as a dual enrollment unless the student has successfully  
 198 completed the relevant section of the entry-level examination  
 199 required pursuant to s. 1008.30.

200 (6) CATEGORICAL FUNDS.--

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

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

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

220 (c) Each district school board shall include in its annual  
 221 financial report to the Department of Education the amount of  
 222 funds the school board transferred from each of the categorical



223 funds identified in this subsection and the specific academic  
 224 classroom instruction for which the transferred funds were  
 225 expended. The Department of Education shall provide instructions  
 226 and specify the format to be used in submitting this required  
 227 information as a part of the district annual financial report.  
 228 The department shall provide to the Legislature a report that  
 229 identifies by district and by categorical fund the amount  
 230 transferred and the specific academic classroom activity for  
 231 which the funds were expended.

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

237 Section 5. The amendments to s. 1011.62(6), Florida  
 238 Statutes, as carried forward by this act from chapter 2007-328,  
 239 Laws of Florida, and made by this act shall expire July 1, 2009,  
 240 and the text of that section shall revert to that in existence  
 241 on the day before the effective date of chapter 2007-328, Laws  
 242 of Florida, except that any amendments to such text enacted  
 243 other than by this act shall be preserved and continue to  
 244 operate to the extent that such amendments are not dependent  
 245 upon the portions of such text that expire pursuant to this  
 246 section.

247 Section 6. Subsection (3) of section 1011.71, Florida  
 248 Statutes, as amended by chapters 2007-328 and 2008-2, Laws of  
 249 Florida, is amended to read:

250 1011.71 District school tax.--

251 (3) A school district that has met the reduction  
 252 requirements regarding class size for the 2008-2009 fiscal  
 253 ~~current~~ year pursuant to s. 1003.03 for K-12 students for whom  
 254 the school district provides the educational facilities, ~~has~~  
 255 ~~received an unqualified opinion on its financial statements for~~  
 256 ~~the preceding 3 years,~~ ~~has no material weaknesses or instances~~  
 257 ~~of material noncompliance noted in an audit for the preceding 3~~  
 258 ~~years,~~ and certifies to the Commissioner of Education that the  
 259 district does not need all of its discretionary 2-mill capital  
 260 improvement revenue for capital outlay purposes and all of the  
 261 district's instructional space needs for the next 5 years can be  
 262 met from capital outlay sources that the district reasonably  
 263 expects to receive during the next 5 years from local revenues  
 264 and from currently appropriated state facilities funding or from  
 265 alternative scheduling or construction, leasing, rezoning, or  
 266 technological methodologies that exhibit sound management may  
 267 expend, subject to the provisions of s. 200.065, up to \$65 per  
 268 unweighted full-time equivalent student from the revenue  
 269 generated by the 2008-2009 millage levy authorized by subsection  
 270 (2) to fund, in addition to expenditures authorized in  
 271 paragraphs (2)(a)-(j), 2008-2009 expenses for the following:  
 272 (a) The purchase, lease-purchase, or lease of driver's  
 273 education vehicles; motor vehicles used for the maintenance or  
 274 operation of plants and equipment; security vehicles; or  
 275 vehicles used in storing or distributing materials and  
 276 equipment.  
 277 (b) Payment of the cost of premiums for property and  
 278 casualty insurance necessary to insure school district

279 educational and ancillary plants. Operating revenues that are  
 280 made available through the payment of property and casualty  
 281 insurance premiums from revenues generated under this subsection  
 282 may be expended only for nonrecurring operational expenditures  
 283 of the school district.

284       Section 7. The amendments to s. 1011.71(3), Florida  
 285 Statutes, as carried forward by this act from chapters 2007-328  
 286 and 2008-2, Laws of Florida, and made by this act shall expire  
 287 July 1, 2009, and the text of that section shall revert to that  
 288 in existence on the day before the effective date of chapter  
 289 2007-328, Laws of Florida, except that any amendments to such  
 290 text enacted other than by this act shall be preserved and  
 291 continue to operate to the extent that such amendments are not  
 292 dependent upon the portions of such text that expire pursuant to  
 293 this section.

294       Section 8. Section 1012.72, Florida Statutes, as amended  
 295 by chapter 2007-328, Laws of Florida, is amended to read:

296       1012.72 Dale Hickam Excellent Teaching Program.--

297       ~~(1) The Legislature recognizes that teachers play a~~  
 298 ~~critical role in preparing students to achieve the high levels~~  
 299 ~~of academic performance expected by the Sunshine State~~  
 300 ~~Standards. The Legislature further recognizes the importance of~~  
 301 ~~identifying and rewarding teaching excellence and of encouraging~~  
 302 ~~good teachers to become excellent teachers. The Legislature~~  
 303 ~~finds that the National Board of Professional Teaching Standards~~  
 304 ~~(NBPTS) has established high and rigorous standards for~~  
 305 ~~accomplished teaching and has developed a national voluntary~~  
 306 ~~system for assessing and certifying teachers who demonstrate~~

307 ~~teaching excellence by meeting those standards. It is therefore~~  
 308 ~~the Legislature's intent to provide incentives for teachers to~~  
 309 ~~seek NBPTS certification and to reward teachers who demonstrate~~  
 310 ~~teaching excellence by attaining NBPTS certification and sharing~~  
 311 ~~their expertise with other teachers.~~

312 (1)~~(2)~~ The Dale Hickam Excellent Teaching Program is  
 313 created to provide categorical funding for ~~monetary incentives~~  
 314 ~~and~~ bonuses for teaching excellence. The Department of Education  
 315 shall distribute to each school district ~~or to the NBPTS~~ an  
 316 amount as prescribed annually by the Legislature for the Dale  
 317 Hickam Excellent Teaching Program. For purposes of this section,  
 318 the Florida School for the Deaf and the Blind shall be  
 319 considered a school district. Unless otherwise provided in the  
 320 General Appropriations Act, each distribution shall be the sum  
 321 of the amounts earned for the following ~~incentives and bonuses~~:

322 ~~(a) A fee subsidy to be paid by the Department of~~  
 323 ~~Education to the NBPTS on behalf of each individual who is an~~  
 324 ~~employee of a district school board or a public school within~~  
 325 ~~the school district, who is certified by the district to have~~  
 326 ~~demonstrated satisfactory teaching performance pursuant to s.~~  
 327 ~~1012.34 and who satisfies the prerequisites for participating in~~  
 328 ~~the NBPTS certification program, and who agrees, in writing, to~~  
 329 ~~pay 10 percent of the NBPTS participation fee and to participate~~  
 330 ~~in the NBPTS certification program during the school year for~~  
 331 ~~which the fee subsidy is provided. The fee subsidy for each~~  
 332 ~~eligible participant shall be an amount equal to 90 percent of~~  
 333 ~~the fee charged for participating in the NBPTS certification~~

PCB PBC 08-05

ORIGINAL

2008

334 ~~program. The fee subsidy is a one time award and may not be~~  
335  ~~duplicated for any individual.~~

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

342  ~~(a)(e)~~ An annual bonus equal to 10 percent of the prior  
343 fiscal year's statewide average salary for classroom teachers to  
344 be distributed to the school district to be paid to each  
345 individual who holds National Board for Professional Teaching  
346 Standards (NBPTS) ~~NBPTS~~ certification and is employed by the  
347 district school board or by a public school within the school  
348 district. The district school board shall distribute the annual  
349 bonus to each individual who meets the requirements of this  
350 paragraph and who is certified annually by the district to have  
351 demonstrated satisfactory teaching performance pursuant to s.  
352 1012.225 or s. 1012.34. The annual bonus may be paid as a single  
353 payment or divided into not more than three payments.

354  ~~(d) An annual bonus equal to 10 percent of the prior~~  
355  ~~fiscal year's statewide average salary for classroom teachers to~~  
356  ~~be distributed to the school district to be paid to each~~  
357  ~~individual who meets the requirements of paragraph (c) and~~  
358  ~~agrees, in writing, to provide the equivalent of 12 workdays of~~  
359  ~~mentoring and related services to public school teachers within~~  
360  ~~the state who do not hold NBPTS certification. Related services~~  
361  ~~must include instruction in helping teachers work more~~

PCB PBC 08-05

ORIGINAL

2008

362 ~~effectively with the families of their students. The district~~  
363 ~~school board shall distribute the annual bonus in a single~~  
364 ~~payment following the completion of all required mentoring and~~  
365 ~~related services for the year. It is not the intent of the~~  
366 ~~Legislature to remove excellent teachers from their assigned~~  
367 ~~classrooms; therefore, credit may not be granted by a school~~  
368 ~~district or public school for mentoring or related services~~  
369 ~~provided during student contact time during the 196 days of~~  
370 ~~required service for the school year.~~

371 (b)(e) The employer's share of social security and  
372 Medicare taxes and ~~Florida Retirement System contributions~~ for  
373 those teachers who qualify for NBPTS certification and receive  
374 bonus amounts.

375  
376 ~~A teacher for whom the state pays the certification fee and who~~  
377 ~~does not complete the certification program or does not teach in~~  
378 ~~a public school of this state for at least 1 year after~~  
379 ~~completing the certification program must repay the amount of~~  
380 ~~the certification fee to the state. However, a teacher who~~  
381 ~~completes the certification program but fails to be awarded~~  
382 ~~NBPTS certification is not required to repay the amount of the~~  
383 ~~certification fee if the teacher meets the 1 year teaching~~  
384 ~~requirement. Repayment is not required of a teacher who does not~~  
385 ~~complete the certification program or fails to fulfill the~~  
386 ~~teaching requirement because of the teacher's death or~~  
387 ~~disability or because of other extenuating circumstances as~~  
388 ~~determined by the State Board of Education.~~

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

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

415           ~~(4) The State Board of Education may adopt rules pursuant~~  
 416 ~~to ss. 120.536 and 120.54 as necessary to administer the~~

PCB PBC 08-05

ORIGINAL

2008

417 ~~provisions for payment of the fee subsidies, incentives, and~~  
418 ~~bonuses and for the repayment of defaulted certification fee~~  
419 ~~subsidies under this section.~~

420 (2)~~(5)~~ If the funds available in any fiscal year are  
421 insufficient to pay in full the annual bonus under subsection  
422 (1) ~~bonuses for certification and for providing mentoring and~~  
423 ~~related services, payments for providing mentoring and related~~  
424 ~~services~~ shall be prorated among the eligible recipients.

425 Section 9. This act shall take effect July 1, 2008.