



Health Care Appropriations Committee

Meeting Packet

**March 16, 2010
2:15 p.m. – 6:00 p.m.
212 Knott**



AGENDA

Health Care Appropriations Committee

March 16, 2010

2:15 p.m. – 6:00 p.m.

212 Knott

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. HB 1293 by Representative Coley
- IV. Budget Workshop—Chair's Proposal FY 2010-11 Budget
- V. Consideration of Proposed Committee Bills:
 - PCB HCA 10-01—Department of Health
 - PCB HCA 10-02—Medicaid Services
 - PCB HCA 10-03—Agency for Persons with Disabilities
 - PCB HCA 10-04—Child Welfare
 - PCB HCA 10-05—Mental Health and Substance Abuse
 - PCB HCA 10-07—Tobacco Education and Prevention
- VI. Closing Remarks/Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1293

Public Assistance

SPONSOR(S): Coley

TIED BILLS:

IDEN./SIM. BILLS: SB 1306

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee	11 Y, 0 N	Schoonover	Schoolfield
2)	Health Care Appropriations Committee		Massengale	Massengale <i>AM</i>
3)	Health & Family Services Policy Council			
4)				
5)				

SUMMARY ANALYSIS

HB 1293 makes several revisions to law relating to the Food Stamp program & WAGES program to conform to current federal and state law. The bill replaces all references in statute using either "food stamp" or "food stamp program," and replaces with either the "Supplemental Nutrition Assistance Program" or "food assistance." The bill replaces all references in statute using either "WAGES" or "WAGES Program" with "temporary cash assistance" or "Temporary Cash Assistance Program."

The bill does not appear to have a fiscal impact on state or local governments.

The bill becomes effective on July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

In 2008 Congress passed the Food, Conservation and Energy Act, which changed the name of the federal Food Stamp Program to the Supplemental Nutrition Assistance Program (SNAP).¹ States retained flexibility to name the program but were encouraged to change the name to SNAP or another alternate name.² Food Stamps have not been issued in Florida since 1998 when the state converted to electronic benefit transfer cards.³

In 2000, the Florida Legislature passed the Workforce Innovation Act⁴ that defined temporary cash assistance as DCF's eligibility program for financial assistance to needy families with or expecting children.⁵ It also defined the welfare transition program as the state's program for providing work activities and providing parents with job presentation, work opportunities, and support services to enable them to leave the program and be self-sufficient.⁶ Prior to passage of the Workforce Innovation Act, the statute defined the Work and Gain Economic Self-sufficiency (WAGES) Program as the program providing these services.

Effect of Proposed Changes

The bill proposes several revisions to law relating to the Food Stamp Program & WAGES Program to conform to current federal and state law.

The bill replaces all references in statute using either "food stamp" or "food stamp program," and replaces with either the "Supplemental Nutrition Assistance Program" or "food assistance." The effect of this change will conform to the current food assistance program under federal law.

¹ H.R. 2419 (2008).

² "A Short History of SNAP," Food and Nutrition Service, U.S. Department of Agriculture.
<http://www.fns.usda.gov/FSP/rules/Legislation/about.htm> (last visited March 4, 2010).

³ Staff Analysis (HB 1293), Department of Children and Family Services (On file with committee staff).

⁴ 2000-165, Laws of Florida.

⁵ Staff Analysis (HB 1293), Department of Children and Family Services (On file with committee staff).

⁶ Id.

The bill replaces all references in statute using either "WAGES" or "WAGES Program" with "temporary cash assistance" or "Temporary Cash Assistance Program." The effect of this change will align DCF's cash assistance program with the Workforce Innovation Act of 2000.

B. SECTION DIRECTORY:

- Section 1. Amends s. 97.021, F.S., relating to definitions.
- Section 2. Amends s. 163.2523, F.S., relating to grant program.
- Section 3. Amends s. 163.456, F.S., relating to Legislative findings and intent.
- Section 4. Amends s. 220.187, F.S., relating to credits for contributions to nonprofit scholarship-funding organizations.
- Section 5. Amends s. 288.9618, F.S., relating to microenterprises.
- Section 6. Amends s. 341.041, F.S., relating to transit responsibilities of the department.
- Section 7. Amends s. 379.353, F.S., relating to recreational licenses and permits; exemptions from fees and requirements.
- Section 8. Amends s. 402.33, F.S., relating to department authority to charge fees for services provided.
- Section 9. Amends s. 409.2554, F.S., relating to definitions.
- Section 10. Amends s. 409.2576, F.S., relating to state directory of new hires.
- Section 11. Amends s. 409.903, F.S., relating to mandatory payments for eligible persons.
- Section 12. Amends s. 409.942, F.S., relating to electronic benefit transfer program.
- Section 13. Amends s. 411.0101, F.S., relating to child care and early childhood resource and referral.
- Section 14. Amends s. 414.0252, F.S., relating to definitions.
- Section 15. Amends s. 414.065, F.S., relating to noncompliance with work requirements.
- Section 16. Amends s. 414.0655, F.S., relating to medical incapacity due to substance abuse or mental health impairment.
- Section 17. Amends s. 414.075, F.S., relating to resource eligibility standards.
- Section 18. Amends s. 414.085, F.S., relating to income eligibility standards.
- Section 19. Amends s. 414.095, F.S., relating to determining eligibility for temporary cash assistance.
- Section 20. Amends s. 414.14, F.S., relating to public assistance policy simplification.
- Section 21. Amends s. 414.16, F.S., relating to emergency assistance program.
- Section 22. Amends s. 414.17, F.S., relating to audits.
- Section 23. Amends s. 414.175, F.S., relating to review of existing waivers.
- Section 24. Amends s. 414.31, F.S., relating to state agency for administering federal food stamp program.
- Section 25. Amends s. 414.32, F.S., relating to prohibitions and restrictions with respect to food stamps.
- Section 26. Amends s. 414.33, F.S., relating to violations of food stamp program.
- Section 27. Amends s. 414.34, F.S., relating to annual report concerning administrative complaints and disciplinary actions involving food stamp program violations.
- Section 28. Amends s. 414.35, F.S., relating to emergency relief.
- Section 29. Amends s. 414.36, F.S., relating to public assistance overpayment recovery program; contracts.
- Section 30. Amends s. 414.39, F.S., relating to fraud.
- Section 31. Amends s. 414.41, F.S., relating to recovery of payments made due to mistake or fraud.
- Section 32. Amends s. 414.45, F.S., relating to rulemaking.
- Section 33. Amends s. 420.624, F.S., relating to local homeless assistance continuum of care.
- Section 34. Amends s. 430.2053, F.S., relating to aging resource centers.
- Section 35. Amends s. 445.004, F.S., relating to Workforce Florida, Inc.
- Section 36. Amends s. 445.009, F.S., relating to one-stop delivery system.
- Section 37. Amends s. 445.024, F.S., relating to work requirements.
- Section 38. Amends s. 445.026, F.S., relating to cash assistance severance benefit.
- Section 39. Amends s. 445.048, F.S., relating to waivers.
- Section 40. Amends s. 718.115, F.S., relating to common expenses and common surplus.
- Section 41. Amends s. 817.568, F.S., relating to criminal use of personal identification information.
- Section 42. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.

2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

29 local government may allocate grant money to special districts,
 30 including community redevelopment agencies, and nonprofit
 31 community development organizations to implement projects
 32 consistent with an adopted urban infill and redevelopment plan
 33 or plan employed in lieu thereof. Thirty percent of the general
 34 revenue appropriated for this program shall be available for
 35 planning grants to be used by local governments for the
 36 development of an urban infill and redevelopment plan, including
 37 community participation processes for the plan. Sixty percent of
 38 the general revenue appropriated for this program shall be
 39 available for fifty/fifty matching grants for implementing urban
 40 infill and redevelopment projects that further the objectives
 41 set forth in the local government's adopted urban infill and
 42 redevelopment plan or plan employed in lieu thereof. The
 43 remaining 10 percent of the revenue must be used for outright
 44 grants for implementing projects requiring an expenditure of
 45 under \$50,000. If the volume of fundable applications under any
 46 of the allocations specified in this section does not fully
 47 obligate the amount of the allocation, the Department of
 48 Community Affairs may transfer the unused balance to the
 49 category having the highest dollar value of applications
 50 eligible but unfunded. However, in no event may the percentage
 51 of dollars allocated to outright grants for implementing
 52 projects exceed 20 percent in any given fiscal year. Projects
 53 that provide employment opportunities to clients of the
 54 Temporary Cash Assistance ~~WAGES~~ program and projects within
 55 urban infill and redevelopment areas that include a community
 56 redevelopment area, Florida Main Street program, Front Porch

57 Florida Community, sustainable community, enterprise zone,
 58 federal enterprise zone, enterprise community, or neighborhood
 59 improvement district must be given an elevated priority in the
 60 scoring of competing grant applications. The Division of Housing
 61 and Community Development of the Department of Community Affairs
 62 shall administer the grant program. The Department of Community
 63 Affairs shall adopt rules establishing grant review criteria
 64 consistent with this section.

65 Section 3. Paragraph (c) of subsection (1) of section
 66 163.456, Florida Statutes, is amended to read:

67 163.456 Legislative findings and intent.—

68 (1) The Legislature finds that:

69 (c) The available means of eliminating or reducing these
 70 deteriorating economic conditions and encouraging local resident
 71 participation and support is to provide support assistance and
 72 resource investment to community-based development
 73 organizations. The Legislature also finds that community-based
 74 development organizations can contribute to the creation of jobs
 75 in response to federal welfare reform and state Temporary Cash
 76 Assistance ~~WAGES~~ Program legislation, and economic development
 77 activities related to urban and rural economic initiatives.

78 Section 4. Paragraph (b) of subsection (2) of section
 79 220.187, Florida Statutes, is amended to read:

80 220.187 Credits for contributions to nonprofit
 81 scholarship-funding organizations.—

82 (2) DEFINITIONS.—As used in this section, the term:

83 (b) "Direct certification list" means the certified list
 84 of children who qualify for the food assistance ~~Stamp~~ program,

85 | the Temporary Assistance to Needy Families Program, or the Food
 86 | Distribution Program on Indian Reservations provided to the
 87 | Department of Education by the Department of Children and Family
 88 | Services.

89 | Section 5. Paragraph (h) of subsection (1) of section
 90 | 288.9618, Florida Statutes, is amended to read:

91 | 288.9618 Microenterprises.—

92 | (1) Subject to specific appropriations in the General
 93 | Appropriations Act, the Office of Tourism, Trade, and Economic
 94 | Development may contract with some appropriate not-for-profit or
 95 | governmental organization for any action that the office deems
 96 | necessary to foster the development of microenterprises in the
 97 | state. As used within this section, microenterprises are
 98 | extremely small business enterprises which enable low and
 99 | moderate income individuals to achieve self-sufficiency through
 100 | self-employment. Microenterprise programs are those which
 101 | provide at least one of the following: small amounts of capital,
 102 | business training, and technical assistance. Where feasible, the
 103 | office or organizations under contract with the office shall
 104 | work in cooperation with other organizations active in the study
 105 | and support of microenterprises. Such actions may include, but
 106 | are not limited to:

107 | (h) Coordinating with other organizations to ensure that
 108 | participants in the Temporary Cash Assistance ~~WAGES~~ Program are
 109 | given opportunities to create microenterprises.

110 | Section 6. Subsection (14) of section 341.041, Florida
 111 | Statutes, is amended to read:

112 | 341.041 Transit responsibilities of the department.—The

113 department shall, within the resources provided pursuant to
 114 chapter 216:

115 (14) Assist local governmental entities and other transit
 116 operators in the planning, development, and coordination of
 117 transit services for Temporary Cash Assistance ~~WAGES~~ Program
 118 participants as defined in s. 414.0252.

119 Section 7. Paragraph (h) of subsection (2) of section
 120 379.353, Florida Statutes, is amended to read:

121 379.353 Recreational licenses and permits; exemptions from
 122 fees and requirements.—

123 (2) A hunting, freshwater fishing, or saltwater fishing
 124 license or permit is not required for:

125 (h) Any resident saltwater fishing from land or from a
 126 structure fixed to the land who has been determined eligible by
 127 the Department of Children and Family Services for the food
 128 assistance stamp program, temporary cash assistance, or the
 129 Medicaid programs. A benefit issuance or program identification
 130 card issued by the Department of Children and Family Services or
 131 the Florida Medicaid program of the Agency for Health Care
 132 Administration shall serve as proof of program eligibility. The
 133 client must have in his or her possession the ID card and
 134 positive proof of identification when fishing.

135 Section 8. Paragraph (g) of subsection (1) of section
 136 402.33, Florida Statutes, is amended to read:

137 402.33 Department authority to charge fees for services
 138 provided.—

139 (1) As used in this section, the term:

140 (g) "State and federal aid" means cash assistance or cash

141 equivalent benefits based on an individual's proof of financial
 142 need, including, but not limited to, temporary cash assistance
 143 and food assistance ~~stamps~~.

144 Section 9. Subsection (8) of section 409.2554, Florida
 145 Statutes, is amended to read:

146 409.2554 Definitions; ss. 409.2551-409.2598.—As used in
 147 ss. 409.2551-409.2598, the term:

148 (8) "Public assistance" means money assistance paid on the
 149 basis of Title IV-E and Title XIX of the Social Security Act,
 150 temporary cash assistance, or food assistance benefits ~~stamps~~
 151 received on behalf of a child under 18 years of age who has an
 152 absent parent.

153 Section 10. Paragraph (a) of subsection (9) of section
 154 409.2576, Florida Statutes, is amended to read:

155 409.2576 State Directory of New Hires.—

156 (9) DISCLOSURE OF INFORMATION.—

157 (a) New hire information shall be disclosed to the state
 158 agency administering the following programs for the purposes of
 159 determining eligibility under those programs:

160 1. Any state program funded under part A of Title IV of
 161 the Social Security Act;

162 2. The Medicaid program under Title XIX of the Social
 163 Security Act;

164 3. The unemployment compensation program under s. 3304 of
 165 the Internal Revenue Code of 1954;

166 4. The food assistance ~~stamp~~ program under the Food and
 167 Nutrition Act of 2008 ~~Food Stamp Act of 1977~~; and

168 5. Any state program under a plan approved under Title I

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169 (Old-Age Assistance for the Aged), Title X (Aid to the Blind),
 170 Title XIV (Aid to the Permanently and Totally Disabled), or
 171 Title XVI (Aid to the Aged, Blind, or Disabled; Supplemental
 172 Security Income for the Aged, Blind, and Disabled) of the Social
 173 Security Act.

174 Section 11. Subsection (3) of section 409.903, Florida
 175 Statutes, is amended to read:

176 409.903 Mandatory payments for eligible persons.—The
 177 agency shall make payments for medical assistance and related
 178 services on behalf of the following persons who the department,
 179 or the Social Security Administration by contract with the
 180 Department of Children and Family Services, determines to be
 181 eligible, subject to the income, assets, and categorical
 182 eligibility tests set forth in federal and state law. Payment on
 183 behalf of these Medicaid eligible persons is subject to the
 184 availability of moneys and any limitations established by the
 185 General Appropriations Act or chapter 216.

186 (3) A child under age 21 living in a low-income, two-
 187 parent family, and a child under age 7 living with a
 188 nonrelative, if the income and assets of the family or child, as
 189 applicable, do not exceed the resource limits under the
 190 Temporary Cash Assistance ~~WAGES~~ Program.

191 Section 12. Subsection (1) of section 409.942, Florida
 192 Statutes, is amended to read:

193 409.942 Electronic benefit transfer program.—

194 (1) The Department of Children and Family Services shall
 195 establish an electronic benefit transfer program for the
 196 dissemination of food assistance ~~stamp~~ benefits and temporary

197 | cash assistance payments, including refugee cash assistance
 198 | payments, asylum applicant payments, and child support disregard
 199 | payments. If the Federal Government does not enact legislation
 200 | or regulations providing for dissemination of supplemental
 201 | security income by electronic benefit transfer, the state may
 202 | include supplemental security income in the electronic benefit
 203 | transfer program.

204 | Section 13. Subsection (1) of section 411.0101, Florida
 205 | Statutes, is amended to read:

206 | 411.0101 Child care and early childhood resource and
 207 | referral.—The Agency for Workforce Innovation shall establish a
 208 | statewide child care resource and referral network. Preference
 209 | shall be given to using the already established early learning
 210 | coalitions as the child care resource and referral agency. If an
 211 | early learning coalition cannot comply with the requirements to
 212 | offer the resource information component or does not want to
 213 | offer that service, the early learning coalition shall select
 214 | the resource information agency based upon a request for
 215 | proposal pursuant to s. 411.01(5)(e)1. At least one child care
 216 | resource and referral agency must be established in each early
 217 | learning coalition's county or multicounty region. Child care
 218 | resource and referral agencies shall provide the following
 219 | services:

220 | (1) Identification of existing public and private child
 221 | care and early childhood education services, including child
 222 | care services by public and private employers, and the
 223 | development of a resource file of those services. These services
 224 | may include family day care, public and private child care

225 | programs, head start, prekindergarten early intervention
 226 | programs, special education programs for prekindergarten
 227 | handicapped children, services for children with developmental
 228 | disabilities, full-time and part-time programs, before-school
 229 | and after-school programs, vacation care programs, parent
 230 | education, the Temporary Cash Assistance ~~WAGES~~ Program, and
 231 | related family support services. The resource file shall
 232 | include, but not be limited to:

- 233 | (a) Type of program.
- 234 | (b) Hours of service.
- 235 | (c) Ages of children served.
- 236 | (d) Number of children served.
- 237 | (e) Significant program information.
- 238 | (f) Fees and eligibility for services.
- 239 | (g) Availability of transportation.

240 | Section 14. Subsection (10) of section 414.0252, Florida
 241 | Statutes, is amended to read:

242 | 414.0252 Definitions.—As used in ss. 414.025-414.55, the
 243 | term:

- 244 | (10) "Public assistance" means benefits paid on the basis
 245 | of the temporary cash assistance, food assistance ~~stamp~~,
 246 | Medicaid, or optional state supplementation program.

247 | Section 15. Subsection (1), paragraphs (a), (c), and (d)
 248 | of subsection (2), and subsection (3) of section 414.065,
 249 | Florida Statutes, are amended to read:

250 | 414.065 Noncompliance with work requirements.—

- 251 | (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS
 252 | AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The

253 department shall establish procedures for administering
 254 penalties for nonparticipation in work requirements and failure
 255 to comply with the alternative requirement plan. If an
 256 individual in a family receiving temporary cash assistance fails
 257 to engage in work activities required in accordance with s.
 258 445.024, the following penalties shall apply. Prior to the
 259 imposition of a sanction, the participant shall be notified
 260 orally or in writing that the participant is subject to sanction
 261 and that action will be taken to impose the sanction unless the
 262 participant complies with the work activity requirements. The
 263 participant shall be counseled as to the consequences of
 264 noncompliance and, if appropriate, shall be referred for
 265 services that could assist the participant to fully comply with
 266 program requirements. If the participant has good cause for
 267 noncompliance or demonstrates satisfactory compliance, the
 268 sanction shall not be imposed. If the participant has
 269 subsequently obtained employment, the participant shall be
 270 counseled regarding the transitional benefits that may be
 271 available and provided information about how to access such
 272 benefits. The department shall administer sanctions related to
 273 food assistance ~~stamp~~ consistent with federal regulations.

274 (a)1. First noncompliance: temporary cash assistance shall
 275 be terminated for the family for a minimum of 10 days or until
 276 the individual who failed to comply does so.

277 2. Second noncompliance: temporary cash assistance shall
 278 be terminated for the family for 1 month or until the individual
 279 who failed to comply does so, whichever is later. Upon meeting
 280 this requirement, temporary cash assistance shall be reinstated

281 to the date of compliance or the first day of the month
 282 following the penalty period, whichever is later.

283 3. Third noncompliance: temporary cash assistance shall be
 284 terminated for the family for 3 months or until the individual
 285 who failed to comply does so, whichever is later. The individual
 286 shall be required to comply with the required work activity upon
 287 completion of the 3-month penalty period, before reinstatement
 288 of temporary cash assistance. Upon meeting this requirement,
 289 temporary cash assistance shall be reinstated to the date of
 290 compliance or the first day of the month following the penalty
 291 period, whichever is later.

292 (b) If a participant receiving temporary cash assistance
 293 who is otherwise exempted from noncompliance penalties fails to
 294 comply with the alternative requirement plan required in
 295 accordance with this section, the penalties provided in
 296 paragraph (a) shall apply.

297
 298 If a participant fully complies with work activity requirements
 299 for at least 6 months, the participant shall be reinstated as
 300 being in full compliance with program requirements for purpose
 301 of sanctions imposed under this section.

302 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR
 303 CHILDREN; PROTECTIVE PAYEES.—

304 (a) Upon the second or third occurrence of noncompliance,
 305 temporary cash assistance and food assistance ~~stamps~~ for the
 306 child or children in a family who are under age 16 may be
 307 continued. Any such payments must be made through a protective
 308 payee or, in the case of food assistance ~~stamps~~, through an

309 authorized representative. Under no circumstances shall
 310 temporary cash assistance or food assistance ~~stamps~~ be paid to
 311 an individual who has failed to comply with program
 312 requirements.

313 (c) The protective payee designated by the department
 314 shall be the authorized representative for purposes of receiving
 315 food assistance ~~stamps~~ on behalf of a child or children under
 316 age 16. The authorized representative must agree in writing to
 317 use the food assistance ~~stamps~~ in the best interest of the child
 318 or children.

319 (d) If it is in the best interest of the child or
 320 children, as determined by the department, for the staff member
 321 of a private agency, a public agency, the department, or any
 322 other appropriate organization to serve as a protective payee or
 323 authorized representative, such designation may be made, except
 324 that a protective payee or authorized representative must not be
 325 any individual involved in determining eligibility for temporary
 326 cash assistance or food assistance ~~stamps~~ for the family, staff
 327 handling any fiscal processes related to issuance of temporary
 328 cash assistance or food assistance ~~stamps~~, or landlords,
 329 grocers, or vendors of goods, services, or items dealing
 330 directly with the participant.

331 (3) PROPORTIONAL REDUCTION OF TEMPORARY CASH ASSISTANCE
 332 RELATED TO PAY AFTER PERFORMANCE.—Notwithstanding the provisions
 333 of subsection (1), if an individual is receiving temporary cash
 334 assistance under a pay-after-performance arrangement and the
 335 individual participates, but fails to meet the full
 336 participation requirement, then the temporary cash assistance

337 received shall be reduced and shall be proportional to the
 338 actual participation. Food assistance ~~stamps~~ may be included in
 339 a pay-after-performance arrangement if permitted under federal
 340 law.

341 Section 16. Subsection (1) of section 414.0655, Florida
 342 Statutes, is amended to read:

343 414.0655 Medical incapacity due to substance abuse or
 344 mental health impairment.—

345 (1) Notwithstanding the provisions of s. 414.065 to the
 346 contrary, any participant who requires out-of-home residential
 347 treatment for alcoholism, drug addiction, alcohol abuse, or a
 348 mental health disorder, as certified by a physician licensed
 349 under chapter 458 or chapter 459, shall be exempted from work
 350 activities while participating in treatment. The participant
 351 shall be required to comply with the course of treatment
 352 necessary for the individual to resume work activity
 353 participation. The treatment agency shall be required to notify
 354 the department with an initial estimate of when the participant
 355 will have completed the course of treatment and be ready to
 356 resume full participation in the Temporary Cash Assistance ~~WAGES~~
 357 Program. If the treatment will take longer than 60 days, the
 358 treatment agency shall provide to the department the conditions
 359 justifying extended treatment, and the department and the
 360 treatment agency shall negotiate a continued stay in treatment
 361 not to exceed an additional 90 days.

362 Section 17. Section 414.075, Florida Statutes, is amended
 363 to read:

364 414.075 Resource eligibility standards.—For purposes of

365 program simplification and effective program management, certain
 366 resource definitions, as outlined in the food assistance ~~stamp~~
 367 regulations at 7 C.F.R. s. 273.8, shall be applied to the
 368 Temporary Cash Assistance ~~WAGES~~ Program as determined by the
 369 department to be consistent with federal law regarding temporary
 370 cash assistance and Medicaid for needy families, except that:

371 (1) The maximum allowable resources, including liquid and
 372 nonliquid resources, of all members of the family may not exceed
 373 \$2,000.

374 (2) In determining the resources of a family, the
 375 following shall be excluded:

376 (a) Licensed vehicles needed for individuals subject to
 377 the work participation requirement, not to exceed a combined
 378 value of \$8,500, and needed for training, employment, or
 379 education purposes. For any family without an individual subject
 380 to the work participation requirement, one vehicle valued at not
 381 more than \$8,500 shall be excluded. Any vehicle that is
 382 necessary to transport a physically disabled family member shall
 383 be excluded. A vehicle shall be considered necessary for the
 384 transportation of a physically disabled family member if the
 385 vehicle is specially equipped to meet the specific needs of the
 386 disabled person or if the vehicle is a special type of vehicle
 387 and makes it possible to transport the disabled person.

388 (b) Funds paid to a homeless shelter which are being held
 389 for the family to enable the family to pay deposits or other
 390 costs associated with moving to a new shelter arrangement.

391 (3) A vacation home that annually produces income
 392 consistent with its fair market value, and that is excluded as a

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393 resource in determining eligibility for food assistance ~~stamp~~
 394 under federal regulations, may not be excluded as a resource in
 395 determining a family's eligibility for temporary cash
 396 assistance.

397 (4) An individual and the assistance group in which the
 398 individual is a current member will be ineligible for a period
 399 of 2 years from the original date of a transfer of an asset made
 400 for the purpose of qualifying for or maintaining eligibility for
 401 temporary cash assistance.

402 Section 18. Subsection (1) of section 414.085, Florida
 403 Statutes, is amended to read:

404 414.085 Income eligibility standards.—

405 (1) For purposes of program simplification and effective
 406 program management, certain income definitions, as outlined in
 407 the food assistance ~~stamp~~ regulations at 7 C.F.R. s. 273.9,
 408 shall be applied to the temporary cash assistance program as
 409 determined by the department to be consistent with federal law
 410 regarding temporary cash assistance and Medicaid for needy
 411 families, except as to the following:

412 (a) Participation in the temporary cash assistance program
 413 shall be limited to those families whose gross family income is
 414 equal to or less than 185 percent of the federal poverty level
 415 established in s. 673(2) of the Community Services Block Grant
 416 Act, 42 U.S.C. s. 9901(2).

417 (b) Income security payments, including payments funded
 418 under part B of Title IV of the Social Security Act, as amended;
 419 supplemental security income under Title XVI of the Social
 420 Security Act, as amended; or other income security payments as

421 defined by federal law shall be excluded as income unless
 422 required to be included by federal law.

423 (c) The first \$50 of child support paid to a parent
 424 receiving temporary cash assistance may not be disregarded in
 425 calculating the amount of temporary cash assistance for the
 426 family, unless such exclusion is required by federal law.

427 (d) An incentive payment to a participant authorized by a
 428 regional workforce board shall not be considered income.

429 Section 19. Subsection (1), paragraphs (c) and (f) of
 430 subsection (9), and paragraph (f) of subsection (14) of section
 431 414.095, Florida Statutes, are amended to read:

432 414.095 Determining eligibility for temporary cash
 433 assistance.-

434 (1) ELIGIBILITY.—An applicant must meet eligibility
 435 requirements of this section before receiving services or
 436 temporary cash assistance under this chapter, except that an
 437 applicant shall be required to register for work and engage in
 438 work activities in accordance with s. 445.024, as designated by
 439 the regional workforce board, and may receive support services
 440 or child care assistance in conjunction with such requirement.
 441 The department shall make a determination of eligibility based
 442 on the criteria listed in this chapter. The department shall
 443 monitor continued eligibility for temporary cash assistance
 444 through periodic reviews consistent with the food assistance
 445 ~~stamp~~ eligibility process. Benefits shall not be denied to an
 446 individual solely based on a felony drug conviction, unless the
 447 conviction is for trafficking pursuant to s. 893.135. To be
 448 eligible under this section, an individual convicted of a drug

449 felony must be satisfactorily meeting the requirements of the
 450 temporary cash assistance program, including all substance abuse
 451 treatment requirements. Within the limits specified in this
 452 chapter, the state opts out of the provision of Pub. L. No. 104-
 453 193, s. 115, that eliminates eligibility for temporary cash
 454 assistance and food assistance ~~stamps~~ for any individual
 455 convicted of a controlled substance felony.

456 (9) OPPORTUNITIES AND OBLIGATIONS.—An applicant for
 457 temporary cash assistance has the following opportunities and
 458 obligations:

459 (c) To be advised of any reduction or termination of
 460 temporary cash assistance or food assistance ~~stamps~~.

461 (f) To use temporary cash assistance and food assistance
 462 ~~stamps~~ for the purpose for which the assistance is intended.

463 (14) PROHIBITIONS AND RESTRICTIONS.—

464 (f) An individual who is convicted in federal or state
 465 court of receiving benefits under this chapter, Title XIX, the
 466 Food and Nutrition Act of 2008 ~~Food Stamp Act of 1977~~, or Title
 467 XVI (Supplemental Security Income), in two or more states
 468 simultaneously may not receive temporary cash assistance or
 469 services under this chapter for 10 years following the date of
 470 conviction.

471 Section 20. Section 414.14, Florida Statutes, is amended
 472 to read:

473 414.14 Public assistance policy simplification.—To the
 474 extent possible, the department shall align the requirements for
 475 eligibility under this chapter with the food assistance ~~stamp~~
 476 program and medical assistance eligibility policies and

477 | procedures to simplify the budgeting process and reduce errors.
 478 | If the department determines that s. 414.075, relating to
 479 | resources, or s. 414.085, relating to income, is inconsistent
 480 | with related provisions of federal law which govern the food
 481 | assistance ~~stamp~~ program or medical assistance, and that
 482 | conformance to federal law would simplify administration of the
 483 | Temporary Cash Assistance ~~WAGES~~ Program or reduce errors without
 484 | materially increasing the cost of the program to the state, the
 485 | secretary of the department may propose a change in the resource
 486 | or income requirements of the program by rule. The secretary
 487 | shall provide written notice to the President of the Senate, the
 488 | Speaker of the House of Representatives, and the chairpersons of
 489 | the relevant committees of both houses of the Legislature
 490 | summarizing the proposed modifications to be made by rule and
 491 | changes necessary to conform state law to federal law. The
 492 | proposed rule shall take effect 14 days after written notice is
 493 | given unless the President of the Senate or the Speaker of the
 494 | House of Representatives advises the secretary that the proposed
 495 | rule exceeds the delegated authority of the Legislature.

496 | Section 21. Paragraph (e) of subsection (3) of section
 497 | 414.16, Florida Statutes, is amended to read:

498 | 414.16 Emergency assistance program.—

499 | (3) CRITERIA.—The department shall develop criteria for
 500 | implementation of the program in accordance with the following
 501 | guidelines:

502 | (e) The family's adjusted gross income may not exceed the
 503 | prevailing standard for participation in the Temporary Cash
 504 | Assistance ~~WAGES~~ Program for the family's size.

505 Section 22. Section 414.17, Florida Statutes, is amended
 506 to read:

507 414.17 Audits.—The Temporary Cash Assistance ~~WAGES~~ Program
 508 is subject to the audit requirements of 31 U.S.C. ss. 5701 et
 509 seq.

510 Section 23. Subsection (2) of section 414.175, Florida
 511 Statutes, is amended to read:

512 414.175 Review of existing waivers.—

513 (2) The department shall review federal law, including
 514 revisions to federal food assistance program ~~stamp~~ requirements.
 515 If the department determines that federal food assistance ~~stamp~~
 516 waivers will further the goals of this chapter, including
 517 simplification of program policies or program administration,
 518 the department may obtain waivers if this can be accomplished
 519 within available resources.

520 Section 24. Section 414.31, Florida Statutes, is amended
 521 to read:

522 414.31 State agency for administering federal food
 523 assistance ~~stamp~~ program.—

524 (1) The department shall place into operation in each of
 525 the several counties of the state a food assistance ~~stamp~~
 526 program as authorized by the Congress of the United States. The
 527 department is designated as the state agency responsible for the
 528 administration and operation of such programs.

529 (2) The department shall provide for such instruction and
 530 counseling as will best assure that the recipients are able to
 531 provide a nutritionally adequate diet through the increased
 532 purchasing power received. This program shall be administered

533 and operated in such a way that the distribution of food
 534 assistance stamps shall be in locations reasonably accessible to
 535 those areas in which persons eligible for the benefit of this
 536 program are likely to be concentrated.

537 Section 25. Section 414.32, Florida Statutes, is amended
 538 to read:

539 414.32 Prohibitions and restrictions with respect to food
 540 assistance program stamps.-

541 (1) COOPERATION WITH CHILD SUPPORT ENFORCEMENT AGENCY.-

542 (a) A parent or caretaker relative who receives temporary
 543 cash assistance or food assistance stamps on behalf of a child
 544 under 18 years of age who has an absent parent is ineligible for
 545 food assistance stamps unless the parent or caretaker relative
 546 cooperates with the state agency that administers the child
 547 support enforcement program in establishing the paternity of the
 548 child, if the child is born out of wedlock, and in obtaining
 549 support for the child or for the parent or caretaker relative
 550 and the child. This paragraph does not apply if the state agency
 551 that administers the food assistance stamp program determines
 552 that the parent or caretaker relative has good cause for failing
 553 to cooperate. The Department of Revenue shall determine good
 554 cause for failure to cooperate if the Department of Children and
 555 Family Services obtains written authorization from the United
 556 States Department of Agriculture approving such arrangements.

557 (b) A putative or identified noncustodial parent of a
 558 child under 18 years of age is ineligible for food assistance
 559 stamps if the parent fails to cooperate with the state agency
 560 that administers the child support enforcement program in

561 establishing the paternity of the child, if the child is born
 562 out of wedlock, or fails to provide support for the child. This
 563 paragraph does not apply if the state agency that administers
 564 the child support enforcement program determines that the
 565 noncustodial parent has good cause for refusing to cooperate in
 566 establishing the paternity of the child.

567 (2) REDUCTION OR DENIAL OF TEMPORARY CASH ASSISTANCE.—The
 568 food assistance ~~stamp~~ allotment shall be reduced or terminated
 569 as otherwise provided in this chapter if ~~temporary~~ cash
 570 assistance under the Temporary Cash Assistance ~~WAGES~~ Program is
 571 reduced or denied because an individual in the family fails to
 572 perform an action required under the program.

573 (3) DENIAL OF FOOD ASSISTANCE ~~STAMP~~ BENEFITS FOR RECEIPT
 574 OF MULTIPLE FOOD ASSISTANCE ~~STAMP~~ BENEFITS.—An individual is
 575 ineligible to participate in the food assistance ~~stamp~~ program
 576 individually, or as a member of any assistance group, for 10
 577 years following a conviction in federal or state court of having
 578 made a fraudulent statement or representation with respect to
 579 the identity or place of residence of the individual in order to
 580 receive multiple benefits simultaneously under the food
 581 assistance ~~stamp~~ program.

582 (4) DENIAL OF FOOD ASSISTANCE ~~STAMP~~ BENEFITS TO FLEEING
 583 FELONS.—An individual is ineligible to participate in the food
 584 assistance ~~stamp~~ program during any period when the individual
 585 is fleeing to avoid prosecution, custody, or confinement after
 586 committing a crime, attempting to commit a crime that is a
 587 felony under the laws of the place from which the individual
 588 flees or a high misdemeanor in the State of New Jersey, or

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589 | violating a condition of probation or parole imposed under
 590 | federal or state law.

591 | Section 26. Section 414.33, Florida Statutes, is amended
 592 | to read:

593 | 414.33 Violations of food assistance ~~stamp~~ program.—

594 | (1) In accordance with federal law and regulations, the
 595 | department shall establish procedures for notifying the
 596 | appropriate federal and state agencies of any violation of
 597 | federal or state laws or rules governing the food assistance
 598 | ~~stamp~~ program.

599 | (2) In addition, the department shall establish procedures
 600 | for referring to the Department of Law Enforcement any case that
 601 | involves a suspected violation of federal or state law or rules
 602 | governing the administration of the food assistance ~~stamp~~
 603 | program.

604 | Section 27. Section 414.34, Florida Statutes, is amended
 605 | to read:

606 | 414.34 Annual report concerning administrative complaints
 607 | and disciplinary actions involving food assistance ~~stamp~~ program
 608 | violations.—The department shall prepare and submit a report to
 609 | the President of the Senate, the Speaker of the House of
 610 | Representatives, the chairs of the appropriate legislative
 611 | committees, and the Department of Law Enforcement by January 1
 612 | of each year. In addition to any other information the
 613 | Legislature may require, the report must include statistics and
 614 | relevant information detailing:

- 615 | (1) The number of complaints received and investigated.
 616 | (2) The number of findings of probable cause made.

617 (3) The number of findings of no probable cause made.
 618 (4) The number of administrative complaints filed.
 619 (5) The disposition of all administrative complaints.
 620 (6) The number of criminal complaints brought under s.
 621 414.39, and their disposition.

622 (7) The status of the development and implementation of
 623 rules governing the electronic benefits transfer program,
 624 including any recommendations for statutory changes.

625 Section 28. Subsections (1) and (3) of section 414.35,
 626 Florida Statutes, are amended to read:

627 414.35 Emergency relief.—

628 (1) The department shall adopt rules for the
 629 administration of emergency assistance programs delegated to the
 630 department either by executive order in accordance with the
 631 Disaster Relief Act of 1974 or pursuant to the Food and
 632 Nutrition Act of 2008 ~~Food Stamp Act of 1977~~.

633 (3) In administering emergency food assistance ~~stamp~~ and
 634 other emergency assistance programs, the department shall
 635 cooperate fully with the United States Government and with other
 636 departments, instrumentalities, and agencies of this state.

637 Section 29. Subsections (1) and (2) of section 414.36,
 638 Florida Statutes, are amended to read:

639 414.36 Public assistance overpayment recovery program;
 640 contracts.—

641 (1) The department shall develop and implement a plan for
 642 the statewide privatization of activities relating to the
 643 recovery of public assistance overpayment claims. These
 644 activities shall include, at a minimum, voluntary cash

645 collections functions for recovery of fraudulent and
 646 nonfraudulent benefits paid to recipients of temporary cash
 647 assistance, food assistance ~~stamps~~, and aid to families with
 648 dependent children.

649 (2) For purposes of privatization of public assistance
 650 overpayment recovery, the department shall enter into contracts
 651 consistent with federal law with for-profit corporations, not-
 652 for-profit corporations, or other entities capable of providing
 653 the services for recovering public assistance required under
 654 this section. The department shall issue requests for proposals,
 655 enter into a competitive bidding process, and negotiate
 656 contracts for such services. Contracts for such services may be
 657 funded on a contingency fee basis, per fiscal year, based on a
 658 percentage of the state-retained share of collections, for
 659 claims for food assistance ~~stamps~~, aid to families with
 660 dependent children, and temporary cash assistance. This section
 661 does not prohibit districts from entering into contracts to
 662 carry out the provisions of this section, if that is a cost-
 663 effective use of resources.

664 Section 30. Subsections (2) and (3), paragraph (c) of
 665 subsection (5), and subsection (10) of section 414.39, Florida
 666 Statutes, are amended to read:

667 414.39 Fraud.—

668 (2) Any person who knowingly:

669 (a) Uses, transfers, acquires, traffics, alters, forges,
 670 or possesses, or

671 (b) Attempts to use, transfer, acquire, traffic, alter,
 672 forge, or possess, or

673 (c) Aids and abets another person in the use, transfer,
 674 acquisition, traffic, alteration, forgery, or possession of,
 675
 676 ~~a food stamp,~~ a food assistance stamp identification card, an
 677 authorization, including, but not limited to, an electronic
 678 authorization, for the expenditure purchase of food assistance
 679 benefits stamps, a certificate of eligibility for medical
 680 services, or a Medicaid identification card in any manner not
 681 authorized by law commits is guilty of a crime and shall be
 682 punished as provided in subsection (5). ~~For the purposes of this~~
 683 ~~section, the value of an authorization to purchase food stamps~~
 684 ~~shall be the difference between the coupon allotment and the~~
 685 ~~amount paid by the recipient for that allotment.~~

686 (3) Any person having duties in the administration of a
 687 state or federally funded public assistance program or in the
 688 distribution of public assistance, or authorizations or
 689 identifications to obtain public assistance, under a state or
 690 federally funded public assistance program and who:

691 (a) Fraudulently misappropriates, attempts to
 692 misappropriate, or aids and abets in the misappropriation of, a
 693 food assistance stamp, an authorization for food assistance
 694 ~~stamps~~, a food assistance stamp identification card, a
 695 certificate of eligibility for prescribed medicine, a Medicaid
 696 identification card, or public assistance from any other state
 697 or federally funded program with which he or she has been
 698 entrusted or of which he or she has gained possession by virtue
 699 of his or her position, or who knowingly fails to disclose any
 700 such fraudulent activity; or

701 (b) Knowingly misappropriates, attempts to misappropriate,
 702 or aids or abets in the misappropriation of, funds given in
 703 exchange for food assistance program benefits ~~stamps~~ or for any
 704 form of food assistance ~~stamp~~ benefits authorization,
 705
 706 commits is guilty of a crime and shall be punished as provided
 707 in subsection (5).

708 (5)

709 (c) As used in this subsection, the value of a food
 710 assistance ~~stamp~~ authorization benefit is the cash or exchange
 711 value unlawfully obtained by the fraudulent act committed in
 712 violation of this section.

713 (10) The department shall create an error-prone or fraud-
 714 prone case profile within its public assistance information
 715 system and shall screen each application for public assistance,
 716 including food assistance ~~stamps~~, Medicaid, and temporary cash
 717 assistance, against the profile to identify cases that have a
 718 potential for error or fraud. Each case so identified shall be
 719 subjected to preeligibility fraud screening.

720 Section 31. Section 414.41, Florida Statutes, is amended
 721 to read:

722 414.41 Recovery of payments made due to mistake or fraud.—

723 (1) Whenever it becomes apparent that any person or
 724 provider has received any public assistance under this chapter
 725 to which she or he is not entitled, through either simple
 726 mistake or fraud on the part of the department or on the part of
 727 the recipient or participant, the department shall take all
 728 necessary steps to recover the overpayment. Recovery may include

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729 Federal Income Tax Refund Offset Program collections activities
 730 in conjunction with Food and Nutrition ~~Consumer~~ Service and the
 731 Internal Revenue Service to intercept income tax refunds due to
 732 clients who owe food assistance ~~stamp~~ or temporary cash
 733 assistance ~~WAGES~~ debt to the state. The department will follow
 734 the guidelines in accordance with federal rules and regulations
 735 and consistent with the Food Assistance ~~Stamp~~ Program. The
 736 department may make appropriate settlements and shall establish
 737 a policy and cost-effective rules to be used in the computation
 738 and recovery of such overpayments.

739 (a) The department will consider an individual who has
 740 willfully provided false information or omitted information to
 741 become or remain eligible for temporary cash assistance to have
 742 committed an intentional program violation.

743 (b) When the intentional program violation or case facts
 744 do not warrant criminal prosecution for fraud as defined in s.
 745 414.39, the department will initiate an administrative
 746 disqualification hearing. The administrative disqualification
 747 hearing will be initiated regardless of the individual's current
 748 eligibility.

749 (c) Upon a finding through the administrative
 750 disqualification hearing process that the individual did commit
 751 an intentional program violation, the department will impose a
 752 disqualification period consistent with those established for
 753 food assistance ~~stamp~~ program purposes.

754 (2) The department shall determine if recovery of an
 755 overpayment as a result of department error regarding ~~temporary~~
 756 cash assistance provided under the Temporary Cash Assistance

757 ~~WAGES~~ Program or benefits provided to a recipient of aid to
 758 families with dependent children would create extreme hardship.
 759 The department shall provide by rule the circumstances that
 760 constitute an extreme hardship. The department may reduce the
 761 amount of repayment if a recipient or participant demonstrates
 762 to the satisfaction of the department that repayment of the
 763 entire overpayment would result in extreme hardship, but the
 764 department may not excuse repayment. A determination of extreme
 765 hardship is not grounds for a waiver of repayment in whole or in
 766 part.

767 (3) The department, or its designee, shall enforce an
 768 order of income deduction by the court against the liable adult
 769 recipient or participant, including the head of a family, for
 770 overpayment received as an adult under the temporary cash
 771 assistance program, the AFDC program, the food assistance ~~stamp~~
 772 program, or the Medicaid program.

773 Section 32. Section 414.45, Florida Statutes, is amended
 774 to read:

775 414.45 Rulemaking.—The department has authority to adopt
 776 rules pursuant to ss. 120.536(1) and 120.54 to implement and
 777 enforce the provisions of this chapter. The rules must provide
 778 protection against discrimination and the opportunity for a
 779 participant to request a review by a supervisor or administrator
 780 of any decision made by a panel or board of the department or
 781 the Temporary Cash Assistance ~~WAGES~~ Program.

782 Section 33. Subsection (8) of section 420.624, Florida
 783 Statutes, is amended to read:

784 420.624 Local homeless assistance continuum of care.—

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785 (8) Continuum of care plans must promote participation by
 786 all interested individuals and organizations and may not exclude
 787 individuals and organizations on the basis of race, color,
 788 national origin, sex, handicap, familial status, or religion.
 789 Faith-based organizations must be encouraged to participate. To
 790 the extent possible, these components should be coordinated and
 791 integrated with other mainstream health, social services, and
 792 employment programs for which homeless populations may be
 793 eligible, including Medicaid, State Children's Health Insurance
 794 Program, Temporary Assistance for Needy Families, Food
 795 Assistance Program ~~Stamps~~, and services funded through the
 796 Mental Health and Substance Abuse Block Grant, the Workforce
 797 Investment Act, and the welfare-to-work grant program.

798 Section 34. Paragraph (g) of subsection (5) of section
 799 430.2053, Florida Statutes, is amended to read:

800 430.2053 Aging resource centers.—

801 (5) The duties of an aging resource center are to:

802 (g) Enhance the existing area agency on aging in each
 803 planning and service area by integrating, either physically or
 804 virtually, the staff and services of the area agency on aging
 805 with the staff of the department's local CARES Medicaid nursing
 806 home preadmission screening unit and a sufficient number of
 807 staff from the Department of Children and Family Services'
 808 Economic Self-Sufficiency Unit necessary to determine the
 809 financial eligibility for all persons age 60 and older residing
 810 within the area served by the aging resource center that are
 811 seeking Medicaid services, Supplemental Security Income, and
 812 food assistance ~~stamps~~.

813 Section 35. Paragraph (b) of subsection (5) of section
 814 445.004, Florida Statutes, is amended to read:

815 445.004 Workforce Florida, Inc.; creation; purpose;
 816 membership; duties and powers.—

817 (5) Workforce Florida, Inc., shall have all the powers and
 818 authority, not explicitly prohibited by statute, necessary or
 819 convenient to carry out and effectuate the purposes as
 820 determined by statute, Pub. L. No. 105-220, and the Governor, as
 821 well as its functions, duties, and responsibilities, including,
 822 but not limited to, the following:

823 (b) Providing oversight and policy direction to ensure
 824 that the following programs are administered by the Agency for
 825 Workforce Innovation in compliance with approved plans and under
 826 contract with Workforce Florida, Inc.:

827 1. Programs authorized under Title I of the Workforce
 828 Investment Act of 1998, Pub. L. No. 105-220, with the exception
 829 of programs funded directly by the United States Department of
 830 Labor under Title I, s. 167.

831 2. Programs authorized under the Wagner-Peyser Act of
 832 1933, as amended, 29 U.S.C. ss. 49 et seq.

833 3. Activities authorized under Title II of the Trade Act
 834 of 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade
 835 Adjustment Assistance Program.

836 4. Activities authorized under 38 U.S.C., chapter 41,
 837 including job counseling, training, and placement for veterans.

838 5. Employment and training activities carried out under
 839 funds awarded to this state by the United States Department of
 840 Housing and Urban Development.

841 6. Welfare transition services funded by the Temporary
 842 Assistance for Needy Families Program, created under the
 843 Personal Responsibility and Work Opportunity Reconciliation Act
 844 of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403,
 845 of the Social Security Act, as amended.

846 7. Displaced homemaker programs, provided under s. 446.50.

847 8. The Florida Bonding Program, provided under Pub. L. No.
 848 97-300, s. 164(a)(1).

849 9. The Food Assistance ~~Stamp~~ Employment and Training
 850 Program, provided under the Food and Nutrition Act of 2008 ~~Stamp~~
 851 ~~Act of 1977~~, 7 U.S.C. ss. 2011-2032; the Food Security Act of
 852 1988, Pub. L. No. 99-198; and the Hunger Prevention Act, Pub. L.
 853 No. 100-435.

854 10. The Quick-Response Training Program, provided under
 855 ss. 288.046-288.047. Matching funds and in-kind contributions
 856 that are provided by clients of the Quick-Response Training
 857 Program shall count toward the requirements of s.
 858 288.90151(5)(d), pertaining to the return on investment from
 859 activities of Enterprise Florida, Inc.

860 11. The Work Opportunity Tax Credit, provided under the
 861 Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277,
 862 and the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

863 12. Offender placement services, provided under ss.
 864 944.707-944.708.

865 Section 36. Paragraph (b) of subsection (9) of section
 866 445.009, Florida Statutes, is amended to read:

867 445.009 One-stop delivery system.-

868 (9)

869 (b) The network shall assure that a uniform method is used
 870 to determine eligibility for and management of services provided
 871 by agencies that conduct workforce development activities. The
 872 Department of Management Services shall develop strategies to
 873 allow access to the databases and information management systems
 874 of the following systems in order to link information in those
 875 databases with the one-stop delivery system:

876 1. The Unemployment Compensation Program of the Agency for
 877 Workforce Innovation.

878 2. The public employment service described in s. 443.181.

879 3. The FLORIDA System and the components related to
 880 temporary cash assistance ~~WAGES~~, food assistance ~~stamps~~, and
 881 Medicaid eligibility.

882 4. The Student Financial Assistance System of the
 883 Department of Education.

884 5. Enrollment in the public postsecondary education
 885 system.

886 6. Other information systems determined appropriate by
 887 Workforce Florida, Inc.

888 Section 37. Subsection (2) of section 445.024, Florida
 889 Statutes, is amended to read:

890 445.024 Work requirements.—

891 (2) WORK ACTIVITY REQUIREMENTS.—Each individual who is not
 892 otherwise exempt from work activity requirements must
 893 participate in a work activity for the maximum number of hours
 894 allowable under federal law; however, a participant may not be
 895 required to work more than 40 hours per week. The maximum number
 896 of hours each month that a family may be required to participate

897 in community service or work experience programs is the number
 898 of hours that would result from dividing the family's monthly
 899 amount for temporary cash assistance and food assistance ~~stamps~~
 900 by the applicable minimum wage. However, the maximum hours
 901 required per week for community service or work experience may
 902 not exceed 40 hours.

903 (a) A participant in a work activity may also be required
 904 to enroll in and attend a course of instruction designed to
 905 increase literacy skills to a level necessary for obtaining or
 906 retaining employment if the instruction plus the work activity
 907 does not require more than 40 hours per week.

908 (b) Program funds may be used, as available, to support
 909 the efforts of a participant who meets the work activity
 910 requirements and who wishes to enroll in or continue enrollment
 911 in an adult general education program or other training
 912 programs.

913 Section 38. Section 445.026, Florida Statutes, is amended
 914 to read:

915 445.026 Cash assistance severance benefit.—An individual
 916 who meets the criteria listed in this section may choose to
 917 receive a lump-sum payment in lieu of ongoing cash assistance
 918 payments, provided the individual:

- 919 (1) Is employed and is receiving earnings.
- 920 (2) Has received cash assistance for at least 6
 921 consecutive months.
- 922 (3) Expects to remain employed for at least 6 months.
- 923 (4) Chooses to receive a one-time, lump-sum payment in
 924 lieu of ongoing monthly payments.

925 (5) Provides employment and earnings information to the
 926 regional workforce board, so that the regional workforce board
 927 can ensure that the family's eligibility for severance benefits
 928 can be evaluated.

929 (6) Signs an agreement not to apply for or accept cash
 930 assistance for 6 months after receipt of the one-time payment.
 931 In the event of an emergency, such agreement shall provide for
 932 an exception to this restriction, provided that the one-time
 933 payment shall be deducted from any cash assistance for which the
 934 family subsequently is approved. This deduction may be prorated
 935 over an 8-month period. The board of directors of Workforce
 936 Florida, Inc., shall adopt criteria defining the conditions
 937 under which a family may receive cash assistance due to such
 938 emergency.

939
 940 Such individual may choose to accept a one-time, lump-sum
 941 payment of \$1,000 in lieu of receiving ongoing cash assistance.
 942 Such payment shall only count toward the time limitation for the
 943 month in which the payment is made in lieu of cash assistance. A
 944 participant choosing to accept such payment shall be terminated
 945 from cash assistance. However, eligibility for Medicaid, food
 946 assistance ~~stamps~~, or child care shall continue, subject to the
 947 eligibility requirements of those programs.

948 Section 39. Subsection (2) of section 445.048, Florida
 949 Statutes, is amended to read:

950 445.048 Passport to Economic Progress program.—

951 (2) WAIVERS.—If Workforce Florida, Inc., in consultation
 952 with the Department of Children and Family Services, finds that

953 federal waivers would facilitate implementation of the program,
 954 the department shall immediately request such waivers, and
 955 Workforce Florida, Inc., shall report to the Governor, the
 956 President of the Senate, and the Speaker of the House of
 957 Representatives if any refusal of the federal government to
 958 grant such waivers prevents the implementation of the program.
 959 If Workforce Florida, Inc., finds that federal waivers to
 960 provisions of the Food Assistance ~~Stamp~~ Program would facilitate
 961 implementation of the program, the Department of Children and
 962 Family Services shall immediately request such waivers in
 963 accordance with s. 414.175.

964 Section 40. Paragraph (d) of subsection (1) of section
 965 718.115, Florida Statutes, is amended to read:

966 718.115 Common expenses and common surplus.—

967 (1)

968 (d) If so provided in the declaration, the cost of a
 969 master antenna television system or duly franchised cable
 970 television service obtained pursuant to a bulk contract shall be
 971 deemed a common expense. If the declaration does not provide for
 972 the cost of a master antenna television system or duly
 973 franchised cable television service obtained under a bulk
 974 contract as a common expense, the board may enter into such a
 975 contract, and the cost of the service will be a common expense
 976 but allocated on a per-unit basis rather than a percentage basis
 977 if the declaration provides for other than an equal sharing of
 978 common expenses, and any contract entered into before July 1,
 979 1998, in which the cost of the service is not equally divided
 980 among all unit owners, may be changed by vote of a majority of

981 the voting interests present at a regular or special meeting of
 982 the association, to allocate the cost equally among all units.
 983 The contract shall be for a term of not less than 2 years.

984 1. Any contract made by the board after the effective date
 985 hereof for a community antenna system or duly franchised cable
 986 television service may be canceled by a majority of the voting
 987 interests present at the next regular or special meeting of the
 988 association. Any member may make a motion to cancel said
 989 contract, but if no motion is made or if such motion fails to
 990 obtain the required majority at the next regular or special
 991 meeting, whichever is sooner, following the making of the
 992 contract, then such contract shall be deemed ratified for the
 993 term therein expressed.

994 2. Any such contract shall provide, and shall be deemed to
 995 provide if not expressly set forth, that any hearing-impaired or
 996 legally blind unit owner who does not occupy the unit with a
 997 non-hearing-impaired or sighted person, or any unit owner
 998 receiving supplemental security income under Title XVI of the
 999 Social Security Act or food assistance ~~stamps~~ as administered by
 1000 the Department of Children and Family Services pursuant to s.
 1001 414.31, may discontinue the service without incurring disconnect
 1002 fees, penalties, or subsequent service charges, and, as to such
 1003 units, the owners shall not be required to pay any common
 1004 expenses charge related to such service. If less than all
 1005 members of an association share the expenses of cable
 1006 television, the expense shall be shared equally by all
 1007 participating unit owners. The association may use the
 1008 provisions of s. 718.116 to enforce payment of the shares of

1009 such costs by the unit owners receiving cable television.

1010 Section 41. Paragraph (f) of subsection (1) of section
 1011 817.568, Florida Statutes, is amended to read:

1012 817.568 Criminal use of personal identification
 1013 information.—

1014 (1) As used in this section, the term:

1015 (f) "Personal identification information" means any name
 1016 or number that may be used, alone or in conjunction with any
 1017 other information, to identify a specific individual, including
 1018 any:

1019 1. Name, postal or electronic mail address, telephone
 1020 number, social security number, date of birth, mother's maiden
 1021 name, official state-issued or United States-issued driver's
 1022 license or identification number, alien registration number,
 1023 government passport number, employer or taxpayer identification
 1024 number, Medicaid or food assistance ~~stamp~~ account number, bank
 1025 account number, credit or debit card number, or personal
 1026 identification number or code assigned to the holder of a debit
 1027 card by the issuer to permit authorized electronic use of such
 1028 card;

1029 2. Unique biometric data, such as fingerprint, voice
 1030 print, retina or iris image, or other unique physical
 1031 representation;

1032 3. Unique electronic identification number, address, or
 1033 routing code;

1034 4. Medical records;

1035 5. Telecommunication identifying information or access
 1036 device; or

1037 6. Other number or information that can be used to access
 1038 a person's financial resources.

1039 Section 42. Paragraph (a) of subsection (3) of section
 1040 921.0022, Florida Statutes, is amended to read:

1041 921.0022 Criminal Punishment Code; offense severity
 1042 ranking chart.—

1043 (3) OFFENSE SEVERITY RANKING CHART

1044 (a) LEVEL 1

1045

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.
316.1935(1)	3rd	Fleeing or attempting to elude law enforcement officer.
319.30(5)	3rd	Sell, exchange, give away

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1051			certificate of title or identification number plate.
	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an odometer.
1052			
	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
1053			
	322.212(1)(a)- (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver's license; possession of simulated identification.
1054			
	322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license or identification card.
1055			
	322.212(5)(a)	3rd	False application for driver's license or identification card.
1056			
	414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food <u>assistance stamps</u> , Medicaid ID, value greater than \$200.
1057			

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1058	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
1059	443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
1060	509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
1061	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
1062	562.27(1)	3rd	Possess still or still apparatus.
1063	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not

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1064			specified in subsection (2).
	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
1065			
	815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
1066			
	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
1067			
	817.569(2)	3rd	Use of public record or public records information to facilitate commission of a felony.
1068			
	826.01	3rd	Bigamy.
1069			
	828.122(3)	3rd	Fighting or baiting animals.
1070			
	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
1071			

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1072	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
1073	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
1074	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
1075	838.15(2)	3rd	Commercial bribe receiving.
1076	838.16	3rd	Commercial bribery.
1077	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
1078	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
1079	849.01	3rd	Keeping gambling house.

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1080	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
1081	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
1082	849.25(2)	3rd	Engaging in bookmaking.
1083	860.08	3rd	Interfere with a railroad signal.
1084	860.13(1)(a)	3rd	Operate aircraft while under the influence.
1085	893.13(2)(a)2.	3rd	Purchase of cannabis.
1086	893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
1087	934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

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1088 Section 43. Paragraph (a) of subsection (1) of section
 1089 943.401, Florida Statutes, is amended to read:

1090 943.401 Public assistance fraud.—

1091 (1)(a) The Department of Law Enforcement shall investigate
 1092 all public assistance provided to residents of the state or
 1093 provided to others by the state. In the course of such
 1094 investigation the Department of Law Enforcement shall examine
 1095 all records, including electronic benefits transfer records and
 1096 make inquiry of all persons who may have knowledge as to any
 1097 irregularity incidental to the disbursement of public moneys,
 1098 food assistance ~~stamps~~, or other items or benefits
 1099 authorizations to recipients.

1100 Section 44. This act shall take effect July 1, 2010.

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
1		AGENCY/HEALTH CARE ADMIN													1
2	1100000	Startup (Recurring Law And Policy)	1,672.50	72,568,575	2,406,593,316		140,164,108		3,419,926,548		11,230,649,982		17,197,333,954		2
3	1600570	Realign Positions And/Or Budget Between Program Components - Deduct	(2.00)	(56,528)					(103,083)				(103,083)	Technical Issue to realign positions and budget between program components.	3
4	1600580	Realign Positions And/Or Budget Between Program Components - Add	2.00	56,528					103,083				103,083		4
5	1700020	Transfer For The Florida Nursing Home Transition Plan			(3,257,203)						(5,211,863)		(8,469,066)	Transfer of Nursing Home Care funding to DOH, DCF, and DOEA for community based care waiver services based on the Long v. Benson settlement agreement. 540 individuals will be transitioned with these funds.	5
6	1700030	Transfer Disposable Incontinence Supplies To Medicaid State Plan			1,182,645						1,892,355		3,075,000	Transfer of waiver funding related to incontinence supplies from APD to cover incontinence supplies as medically necessary for individuals ages 4 through age 21 as a Medicaid plan service.	6
7	1801160	Transfer Budget To Health Facility Regulation From Executive Direction And Support Services - Add							71,049		71,049		142,098	Technical Issue to realign budget between budget entities.	7
8	1801170	Transfer Budget From Executive Direction And Support Services To Health Facility Regulation - Deduct							(71,049)		(71,049)		(142,098)		8
9	2301510	Institutional And Prescribed Drug Providers			(108,278,900)				3,161,316		(224,805,011)		(329,922,595)	Medicaid price level adjustment as agreed upon at the February 2010 Social Services Estimating Conference.	9
10	2503080	Direct Billing For Administrative Hearings			(61,625)				(394,843)		(61,624)		(518,092)	Reduction in costs associated with the administrative hearings process.	10
11	3000110	Legal Representation From Attorney General							250,000	250,000	250,000	250,000	500,000	Additional resources for outside legal representation due to lawsuits.	11
12	3001780	Children's Special Health Care			13,864,337				(1,377,716)		24,612,226		37,098,847	Funding to support an additional 22,374 children in the Florida Kidcare program as agreed upon at the January 2010 Kidcare Estimating Conference. 9% increase over FY 2009-10 estimated enrollments.	12
13	3004500	Medicaid Services			1,591,202,529				211,847,969		585,471,498		2,388,521,996	Medicaid workload adjustment as agreed upon at the February 2010 Social Services Estimating Conference. Includes \$895.6 million in GR for stimulus flame out. An additional \$95 million in GR due to flameout is included in the other departments.	13
14	33B2550	Children's Medical Services Primary Care Center Targeted Case Management Fee Reduction			(727,495)						(1,164,069)		(1,891,564)	Eliminates the DOH CMS targeted case management fee. Beneficiaries receive a MediPass case management fee as well as nursing case management services through DOH in addition to this fee.	14
15	33B2730	Eliminate Eligibility For Pregnant Women with Incomes between 150%-185% Of The Federal Poverty Level			(12,999,350)				(118,835)		(16,534,795)		(29,652,980)	Full elimination of optional Medicaid coverage for pregnant women between 150-185% of FPL. Average monthly enrollment in this program is 5,796 individuals.	15
16	33B2740	Eliminate Full Time Equivalent Positions And Expenses From Administration And Support	(4.00)	(122,058)					(208,419)				(208,419)	Administrative Reduction	16
17	33B2750	Eliminate Full Time Equivalent Positions And Expenses From Health Quality And Assurance	(3.00)	(123,318)					(205,428)				(205,428)		17

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
18	33N0500	Restore Coverage For Adults In The Medically Needy Program With Nonrecurring Funds			264,928,422	264,928,422			53,937,258	53,937,258	498,304,332	498,304,332	817,170,012	Restoration of the Medically needy program for non-pregnant adults through June 30, 2011. Average monthly enrollment in this program is 21,583 individuals.	18
19	33N0600	Restore Coverage For The Medicaid For The Aged And Disabled Program With Nonrecurring Funds			228,008,289	228,008,289			12,470,082	12,470,082	386,023,522	386,023,522	626,501,893	Restoration of the MEDS AD program through June 30, 2011. Average monthly enrollment in this program is 18,101 individuals.	19
20	33V0140	Impact To Hospice Rates From Adjusting Nursing Home Rates			(4,469,806)						(7,152,155)		(11,621,961)	Impact to hospice rates based on reducing nursing home rates by 4.6%.	20
21	33V0170	Freeze Florida Healthy Kids Corporation Capitation Rates			(3,186,287)						(7,006,570)		(10,192,857)	Freezes Florida Healthy Kids Capitation rates at the June 30, 2010 rate level.	21
22	33V0182	Pharmacy Program Reduction			(5,657,881)						(9,053,199)		(14,711,080)	Savings associated with modifying the pharmacy reimbursement methodology from Wholesale Acquisition Cost (WAC) +4.73% to WAC due to the change in Average Wholesale Pricing structure.	22
23	33V0190	Pharmaceutical Expense Assistance			(400,000)								(400,000)	Reduction of unused funding for the Pharmaceutical Expense Assistance program.	23
24	33V0300	Managed Care Fraud And Abuse Capitation Adjustment			(8,731,766)						(13,971,733)		(22,703,499)	Savings from reducing the prepaid health plan capitation rates for Miami-Dade County by 4.5% due to a Fraud and Abuse Adjustment.	24
25	33V0570	Eliminate Low Income Pool Consultant Funding			(125,000)						(125,000)		(250,000)	Eliminates funding for an independent evaluation of the Low Income Pool Council's funding recommendations as the study has been completed.	25
26	33V0830	Eliminate Disease Management Incentive Payment			(692,280)						(1,107,720)		(1,800,000)	Savings associated with eliminating incentive payments for disease management contracts.	26
27	33V4015	Elimination Of Adult Chiropractic Services			(320,786)						(515,561)		(836,347)	Full elimination of adult chiropractic services. Impacts 6,183 beneficiaries.	27
28	33V4290	Reduce Clinic Services Reimbursement Rates			(15,421,299)						(24,957,801)		(40,379,100)	Savings associated with reducing Medicaid County Health Department rates to the FQHC rate level.	28
29	33V4450	Pharmaceutical Rebates For Injectable Drugs - Add							634,423		1,015,142		1,649,565	Savings associated with additional manufacturer drug rebate collections on injectable drugs reimbursed through physician services claims.	29
30	33V4550	Pharmaceutical Rebates For Injectable Drugs - Deduct			(634,423)						(1,015,142)		(1,649,565)	Savings associated with additional manufacturer drug rebate collections on injectable drugs reimbursed through physician services claims.	30
31	33V7010	Nursing Home Rate Reduction			(51,068,058)						(81,714,203)		(132,782,261)	4.6% reduction in nursing home reimbursement.	31
32	33V7020	Hospital Outpatient Rate Reduction			(13,561,973)						(21,864,298)		(35,426,271)	4.3% reduction in hospital outpatient reimbursements. Exempts Children's Hospitals and Rural Hospitals from the reduction.	32
33	33V7030	Hospital Inpatient Rate Reduction			(52,596,452)						(84,259,272)		(136,855,724)	4.3% reduction in hospital inpatient reimbursements. Exempts Children's Hospitals and Rural Hospitals from the reduction.	33
34	33V7040	Health Maintenance Organization Rate Reduction			(25,811,439)						(41,565,573)		(67,377,012)	Pass through impact to managed care rates based on reduction in hospital inpatient, outpatient and County Health Department clinic services..	34
35	3300100	Delete Unfunded Budget							(7,878,076)		(12,605,740)		(20,483,816)	Deletion of unfunded budget authority.	35
36	3300160	Reduce Special Categories - Contracted Services			(2,981,633)						(2,981,632)		(5,963,265)	Administrative savings in contracted services appropriations.	36
37	3400120	General Revenue To Health Care Trust Fund - Deduct			(50,000,000)								(50,000,000)	Technical Issue to realign general revenue and Health Care Trust Fund Tobacco	37

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
38	3400130	General Revenue To Health Care Trust Fund - Add							50,000,000				50,000,000	Surcharge funds.	38
39	3400160	General Revenue To Administrative Trust Fund - Add							947,596				947,596	Technical Issue to realign general revenue and Administrative Trust Funds.	39
40	3400170	General Revenue To Administrative Trust Fund - Deduct			(947,596)								(947,596)		40
41	3400180	Public Medical Assistance Trust Fund To Health Care Trust Fund - Deduct							(5,600,000)				(5,600,000)	Technical Issue to realign public medical assistance trust funds and Health Care Trust Fund Tobacco Surcharge funds.	41
42	3400190	Public Medical Assistance Trust Fund To Health Care Trust Fund - Add							5,600,000				5,600,000		42
43	3400200	Realignment Of Tobacco Settlement Trust Fund/General Revenue Appropriations - Deduct					(2,329,367)						(2,329,367)	Technical Issue to realign Tobacco Settlement Trust Funds and General Revenue.	43
44	3400210	Realignment Of Tobacco Settlement Trust Fund/General Revenue Appropriations - Add			2,329,367								2,329,367		44
45	3400220	Federal Medical Assistance (FMAP) Rate Change-Add									800,000		800,000	Savings associated with increased federal matching funds available for Family Planning services through managed care plans.	45
46	3400230	Federal Medical Assistance (FMAP) Rate Change-Deduct			(800,000)								(800,000)		46
47	3400260	Grants and Donations Trust Fund to General Revenue for ICF-DD Facilities-Deduct			491,042								491,042	Transfer of ICF-DD assessment funds to general revenue. Current estimates show assessment funds will not be adequate to support the current appropriation.	47
48	3400270	Grants and Donations Trust Fund to General Revenue for ICF-DD Facilities-Add							(491,042)				(491,042)		48
49	3403000	General Revenue to Grants and Donations Trust Fund-Add							750,000				750,000	Transfer of General Revenue to County IGTs to support DSH Hospital Funding.	49
50	3403100	General Revenue to Grants and Donations Trust Fund-Deduct			(750,000)								(750,000)		50
51	40S0120	Enhanced Survey Process Training For Ambulatory Surgical Centers									345,577	345,577	345,577	Federal stimulus funds for the training and implementation a new survey process to assist ambulatory surgical centers in infection reduction and prevention strategies.	51
52	40S0130	State Health Information Exchange Cooperative Agreement Program							257,000	257,000			257,000	OPS funding to assist with the planning and implementation of a State Health Information Exchange (HIE) Cooperative Agreement Program. The Cooperative Agreement Program facilitates and expands the secure, electronic movement and use of health information among organizations according to nationally recognized standards.	52
53	40S0140	Medicaid Provider Incentive Program Planning and Development									1,688,877		1,688,877	Funding for the planning and development stage of the Medicaid Provider Incentive Program. Program will provide federal funds to providers to assist with the development of electronic health record systems. Total incentive payments to providers is expected to be over \$50 million per year over the 6-year grant period.	53
54	40S0150	Medicare Part D Payment			(66,411,604)								(66,411,604)	Savings in Medicare Part D claw back payments due to federal stimulus funding through December 31, 2010.	54

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
55	4000170	Consultant For Medicaid Information Technology Architecture (MITA) Assessment							260,000	260,000	2,340,000	2,340,000	2,600,000	Consultant funds to perform a MITA assessment of Medicaid Fiscal Agent Operations to continue the state's ability to earn enhanced federal dollars for fiscal agent operations. MITA self-assessment will also be required for the use of the ARRA-HIT implementing funds.	55
56	4002090	Disproportionate Share Audit							135,000		135,000		270,000	Funding to support federally required Disproportionate Share Audits.	56
57	4100020	Freestanding Dialysis Centers			252,856						405,514		658,370	\$5 per visit increase for dialysis clinic treatment providers statewide. Current rate is \$95 per visit.	57
58	4100070	Nursing Home Quality Assessment							53,600,846		85,766,928		139,367,774	Additional authority to support increased nursing home quality assessments.	58
59	4100230	Clinic Services Rate Reduction Buy Back							15,421,299		24,676,267		40,097,566	Authority for County Health Departments to buy back rates reduction up to available amounts.	59
60	4100240	Hospital Inpatient Services Rate Reduction Buy Back							109,331,517		174,941,800		284,273,317	Authority for hospitals to buy back current and historical rate reductions through the use of intergovernmental transfers.	60
61	4100250	Hospital Outpatient Services Rate Reduction Buy Back							28,598,128		45,759,981		74,358,109		61
62	4101280	Increase Healthy Kids Dental Capitation Fee			686,633						1,509,890		2,196,523	Funding to increase Florida Health Kids Dental Capitation rates to \$11.99 per member per month to comply with federal requirements for dental benefits.	62
63	4102240	Expanding Medicaid State Plan To Include Disposable Incontinence Products For Beneficiaries Age 4 through 21			5,626,415						9,002,846		14,629,261	Funding to provide incontinence supplies for Medicaid beneficiaries ages 4 through age 21 as a state plan service.	63
64	4105400	Establish Budget Authority For Medicaid Services							5,687,478		9,100,557		14,788,035	Technical issue to create budget authority for Medicaid waiver services.	64
65	Total	AGENCY/HEALTH CARE ADMIN	1,665.50	72,323,199	4,085,272,995	492,936,711	137,834,741	0	3,956,542,101	67,174,340	12,527,019,333	887,263,431	20,706,669,170		65
66															66
67		AGENCY/PERSONS WITH DISABL													67
68	1100000	Startup (Recurring Law And Policy)	3,403.00	119,586,203	375,297,004				2,499,844		686,933,679		1,064,730,527		68
69	1700030	Transfer Disposable Incontinence Supplies To Medicaid State Plan			(1,182,645)						(1,892,355)		(3,075,000)	Transfers funds from the HCBS waiver to AHCA to cover incontinence products as medically necessary for individuals ages 4 through age 21 as a Medicaid State Plan service.	69
70	2000400	Transfer Of Funds To Address Waiver Deficit - Add			6,781,424						10,850,984		17,632,408	Transfers funds from institutional budget to address projected waiver deficit.	70
71	2000410	Transfer Of Funds To Address Waiver Deficit - Deduct			(6,781,424)						(10,850,984)		(17,632,408)		71
72	2503080	Direct Billing For Administrative Hearings			(333,561)						(6,808)		(340,369)	Adjusts for the agency's allocated payment to the Division of Administrative Hearings based on prior year's experience	72
73	2609040	Transfer To Continue Consumer Directed Care Plus - Deduct			(286,942)						(286,942)		(573,884)	Annualized need for administrative support of the expansion of the CDC+ program.	73
74	2609050	Transfer To Continue Consumer Directed Care Plus - Add			286,942						286,942		573,884	Transfer from Home and Community Services Waiver to operating categories in Program Management and Compliance.	74

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
75	3004510	Workload for Fair Hearings	7.00	362,782	301,500	13,570					301,500	13,570	603,000	Provides additional staff resources to correspond with a statutory change moving APD's fair hearings from DOAH to DCF.	75
76	3200100	Delete Unfunded Budget									(2)		(2)	Technical adjustment related to FMAP difference between 50 percent and 61.54 percent for the annualization of issue(s) 2609040 and 2609050.	76
77	33B9070	Reduce Budget In Waiver Categories - Cap Tier 1 At \$120,000			(2,422,980)						(3,877,020)		(6,300,000)	Affects approximately 354 clients and institutional care may be necessary for some clients.	77
78	33B9090	Budget In Waiver Categories - Eliminate Behavior Assistance Services In Standard And Behavior Focus Group Homes			(769,200)						(1,230,800)		(2,000,000)	Eliminates behavior assistance services from the waiver, effective January 1, 2011. Annualized reduction is \$4 million. Behavior analysts will train direct care staff to correctly and appropriately implement behavioral interventions	78
79	33V7010	Reduce Geographic Differential In Residential Rehabilitation Rates			(924,885)						(1,479,911)		(2,404,796)	Rate reductions to the geographic differential for Miami-Dade, Broward, Palm Beach, and Monroe Counties for residential habilitation services.	79
80	3401470	Changes To Federal Financial Participation Rate - State			57,958,807								57,958,807	Adjustment related to FMAP change from 67.64% to 61.54%.	80
81	3401480	Changes To Federal Financial Participation Rate - Federal									(57,958,807)		(57,958,807)		81
82	4000110	Closing Of The Gulf Coast Center Facility	(332.00)	(8,807,807)	(2,032,958)						(8,035,032)		(10,067,990)	Reduction as a result of the closure of Gulf Coast Center scheduled June 30, 2010.	82
83	Total	AGENCY/PERSONS WITH DISABL	3,078.00	111,141,178	425,891,082	13,570	0	0	2,499,844	0	612,754,444	13,570	1,041,145,370		83
84															84
85		CHILDREN & FAMILY SERVICES													85
86	1100000	Startup (Recurring Law And Policy)	13,268.50	503,100,505	1,430,323,350		132,255,794		77,404,777		1,142,913,953		2,782,897,874		86
87	160S030	Adjust Fund Source Indicators In Adult Mental Health Treatment Facilities - Add							6,178,809				6,178,809	Technical issues aligning fund source identifiers with revenue source	87
88	160S040	Adjust Fund Source Indicators In Adult Mental Health Treatment Facilities - Deduct									(6,178,809)		(6,178,809)		88
89	1601310	Continue Screening, Brief Intervention, Referral And Treatment Grant - Add									157,386		157,386	Reapproval of current year budget amendment to continue substance abuse grant activities as a result of an increase in the grant award.	89
90	1601330	Continue Strategic Prevention Framework State Incentive Grant (SPFSIG) - Add									563,752		563,752	Reapproval of current year budget amendment to continue substance abuse grant activities as a result of an increase in the grant award.	90
91	1606330	Federal Grant Funding For Wraparound Miami System Of Care									1,750,000	30,626	1,750,000	Reapproval of current year amendment using federal funds, which provides community-based family and youth mental health services.	91
92	1609050	Supplemental Nutrition Assistance Program Education Plan (SNAP-Ed) Increase									847,548		847,548	Reapproval of current year budget amendment to continue the UF/IFAS Supplemental Nutrition Assistance Program Education program as a result of an increase in the grant award.	92
93	1700020	Transfer For The Florida Nursing Home Transition Plan			179,994						288,009		468,003	Transfer of nursing home care funding from AHCA to support the transition of 16 eligible beneficiaries from nursing homes to community based care.	93
94	2002010	Align Expenditures Between Expenses And Contracted Services - Add			3,259						1,000		4,259	Realigns budget between categories with the Mental Health program to properly record expenditures.	94
95	2002060	Align Expenditures Between Expenses And Contracted Services - Deduct			(3,259)						(1,000)		(4,259)		95

Healthcare Appropriations

Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
96	2002110	Realignment Of Budget To Anticipated Expenditures - Add			648,351				14,369		459,415		1,122,135	Realigns budget between categories to properly record expenditures in the Family Safety program. Companion issue is on row 100.	96
97	2002130	Transfer To Independent Living Services Category - Add			25,995,424						9,042,586		35,038,010	Transfers funding for Independent Living Services from the Community Based Care category to the Independent Living Services category.	97
98	2002140	Transfer To Independent Living Services - Deduct			(25,995,424)						(9,042,586)		(35,038,010)		98
99	2002160	Realignment Of Budget To Anticipated Expenditures - Deduct			(648,351)				(14,369)		(459,415)		(1,122,135)	Realigns budget between categories to properly record expenditures in the Family Safety program. Companion issue is on row 97.	99
100	2002210	Transfer Positions To Appropriate Program Component Mental Health Program To Correct Base - Add	1.00	38,660	57,833								57,833	Realigns position and budget to properly record expenditures	100
101	2002220	Transfer Positions To Appropriate Program Component Mental Health Program To Correct Base - Deduct	(1.00)	(38,660)	(57,833)								(57,833)		101
102	2002300	Realign Resources To Fund Staffing Needs In Mental Health - Add	5.00	202,828	233,458						63,455		296,913	Realigns positions and funding to support 5 positions, which replaces contract staffing with the Department of Health.	102
103	2002350	Realign Resources To Fund Staffing Needs In Mental Health - Deduct	(5.00)	(202,828)	(233,458)						(63,455)		(296,913)		103
104	2002460	Align Position Within Budget Entity Between Program Components - Add	4.00	176,641							53,453		53,453	Realigns positions and related budget between region/circuit administration and Office of the Secretary based on work activity.	104
105	2002470	Align Position Within Budget Entity Between Program Components - Deduct	(4.00)	(176,641)							(53,453)		(53,453)		105
106	2002600	Realign Position Within The Mental Health Program - Add	7.00	428,758	570,943								570,943	Realigns positions and related salaries and benefits between Civil, Forensic and Executive components based on work activity.	106
107	2002610	Realign Position Within The Mental Health Program - Deduct	(7.00)	(428,758)	(570,943)								(570,943)		107
108	2002620	Align Position From Child Protection To The Child Care Regulation Program Component - Add	1.00	36,467									0	Realigns position and salary rate between Child Care Regulation and Child Protection based on the positions work activity.	108
109	2002630	Align Position From Child Protection To The Child Care Regulation Program Component - Deduct	(1.00)	(36,467)									0		109
110	2002900	Child Care Training Information Center - Add			43,421						254,746		298,167	Transfers training budget from contracts to in-house provision	110
111	2002950	Child Care Training Information Center - Deduct			(43,421)						(254,746)		(298,167)		111
112	2301580	Contracted Mental Health Institutions - Cost Of Living Adjustment Contracted Mental Health Institution - Cost Of Living Adjustment			1,032,540								1,032,540	Price level increase for contracted mental health facilities	112
113	2503080	Direct Billing For Administrative Hearings			(90,877)								(90,877)	Adjusts for the department's allocated payment to the Division of Administrative Hearings based on the prior year's experience.	113
114	3000020	Adjustment For Temporary Assistance For Needy Families (TANF) Estimating Conference			19,288,411						(1,436,207)		17,852,204	Provides funding for increased cash assistance caseloads based on January 2010 Social Services Estimating Conference projection; corresponds with issue on row 135.	114
115	3001790	Kidcare Program - Behavioral Health Network Enrollment							311,950		654,687		966,637	Funding to support an additional 81 children in the Florida Kidcare program as agreed upon at the January 2010 Kidcare Estimating Conference. 9% increase over FY 2009-10 estimated enrollments.	115
116	3007830	Workload For Appeals Hearing Office	19.00	749,215	672,712	40,303					672,712	40,303	1,345,424	Provides additional staff resources to correspond with a statutory change moving APD's fair hearings from DOAH to DCF.	116

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
117	33E0010	Training Leadership Institute			(433,619)								(433,619)	Reduces the Leadership Institute, which is a staff development training program to assist staff into supervisory, managerial and executive leadership positions.	117
118	33V7000	Mental Health Institution Efficiencies			(2,049,000)								(2,049,000)	Reduction as a result of insourcing nursing services and drug rebates	118
119	33V7010	State Employee Adoption Benefits Program			(1,835,957)								(1,835,957)	Eliminates total incentives funding; majority of families are still eligible for maintenance adoption subsidies	119
120	33V7020	Executive Direction And Support Services Reduction - District Administration	(8.00)	(417,577)	(1,361,318)				(50,189)		(2,287,182)		(3,698,689)	Reduces administration (budget management, human resources and contracted services) in regions/circuits	120
121	33V7270	Eliminate Substance Abuse And Mental Health Corporation			(245,457)						(58,220)		(303,677)	Eliminates all funding for the Mental Health and Substance Abuse Corporation.	121
122	3301010	Eliminate Unfunded Budget							(1,114,304)				(1,114,304)	Reduces Child Welfare Training Trust Fund by \$1.1 million	122
123	3307120	Reduce Community Based Care Administration			(500,000)								(500,000)	Reduction as a result of a reduction in administrative monitoring	123
124	3401310	Realign Tobacco/General Revenue Funds - Add			6,241,766		6,241,766						12,483,532	Technical issues realigning General Revenue and Tobacco Settlement funds	124
125	3401340	Realign Tobacco/General Revenue Funds - Deduct			(6,241,766)		(6,241,766)						(12,483,532)		125
126	3401470	Changes To Federal Financial Participation Rate - State			1,316,716								1,316,716	Adjusts the Federal Medical Assistance Percentage (FMAP) from 67.64% to 61.54%	126
127	3401480	Changes To Federal Financial Participation Rate - Federal									(1,316,716)		(1,316,716)		127
128	3405120	Replace Domestic Violence Trust Fund with General Revenue - Add			3,800,000								3,800,000	Replaces declining trust fund revenue sources with general revenue funds	128
129	3405130	Replace Domestic Violence Trust Fund with General Revenue - Deduct							(3,800,000)				(3,800,000)		129
130	3409810	Replace Administrative Trust Fund With Operations And Maintenance Trust Fund - Deduct									(8,531,847)		(8,531,847)	Replaces declining federal indirect earnings with nonrecurring unencumbered cash to support region/circuit administration.	130
131	3409820	Replace Administrative Trust Fund With Operations And Maintenance Trust Fund - Add							8,531,847	8,531,847			8,531,847	system changes related to the Child Support Enforcement CAMS system implementation	131
132	36220C0	Department of Children and Families FLORIDA Support Department of Revenue CAMS Project							1,149,872	1,149,872	1,114,528	1,114,528	2,264,400	Provides funding to continue ACCESS program modernization	132
133	36315C0	Sufficiency (ACCESS) Florida Improved Customer Service							2,970,467	2,970,467	2,865,473	2,865,473	5,835,940	Provides stimulus funding for increased cash assistance caseloads based on January 2010 Social Services Estimating Conference projection; corresponds with issue on row 115	133
134	40S0010	Temporary Assistance For Needy Families (TANF) Estimating Conference Adjustment									22,645,739	22,645,739	22,645,739	Provides the remaining Title IV-E Foster Care stimulus grant funds through the first two quarters of FY 2010-11.	134
135	40S0080	Title IV-E Foster Care American Recovery And Reinvestment Plan - Add									10,315,976	10,315,976	10,315,976	Provides funding for 228 OPS positions and continuation of the Ocala call center after 9/30/10 when TANF stimulus funds expire to address the increased volume of applications for public assistance.	135
136	40S0130	Statewide Nutritional Assistance Program Administration Grant Supplemental Funding									6,391,000	6,391,000	6,391,000	Provides the remaining Title IV-E Adoption Assistance stimulus grant funds through the first two quarters of FY 2010-11.	136
137	40S0180	Adoption Subsidies Recovery And Reinvestment Plan									1,055,316	1,055,316	1,055,316	Provides stimulus funding to continue the Ocala call center through 9/30/10.	137
138	40S0300	Call Center Subsidized Employment Project									664,317	664,317	664,317	Provides stimulus funding to address an EBT payment services as a result of increase in public assistance payments	138
139	40S0310	Electronic Benefit Transfer Payment For Services To Increased Number Of Eligible Clients									12,678,948	12,678,948	12,678,948		139

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
140	40S9000	Homeless Prevention Increase									8,602,844	8,602,844	8,602,844	Remaining stimulus funds for homelessness prevention	140
141	40S9010	Violence Against Women Program									2,486,729	2,486,729	2,486,729	Remaining stimulus funds for Stop Violence Against Women program	141
142	4000530	Change In Medicaid Federal Medical Assistance Percentage (FMAP)			5,341,328								5,341,328	Adjusts the Federal Medical Assistance Percentage (FMAP) from 67.64% to 61.54%	142
143	4000560	Title IV-E Demonstration Waiver									4,716,675		4,716,675	Provides annual 3% federal Title IV-E (Foster Care) waiver increase.	143
144	4000660	Community Based Care Risk Pool							4,000,000	4,000,000			4,000,000	Provides budget authority supported by nonrecurring unencumbered cash to offset any financial need caused by any circumstance beyond the control of lead agency management.	144
145	4000810	Restore Nonrecurring Funding In The Civil Mental Health Institutions			1,602,747								1,602,747	Restores current year nonrecurring funding to Adult Mental Health Treatment Facilities.	145
146	4000920	Restore Direct Services Funding For Mental Health And Substance Abuse			13,593,018								13,593,018	Restores current year nonrecurring mental health and substance abuse projects.	146
147	4001550	Establish Budget Authority For Medicaid Services									1,578,990		1,578,990	Technical issue to adjust for FMAP of 61.54% in Disabled Adult HCBS waiver	147
148	4003200	Budget Authority for the Adoption Incentive Grant Award									3,996,990	3,996,990	3,996,990	Provides remaining funding from adoption incentive award for one-time expenditures such as counseling, therapy and respite	148
149	4008700	Automated Community Connection To Economic Self-Sufficiency Florida Program Provider Funded Eligibility Positions	56.00	1,527,680					11,172		2,306,070		2,317,242	Provides funding to support 56 community provider-funded positions for public assistance eligibility services.	149
150	4009360	Restore Revenue For The Homeless Program							5,900,000	5,900,000			5,900,000	Restores funding for Housing Assistance program using nonrecurring unencumbered cash.	150
151	4009370	Family Violence Prevention Services Act Grant Award Increase									500,000		500,000	Provides additional funding based on grant award increase.	151
152	4009520	Restore Mental Health Block Grant Funding			10,173,667	882,276							10,173,667	Restores current year nonrecurring funding to continue services	152
153	4009550	Restore Substance Abuse Services Funding			7,393,620								7,393,620	Restores current year nonrecurring funding	153
154	4009600	Jail Diversion And Trauma Recovery Project Grant									394,000		394,000	Provides funding to continue for the 5-year project to provide services to veterans with mental illness	154
155	4009620	Transformation Transfer Initiative Grant									90,500		90,500	Provides funding to develop strategic plans on how to implement trauma-informed care in the community mental health system	155
156	4403120	Maintenance Adoption Subsidies Restore Nonrecurring			12,806,222								12,806,222	Restores current year nonrecurring funding to continue maintenance adoption subsidies	156
157	Total	CHILDREN & FAMILY SERVICES	13,335.50	504,959,823	1,501,008,097	922,579	132,255,794	0	101,494,401	22,552,186	1,210,443,161	72,888,789	2,945,201,453		157
158															158
159		ELDER AFFAIRS													159
160	1100000	Startup (Recurring Law And Policy)	427.00	17,528,100	215,138,483		24,770,633		581,918		466,402,494		706,893,528		160
161	1600090	Additional Federal Grants Trust Fund For Recently Awarded Federal Grants									615,657		615,657	Reapproval of current year budget amendment to continue federal grants.	161
162	1602010	Additional Budget Authority For The Emergency Home Energy Assistance For The Elderly Program (EHEAEP) - Add									1,097,802		1,097,802	Reapproval of current year budget amendment to continue federal grant funding for the federal Emergency Home Energy Assistance for the Elderly Program (EHEAEP).	162

Healthcare Appropriations

Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
163	1700020	Transfer For The Florida Nursing Home Transition Plan			2,622,277						4,195,915		6,818,192	Transfer of nursing home care funding from AHCA to support the transition of 496 eligible beneficiaries from nursing homes to community based care waivers.	163
164	1800050	Realign Alzheimer's Dementia Specific Medicaid Waiver Funding - Add			1,546,664						2,474,824		4,021,488	Realignment of funds to community based care waiver programs due to the sunset of the Alzheimer's Disease Waiver that is scheduled to sunset on April 30, 2010.	164
165	1800060	Realign Alzheimer's Dementia Specific Medicaid Waiver Funding - Deduct			(1,546,664)						(2,474,824)		(4,021,488)		165
166	3000100	Comprehensive Assessment And Review Of Long Term Care Services	22.00	726,680	338,369	21,324					1,015,105	63,971	1,353,474	Increase of 22 FTE to support CARES program that determines nursing home care needs. Includes 18 CARES Assessors, 3 RNs, and a Regional Program Supervisor.	166
167	3000200	Long-Term Care Community Diversion Pilot Program	3.00	122,847	105,886	5,816					105,887	5,816	211,773	Three positions to support the nursing home diversion program due to increase in the number of slots available for this waiver.	167
168	3300010	Delete Unfunded Budget							(42,000)		(533,200)		(575,200)	Technical issue to delete budget authority without sufficient revenues to support the authority.	168
169	3301070	Administrative Efficiencies			(109,666)								(109,666)	Administrative efficiency-5% Other Personal Service reduction and 10% Expense reduction.	169
170	3301400	Savings From The Sunset Of The Alzheimer's Dementia Specific Medicaid Waiver			(384,109)						(614,612)		(998,721)	Projected savings from the Sunset of the Alzheimer's Disease Waiver. The Alzheimer's Disease Medicaid Waiver that the program will sunset on April 30, 2010.	170
171	3401340	Realignment Of Tobacco Settlement Trust Fund/General Revenue Appropriations - Deduct					(24,770,633)						(24,770,633)	Technical issue to realign funding between Tobacco Settlement Funds and General Revenue.	171
172	3401345	Realignment Of Tobacco Settlement Trust Fund/General Revenue Appropriations - Add			24,770,633								24,770,633		172
173	3401470	Changes To Federal Participation Rate - State Expenses			29,414,718								29,414,718	Adjusts the Federal Medical Assistance Percentage (FMAP) from 67.64% to 61.54%	173
174	3401480	Changes To Federal Participation Rate - Federal Expenses									(29,414,718)		(29,414,718)		174
175	4300750	Home and Community Based Services For the Elderly PACE Expansion - Add			1,027,534						1,644,161		2,671,695	Funding to support the expansion of PACE programs-100 additional slots for Pinellas County and 100 for Hillsborough County PACE Programs.	175
176	4400030	Statewide Public Guardianship Office - Administrative Trust Fund							185,000	185,000			185,000	Additional trust fund authority to support revenues received from s. 744.534, F.S related to unclaimed property. Funds will be used for education and training of public guardians.	176
177	Total	ELDER AFFAIRS, DEPT OF	452.00	18,377,627	272,924,125	27,140	0	0	724,918	185,000	444,514,491	69,787	718,163,534		177
178															178
179		HEALTH													179
180	1100000	Startup (Recurring Law And Policy)	17,110.50	645,322,307	470,613,738		99,759,638		941,130,577		1,349,221,778		2,860,725,731		180
181	160S150	General Revenue Fund Review-Deduct			(294,682)								(294,682)	Fund source identifier correction; GR no longer needed as match	181
182	160S160	General Revenue Fund Review-Add			294,682								294,682		182
183	1601240	Reapproval Of Low Income Pool (LIP) Grant Funds Budget Amendment	33.00	1,168,573					2,250,000				2,250,000	Reapproval of current year budget amendment	183
184	1601260	Reapproval Of Budget Amendment To Resolve Computational Error For The County Health Department Portion Of The 2% Salary And Rate Reduction			3,419,992				3,299,476		690,217		3,989,693	Reapproval of current year amendment	184

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
185	1601270	Reapproval Of Alachua County Health Department Choices Program Budget Amendment	2.00	73,106									0	Reapproval of current year amendment	185
186	1601280	Additional Medical And Dental Services Budget Amendment	3.00	79,770									0	Reapproval of current year amendment	186
187	1601290	Sexual Violence Prevention Program Budget Amendment	1.00	28,033									0	Reapproval of current year amendment	187
188	1601320	Reapproval Of Putnam County Health Department New Dental Clinic Staff Budget Amendment	5.00	225,527									0	Reapproval of current year amendment	188
189	1601330	Reapproval Of Women, Infants, And Children (WIC) Budget Amendment	150.00	5,456,149									0	Reapproval of current year amendment	189
190	1700020	Transfer For The Florida Nursing Home Transition Plan			454,932						727,939		1,182,871	Transfer of nursing home care funding from AHCA to support the transition of 28 eligible beneficiaries from nursing homes to community based care.	190
191	2000100	Realignment Of Administrative Expenditures - Deduct			(2,000)				(1,340)				(3,340)	Administrative realignments	191
192	2000110	Realignment Of Administrative Expenditures - Add			2,000				1,340				3,340		192
193	2000120	Transfer To Healthy Start Services - Deduct			(38,825,439)				(782,567)		(28,450,311)		(68,058,317)	Transfer from Healthy Start Coalitions and Health Start Waiver to Healthy Start Services appropriation category where CHDs will administer the program; companion issue on row 205	193
194	2000130	Transfer To Health Start Services - Add			38,825,439				782,567		28,450,311		68,058,317		194
195	2503080	Direct Billing For Administrative Hearings							(78,624)		(9,718)		(88,342)	Adjusts for the department's allocated payment to the Division of Administrative Hearings based on the prior year's experience.	195
196	3001780	Children's Special Health Care							7,602,437		15,308,512		22,910,949	Funding to support an additional 4,022 children in the Florida Kidcare program as agreed upon at the January 2010 Kidcare Estimating Conference. 19% increase over FY 2009-10	196
197	3200030	Delete Unfunded Budget									(70,000,000)		(70,000,000)	Reduce Budget Authority to Actual Expenditures	197
198	33B2040	Administrative Reductions			(2,715,265)								(2,715,265)	Reduces administration by 3%	198
199	33B2050	Indirect and Overhead Costs for Contractual Services			(3,561,938)								(3,561,938)	Limit administrative and overhead costs for all contracts to 5%	199
200	33N0100	Redirect Recurring Appropriations to Nonrecurring - Add					7,940,521	7,940,521						Reappropriation of reverted Tobacco settlement funds redirected as nonrecurring funds	200
201	33N0200	Redirect Recurring Appropriations to Nonrecurring - Deduct					(7,940,521)								201
202	33V0010	Reduction/Elimination Of Special Projects			(1,376,592)								(1,376,592)	Reduction/Elimination Of Special Projects	202
203	33V0020	Eliminate Area Health Education Center Networks			(9,777,475)								(9,777,475)	Eliminate Area Health Education Center Networks	203
204	33V0080	Children's Medical Services Network			(3,400,000)								(3,400,000)	Reduce Safety Net services and eliminate care coordination to children without special health care needs (siblings)	204
205	33V1460	Healthy Start Coalitions			(2,603,040)						(2,129,760)		(4,732,800)	Elimination of Planning and Administration funding to Healthy Start Coalitions; companion issues on rows 194 and 194	205
206	33V4010	Eliminate The Florida Center For Nursing			(450,000)				(23,946)				(473,946)	Eliminate all state funding for The Florida Center For Nursing	206
207	33V5003	Reduce General Revenue Contribution to County Health Departments			(10,000,000)				(10,000,000)				(20,000,000)	Reduce non-specific county health department funding by 5%	207
208	3400400	Compliance With 215.32(2)(B), F.S. Grants And Donations Trust Fund - Add							2,412,704				2,412,704	Realigns trust funds to be consistent with statute	208
209	3400410	Compliance With 215.32(2)(B), F.S. Administrative Trust Fund - Deduct							(9,912,704)				(9,912,704)		209

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Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
210	3400470	Compliance With 20.435(14), F.S. Emergency Medical Services Trust Fund - Add							7,500,000				7,500,000		210
211	3401470	Changes To Federal Financial Participation Rate - State			817,840								817,840	Adjustment related to FMAP change from 67.64% to 61.54%.	211
212	3401480	Changes To Federal Financial Participation Rate - Federal									(817,840)		(817,840)		212
213	3402020	Fund Shift From Trust Fund Expense To GR Expense And From GR Special Category To Trust Fund Special Category - Deduct			(85,021)						(85,021)		(170,042)	Fund Shift From Trust Fund Expense To GR Expense And From GR Special Category To Trust Fund Special Category	213
214	3402030	Fund Shift From Trust Fund Expense To GR Expense And From GR Special Category To Trust Fund Special Category - Add			85,021						85,021		170,042		214
215	36304C0	Women, Infants And Children (WIC) Data System Planning And Development									2,168,952	2,168,952	2,168,952	Replacement of WIC Data System (Phase 2 of three year project)	215
216	40S3000	A Healthy Start For Children American Recovery And Reinvestment Act (ARRA) - Early Steps Part C									9,753,063	9,753,063	9,753,063	Remaining stimulus funds related to Early Intervention Services	216
217	40S3010	American Recovery And Reinvestment Act (ARRA) - Immunization									4,399,931	4,399,931	4,399,931	Stimulus funding related to Immunizations	217
218	40S3020	American Recovery And Reinvestment Act (ARRA) - Community Health Centers									1,413,999	1,413,999	1,413,999	Stimulus funding related to Community Health Centers	218
219	40S3030	American Recovery And Reinvestment Act (ARRA) - Behavioral Risk Factor Surveillance, Diabetes Prevention, Healthy Community, Tobacco									2,862,583	2,862,583	2,862,583	Stimulus funding related to Behavioral Risk Factor Surveillance, Diabetes Prevention, Healthy Community, Tobacco	219
220	4000530	Change In Medicaid Federal Medical Assistance Percentage (FMAP)			400,642								400,642	Adjustment related to FMAP change from 67.64% to 61.54%.	220
221	4200060	Dental Health Initiatives	32.00	1,665,066					2,248,916				2,248,916	CHD salary budget to support the dental health needs of the county health departments in Baker, Charlotte, Hardee, Lake, Seminole, Suwannee, and Walton counties	221
222	4200240	Additional County Health Department Budget Authority									7,408,551		7,408,551	CHD salary budget related to current year WIC budget amendment	222
223	4208080	Cost Allocation Plan							500,000	500,000			500,000	Funds for consultant contract to develop CHD Cost Allocation Plan	223
224	4309000	Tobacco Constitutional Amendment					(247,595)						(247,595)	Adjustment for the Statewide Tobacco Education and Use Prevention Program based on the Consumer Price Index as required the Constitution.	224
225	5000050	Local Health Planning Council Increase							100,000				100,000	Budget authority increase to account for increased revenues	225
226	51R0040	Rate Request for County Health Department Critical Class		4,469,184									0	Salary rate for CHD critical class positions, including physicians, dentists and nurses	226
227	5800080	Nitrogen Reduction Strategies							2,100,693	2,100,693			2,100,693	Funding for Phase II of the Nitrogen Reduction project, including treatment and monitoring systems installation and sampling	227
228	6400100	Provide Temporary Assistance to Needy Families (TANF) Funding									5,500,000	5,500,000	5,500,000	Restores nonrecurring funding to the Ounce of Prevention Program and the Early Steps Program	228
229	6400410	Relocation Of The Disability Determination Jacksonville Area Office									1,239,846	1,239,846	1,239,846	Relocation Of The Disability Determination Jacksonville Area Office	229
230	6400420	Renovation And Expansion Of The Disability Determination Tampa Area Office									464,757	464,757	464,757	Renovation And Expansion Of The Disability Determination Tampa Area Office	230
231	6400430	Increase Disability Determination Budget Authority - United States Trust Fund									50,000		50,000	Increase budget authority for equipment and furniture replacement	231
232	6400440	Consolidate Epilepsy Program Categories Into One - Deduct							(1,340,000)				(1,340,000)	Combines Epilepsy Prevention with the Epilepsy Services appropriation category.	232
233	6400450	Consolidate Epilepsy Program Categories Into One - Add							1,340,000				1,340,000		233

Healthcare Appropriations

Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
234	990M000	Maintenance And Repair							7,533,960	7,533,960			7,533,960	Maintenance and Repair funding for County Health Departments	234
235	Total	HEALTH, DEPT OF	17,336.50	661,907,707	438,402,842	0	99,512,043	7,940,521	956,663,489	10,134,653	1,328,252,810	27,803,131	2,822,831,184		235
236															236
237		VETERANS' AFFAIRS													237
238	1100000	Startup (Recurring Law And Policy)	960.50	28,275,782	15,018,915				40,335,196		18,321,287		73,675,398		238
239	160S010	Adjustment To Funding Source Identifier - Deduct							(12,202)				(12,202)	Technical issue to realign Fund Source Identifier	239
240	160S020	Adjustment To Funding Source Identifier - Add							8,053		4,149		12,202		240
241	2401700	State Nursing Home Replacement Equipment - Operating Capital Outlay (OCO) Category							384,573	384,573	192,807	192,807	577,380	Funding for the replacement of equipment throughout all State Veterans' homes.	241
242	3000030	Division Of Benefits And Assistance Bureau Of Field Services Staffing Increases	39.00										0	Accredited Veterans Representatives for each of Florida's 28 State and community colleges and the states 11 state universities to help returning veterans access. Positions are available contingent upon grant funding.	242
243	3000600	State Veterans' Nursing Homes Staffing Increase	16.00	556,352					532,716	17,065	274,420	8,791	807,136	Additional Licensed Practical Nurses for each of the States Veterans Nursing Homes and States Veteran's Domiciliary to meet minimum staffing requirements.	243
244	3300010	Delete Unfunded Budget	(39.00)	(1,513,551)					(2,342,926)				(2,342,926)	Deletion of unfunded budget authority in the Division of Benefits and Assistance . Positions were added in FY 09-10 contingent upon grant funding. To date available grants have not been identified.	244
245	3400300	Realignment Of Operations And Maintenance Trust Funds/General Revenue Appropriations - Add	9.00	377,489					1,448,358		744,265		2,192,623	Technical Issue to realign General Revenue to the Operations and Maintenance Trust Fund.	245
246	3400400	Realignment Of Operations And Maintenance Trust Funds/General Revenue Appropriations - Deduct	(9.00)	(377,489)	(2,192,623)								(2,192,623)		246
247	4004050	Changes In Nursing Full Time Equivalent Positions - Add	2.00	51,154					67,573	5,118	34,809	2,636	102,382	Additional nursing position to enable the Veteran's Domiciliary to meet mandated staffing requirements.	247
248	4004060	Changes In Senior Physician Full Time Equivalent - Deduct	(0.50)	(39,193)					(38,441)		(19,806)		(58,247)	Deletion of a vacant Senior Physician position to support the addition of two nursing positions in the State Veteran's Domiciliary to meet staffing requirements.	248
249	4004070	Changes In Custodial Worker And Support Service Aide Full Time Equivalent - Deduct	(29.00)	(489,201)					(681,982)		(351,346)		(1,033,328)	Deletion of 29 vacant custodial Worker and support positions due to outsourcing of the functions.	249
250	4109000	Initial Staffing/Start-Up Funding St. Johns County State Veterans' Nursing Home	174.00	4,806,761	274,567				4,740,550	104,940	2,436,684	54,060	7,451,801	This issue fully funds the remaining staffing needs to begin operations of the new St. Johns County State Veterans Nursing Home. The facility is scheduled to open in September 2010.	250
251	4500300	Transfer Contracted Services To Other Personal Services - Add							560,803		301,971		862,774	Technical issue to realign funds between Contracted Services and Other Personal Services categories.	251
252	4500400	Transfer Contracted Services To Other Personal Services - Deduct							(560,803)		(301,971)		(862,774)		252

Healthcare Appropriations

Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
253	990M000	Maintenance And Repair							1,435,000	1,435,000			1,435,000	Maintenance, repair and replacement of fixed capital outlay at State Veterans' Facilities: Lake City SVDH - \$59,516 Daytona Beach SVNH - \$248,240 Land O' Lakes SVNH - \$127,515 Pembroke Pines SVNH - \$72,951 Springfield SVNH - \$123,539 Port Charlotte SVNH - \$253,239 Contingency Fund - \$550,000	253
254	Total	VETERANS' AFFAIRS, DEPT OF	1,123.00	31,648,104	13,100,859	0	0	0	45,876,468	1,946,696	21,637,269	258,294	80,614,596		254
255															255
256		GRAND TOTAL	36,990.50	1,400,357,638	6,736,600,000	493,900,000	369,602,578	7,940,521	5,063,801,221	101,992,875	16,144,621,508	988,297,002	28,314,625,307		256

Healthcare Appropriations

Row	Issue	Issue Title	FTE	Rate	GR	NR GR	Tobacco	NR Tobacco	State TFs	NR State TFs	Federal TFs	NR Fed. TFs	All Funds	Explanation	Row
		TRUST FUND SWEEPS													
		AGENCY FOR HEALTH CARE ADMINISTRATION													
		Health Care Trust Fund		14,500,000											
		Medical Care Trust Fund		9,500,000											
		Quality Long Term Care Trust Fund		2,500,000											
		AGENCY FOR PERSONS WITH DISABILITIES													
		Social Services Block Grant Trust Fund		8,000,000											
		Operations and Maintenance Trust Fund		4,000,000											
		DEPARTMENT OF HEALTH													
		Florida Drug, Device and Cosmetic Trust Fund		1,600,000											
		Grants and Donations Trust Fund		1,900,000											
		Medical Quality Assurance Trust Fund		10,000,000											
		Planning and Evaluation Trust Fund		1,500,000											
		Radiation Protection Trust Fund		1,000,000											

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCA 10-01 Department of Health

SPONSOR(S): Health Care Appropriations Committee

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee		Massengale	Massengale <i>AM</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill makes several revisions to statutes relating to trust funds administered by the Department of Health to conform to the House proposed General Appropriations Act for Fiscal Year 2010-11.

The bill amends section 20.435 (1)(a), Florida Statutes, relating to the department's Administrative Trust Fund to make the trust fund source(s) of revenue and use of the trust fund consistent with section 215.32, Florida Statutes. The bill also removes language regarding environmental regulatory fees as a fund source and regulatory activities as a use of the trust fund.

The bill also amends sections 318.14, 318.18, 318.21, 395.403 and 395.4306, Florida Statutes, replacing the Administrative Trust Fund with the Emergency Medical Services Trust Fund as the revenue source and use of the trust fund regarding payments to trauma centers. The bill also deletes obsolete language regarding payments to provisional trauma centers. The bill amends section 20.435, Florida Statutes, correcting references.

Finally, the bill amends sections 320.131, 327.35, 381.765, 381.78, 381.79, and 938.07, Florida Statutes, by replacing all references using Brain and Spinal Cord Rehabilitation Trust Fund with Brain and Spinal Cord Injury Program Trust Fund. The bill also amends sections 381.78 and 381.79, Florida Statutes, correcting references.

The House proposed General Appropriations Act for Fiscal Year 2010-11 replaces \$2.4 million in Administrative Trust Fund budget authority with Grants and Donations budget authority for environmental regulation activities and replaces \$7.5 million in Administrative Trust Fund budget authority with Emergency Medical Services Trust Fund budget authority for trauma center payments.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

To implement section 19 (f), Article III of the State Constitution, section 215.3208 (1), Florida Statutes, specifies that a schedule for review of trust funds be included in the legislative budget instructions developed pursuant to section 216.023, Florida Statutes. The trust funds in the Department of Health were last reviewed in the 2008 Session.

All the trust funds administered by the department were codified in section 20.435, Florida Statutes, to provide a consolidated list. However, there are some remaining needed changes to make the trust funds consistent with the requirements of section 215.32, Florida Statutes, or to correct trust fund names and cross references.

Administrative Trust Fund

Section 215.32 (2)(b) 2.c., Florida Statutes, specifies the uses and the source(s) of revenue of administrative trust funds generally:

Administrative trust fund, for use as a depository for funds to be used for management activities that are departmental in nature and funded by indirect cost earnings and assessments against trust funds. Proprietary funds are excluded from the requirement of using an administrative trust fund.

The bill amends section 20.435 (1)(a), Florida Statutes, by making the Department of Health Administrative Trust Fund source(s) of revenue and use of the trust fund consistent with section 215.32, Florida Statutes. The bill also removes language regarding environmental regulatory fees as a fund source and regulatory activities as a use of the trust fund. In future, regulatory fees and activities will be deposited to and used from the department's Grants and Donations Trust Fund, which is consistent with the sources of revenue and use of this trust fund in section 20.435, Florida Statutes.

Emergency Medical Services Trust Fund

The bill amends sections 318.14, 318.18, 318.21, 395.403 and 395.4306, Florida Statutes, replacing the Administrative Trust Fund with the Emergency Medical Services Trust Fund as the revenue source and use of the trust fund regarding payments to trauma centers. The bill also deletes obsolete language regarding payments to provisional trauma centers. The bill amends section 20.435, Florida Statutes, correcting references.

Brain and Spinal Cord Injury Program Trust Fund

The bill amends sections 320.131, 327.35, 381.765, 381.78, 381.79, and 938.07, Florida Statutes, by replacing all references using Brain and Spinal Cord Rehabilitation Trust Fund with Brain and Spinal Cord Injury Program Trust Fund. The bill also amends sections 381.78 and 381.79, Florida Statutes, correcting cross references.

B. SECTION DIRECTORY:

Section 1. Amends s. 20.435, F.S., relating to the Department of Health's Administrative Trust Fund and the Emergency Medical Services Trust Fund.

Sections 2, 3, and 4. Amend ss. 318.14, 318.18, and 318.21, F.S., relating to funds collected from certain motor vehicle infractions.

Sections 5, 6, 7, 8, 9 and 12. Amend ss. 320.131, 327.35, 381.765, 381.78, 381.79, and 938.07, F.S., relating to the Brain and Spinal Cord Injury Program Trust Fund.

Sections 10 and 11. Amend ss. 395.403 and 395.4306, F.S., relating to reimbursement of trauma centers and trauma payments.

Section 13. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The House proposed General Appropriations Act for Fiscal Year 2010-11 replaces \$2.4 million in Administrative Trust Fund budget authority with Grants and Donations budget authority for environmental regulation activities and replaces \$7.5 million in Administrative Trust Fund budget authority with Emergency Medical Services Trust Fund budget authority for trauma center payments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department does not require rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled

An act relating to the Department of Health; amending s. 20.435, F.S.; revising provisions for administration and use of funds in the Administrative Trust Fund and the Emergency Medical Services Trust Fund; providing for such administration and use under specified provisions; amending ss. 318.14, 318.18, and 318.21, F.S.; providing that funds collected from disposition of certain motor vehicle infractions shall be deposited into the Emergency Medical Services Trust Fund; removing provisions for deposit of such funds into the Administrative Trust Fund; providing for use of the funds; correcting a reference; amending ss. 320.131, 327.35, 381.765, and 938.07, F.S.; correcting references to the Brain and Spinal Cord Injury Program Trust Fund; amending ss. 381.78 and 381.79, F.S.; correcting references; amending s. 395.403, F.S., relating to reimbursement of trauma centers; revising eligibility provisions to remove provisional trauma centers and certain hospitals; providing for payments to be made from the Emergency Medical Services Trust Fund; removing provisions for one-time payments from the Administrative Trust Fund; amending s. 395.4036, F.S.; providing for use of funds in the Emergency Medical Services Trust Fund for verified trauma centers; removing provisions for such use of funds in the Administrative Trust Fund; providing an effective date.

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

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Section 1. Paragraph (a) of subsection (1) and paragraph (a) of subsection (14) of section 20.435, Florida Statutes, are amended to read:

20.435 Department of Health; trust funds.—The following trust funds shall be administered by the Department of Health:

(1) Administrative Trust Fund.

(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with s. 215.32 ~~consist of regulatory fees such as those pertaining to the licensing, permitting, and inspection of septic tanks, food hygiene, onsite sewage, Superfund compliance, solid waste management, tanning facilities, mobile home and recreational vehicle park inspection, other departmental regulatory and health care programs, and indirect earnings from grants. Funds shall be used for the purpose of supporting the regulatory activities of the department and for other such purposes as may be appropriate and shall be expended only pursuant to legislative appropriation or an approved amendment to the department's operating budget pursuant to the provisions of chapter 216.~~

(14) Emergency Medical Services Trust Fund.

(a) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 318.14, 318.18, 318.21, 395.403, and 395.4036 ~~and the provisions of parts I and II of chapter 401.~~

Section 2. Subsection (5) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception;

57 | procedures.—

58 | (5) Any person electing to appear before the designated
59 | official or who is required so to appear shall be deemed to have
60 | waived his or her right to the civil penalty provisions of s.
61 | 318.18. The official, after a hearing, shall make a
62 | determination as to whether an infraction has been committed. If
63 | the commission of an infraction has been proven, the official
64 | may impose a civil penalty not to exceed \$500, except that in
65 | cases involving unlawful speed in a school zone or involving
66 | unlawful speed in a construction zone, the civil penalty may not
67 | exceed \$1,000; or require attendance at a driver improvement
68 | school, or both. If the person is required to appear before the
69 | designated official pursuant to s. 318.19(1) and is found to
70 | have committed the infraction, the designated official shall
71 | impose a civil penalty of \$1,000 in addition to any other
72 | penalties and the person's driver's license shall be suspended
73 | for 6 months. If the person is required to appear before the
74 | designated official pursuant to s. 318.19(2) and is found to
75 | have committed the infraction, the designated official shall
76 | impose a civil penalty of \$500 in addition to any other
77 | penalties and the person's driver's license shall be suspended
78 | for 3 months. If the official determines that no infraction has
79 | been committed, no costs or penalties shall be imposed and any
80 | costs or penalties that have been paid shall be returned. Moneys
81 | received from the mandatory civil penalties imposed pursuant to
82 | this subsection upon persons required to appear before a
83 | designated official pursuant to s. 318.19(1) or (2) shall be
84 | remitted to the Department of Revenue and deposited into the

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85 Department of Health Emergency Medical Services ~~Administrative~~
 86 Trust Fund to provide financial support to certified trauma
 87 centers to assure the availability and accessibility of trauma
 88 services throughout the state. Funds deposited into the
 89 Emergency Medical Services ~~Administrative~~ Trust Fund under this
 90 section shall be allocated as follows:

91 (a) Fifty percent shall be allocated equally among all
 92 Level I, Level II, and pediatric trauma centers in recognition
 93 of readiness costs for maintaining trauma services.

94 (b) Fifty percent shall be allocated among Level I, Level
 95 II, and pediatric trauma centers based on each center's relative
 96 volume of trauma cases as reported in the Department of Health
 97 Trauma Registry.

98 Section 3. Paragraph (h) of subsection (3), paragraph (c)
 99 of subsection (5), and subsection (20) of section 318.18,
 100 Florida Statutes, are amended to read:

101 318.18 Amount of penalties.—The penalties required for a
 102 noncriminal disposition pursuant to s. 318.14 or a criminal
 103 offense listed in s. 318.17 are as follows:

104 (3)

105 (h) A person cited for a second or subsequent conviction
 106 of speed exceeding the limit by 30 miles per hour and above
 107 within a 12-month period shall pay a fine that is double the
 108 amount listed in paragraph (b). For purposes of this paragraph,
 109 the term "conviction" means a finding of guilt as a result of a
 110 jury verdict, nonjury trial, or entry of a plea of guilty.

111 Moneys received from the increased fine imposed by this
 112 paragraph shall be remitted to the Department of Revenue and

113 deposited into the Department of Health Emergency Medical
 114 Services Administrative Trust Fund to provide financial support
 115 to certified trauma centers to assure the availability and
 116 accessibility of trauma services throughout the state. Funds
 117 deposited into the Emergency Medical Services Administrative
 118 Trust Fund under this section shall be allocated as follows:

119 1. Fifty percent shall be allocated equally among all
 120 Level I, Level II, and pediatric trauma centers in recognition
 121 of readiness costs for maintaining trauma services.

122 2. Fifty percent shall be allocated among Level I, Level
 123 II, and pediatric trauma centers based on each center's relative
 124 volume of trauma cases as reported in the Department of Health
 125 Trauma Registry.

126 (5)

127 (c) In addition to the penalty under paragraph (a) or
 128 paragraph (b), \$65 for a violation of s. 316.172(1)(a) or (b).
 129 If the alleged offender is found to have committed the offense,
 130 the court shall impose the civil penalty under paragraph (a) or
 131 paragraph (b) plus an additional \$65. The additional \$65
 132 collected under this paragraph shall be remitted to the
 133 Department of Revenue for deposit into the Emergency Medical
 134 Services Administrative Trust Fund of the Department of Health
 135 to be used as provided in s. 395.4036.

136 (20) In addition to any other penalty, \$65 for a violation
 137 of s. 316.191, prohibiting racing on highways, or s. 316.192,
 138 prohibiting reckless driving. The additional \$65 collected under
 139 this subsection shall be remitted to the Department of Revenue
 140 for deposit into the Emergency Medical Services Administrative

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141 Trust Fund of the Department of Health to be used as provided in
 142 s. 395.4036.

143 Section 4. Paragraph (d) of subsection (2) and subsection
 144 (15) of section 318.21, Florida Statutes, are amended to read:

145 318.21 Disposition of civil penalties by county courts.—
 146 All civil penalties received by a county court pursuant to the
 147 provisions of this chapter shall be distributed and paid monthly
 148 as follows:

149 (2) Of the remainder:

150 (d) Eight and two-tenths percent shall be remitted to the
 151 Department of Revenue for deposit in the Brain and Spinal Cord
 152 Injury Program ~~Rehabilitation~~ Trust Fund for the purposes set
 153 forth in s. 381.79.

154 (15) Of the additional fine assessed under s. 318.18(3)(e)
 155 for a violation of s. 316.1893, 50 percent of the moneys
 156 received from the fines shall be appropriated to the Agency for
 157 Health Care Administration as general revenue to provide an
 158 enhanced Medicaid payment to nursing homes that serve Medicaid
 159 recipients with brain and spinal cord injuries. The remaining 50
 160 percent of the moneys received from the enhanced fine imposed
 161 under s. 318.18(3)(e) shall be remitted to the Department of
 162 Revenue and deposited into the Department of Health Emergency
 163 Medical Services Administrative Trust Fund to provide financial
 164 support to certified trauma centers in the counties where
 165 enhanced penalty zones are established to ensure the
 166 availability and accessibility of trauma services. Funds
 167 deposited into the Emergency Medical Services Administrative
 168 Trust Fund under this subsection shall be allocated as follows:

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169 (a) Fifty percent shall be allocated equally among all
 170 Level I, Level II, and pediatric trauma centers in recognition
 171 of readiness costs for maintaining trauma services.

172 (b) Fifty percent shall be allocated among Level I, Level
 173 II, and pediatric trauma centers based on each center's relative
 174 volume of trauma cases as reported in the Department of Health
 175 Trauma Registry.

176 Section 5. Subsection (2) of section 320.131, Florida
 177 Statutes, is amended to read:

178 320.131 Temporary tags.—

179 (2) The department is authorized to sell temporary tags,
 180 in addition to those listed above, to their agents and where
 181 need is demonstrated by a consumer complainant. The fee shall be
 182 \$2 each. One dollar from each tag sold shall be deposited into
 183 the Brain and Spinal Cord Injury Program Rehabilitation Trust
 184 Fund, with the remaining proceeds being deposited into the
 185 Highway Safety Operating Trust Fund. Agents of the department
 186 shall sell temporary tags for \$2 each and shall charge the
 187 service charge authorized by s. 320.04 per transaction,
 188 regardless of the quantity sold. Requests for purchase of
 189 temporary tags to the department or its agents shall be made,
 190 where applicable, on letterhead stationery and notarized. Except
 191 as specifically provided otherwise, a temporary tag shall be
 192 valid for 30 days, and no more than two shall be issued to the
 193 same person for the same vehicle.

194 Section 6. Subsection (9) of section 327.35, Florida
 195 Statutes, is amended to read:

196 327.35 Boating under the influence; penalties; "designated

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197 drivers".-

198 (9) Notwithstanding any other provision of this section,
 199 for any person convicted of a violation of subsection (1), in
 200 addition to the fines set forth in subsections (2) and (4), an
 201 additional fine of \$60 shall be assessed and collected in the
 202 same manner as the fines set forth in subsections (2) and (4).
 203 All fines collected under this subsection shall be remitted by
 204 the clerk of the court to the Department of Revenue for deposit
 205 into the Brain and Spinal Cord Injury Program Rehabilitation
 206 Trust Fund and used for the purposes set forth in s. 381.79,
 207 after 5 percent is deducted therefrom by the clerk of the court
 208 for administrative costs.

209 Section 7. Subsection (2) of section 381.765, Florida
 210 Statutes, is amended to read:

211 381.765 Retention of title to and disposal of equipment.-

212 (2) The department may offer for sale any surplus items
 213 acquired in operating the brain and spinal cord injury program
 214 when they are no longer necessary or exchange them for necessary
 215 items that may be used to greater advantage. When any such
 216 surplus equipment is sold or exchanged, a receipt for the
 217 equipment shall be taken from the purchaser showing the
 218 consideration given for such equipment and forwarded to the
 219 Chief Financial Officer, and any funds received by the brain and
 220 spinal cord injury program pursuant to any such transaction
 221 shall be deposited in the Brain and Spinal Cord Injury Program
 222 ~~Rehabilitation~~ Trust Fund and shall be available for expenditure
 223 for any purpose consistent with ss. 381.739-381.79 ~~this part.~~

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224 Section 8. Subsection (7) of section 381.78, Florida
 225 Statutes, is amended to read:

226 381.78 Advisory council on brain and spinal cord
 227 injuries.—

228 (7) A member of the advisory council may be removed from
 229 office by the State Surgeon General for malfeasance,
 230 misfeasance, neglect of duty, incompetence, or permanent
 231 inability to perform official duties or for pleading nolo
 232 contendere to, or being found guilty of, a crime. Malfeasance
 233 includes, but is not limited to, a violation of any specific
 234 prohibition within ss. 381.739-381.79 ~~this part~~.

235 Section 9. Subsection (6) of section 381.79, Florida
 236 Statutes, is amended to read:

237 381.79 Brain and Spinal Cord Injury Program Trust Fund.—

238 (6) The department may accept, deposit into the trust
 239 fund, and use for carrying out the purposes of ss. 381.739-
 240 381.79 ~~this part~~ gifts made unconditionally by will or
 241 otherwise. Any gift made under conditions that, in the judgment
 242 of the department, are proper and consistent with this section,
 243 the laws of the United States, and the laws of this state may be
 244 accepted and shall be held, invested, reinvested, and used in
 245 accordance with the conditions of the gift.

246 Section 10. Subsections (1) and (2) of section 395.403,
 247 Florida Statutes, are amended to read:

248 395.403 Reimbursement of trauma centers.—

249 (1) All ~~provisional trauma centers and~~ trauma centers
 250 shall be considered eligible to receive state funding when state
 251 funds are specifically appropriated for state-sponsored trauma

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252 centers in the General Appropriations Act. Effective July 1,
 253 2010 ~~2004~~, the department shall make ~~one-time~~ payments from the
 254 Emergency Medical Services Administrative Trust Fund under s.
 255 20.435 to the trauma centers and ~~a hospital with a pending~~
 256 ~~application for a Level I trauma center in recognition of the~~
 257 ~~capital investment made by the hospital to establish the trauma~~
 258 ~~service~~. Payments shall be in equal amounts for the trauma
 259 centers approved by the department as of July 1 of the fiscal
 260 year in which funding is appropriated, ~~with lesser amounts for~~
 261 ~~the hospital with an application pending for a Level I trauma~~
 262 ~~center at the department as of April 1, 2004~~. In the event a
 263 trauma center does not maintain its status as a trauma center
 264 for any state fiscal year in which such funding is appropriated,
 265 the ~~provisional trauma center or~~ trauma center shall repay the
 266 state for the portion of the year during which it was not a
 267 trauma center.

268 (2) ~~Provisional trauma centers and~~ Trauma centers eligible
 269 to receive distributions from the Emergency Medical Services
 270 Administrative Trust Fund under s. 20.435 in accordance with
 271 subsection (1) may request that such funds be used as
 272 intergovernmental transfer funds in the Medicaid program.

273 Section 11. Subsections (1) and (2) of section 395.4036,
 274 Florida Statutes, are amended to read:

275 395.4036 Trauma payments.—

276 (1) Recognizing the Legislature's stated intent to provide
 277 financial support to the current verified trauma centers and to
 278 provide incentives for the establishment of additional trauma
 279 centers as part of a system of state-sponsored trauma centers,

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280 the department shall utilize funds collected under s. 318.18 and
 281 deposited into the Emergency Medical Services Administrative
 282 Trust Fund of the department to ensure the availability and
 283 accessibility of trauma services throughout the state as
 284 provided in this subsection.

285 (a) Funds collected under s. 318.18(15) shall be
 286 distributed as follows:

287 1. Twenty percent of the total funds collected during the
 288 state fiscal year shall be distributed to verified trauma
 289 centers that have a local funding contribution as of December
 290 31. Distribution of funds under this subparagraph shall be based
 291 on trauma caseload volume for the most recent calendar year
 292 available.

293 2. Forty percent of the total funds collected shall be
 294 distributed to verified trauma centers based on trauma caseload
 295 volume for the most recent calendar year available. The
 296 determination of caseload volume for distribution of funds under
 297 this subparagraph shall be based on the department's Trauma
 298 Registry data.

299 3. Forty percent of the total funds collected shall be
 300 distributed to verified trauma centers based on severity of
 301 trauma patients for the most recent calendar year available. The
 302 determination of severity for distribution of funds under this
 303 subparagraph shall be based on the department's International
 304 Classification Injury Severity Scores or another statistically
 305 valid and scientifically accepted method of stratifying a trauma
 306 patient's severity of injury, risk of mortality, and resource
 307 consumption as adopted by the department by rule, weighted based

308 on the costs associated with and incurred by the trauma center
 309 in treating trauma patients. The weighting of scores shall be
 310 established by the department by rule.

311 (b) Funds collected under s. 318.18(5)(c) and (19) shall
 312 be distributed as follows:

313 1. Thirty percent of the total funds collected shall be
 314 distributed to Level II trauma centers operated by a public
 315 hospital governed by an elected board of directors as of
 316 December 31, 2008.

317 2. Thirty-five percent of the total funds collected shall
 318 be distributed to verified trauma centers based on trauma
 319 caseload volume for the most recent calendar year available. The
 320 determination of caseload volume for distribution of funds under
 321 this subparagraph shall be based on the department's Trauma
 322 Registry data.

323 3. Thirty-five percent of the total funds collected shall
 324 be distributed to verified trauma centers based on severity of
 325 trauma patients for the most recent calendar year available. The
 326 determination of severity for distribution of funds under this
 327 subparagraph shall be based on the department's International
 328 Classification Injury Severity Scores or another statistically
 329 valid and scientifically accepted method of stratifying a trauma
 330 patient's severity of injury, risk of mortality, and resource
 331 consumption as adopted by the department by rule, weighted based
 332 on the costs associated with and incurred by the trauma center
 333 in treating trauma patients. The weighting of scores shall be
 334 established by the department by rule.

335 (2) Funds deposited in the department's Emergency Medical
 336 Services Administrative Trust Fund for verified trauma centers
 337 may be used to maximize the receipt of federal funds that may be
 338 available for such trauma centers. Notwithstanding this section
 339 and s. 318.14, distributions to trauma centers may be adjusted
 340 in a manner to ensure that total payments to trauma centers
 341 represent the same proportional allocation as set forth in this
 342 section and s. 318.14. For purposes of this section and s.
 343 318.14, total funds distributed to trauma centers may include
 344 revenue from the Emergency Medical Services Administrative Trust
 345 Fund and federal funds for which revenue from the Administrative
 346 Trust Fund is used to meet state or local matching requirements.
 347 Funds collected under ss. 318.14 and 318.18 and deposited in the
 348 Emergency Medical Services Administrative Trust Fund of the
 349 department shall be distributed to trauma centers on a quarterly
 350 basis using the most recent calendar year data available. Such
 351 data shall not be used for more than four quarterly
 352 distributions unless there are extenuating circumstances as
 353 determined by the department, in which case the most recent
 354 calendar year data available shall continue to be used and
 355 appropriate adjustments shall be made as soon as the more recent
 356 data becomes available.

357 Section 12. Section 938.07, Florida Statutes, is amended
 358 to read:

359 938.07 Driving or boating under the influence.—
 360 Notwithstanding any other provision of s. 316.193 or s. 327.35,
 361 a court cost of \$135 shall be added to any fine imposed pursuant
 362 to s. 316.193 or s. 327.35. The clerks shall remit the funds to

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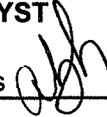
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363 the Department of Revenue, \$25 of which shall be deposited in
 364 the Emergency Medical Services Trust Fund, \$50 shall be
 365 deposited in the Operating Trust Fund of the Department of Law
 366 Enforcement to be used for operational expenses in conducting
 367 the statewide criminal analysis laboratory system established in
 368 s. 943.32, and \$60 shall be deposited in the Brain and Spinal
 369 Cord Injury Program ~~Rehabilitation~~ Trust Fund created in s.
 370 381.79.

371 Section 13. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCA 10-02 Medicaid Services
SPONSOR(S): Health Care Appropriations Committee
TIED BILLS: IDEN./SIM. BILLS: SB 1464

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee		Hicks 	Pridgeon 
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill conforms statutes to the funding decisions included in the proposed General Appropriations Act (GAA) for Fiscal Year 2010-2011. The bill:

- Modifies nursing home staffing requirements to allow for a combined direct care staffing requirement of 3.9 hours per resident per day.
- Eliminates optional Medicaid eligibility and coverage for pregnant women with incomes between 150 and 185 percent of the federal poverty level.
- Extends the date that the Medicaid Aged and Disabled (MEDS-AD) and Medically Needy programs are set to sunset to June 30, 2011.
- Eliminates optional Medicaid chiropractic services for adult recipients.
- Revises the years of audited data used in determining Medicaid and charity care days for hospitals in the Disproportionate Share Hospital (DSH) Program; revises the formula used to make disproportionate share payments to provider service network hospitals; and changes the distribution criteria for Medicaid DSH payments to implement funding decisions for the DSH program.
- Modifies the formula used for calculating reimbursements to providers of prescribed drugs, effective March 1, 2011.
- Clarifies the use of the funds collected as a result of implementing quality assessment programs for nursing homes and privately operated intermediate care facilities for the developmentally disabled.
- Allows the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) to accept and forward applications for expansion of services to the Centers for Medicare and Medicaid Services (CMS) for the Program of All-inclusive Care for the Elderly (PACE).

This bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Nursing Facility Staffing

Current law establishes the minimum daily staffing requirements for certified nursing assistant staff at 2.7 hours of direct care per resident per day and establishes the minimum daily staffing requirements for licensed nursing staff at 1.0 hours of direct care per resident per day. Additionally, current law specifies that a minimum weekly average certified nursing assistant staffing of 2.9 hours of direct care per resident per day is required and that a week is defined as Sunday through Saturday. A minimum ratio of at least one certified nursing assistant per 20 residents and a minimum ratio of at least one licensed nurse per 40 residents is required at all times. The current minimum staffing requirements for nursing homes were gradually implemented beginning January 1, 2003 through January 1, 2007.

The Florida minimum staffing requirements are aligned with the CMS proposed "optimum level" with one hour of licensed nurse time and 2.9 certified nursing assistant per patient day requirement for a total direct care staffing requirement of 3.9 hours per resident per day.

This bill would maintain a total direct care staffing requirement of 3.9 hours per resident per day, and would maintain the daily staffing minimums of 1.0 hours of direct licensed nursing staff and 2.7 hours of direct certified nursing assistant staff; however, the proposed language would allow for additional flexibility in meeting the needs of higher acuity residents with additional licensed nursing staff.

Optional Medicaid Eligibility and Coverage

Current law allows Medicaid reimbursement for medical assistance and related services for beneficiaries deemed eligible subject to income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible beneficiaries is subject to the availability of moneys and any limitations established by the GAA or chapter 216, F.S.

- **The Medicaid Aged and Disabled Program (MEDS-AD)** eligibility category is an optional Medicaid eligibility group. The program provides Medicaid coverage to individuals who are age 65 or older or totally and permanently disabled, have incomes less than 88 percent of the federal poverty level, not eligible for Medicare and meet asset limits. The 2005 legislature through Chapter 2005-60, L.O.F, directed the AHCA to seek federal waiver authority to revise Medicaid eligibility coverage for the Medicaid MEDS-AD eligibility group beginning January 1, 2006. The AHCA received approval of the 1115 Research and Demonstration Waiver on

November 22, 2005. In accordance with the approved waiver, the revised program covers individuals without Medicare residing in the community or receiving Medicaid-covered institutional care services, hospice services, or home and community based services (HCBS), or if individuals are eligible for Medicare, and are also eligible for and receiving Medicaid-covered institutional care services, hospice services, or home and community based waiver services.

Medicaid is required to provide Medicare "buy-in" coverage for aged and disabled individuals who are Medicare beneficiaries. Therefore, if Medicaid coverage is eliminated for persons eligible under the criteria for the MEDS-AD program, those who are eligible for Medicare will continue to have Medicaid coverage for Medicare premiums, deductibles, and coinsurance. This program is expected to have an average monthly enrollment of approximately 18,101 individuals in Fiscal Year 2010-11.

- **The Medically Needy** eligibility category is an optional Medicaid eligibility group. Title XIX of the Social Security Act specifies categories of individuals that the federal government gives state Medicaid programs the option of covering through their state plan. The Medically Needy program covers persons who have experienced a catastrophic illness and either have no health insurance, or have exhausted their benefits. On a month by month basis, the individual's medical expenses are subtracted from his or her income. If the remainder falls below Medicaid's income limits, the individual may qualify for Medicaid for the full or partial month depending on the date the medical expenses were incurred. The amount of expenses that must be deducted from the individual's income to make him or her eligible for Medicaid is called "share of cost." A person eligible for the Medically Needy Program is eligible for all Medicaid services with the exception of services in a skilled nursing facility, an intermediate care facility for the developmentally disabled, assistive care services, home and community-based services, or the payment of Medicare premiums by Medicaid. This program is expected to serve an average monthly enrollment of approximately 21,583 individuals in Fiscal Year 2010-11.
- **Pregnant Women with Income of 150-185% of the Federal Poverty Level** – This optional eligibility category provides Medicaid coverage for pregnant women with income of 150 percent up to 185 percent of the federal poverty level. Full Medicaid benefits are available to those deemed eligible to receive coverage under this optional eligibility group. It is estimated that this program will have an average monthly enrollment of 5,796 beneficiaries in Fiscal Year 2010-2011.
- **Chiropractic Services** – Currently law allow Medicaid reimbursement to providers for at least 27 optional services, including chiropractic services. Medicaid reimburses chiropractic services rendered by a licensed, Medicaid participating chiropractic physician. Chiropractic services include manual manipulation of the spine and initial services and screening and x-rays provided by a licensed chiropractic physician. For Fiscal Year 2010-2011, it is estimated that approximately 6,183 adult beneficiaries would be eligible for this Medicaid coverage.

The bill extends the sunset date for the MEDS-AD and Medically Needy programs from December 31, 2010 to June 30, 2011 restoring Medicaid coverage to eligible individuals with non-recurring funds. The bill also eliminates optional Medicaid coverage for pregnant women with income of 150 percent up to 185 percent of the federal poverty level, effective January 1, 2011, and eliminates Medicaid reimbursement for optional Medicaid chiropractic services for adult recipients.

Medicaid Reimbursement for Prescribed Drugs Services

Reimbursement for prescribed drug claims is made in accordance with the provisions of 42 CFR 447.512-516; and ss. 409.906(20), 409.908, 409.912(39) (a), F.S.

The current reimbursement for covered drugs dispensed by a licensed pharmacy, approved as a Medicaid provider, or an enrolled dispensing physician filling his own prescriptions, is the lesser of:

- Average Wholesale Price (AWP) minus 16.4%, plus a dispensing fee of \$3.73 or
- Wholesaler Acquisition Cost (WAC) plus 4.75%, plus a dispensing fee of \$3.73 or
- The Federal Upper Limit (FUL) established by the CMS, plus a dispensing fee of \$3.73 or
- The State Maximum Allowable Cost (SMAC), plus a dispensing fee of \$3.73 or
- The provider's Usual and Customary (U&C) charge, inclusive of dispensing fee.

AWP and WAC are published by First Data Bank (FDB) as reference prices for pharmaceuticals. AWP is a "list price" and is higher than the cost wholesalers actually pay. WAC is slightly more representative of costs actually paid by wholesalers, and is more accurate with respect to branded pharmaceuticals than generics. Third party payors and State Medicaid Programs use these published prices (AWP and WAC) in their retail pharmacy reimbursement calculations.

On March 30, 2009, the U.S. District Court for the District of Massachusetts entered a Final Order and Judgment approving a class action settlement that involved two major publishers of drug pricing information, FDB and Medi-Span. The Plaintiffs in this case alleged that FDB's and Medi-Span's policies and practices caused them to pay inflated prices for certain pharmaceutical products.

The settlement requires FDB and Medi-Span to reduce the AWP mark-up factor to a standard ceiling of 120 percent of WAC on all National Drug Codes (NDCs). This change took effect on September 26, 2009, and will affect all prescriptions where the reimbursement calculation was based on AWP. With respect to Florida Medicaid, 25.39 percent of prescriptions are reimbursed based on AWP. These are primarily branded pharmaceuticals still under patent. Both FDB and Medi-Span have independently announced plans to discontinue publishing AWP by March, 2011.

This bill modifies reimbursement for prescribed drugs to the lesser of the wholesaler acquisition cost, the federal upper limit, the state maximum allowable cost, or the usual and customary charge billed by the provider, effective March 1, 2011, to adjust for the removal of the AWP component for all drugs from the reimbursement formula.

Nursing Home Facility Providers Quality Assessment Program

Section 409.9082, F.S., establishes a quality assessment program for nursing home facility providers. The program had an effective date of April 1, 2009. Federal regulations provide that assessment revenues cannot exceed 5.5 percent of the total aggregate net patient service revenue of the assessed facilities. The AHCA was authorized to calculate the assessment annually on a per-resident-day basis, exclusive of those days funded by the Medicare program. Certain nursing home facilities are exempt from the imposition of the quality assessment. The purpose of the nursing home quality assessment is to ensure continued quality of care and that the collected assessments are used to obtain federal financial participation through the Medicaid program in order to make Medicaid payments for nursing home facility services up to the amount of nursing home facility Medicaid rates as calculated in accordance with the approved state Medicaid plan in effect on December 31, 2007.

This bill clarifies that the nursing home facility quality assessment collected by the AHCA shall be used to restore rate reductions effective on or after January 1, 2008 as provided in the GAA.

Privately Operated Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) Quality Assessment Program

Section 409.9083, F.S., establishes a quality assessment program for intermediate care facilities for the developmentally disabled. Federal regulations provide that assessment revenues cannot exceed 5.5 percent of the total aggregate net patient service revenue of the assessed facilities. The AHCA was authorized to calculate the quality assessment rate annually on a per-resident-day basis. The purpose of the facility quality assessment is to ensure continued quality of care and that the collected

assessments are used to obtain federal financial participation through the Medicaid program in order to make Medicaid payments for ICF/DD services up to the amount of the Medicaid rates as calculated in accordance with the approved state Medicaid plan in effect on April 1, 2008.

This bill clarifies that the ICF/DD quality assessment collected by the AHCA shall be used to restore rate reductions effective on or after October 1, 2008 as provided in the GAA.

Disproportionate Share Program (DSH)

Each year the Low-Income Pool Council (formerly Disproportionate Share Council) makes recommendations to the Legislature on the Medicaid Disproportionate Share Hospital Program funding distributions to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals. However, the legislature delineates how the funds will be distributed to each eligible facility.

The bill amends several provisions of chapter 409, F.S., to update for the most recent years of audited data used to implement the changes in DSH program funding for Fiscal Year 2010-2011. The bill:

- Revises the method for calculating disproportionate share payments to hospitals for Fiscal Year 2010-2011 by changing the years of averaged audited data from 2003, 2004, and 2005 to 2004, 2005, and 2006;
- Revises the formula used to calculate disproportionate share payments to provider service network (PSN) hospitals;
- Revises the time period from Fiscal Year 2009-2010 to 2010-2011 during which the AHCA is prohibited from distributing funds under the Disproportionate Share Program for regional perinatal intensive care centers;
- Requires that funds for statutorily defined teaching hospitals in Fiscal Year 2010-2011 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for teaching hospitals in Fiscal Year 2003-2004, or as otherwise provided in the GAA; and
- Revises the time period from Fiscal Year 2009-2010 to Fiscal Year 2010-2011 during which the AHCA is prohibited from distributing funds under the primary care disproportionate share program.

Program of All-Inclusive Care for the Elderly (PACE)

PACE is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing. The model was tested through CMS demonstration projects that began in the mid-1980s.¹ The PACE model was developed to address the needs of long-term care clients, providers, and payors.

For most participants, the comprehensive service package permits them to continue living at home while receiving services rather than receiving services in other more costly long term care settings. Capitated financing allows providers to deliver all the services that participants need rather than being limited to those services reimbursable under the Medicare and Medicaid fee-for-service systems.²

The Balanced Budget Act of 1997 established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide the PACE services to Medicaid beneficiaries as a state option without a Medicaid waiver. The state plan must include PACE as an optional Medicaid benefit before the State and the Secretary of the Department of Health and Human Services can enter into program agreements with PACE providers.³

¹ Centers for Medicare and Medicaid Services website: <http://www.cms.hhs.gov/PACE/> (last visited on March 12, 2010).

² *Id.*

³ *Id.*

A PACE organization is a not-for-profit private or public entity that is primarily engaged in providing the PACE services and must:⁴

- Have a governing board that includes community representation;
- Be able to provide the complete service package regardless of frequency or duration of services;
- Have a physical site to provide adult day services;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have demonstrated fiscal soundness; and
- Have a formal participant bill of rights.

The PACE project is a unique federal/state partnership. The federal government establishes the PACE organization requirements and application process. The state Medicaid agency or other state agency is responsible for oversight of the entire application process, which includes reviewing the initial application and providing an on-sight readiness review before a PACE organization can be authorized to serve patients. An approved PACE organization must sign a contract with the CMS and the state Medicaid agency.⁵

Florida PACE Project

The Florida PACE project is one project among many that provide alternative, long-term care options for elders who qualify for Medicare and the state Medicaid program. The PACE project was initially authorized in Chapter 98-327, Laws of Florida, and is codified in s. 430.707(2), F.S. The PACE model targets individuals who would otherwise qualify for Medicaid nursing home placement and provides them with a comprehensive array of home and community based services at a cost less than the cost of nursing home care. The PACE project is administered by DOEA in consultation with AHCA.

Section 3, Chapter 2006-25, L.O.F., included proviso language in the 2006-2007 GAA to authorize 150 additional clients for the existing PACE project in Miami-Dade County and funding for the development of PACE projects to serve 200 clients in Martin and St. Lucie counties, and 200 clients in Lee County.

Section 3, Chapter 2008-152, L.O.F., included proviso language in the 2008-09 GAA to reallocate 150 unused PACE slots to Miami-Dade, Lee and Pinellas Counties. Each site received 50 slots.

Section 20 of 2009-55, L.O.F., directed the AHCA, upon federal approval of an application to be a site for PACE, to contract with one private, not-for-profit hospice organization located in Hillsborough County, which provides comprehensive services, including hospice care for frail and elderly persons. This section also authorized the AHCA, in consultation with DOEA and subject to an appropriation, to approve up to 100 slots for the program.

In addition to receiving the necessary legislative authority, the development of a new PACE organization or the expansion of an existing program is a lengthy process that includes: identifying a service area, acquiring and renovating a PACE facility and processing the PACE application through the state and the federal review system.

The bill allows any entity that is authorized to provide benefits pursuant PACE on or before July 1, 2010 to submit an application to expand a PACE Pilot project. The bill authorizes the AHCA, in consultation with DOEA, to accept and forward to CMS an application to expand a PACE Pilot project from a current PACE entity in good standing with the AHCA, DOEA, and CMS.

⁴ PACE Fact Sheet, available at <http://www.cms.hhs.gov/PACE/Downloads/PACEFactSheet.pdf>.

⁵ *Id.*

B. SECTION DIRECTORY:

Section 1: Amends s. 400.141, F.S., conforming a cross-reference to changes made by the act.

Section 2: Amends s. 400.23, F.S., providing flexibility to nursing home facilities for meeting the minimum staffing requirements.

Section 3: Amends s. 409.903, F.S., eliminating the eligibility and coverage of pregnant women with income of 150-185% of the federal poverty level.

Section 4: Amends s. 409.904, F.S., extending the sunset date for the Medically Aged and Disabled waiver and Medically Needy programs.

Section 5: Amends s. 409.906, F.S., eliminating chiropractic optional Medicaid services for adult recipients.

Section 6: Amends s. 409.908, F.S., modifying the reimbursement methodology for a provider of prescribed drugs services.

Section 7: Amends s. 409.9082, F.S., clarifying the use of the nursing home facility quality assessment.

Section 8: Amends s. 409.9083, F.S., clarifying the use of the quality assessment on privately operated intermediate care facilities for the developmentally disabled.

Section 9: Amends s. 409.911, F.S., revising the share data used to calculate disproportionate share payments to hospitals; and revising the formula used to distribute disproportionate share funds to provider service network (PSN) hospitals.

Section 10: Amends s. 409.9112, F.S., revising the time period during which the AHCA is prohibited from distributing disproportionate share payments to regional perinatal intensive care centers.

Section 11: Amends s. 409.9113, F.S., requiring the AHCA to distribute moneys provided in the GAA to statutorily defined teaching hospitals and family practice teaching hospitals under the teaching hospitals disproportionate share program for Fiscal Year 2010-2011.

Section 12: Amends s. 409.9117, F.S., prohibiting the AHCA from distributing moneys under the primary care disproportionate share program for Fiscal Year 2010-2011.

Section 13: Amends s. 409.912, F.S., modifying the reimbursement methodology for a provider of prescribed drugs.

Section 14: Amends s. 430.707, F.S., allowing AHCA and DOEA to accept and forward an application for expansion of services to CMS for PACE.

Section 15: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

\$136,723,385 million in federal Medicaid funds will be generated through the implementation of the DSH programs. The privately operated intermediate care facility quality assessment and the nursing home facility quality assessment will generate \$84,981,277 million in federal Medicaid funds.

2. Expenditures:

	<u>FY 2010-11</u>	<u>FY 2011-12</u>
OPTIONAL MEDICAID ELIGIBILITY AND COVERAGE		
<u>MEDS-AD Program</u>		
General Revenue	\$228,008,289	
Grants and Donations Trust Fund	\$ 32,423,511	
Medical Care Trust Fund	<u>\$366,070,093</u>	
Total	\$626,501,893	
 <u>Medically Needy Program</u>		
General Revenue	\$264,928,422	
Health Care Trust Fund	\$ 28,400,000	
Grants and Donations Trust Fund	\$ 66,399,527	
Medical Care Trust Fund	<u>\$457,442,063</u>	
Total	\$817,170,012	
 <u>Pregnant Women with Income of 150-185% of FPL</u>		
General Revenue	(\$ 12,999,350)	(\$12,999,350)
Grants and Donations Trust Fund	(\$ 266,746)	(\$ 266,746)
Medical Care Trust Fund	<u>(\$ 16,386,884)</u>	<u>(\$16,386,884)</u>
Total	(\$ 29,652,980)	(\$29,652,980)
 <u>Chiropractic Services</u>		
General Revenue	(\$ 320,786)	(\$ 106,929)
Medical Care Trust Fund	(\$ 513,290)	(\$ 171,097)
Refugee Assistance Trust Fund	<u>(\$ 2,271)</u>	<u>(\$ 757)</u>
Total	(\$ 836,347)	(\$ 278,783)
 DISPROPORTIONATE SHARE PROGRAM		
Grants and Donations Trust Fund	\$109,847,192	
Medical Care Trust Fund	<u>\$136,723,385</u>	
Total	\$246,570,577	
 PHARMACY PROGRAM REDUCTION		
General Revenue	(\$ 5,657,881)	(\$11,315,763)
Medical Care Trust Fund	<u>(\$ 9,053,199)</u>	<u>(\$18,106,397)</u>
Total	(\$ 14,711,080)	(\$29,422,160)

QUALITY ASSESSMENT PROGRAMSNursing Home Facilities

Grants and Donations Trust Fund	\$ 53,600,846
Medical Care Trust Fund	\$ 85,766,928
Total	\$139,367,774

Privately Operated Intermediate CareFacilities for the Developmentally Disabled

Grants and Donations Trust Fund	(\$ 491,042)
Total	(\$ 491,042)

**PROGRAM OF ALL-INCLUSIVE
CARE FOR THE ELDERLY**

General Revenue	\$ 1,027,534	\$ 616,520
Medical Care Trust Fund	\$ 1,644,161	\$ 986,497
Total	\$ 2,671,695	\$ 1,603,017

General Revenue	\$ 474,986,228	(\$23,805,522)
Health Care Trust Fund	\$ 28,400,000	(\$ 0)
Grants and Donations Trust Fund	\$ 261,513,288	(\$ 266,746)
Medical Care Trust Fund	\$1,021,693,257	(\$33,677,881)
Refuge Assistance Trust Fund	(\$ 2,271)	(\$ 757)
Grand Total	\$1,786,590,502	(\$57,750,906)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments and other local political subdivisions may provide \$109,847,192 million in contributions for the DSH programs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Hospitals providing a disproportionate share of Medicaid or charity care services will receive additional reimbursements towards the cost of providing care to uninsured individuals. The nursing home facility providers will be able to restore reductions to the reimbursement rates through the quality assessments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation does not appear to require counties or municipalities to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The AHCA has sufficient rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to Medicaid services; amending s. 400.141,
 3 F.S.; conforming a cross-reference to changes made by the
 4 act; amending s. 400.23, F.S.; providing for flexibility
 5 in how to meet the minimum staffing requirements for
 6 nursing home facilities; amending s. 409.903, F.S.;
 7 eliminating eligibility and coverage for women during
 8 pregnancy and the postpartum period who live in a family
 9 that has an income at or below a specified percentage of
 10 the federal poverty level; amending s. 409.904, F.S.;
 11 revising the expiration date of provisions authorizing the
 12 federal waiver for certain persons age 65 and over or who
 13 have a disability; revising the expiration date of
 14 provisions authorizing a specified medically needy
 15 program; amending s. 409.906, F.S.; eliminating optional
 16 adult Medicaid coverage for chiropractic services for
 17 adult recipients; amending s. 409.908, F.S.; updating the
 18 formula used for calculating reimbursements to providers
 19 of prescribed drugs; amending s. 409.9082, F.S.; revising
 20 the purpose of the use of the nursing home facility
 21 quality assessment and federal matching funds; amending s.
 22 409.9083, F.S.; revising the purpose of the use of the
 23 privately operated intermediate care facilities for the
 24 developmentally disabled quality assessment and federal
 25 matching funds; amending s. 409.911, F.S.; updating the
 26 data to be used in calculating disproportionate share;
 27 revising the formula used to pay disproportionate share
 28 dollars to provider service network hospitals; amending s.

29 409.9112, F.S.; continuing the prohibition against
 30 distributing moneys under the perinatal intensive care
 31 centers disproportionate share program; amending s.
 32 409.9113, F.S.; continuing authorization for the
 33 distribution of moneys to teaching hospitals under the
 34 disproportionate share program; amending s. 409.9117,
 35 F.S.; continuing the prohibition against distributing
 36 moneys under the primary care disproportionate share
 37 program; amending s. 409.912, F.S.; updating the formula
 38 used for calculating reimbursements to providers of
 39 prescribed drugs; amending s. 430.707, F.S.; permitting
 40 the Agency for Health Care Administration, in consultation
 41 with the Department of Elderly Affairs, to accept and
 42 forward an application for expansion of service capacity
 43 to the Centers for Medicare and Medicaid Services for a
 44 specified entity that provides benefits under the Program
 45 of All-inclusive Care for the Elderly; providing an
 46 effective date.

47

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

49

50 Section 1. Paragraph (o) of subsection (1) of section
 51 400.141, Florida Statutes, is amended to read:

52 400.141 Administration and management of nursing home
 53 facilities.—

54 (1) Every licensed facility shall comply with all
 55 applicable standards and rules of the agency and shall:

56 (o)1. Submit semiannually to the agency, or more

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57 frequently if requested by the agency, information regarding
58 facility staff-to-resident ratios, staff turnover, and staff
59 stability, including information regarding certified nursing
60 assistants, licensed nurses, the director of nursing, and the
61 facility administrator. For purposes of this reporting:

62 a. Staff-to-resident ratios must be reported in the
63 categories specified in s. 400.23(3)(a) and applicable rules.
64 The ratio must be reported as an average for the most recent
65 calendar quarter.

66 b. Staff turnover must be reported for the most recent 12-
67 month period ending on the last workday of the most recent
68 calendar quarter prior to the date the information is submitted.
69 The turnover rate must be computed quarterly, with the annual
70 rate being the cumulative sum of the quarterly rates. The
71 turnover rate is the total number of terminations or separations
72 experienced during the quarter, excluding any employee
73 terminated during a probationary period of 3 months or less,
74 divided by the total number of staff employed at the end of the
75 period for which the rate is computed, and expressed as a
76 percentage.

77 c. The formula for determining staff stability is the
78 total number of employees that have been employed for more than
79 12 months, divided by the total number of employees employed at
80 the end of the most recent calendar quarter, and expressed as a
81 percentage.

82 d. A nursing facility that has failed to comply with state
83 minimum-staffing requirements for 2 consecutive days is
84 prohibited from accepting new admissions until the facility has

85 achieved the minimum-staffing requirements for a period of 6
 86 consecutive days. For the purposes of this sub-subparagraph, any
 87 person who was a resident of the facility and was absent from
 88 the facility for the purpose of receiving medical care at a
 89 separate location or was on a leave of absence is not considered
 90 a new admission. Failure to impose such an admissions moratorium
 91 constitutes a class II deficiency.

92 e. A nursing facility which does not have a conditional
 93 license may be cited for failure to comply with the standards in
 94 s. 400.23(3)(a)1.b. and c. ~~s. 400.23(3)(a)1.a.~~ only if it has
 95 failed to meet those standards on 2 consecutive days or if it
 96 has failed to meet at least 97 percent of those standards on any
 97 one day.

98 f. A facility which has a conditional license must be in
 99 compliance with the standards in s. 400.23(3)(a) at all times.

100 2. This paragraph does not limit the agency's ability to
 101 impose a deficiency or take other actions if a facility does not
 102 have enough staff to meet the residents' needs.

103 Section 2. Paragraph (a) of subsection (3) of section
 104 400.23, Florida Statutes, is amended to read:

105 400.23 Rules; evaluation and deficiencies; licensure
 106 status.—

107 (3)(a)1. The agency shall adopt rules providing minimum
 108 staffing requirements for nursing homes. These requirements
 109 shall include, for each nursing home facility:

110 a. A minimum weekly average of certified nursing assistant
 111 and licensed nursing staffing combined of 3.9 hours of direct
 112 care per resident per day. As used in this sub-subparagraph, a

113 week is defined as Sunday through Saturday.

114 b. A minimum certified nursing assistant staffing of 2.7
 115 hours of direct care per resident per day. A facility may not
 116 staff below one certified nursing assistant per 20 residents.

117 c. A minimum licensed nursing staffing of 1.0 hour of
 118 direct care per resident per day. A facility may not staff below
 119 one licensed nurse per 40 residents.

120 ~~a. A minimum certified nursing assistant staffing of 2.6~~
 121 ~~hours of direct care per resident per day beginning January 1,~~
 122 ~~2003, and increasing to 2.7 hours of direct care per resident~~
 123 ~~per day beginning January 1, 2007. Beginning January 1, 2002, no~~
 124 ~~facility shall staff below one certified nursing assistant per~~
 125 ~~20 residents, and a minimum licensed nursing staffing of 1.0~~
 126 ~~hour of direct care per resident per day but never below one~~
 127 ~~licensed nurse per 40 residents.~~

128 ~~b. Beginning January 1, 2007, a minimum weekly average~~
 129 ~~certified nursing assistant staffing of 2.9 hours of direct care~~
 130 ~~per resident per day. For the purpose of this sub-subparagraph,~~
 131 ~~a week is defined as Sunday through Saturday.~~

132 2. Nursing assistants employed under s. 400.211(2) may be
 133 included in computing the staffing ratio for certified nursing
 134 assistants only if their job responsibilities include only
 135 nursing-assistant-related duties.

136 3. Each nursing home must document compliance with
 137 staffing standards as required under this paragraph and post
 138 daily the names of staff on duty for the benefit of facility
 139 residents and the public.

140 4. The agency shall recognize the use of licensed nurses

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141 | for compliance with minimum staffing requirements for certified
 142 | nursing assistants, provided that the facility otherwise meets
 143 | the minimum staffing requirements for licensed nurses and that
 144 | the licensed nurses are performing the duties of a certified
 145 | nursing assistant. Unless otherwise approved by the agency,
 146 | licensed nurses counted toward the minimum staffing requirements
 147 | for certified nursing assistants must exclusively perform the
 148 | duties of a certified nursing assistant for the entire shift and
 149 | not also be counted toward the minimum staffing requirements for
 150 | licensed nurses. If the agency approved a facility's request to
 151 | use a licensed nurse to perform both licensed nursing and
 152 | certified nursing assistant duties, the facility must allocate
 153 | the amount of staff time specifically spent on certified nursing
 154 | assistant duties for the purpose of documenting compliance with
 155 | minimum staffing requirements for certified and licensed nursing
 156 | staff. In no event may the hours of a licensed nurse with dual
 157 | job responsibilities be counted twice.

158 | Section 3. Subsection (5) of section 409.903, Florida
 159 | Statutes, is amended to read:

160 | 409.903 Mandatory payments for eligible persons.—The
 161 | agency shall make payments for medical assistance and related
 162 | services on behalf of the following persons who the department,
 163 | or the Social Security Administration by contract with the
 164 | Department of Children and Family Services, determines to be
 165 | eligible, subject to the income, assets, and categorical
 166 | eligibility tests set forth in federal and state law. Payment on
 167 | behalf of these Medicaid eligible persons is subject to the
 168 | availability of moneys and any limitations established by the

169 General Appropriations Act or chapter 216.

170 (5) A pregnant woman for the duration of her pregnancy and
 171 for the postpartum period as defined in federal law and rule, or
 172 a child under age 1, if either is living in a family that has an
 173 income which is at or below 150 percent of the most current
 174 federal poverty level, or, effective January 1, 2011 ~~1992~~, a
 175 child under age 1 who is living in a family that has an income
 176 which is at or below 185 percent of the most current federal
 177 poverty level. Such a person is not subject to an assets test.
 178 Further, a pregnant woman who applies for eligibility for the
 179 Medicaid program through a qualified Medicaid provider must be
 180 offered the opportunity, subject to federal rules, to be made
 181 presumptively eligible for the Medicaid program.

182 Section 4. Subsections (1) and (2) of section 409.904,
 183 Florida Statutes, are amended to read:

184 409.904 Optional payments for eligible persons.—The agency
 185 may make payments for medical assistance and related services on
 186 behalf of the following persons who are determined to be
 187 eligible subject to the income, assets, and categorical
 188 eligibility tests set forth in federal and state law. Payment on
 189 behalf of these Medicaid eligible persons is subject to the
 190 availability of moneys and any limitations established by the
 191 General Appropriations Act or chapter 216.

192 (1) Effective January 1, 2006, and subject to federal
 193 waiver approval, a person who is age 65 or older or is
 194 determined to be disabled, whose income is at or below 88
 195 percent of the federal poverty level, whose assets do not exceed
 196 established limitations, and who is not eligible for Medicare

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197 or, if eligible for Medicare, is also eligible for and receiving
 198 Medicaid-covered institutional care services, hospice services,
 199 or home and community-based services. The agency shall seek
 200 federal authorization through a waiver to provide this coverage.
 201 This subsection expires June 30, 2011 ~~December 31, 2010~~.

202 (2) (a) A family, a pregnant woman, a child under age 21, a
 203 person age 65 or over, or a blind or disabled person, who would
 204 be eligible under any group listed in s. 409.903(1), (2), or
 205 (3), except that the income or assets of such family or person
 206 exceed established limitations. For a family or person in one of
 207 these coverage groups, medical expenses are deductible from
 208 income in accordance with federal requirements in order to make
 209 a determination of eligibility. A family or person eligible
 210 under the coverage known as the "medically needy," is eligible
 211 to receive the same services as other Medicaid recipients, with
 212 the exception of services in skilled nursing facilities and
 213 intermediate care facilities for the developmentally disabled.
 214 This paragraph expires June 30, 2011 ~~December 31, 2010~~.

215 (b) Effective July 1, 2011 ~~January 1, 2011~~, a pregnant
 216 woman or a child younger than 21 years of age who would be
 217 eligible under any group listed in s. 409.903, except that the
 218 income or assets of such group exceed established limitations.
 219 For a person in one of these coverage groups, medical expenses
 220 are deductible from income in accordance with federal
 221 requirements in order to make a determination of eligibility. A
 222 person eligible under the coverage known as the "medically
 223 needy" is eligible to receive the same services as other
 224 Medicaid recipients, with the exception of services in skilled

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225 nursing facilities and intermediate care facilities for the
 226 developmentally disabled.

227 Section 5. Subsection (7) of section 409.906, Florida
 228 Statutes, is amended to read:

229 409.906 Optional Medicaid services.—Subject to specific
 230 appropriations, the agency may make payments for services which
 231 are optional to the state under Title XIX of the Social Security
 232 Act and are furnished by Medicaid providers to recipients who
 233 are determined to be eligible on the dates on which the services
 234 were provided. Any optional service that is provided shall be
 235 provided only when medically necessary and in accordance with
 236 state and federal law. Optional services rendered by providers
 237 in mobile units to Medicaid recipients may be restricted or
 238 prohibited by the agency. Nothing in this section shall be
 239 construed to prevent or limit the agency from adjusting fees,
 240 reimbursement rates, lengths of stay, number of visits, or
 241 number of services, or making any other adjustments necessary to
 242 comply with the availability of moneys and any limitations or
 243 directions provided for in the General Appropriations Act or
 244 chapter 216. If necessary to safeguard the state's systems of
 245 providing services to elderly and disabled persons and subject
 246 to the notice and review provisions of s. 216.177, the Governor
 247 may direct the Agency for Health Care Administration to amend
 248 the Medicaid state plan to delete the optional Medicaid service
 249 known as "Intermediate Care Facilities for the Developmentally
 250 Disabled." Optional services may include:

251 (7) CHIROPRACTIC SERVICES.—The agency may pay for manual
 252 manipulation of the spine and initial services, screening, and X

253 rays provided to a recipient under the age of 21 by a licensed
 254 chiropractic physician.

255 Section 6. Subsection (14) of section 409.908, Florida
 256 Statutes, is amended to read:

257 409.908 Reimbursement of Medicaid providers.—Subject to
 258 specific appropriations, the agency shall reimburse Medicaid
 259 providers, in accordance with state and federal law, according
 260 to methodologies set forth in the rules of the agency and in
 261 policy manuals and handbooks incorporated by reference therein.
 262 These methodologies may include fee schedules, reimbursement
 263 methods based on cost reporting, negotiated fees, competitive
 264 bidding pursuant to s. 287.057, and other mechanisms the agency
 265 considers efficient and effective for purchasing services or
 266 goods on behalf of recipients. If a provider is reimbursed based
 267 on cost reporting and submits a cost report late and that cost
 268 report would have been used to set a lower reimbursement rate
 269 for a rate semester, then the provider's rate for that semester
 270 shall be retroactively calculated using the new cost report, and
 271 full payment at the recalculated rate shall be effected
 272 retroactively. Medicare-granted extensions for filing cost
 273 reports, if applicable, shall also apply to Medicaid cost
 274 reports. Payment for Medicaid compensable services made on
 275 behalf of Medicaid eligible persons is subject to the
 276 availability of moneys and any limitations or directions
 277 provided for in the General Appropriations Act or chapter 216.
 278 Further, nothing in this section shall be construed to prevent
 279 or limit the agency from adjusting fees, reimbursement rates,
 280 lengths of stay, number of visits, or number of services, or

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281 making any other adjustments necessary to comply with the
282 availability of moneys and any limitations or directions
283 provided for in the General Appropriations Act, provided the
284 adjustment is consistent with legislative intent.

285 (14) A provider of prescribed drugs shall be reimbursed
286 the least of the amount billed by the provider, the provider's
287 usual and customary charge, or the Medicaid maximum allowable
288 fee established by the agency, plus a dispensing fee. The
289 Medicaid maximum allowable fee for ingredient cost shall ~~will~~ be
290 based on the lowest ~~lower~~ of: the average wholesale price (AWP)
291 minus 16.4 percent, the wholesaler acquisition cost (WAC) plus
292 4.75 percent, the federal upper limit (FUL), the state maximum
293 allowable cost (SMAC), or the usual and customary (UAC) charge
294 billed by the provider. Effective March 1, 2011, the Medicaid
295 maximum allowable fee for ingredient cost shall be based on the
296 lowest of: the wholesaler acquisition cost (WAC), the federal
297 upper limit (FUL), the state maximum allowable cost (SMAC), or
298 the usual and customary (UAC) charge billed by the provider.
299 Medicaid providers are required to dispense generic drugs if
300 available at lower cost and the agency has not determined that
301 the branded product is more cost-effective, unless the
302 prescriber has requested and received approval to require the
303 branded product. The agency is directed to implement a variable
304 dispensing fee for payments for prescribed medicines while
305 ensuring continued access for Medicaid recipients. The variable
306 dispensing fee may be based upon, but not limited to, either or
307 both the volume of prescriptions dispensed by a specific
308 pharmacy provider, the volume of prescriptions dispensed to an

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309 individual recipient, and dispensing of preferred-drug-list
 310 products. The agency may increase the pharmacy dispensing fee
 311 authorized by statute and in the annual General Appropriations
 312 Act by \$0.50 for the dispensing of a Medicaid preferred-drug-
 313 list product and reduce the pharmacy dispensing fee by \$0.50 for
 314 the dispensing of a Medicaid product that is not included on the
 315 preferred drug list. The agency may establish a supplemental
 316 pharmaceutical dispensing fee to be paid to providers returning
 317 unused unit-dose packaged medications to stock and crediting the
 318 Medicaid program for the ingredient cost of those medications if
 319 the ingredient costs to be credited exceed the value of the
 320 supplemental dispensing fee. The agency is authorized to limit
 321 reimbursement for prescribed medicine in order to comply with
 322 any limitations or directions provided for in the General
 323 Appropriations Act, which may include implementing a prospective
 324 or concurrent utilization review program.

325 Section 7. Subsection (4) of section 409.9082, Florida
 326 Statutes, is amended to read:

327 409.9082 Quality assessment on nursing home facility
 328 providers; exemptions; purpose; federal approval required;
 329 remedies.—

330 (4) The purpose of the nursing home facility quality
 331 assessment is to ensure continued quality of care. Collected
 332 assessment funds shall be used to obtain federal financial
 333 participation through the Medicaid program to make Medicaid
 334 payments for nursing home facility services up to the amount of
 335 nursing home facility Medicaid rates as calculated in accordance
 336 with the approved state Medicaid plan in effect on December 31,

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337 2007. The quality assessment and federal matching funds shall be
 338 used exclusively for the following purposes and in the following
 339 order of priority:

340 (a) To reimburse the Medicaid share of the quality
 341 assessment as a pass-through, Medicaid-allowable cost;

342 (b) To increase to each nursing home facility's Medicaid
 343 rate, as needed, an amount that restores ~~the~~ rate reductions
 344 effective on or after implemented January 1, 2008, as provided
 345 in the General Appropriations Act; January 1, 2009; and March 1,
 346 2009; and

347 ~~(c) To increase to each nursing home facility's Medicaid~~
 348 ~~rate, as needed, an amount that restores any rate reductions for~~
 349 ~~the 2009-2010 fiscal year; and~~

350 (c)-(d) To increase each nursing home facility's Medicaid
 351 rate that accounts for the portion of the total assessment not
 352 included in paragraphs (a) and (b) ~~(a)-(e)~~ which begins a phase-
 353 in to a pricing model for the operating cost component.

354 Section 8. Subsection (3) of section 409.9083, Florida
 355 Statutes, is amended to read:

356 409.9083 Quality assessment on privately operated
 357 intermediate care facilities for the developmentally disabled;
 358 exemptions; purpose; federal approval required; remedies.-

359 (3) The purpose of the facility quality assessment is to
 360 ensure continued quality of care. Collected assessment funds
 361 shall be used to obtain federal financial participation through
 362 the Medicaid program to make Medicaid payments for ICF/DD
 363 services up to the amount of the Medicaid rates for such
 364 facilities as calculated in accordance with the approved state

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365 Medicaid plan in effect on April 1, 2008. The quality assessment
 366 and federal matching funds shall be used exclusively for the
 367 following purposes and in the following order of priority to:

368 (a) Reimburse the Medicaid share of the quality assessment
 369 as a pass-through, Medicaid-allowable cost.

370 (b) Increase each privately operated ICF/DD Medicaid rate,
 371 as needed, by an amount that restores ~~the~~ rate reductions
 372 effective on or after implemented on October 1, 2008, as
 373 provided in the General Appropriations Act.

374 ~~(c) Increase each ICF/DD Medicaid rate, as needed, by an~~
 375 ~~amount that restores any rate reductions for the 2008-2009~~
 376 ~~fiscal year and the 2009-2010 fiscal year.~~

377 (c) ~~(d)~~ Increase payments to such facilities to fund
 378 covered services to Medicaid beneficiaries.

379 Section 9. Paragraph (a) of subsection (2) and subsection
 380 (5) of section 409.911, Florida Statutes, are amended to read:

381 409.911 Disproportionate share program.—Subject to
 382 specific allocations established within the General
 383 Appropriations Act and any limitations established pursuant to
 384 chapter 216, the agency shall distribute, pursuant to this
 385 section, moneys to hospitals providing a disproportionate share
 386 of Medicaid or charity care services by making quarterly
 387 Medicaid payments as required. Notwithstanding the provisions of
 388 s. 409.915, counties are exempt from contributing toward the
 389 cost of this special reimbursement for hospitals serving a
 390 disproportionate share of low-income patients.

391 (2) The Agency for Health Care Administration shall use
 392 the following actual audited data to determine the Medicaid days

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393 and charity care to be used in calculating the disproportionate
394 share payment:

395 (a) The average of the ~~2003~~, 2004, and 2005, and 2006
396 audited disproportionate share data to determine each hospital's
397 Medicaid days and charity care for the 2010-2011 ~~2009-2010~~ state
398 fiscal year.

399 (5) The following formula shall be used to pay
400 disproportionate share dollars to provider service network (PSN)
401 hospitals:

402
$$DSHP = TAAPSNH \times \left(\frac{IHPSND}{THPSND} \right) \del{IHPSND} \del{\times} \del{THPSND}$$

403 Where:

- 404 DSHP = Disproportionate share hospital payments.
- 405 TAAPSNH = Total amount available for PSN hospitals.
- 406 IHPSND = Individual hospital PSN days.
- 407 THPSND = Total of all hospital PSN days.

408 For purposes of this subsection, the PSN inpatient days shall be
409 provided in the General Appropriations Act.

410 Section 10. Section 409.9112, Florida Statutes, is amended
411 to read:

412 409.9112 Disproportionate share program for regional
413 perinatal intensive care centers.—In addition to the payments
414 made under s. 409.911, the agency shall design and implement a
415 system for making disproportionate share payments to those
416 hospitals that participate in the regional perinatal intensive
417 care center program established pursuant to chapter 383. The
418 system of payments must conform to federal requirements and
419 distribute funds in each fiscal year for which an appropriation
420 is made by making quarterly Medicaid payments. Notwithstanding

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421 s. 409.915, counties are exempt from contributing toward the
 422 cost of this special reimbursement for hospitals serving a
 423 disproportionate share of low-income patients. For the 2010-2011
 424 ~~2009-2010~~ state fiscal year, the agency may not distribute
 425 moneys under the regional perinatal intensive care centers
 426 disproportionate share program.

427 (1) The following formula shall be used by the agency to
 428 calculate the total amount earned for hospitals that participate
 429 in the regional perinatal intensive care center program:

$$430 \text{ TAE} = \text{HDSP} / \text{THDSP}$$

431 Where:

432 TAE = total amount earned by a regional perinatal intensive
 433 care center.

434 HDSP = the prior state fiscal year regional perinatal
 435 intensive care center disproportionate share payment to the
 436 individual hospital.

437 THDSP = the prior state fiscal year total regional
 438 perinatal intensive care center disproportionate share payments
 439 to all hospitals.

440 (2) The total additional payment for hospitals that
 441 participate in the regional perinatal intensive care center
 442 program shall be calculated by the agency as follows:

$$443 \text{ TAP} = \text{TAE} \times \text{TA}$$

444 Where:

445 TAP = total additional payment for a regional perinatal
 446 intensive care center.

447 TAE = total amount earned by a regional perinatal intensive
 448 care center.

449 TA = total appropriation for the regional perinatal
 450 intensive care center disproportionate share program.

451 (3) In order to receive payments under this section, a
 452 hospital must be participating in the regional perinatal
 453 intensive care center program pursuant to chapter 383 and must
 454 meet the following additional requirements:

455 (a) Agree to conform to all departmental and agency
 456 requirements to ensure high quality in the provision of
 457 services, including criteria adopted by departmental and agency
 458 rule concerning staffing ratios, medical records, standards of
 459 care, equipment, space, and such other standards and criteria as
 460 the department and agency deem appropriate as specified by rule.

461 (b) Agree to provide information to the department and
 462 agency, in a form and manner to be prescribed by rule of the
 463 department and agency, concerning the care provided to all
 464 patients in neonatal intensive care centers and high-risk
 465 maternity care.

466 (c) Agree to accept all patients for neonatal intensive
 467 care and high-risk maternity care, regardless of ability to pay,
 468 on a functional space-available basis.

469 (d) Agree to develop arrangements with other maternity and
 470 neonatal care providers in the hospital's region for the
 471 appropriate receipt and transfer of patients in need of
 472 specialized maternity and neonatal intensive care services.

473 (e) Agree to establish and provide a developmental
 474 evaluation and services program for certain high-risk neonates,
 475 as prescribed and defined by rule of the department.

476 (f) Agree to sponsor a program of continuing education in

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477 perinatal care for health care professionals within the region
 478 of the hospital, as specified by rule.

479 (g) Agree to provide backup and referral services to the
 480 county health departments and other low-income perinatal
 481 providers within the hospital's region, including the
 482 development of written agreements between these organizations
 483 and the hospital.

484 (h) Agree to arrange for transportation for high-risk
 485 obstetrical patients and neonates in need of transfer from the
 486 community to the hospital or from the hospital to another more
 487 appropriate facility.

488 (4) Hospitals which fail to comply with any of the
 489 conditions in subsection (3) or the applicable rules of the
 490 department and agency may not receive any payments under this
 491 section until full compliance is achieved. A hospital which is
 492 not in compliance in two or more consecutive quarters may not
 493 receive its share of the funds. Any forfeited funds shall be
 494 distributed by the remaining participating regional perinatal
 495 intensive care center program hospitals.

496 Section 11. Section 409.9113, Florida Statutes, is amended
 497 to read:

498 409.9113 Disproportionate share program for teaching
 499 hospitals.—In addition to the payments made under ss. 409.911
 500 and 409.9112, the agency shall make disproportionate share
 501 payments to statutorily defined teaching hospitals for their
 502 increased costs associated with medical education programs and
 503 for tertiary health care services provided to the indigent. This
 504 system of payments must conform to federal requirements and

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505 distribute funds in each fiscal year for which an appropriation
506 is made by making quarterly Medicaid payments. Notwithstanding
507 s. 409.915, counties are exempt from contributing toward the
508 cost of this special reimbursement for hospitals serving a
509 disproportionate share of low-income patients. For the 2010-2011
510 ~~2009-2010~~ state fiscal year, the agency shall distribute the
511 moneys provided in the General Appropriations Act to statutorily
512 defined teaching hospitals and family practice teaching
513 hospitals under the teaching hospital disproportionate share
514 program. The funds provided for statutorily defined teaching
515 hospitals shall be distributed in the same proportion as the
516 state fiscal year 2003-2004 teaching hospital disproportionate
517 share funds were distributed or as otherwise provided in the
518 General Appropriations Act. The funds provided for family
519 practice teaching hospitals shall be distributed equally among
520 family practice teaching hospitals.

521 (1) On or before September 15 of each year, the agency
522 shall calculate an allocation fraction to be used for
523 distributing funds to state statutory teaching hospitals.
524 Subsequent to the end of each quarter of the state fiscal year,
525 the agency shall distribute to each statutory teaching hospital,
526 as defined in s. 408.07, an amount determined by multiplying
527 one-fourth of the funds appropriated for this purpose by the
528 Legislature times such hospital's allocation fraction. The
529 allocation fraction for each such hospital shall be determined
530 by the sum of the following three primary factors, divided by
531 three:

532 (a) The number of nationally accredited graduate medical

533 education programs offered by the hospital, including programs
 534 accredited by the Accreditation Council for Graduate Medical
 535 Education and the combined Internal Medicine and Pediatrics
 536 programs acceptable to both the American Board of Internal
 537 Medicine and the American Board of Pediatrics at the beginning
 538 of the state fiscal year preceding the date on which the
 539 allocation fraction is calculated. The numerical value of this
 540 factor is the fraction that the hospital represents of the total
 541 number of programs, where the total is computed for all state
 542 statutory teaching hospitals.

543 (b) The number of full-time equivalent trainees in the
 544 hospital, which comprises two components:

545 1. The number of trainees enrolled in nationally
 546 accredited graduate medical education programs, as defined in
 547 paragraph (a). Full-time equivalents are computed using the
 548 fraction of the year during which each trainee is primarily
 549 assigned to the given institution, over the state fiscal year
 550 preceding the date on which the allocation fraction is
 551 calculated. The numerical value of this factor is the fraction
 552 that the hospital represents of the total number of full-time
 553 equivalent trainees enrolled in accredited graduate programs,
 554 where the total is computed for all state statutory teaching
 555 hospitals.

556 2. The number of medical students enrolled in accredited
 557 colleges of medicine and engaged in clinical activities,
 558 including required clinical clerkships and clinical electives.
 559 Full-time equivalents are computed using the fraction of the
 560 year during which each trainee is primarily assigned to the

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561 given institution, over the course of the state fiscal year
 562 preceding the date on which the allocation fraction is
 563 calculated. The numerical value of this factor is the fraction
 564 that the given hospital represents of the total number of full-
 565 time equivalent students enrolled in accredited colleges of
 566 medicine, where the total is computed for all state statutory
 567 teaching hospitals.

568
 569 The primary factor for full-time equivalent trainees is computed
 570 as the sum of these two components, divided by two.

571 (c) A service index that comprises three components:

572 1. The Agency for Health Care Administration Service
 573 Index, computed by applying the standard Service Inventory
 574 Scores established by the agency to services offered by the
 575 given hospital, as reported on Worksheet A-2 for the last fiscal
 576 year reported to the agency before the date on which the
 577 allocation fraction is calculated. The numerical value of this
 578 factor is the fraction that the given hospital represents of the
 579 total Agency for Health Care Administration Service Index
 580 values, where the total is computed for all state statutory
 581 teaching hospitals.

582 2. A volume-weighted service index, computed by applying
 583 the standard Service Inventory Scores established by the Agency
 584 for Health Care Administration to the volume of each service,
 585 expressed in terms of the standard units of measure reported on
 586 Worksheet A-2 for the last fiscal year reported to the agency
 587 before the date on which the allocation factor is calculated.
 588 The numerical value of this factor is the fraction that the

589 given hospital represents of the total volume-weighted service
 590 index values, where the total is computed for all state
 591 statutory teaching hospitals.

592 3. Total Medicaid payments to each hospital for direct
 593 inpatient and outpatient services during the fiscal year
 594 preceding the date on which the allocation factor is calculated.
 595 This includes payments made to each hospital for such services
 596 by Medicaid prepaid health plans, whether the plan was
 597 administered by the hospital or not. The numerical value of this
 598 factor is the fraction that each hospital represents of the
 599 total of such Medicaid payments, where the total is computed for
 600 all state statutory teaching hospitals.

601
 602 The primary factor for the service index is computed as the sum
 603 of these three components, divided by three.

604 (2) By October 1 of each year, the agency shall use the
 605 following formula to calculate the maximum additional
 606 disproportionate share payment for statutorily defined teaching
 607 hospitals:

$$608 \qquad \qquad \qquad \text{TAP} = \text{THAF} \times \text{A}$$

609 Where:

610 TAP = total additional payment.

611 THAF = teaching hospital allocation factor.

612 A = amount appropriated for a teaching hospital
 613 disproportionate share program.

614 Section 12. Section 409.9117, Florida Statutes, is amended
 615 to read:

616 409.9117 Primary care disproportionate share program.—For

617 the 2010-2011 ~~2009-2010~~ state fiscal year, the agency shall not
 618 distribute moneys under the primary care disproportionate share
 619 program.

620 (1) If federal funds are available for disproportionate
 621 share programs in addition to those otherwise provided by law,
 622 there shall be created a primary care disproportionate share
 623 program.

624 (2) The following formula shall be used by the agency to
 625 calculate the total amount earned for hospitals that participate
 626 in the primary care disproportionate share program:

$$TAE = HDSP/THDSP$$

628 Where:

629 TAE = total amount earned by a hospital participating in
 630 the primary care disproportionate share program.

631 HDSP = the prior state fiscal year primary care
 632 disproportionate share payment to the individual hospital.

633 THDSP = the prior state fiscal year total primary care
 634 disproportionate share payments to all hospitals.

635 (3) The total additional payment for hospitals that
 636 participate in the primary care disproportionate share program
 637 shall be calculated by the agency as follows:

$$TAP = TAE \times TA$$

639 Where:

640 TAP = total additional payment for a primary care hospital.

641 TAE = total amount earned by a primary care hospital.

642 TA = total appropriation for the primary care
 643 disproportionate share program.

644 (4) In the establishment and funding of this program, the

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645 agency shall use the following criteria in addition to those
 646 specified in s. 409.911, and payments may not be made to a
 647 hospital unless the hospital agrees to:

648 (a) Cooperate with a Medicaid prepaid health plan, if one
 649 exists in the community.

650 (b) Ensure the availability of primary and specialty care
 651 physicians to Medicaid recipients who are not enrolled in a
 652 prepaid capitated arrangement and who are in need of access to
 653 such physicians.

654 (c) Coordinate and provide primary care services free of
 655 charge, except copayments, to all persons with incomes up to 100
 656 percent of the federal poverty level who are not otherwise
 657 covered by Medicaid or another program administered by a
 658 governmental entity, and to provide such services based on a
 659 sliding fee scale to all persons with incomes up to 200 percent
 660 of the federal poverty level who are not otherwise covered by
 661 Medicaid or another program administered by a governmental
 662 entity, except that eligibility may be limited to persons who
 663 reside within a more limited area, as agreed to by the agency
 664 and the hospital.

665 (d) Contract with any federally qualified health center,
 666 if one exists within the agreed geopolitical boundaries,
 667 concerning the provision of primary care services, in order to
 668 guarantee delivery of services in a nonduplicative fashion, and
 669 to provide for referral arrangements, privileges, and
 670 admissions, as appropriate. The hospital shall agree to provide
 671 at an onsite or offsite facility primary care services within 24
 672 hours to which all Medicaid recipients and persons eligible

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673 under this paragraph who do not require emergency room services
674 are referred during normal daylight hours.

675 (e) Cooperate with the agency, the county, and other
676 entities to ensure the provision of certain public health
677 services, case management, referral and acceptance of patients,
678 and sharing of epidemiological data, as the agency and the
679 hospital find mutually necessary and desirable to promote and
680 protect the public health within the agreed geopolitical
681 boundaries.

682 (f) In cooperation with the county in which the hospital
683 resides, develop a low-cost, outpatient, prepaid health care
684 program to persons who are not eligible for the Medicaid
685 program, and who reside within the area.

686 (g) Provide inpatient services to residents within the
687 area who are not eligible for Medicaid or Medicare, and who do
688 not have private health insurance, regardless of ability to pay,
689 on the basis of available space, except that hospitals may not
690 be prevented from establishing bill collection programs based on
691 ability to pay.

692 (h) Work with the Florida Healthy Kids Corporation, the
693 Florida Health Care Purchasing Cooperative, and business health
694 coalitions, as appropriate, to develop a feasibility study and
695 plan to provide a low-cost comprehensive health insurance plan
696 to persons who reside within the area and who do not have access
697 to such a plan.

698 (i) Work with public health officials and other experts to
699 provide community health education and prevention activities
700 designed to promote healthy lifestyles and appropriate use of

701 health services.

702 (j) Work with the local health council to develop a plan
 703 for promoting access to affordable health care services for all
 704 persons who reside within the area, including, but not limited
 705 to, public health services, primary care services, inpatient
 706 services, and affordable health insurance generally.

707

708 Any hospital that fails to comply with any of the provisions of
 709 this subsection, or any other contractual condition, may not
 710 receive payments under this section until full compliance is
 711 achieved.

712 Section 13. Paragraph (a) of subsection (39) of section
 713 409.912, Florida Statutes, is amended to read:

714 409.912 Cost-effective purchasing of health care.—The
 715 agency shall purchase goods and services for Medicaid recipients
 716 in the most cost-effective manner consistent with the delivery
 717 of quality medical care. To ensure that medical services are
 718 effectively utilized, the agency may, in any case, require a
 719 confirmation or second physician's opinion of the correct
 720 diagnosis for purposes of authorizing future services under the
 721 Medicaid program. This section does not restrict access to
 722 emergency services or poststabilization care services as defined
 723 in 42 C.F.R. part 438.114. Such confirmation or second opinion
 724 shall be rendered in a manner approved by the agency. The agency
 725 shall maximize the use of prepaid per capita and prepaid
 726 aggregate fixed-sum basis services when appropriate and other
 727 alternative service delivery and reimbursement methodologies,
 728 including competitive bidding pursuant to s. 287.057, designed

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729 to facilitate the cost-effective purchase of a case-managed
 730 continuum of care. The agency shall also require providers to
 731 minimize the exposure of recipients to the need for acute
 732 inpatient, custodial, and other institutional care and the
 733 inappropriate or unnecessary use of high-cost services. The
 734 agency shall contract with a vendor to monitor and evaluate the
 735 clinical practice patterns of providers in order to identify
 736 trends that are outside the normal practice patterns of a
 737 provider's professional peers or the national guidelines of a
 738 provider's professional association. The vendor must be able to
 739 provide information and counseling to a provider whose practice
 740 patterns are outside the norms, in consultation with the agency,
 741 to improve patient care and reduce inappropriate utilization.
 742 The agency may mandate prior authorization, drug therapy
 743 management, or disease management participation for certain
 744 populations of Medicaid beneficiaries, certain drug classes, or
 745 particular drugs to prevent fraud, abuse, overuse, and possible
 746 dangerous drug interactions. The Pharmaceutical and Therapeutics
 747 Committee shall make recommendations to the agency on drugs for
 748 which prior authorization is required. The agency shall inform
 749 the Pharmaceutical and Therapeutics Committee of its decisions
 750 regarding drugs subject to prior authorization. The agency is
 751 authorized to limit the entities it contracts with or enrolls as
 752 Medicaid providers by developing a provider network through
 753 provider credentialing. The agency may competitively bid single-
 754 source-provider contracts if procurement of goods or services
 755 results in demonstrated cost savings to the state without
 756 limiting access to care. The agency may limit its network based

757 on the assessment of beneficiary access to care, provider
 758 availability, provider quality standards, time and distance
 759 standards for access to care, the cultural competence of the
 760 provider network, demographic characteristics of Medicaid
 761 beneficiaries, practice and provider-to-beneficiary standards,
 762 appointment wait times, beneficiary use of services, provider
 763 turnover, provider profiling, provider licensure history,
 764 previous program integrity investigations and findings, peer
 765 review, provider Medicaid policy and billing compliance records,
 766 clinical and medical record audits, and other factors. Providers
 767 shall not be entitled to enrollment in the Medicaid provider
 768 network. The agency shall determine instances in which allowing
 769 Medicaid beneficiaries to purchase durable medical equipment and
 770 other goods is less expensive to the Medicaid program than long-
 771 term rental of the equipment or goods. The agency may establish
 772 rules to facilitate purchases in lieu of long-term rentals in
 773 order to protect against fraud and abuse in the Medicaid program
 774 as defined in s. 409.913. The agency may seek federal waivers
 775 necessary to administer these policies.

776 (39) (a) The agency shall implement a Medicaid prescribed-
 777 drug spending-control program that includes the following
 778 components:

- 779 1. A Medicaid preferred drug list, which shall be a
 780 listing of cost-effective therapeutic options recommended by the
 781 Medicaid Pharmacy and Therapeutics Committee established
 782 pursuant to s. 409.91195 and adopted by the agency for each
 783 therapeutic class on the preferred drug list. At the discretion
 784 of the committee, and when feasible, the preferred drug list

785 | should include at least two products in a therapeutic class. The
 786 | agency may post the preferred drug list and updates to the
 787 | preferred drug list on an Internet website without following the
 788 | rulemaking procedures of chapter 120. Antiretroviral agents are
 789 | excluded from the preferred drug list. The agency shall also
 790 | limit the amount of a prescribed drug dispensed to no more than
 791 | a 34-day supply unless the drug products' smallest marketed
 792 | package is greater than a 34-day supply, or the drug is
 793 | determined by the agency to be a maintenance drug in which case
 794 | a 100-day maximum supply may be authorized. The agency is
 795 | authorized to seek any federal waivers necessary to implement
 796 | these cost-control programs and to continue participation in the
 797 | federal Medicaid rebate program, or alternatively to negotiate
 798 | state-only manufacturer rebates. The agency may adopt rules to
 799 | implement this subparagraph. The agency shall continue to
 800 | provide unlimited contraceptive drugs and items. The agency must
 801 | establish procedures to ensure that:

802 | a. There is a response to a request for prior consultation
 803 | by telephone or other telecommunication device within 24 hours
 804 | after receipt of a request for prior consultation; and

805 | b. A 72-hour supply of the drug prescribed is provided in
 806 | an emergency or when the agency does not provide a response
 807 | within 24 hours as required by sub-subparagraph a.

808 | 2. Reimbursement to pharmacies for Medicaid prescribed
 809 | drugs shall be set at the lowest ~~lesser~~ of: the average
 810 | wholesale price (AWP) minus 16.4 percent, the wholesaler
 811 | acquisition cost (WAC) plus 4.75 percent, the federal upper
 812 | limit (FUL), the state maximum allowable cost (SMAC), or the

813 usual and customary (UAC) charge billed by the provider.
 814 Effective March 1, 2011, the Medicaid maximum allowable fee for
 815 ingredient cost shall be based on the lowest of: the wholesaler
 816 acquisition costs (WAC), the federal upper limit (FUL), the
 817 state maximum allowable cost (SMAC), or the usual and customary
 818 (UAC) charge billed by the provider.

819 3. The agency shall develop and implement a process for
 820 managing the drug therapies of Medicaid recipients who are using
 821 significant numbers of prescribed drugs each month. The
 822 management process may include, but is not limited to,
 823 comprehensive, physician-directed medical-record reviews, claims
 824 analyses, and case evaluations to determine the medical
 825 necessity and appropriateness of a patient's treatment plan and
 826 drug therapies. The agency may contract with a private
 827 organization to provide drug-program-management services. The
 828 Medicaid drug benefit management program shall include
 829 initiatives to manage drug therapies for HIV/AIDS patients,
 830 patients using 20 or more unique prescriptions in a 180-day
 831 period, and the top 1,000 patients in annual spending. The
 832 agency shall enroll any Medicaid recipient in the drug benefit
 833 management program if he or she meets the specifications of this
 834 provision and is not enrolled in a Medicaid health maintenance
 835 organization.

836 4. The agency may limit the size of its pharmacy network
 837 based on need, competitive bidding, price negotiations,
 838 credentialing, or similar criteria. The agency shall give
 839 special consideration to rural areas in determining the size and
 840 location of pharmacies included in the Medicaid pharmacy

841 network. A pharmacy credentialing process may include criteria
 842 such as a pharmacy's full-service status, location, size,
 843 patient educational programs, patient consultation, disease
 844 management services, and other characteristics. The agency may
 845 impose a moratorium on Medicaid pharmacy enrollment when it is
 846 determined that it has a sufficient number of Medicaid-
 847 participating providers. The agency must allow dispensing
 848 practitioners to participate as a part of the Medicaid pharmacy
 849 network regardless of the practitioner's proximity to any other
 850 entity that is dispensing prescription drugs under the Medicaid
 851 program. A dispensing practitioner must meet all credentialing
 852 requirements applicable to his or her practice, as determined by
 853 the agency.

854 5. The agency shall develop and implement a program that
 855 requires Medicaid practitioners who prescribe drugs to use a
 856 counterfeit-proof prescription pad for Medicaid prescriptions.
 857 The agency shall require the use of standardized counterfeit-
 858 proof prescription pads by Medicaid-participating prescribers or
 859 prescribers who write prescriptions for Medicaid recipients. The
 860 agency may implement the program in targeted geographic areas or
 861 statewide.

862 6. The agency may enter into arrangements that require
 863 manufacturers of generic drugs prescribed to Medicaid recipients
 864 to provide rebates of at least 15.1 percent of the average
 865 manufacturer price for the manufacturer's generic products.
 866 These arrangements shall require that if a generic-drug
 867 manufacturer pays federal rebates for Medicaid-reimbursed drugs
 868 at a level below 15.1 percent, the manufacturer must provide a

869 supplemental rebate to the state in an amount necessary to
 870 achieve a 15.1-percent rebate level.

871 7. The agency may establish a preferred drug list as
 872 described in this subsection, and, pursuant to the establishment
 873 of such preferred drug list, it is authorized to negotiate
 874 supplemental rebates from manufacturers that are in addition to
 875 those required by Title XIX of the Social Security Act and at no
 876 less than 14 percent of the average manufacturer price as
 877 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless
 878 the federal or supplemental rebate, or both, equals or exceeds
 879 29 percent. There is no upper limit on the supplemental rebates
 880 the agency may negotiate. The agency may determine that specific
 881 products, brand-name or generic, are competitive at lower rebate
 882 percentages. Agreement to pay the minimum supplemental rebate
 883 percentage will guarantee a manufacturer that the Medicaid
 884 Pharmaceutical and Therapeutics Committee will consider a
 885 product for inclusion on the preferred drug list. However, a
 886 pharmaceutical manufacturer is not guaranteed placement on the
 887 preferred drug list by simply paying the minimum supplemental
 888 rebate. Agency decisions shall ~~will~~ be made on the clinical
 889 efficacy of a drug and recommendations of the Medicaid
 890 Pharmaceutical and Therapeutics Committee, as well as the price
 891 of competing products minus federal and state rebates. The
 892 agency is authorized to contract with an outside agency or
 893 contractor to conduct negotiations for supplemental rebates. For
 894 the purposes of this section, the term "supplemental rebates"
 895 means cash rebates. Effective July 1, 2004, value-added programs
 896 as a substitution for supplemental rebates are prohibited. The

897 | agency is authorized to seek any federal waivers to implement
 898 | this initiative.

899 | 8. The Agency for Health Care Administration shall expand
 900 | home delivery of pharmacy products. To assist Medicaid patients
 901 | in securing their prescriptions and reduce program costs, the
 902 | agency shall expand its current mail-order-pharmacy diabetes-
 903 | supply program to include all generic and brand-name drugs used
 904 | by Medicaid patients with diabetes. Medicaid recipients in the
 905 | current program may obtain nondiabetes drugs on a voluntary
 906 | basis. This initiative is limited to the geographic area covered
 907 | by the current contract. The agency may seek and implement any
 908 | federal waivers necessary to implement this subparagraph.

909 | 9. The agency shall limit to one dose per month any drug
 910 | prescribed to treat erectile dysfunction.

911 | 10.a. The agency may implement a Medicaid behavioral drug
 912 | management system. The agency may contract with a vendor that
 913 | has experience in operating behavioral drug management systems
 914 | to implement this program. The agency is authorized to seek
 915 | federal waivers to implement this program.

916 | b. The agency, in conjunction with the Department of
 917 | Children and Family Services, may implement the Medicaid
 918 | behavioral drug management system that is designed to improve
 919 | the quality of care and behavioral health prescribing practices
 920 | based on best practice guidelines, improve patient adherence to
 921 | medication plans, reduce clinical risk, and lower prescribed
 922 | drug costs and the rate of inappropriate spending on Medicaid
 923 | behavioral drugs. The program may include the following
 924 | elements:

925 (I) Provide for the development and adoption of best
 926 practice guidelines for behavioral health-related drugs such as
 927 antipsychotics, antidepressants, and medications for treating
 928 bipolar disorders and other behavioral conditions; translate
 929 them into practice; review behavioral health prescribers and
 930 compare their prescribing patterns to a number of indicators
 931 that are based on national standards; and determine deviations
 932 from best practice guidelines.

933 (II) Implement processes for providing feedback to and
 934 educating prescribers using best practice educational materials
 935 and peer-to-peer consultation.

936 (III) Assess Medicaid beneficiaries who are outliers in
 937 their use of behavioral health drugs with regard to the numbers
 938 and types of drugs taken, drug dosages, combination drug
 939 therapies, and other indicators of improper use of behavioral
 940 health drugs.

941 (IV) Alert prescribers to patients who fail to refill
 942 prescriptions in a timely fashion, are prescribed multiple same-
 943 class behavioral health drugs, and may have other potential
 944 medication problems.

945 (V) Track spending trends for behavioral health drugs and
 946 deviation from best practice guidelines.

947 (VI) Use educational and technological approaches to
 948 promote best practices, educate consumers, and train prescribers
 949 in the use of practice guidelines.

950 (VII) Disseminate electronic and published materials.

951 (VIII) Hold statewide and regional conferences.

952 (IX) Implement a disease management program with a model

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953 | quality-based medication component for severely mentally ill
 954 | individuals and emotionally disturbed children who are high
 955 | users of care.

956 | 11.a. The agency shall implement a Medicaid prescription
 957 | drug management system. The agency may contract with a vendor
 958 | that has experience in operating prescription drug management
 959 | systems in order to implement this system. Any management system
 960 | that is implemented in accordance with this subparagraph must
 961 | rely on cooperation between physicians and pharmacists to
 962 | determine appropriate practice patterns and clinical guidelines
 963 | to improve the prescribing, dispensing, and use of drugs in the
 964 | Medicaid program. The agency may seek federal waivers to
 965 | implement this program.

966 | b. The drug management system must be designed to improve
 967 | the quality of care and prescribing practices based on best
 968 | practice guidelines, improve patient adherence to medication
 969 | plans, reduce clinical risk, and lower prescribed drug costs and
 970 | the rate of inappropriate spending on Medicaid prescription
 971 | drugs. The program must:

972 | (I) Provide for the development and adoption of best
 973 | practice guidelines for the prescribing and use of drugs in the
 974 | Medicaid program, including translating best practice guidelines
 975 | into practice; reviewing prescriber patterns and comparing them
 976 | to indicators that are based on national standards and practice
 977 | patterns of clinical peers in their community, statewide, and
 978 | nationally; and determine deviations from best practice
 979 | guidelines.

980 | (II) Implement processes for providing feedback to and

981 educating prescribers using best practice educational materials
 982 and peer-to-peer consultation.

983 (III) Assess Medicaid recipients who are outliers in their
 984 use of a single or multiple prescription drugs with regard to
 985 the numbers and types of drugs taken, drug dosages, combination
 986 drug therapies, and other indicators of improper use of
 987 prescription drugs.

988 (IV) Alert prescribers to patients who fail to refill
 989 prescriptions in a timely fashion, are prescribed multiple drugs
 990 that may be redundant or contraindicated, or may have other
 991 potential medication problems.

992 (V) Track spending trends for prescription drugs and
 993 deviation from best practice guidelines.

994 (VI) Use educational and technological approaches to
 995 promote best practices, educate consumers, and train prescribers
 996 in the use of practice guidelines.

997 (VII) Disseminate electronic and published materials.

998 (VIII) Hold statewide and regional conferences.

999 (IX) Implement disease management programs in cooperation
 1000 with physicians and pharmacists, along with a model quality-
 1001 based medication component for individuals having chronic
 1002 medical conditions.

1003 12. The agency is authorized to contract for drug rebate
 1004 administration, including, but not limited to, calculating
 1005 rebate amounts, invoicing manufacturers, negotiating disputes
 1006 with manufacturers, and maintaining a database of rebate
 1007 collections.

1008 13. The agency may specify the preferred daily dosing form

1009 or strength for the purpose of promoting best practices with
 1010 regard to the prescribing of certain drugs as specified in the
 1011 General Appropriations Act and ensuring cost-effective
 1012 prescribing practices.

1013 14. The agency may require prior authorization for
 1014 Medicaid-covered prescribed drugs. The agency may, but is not
 1015 required to, prior-authorize the use of a product:

- 1016 a. For an indication not approved in labeling;
- 1017 b. To comply with certain clinical guidelines; or
- 1018 c. If the product has the potential for overuse, misuse,
 1019 or abuse.

1020
 1021 The agency may require the prescribing professional to provide
 1022 information about the rationale and supporting medical evidence
 1023 for the use of a drug. The agency may post prior authorization
 1024 criteria and protocol and updates to the list of drugs that are
 1025 subject to prior authorization on an Internet website without
 1026 amending its rule or engaging in additional rulemaking.

1027 15. The agency, in conjunction with the Pharmaceutical and
 1028 Therapeutics Committee, may require age-related prior
 1029 authorizations for certain prescribed drugs. The agency may
 1030 preauthorize the use of a drug for a recipient who may not meet
 1031 the age requirement or may exceed the length of therapy for use
 1032 of this product as recommended by the manufacturer and approved
 1033 by the Food and Drug Administration. Prior authorization may
 1034 require the prescribing professional to provide information
 1035 about the rationale and supporting medical evidence for the use
 1036 of a drug.

1037 16. The agency shall implement a step-therapy prior
 1038 authorization approval process for medications excluded from the
 1039 preferred drug list. Medications listed on the preferred drug
 1040 list must be used within the previous 12 months prior to the
 1041 alternative medications that are not listed. The step-therapy
 1042 prior authorization may require the prescriber to use the
 1043 medications of a similar drug class or for a similar medical
 1044 indication unless contraindicated in the Food and Drug
 1045 Administration labeling. The trial period between the specified
 1046 steps may vary according to the medical indication. The step-
 1047 therapy approval process shall be developed in accordance with
 1048 the committee as stated in s. 409.91195(7) and (8). A drug
 1049 product may be approved without meeting the step-therapy prior
 1050 authorization criteria if the prescribing physician provides the
 1051 agency with additional written medical or clinical documentation
 1052 that the product is medically necessary because:

1053 a. There is not a drug on the preferred drug list to treat
 1054 the disease or medical condition which is an acceptable clinical
 1055 alternative;

1056 b. The alternatives have been ineffective in the treatment
 1057 of the beneficiary's disease; or

1058 c. Based on historic evidence and known characteristics of
 1059 the patient and the drug, the drug is likely to be ineffective,
 1060 or the number of doses have been ineffective.

1061
 1062 The agency shall work with the physician to determine the best
 1063 alternative for the patient. The agency may adopt rules waiving
 1064 the requirements for written clinical documentation for specific

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1065 | drugs in limited clinical situations.

1066 | 17. The agency shall implement a return and reuse program
 1067 | for drugs dispensed by pharmacies to institutional recipients,
 1068 | which includes payment of a \$5 restocking fee for the
 1069 | implementation and operation of the program. The return and
 1070 | reuse program shall be implemented electronically and in a
 1071 | manner that promotes efficiency. The program must permit a
 1072 | pharmacy to exclude drugs from the program if it is not
 1073 | practical or cost-effective for the drug to be included and must
 1074 | provide for the return to inventory of drugs that cannot be
 1075 | credited or returned in a cost-effective manner. The agency
 1076 | shall determine if the program has reduced the amount of
 1077 | Medicaid prescription drugs which are destroyed on an annual
 1078 | basis and if there are additional ways to ensure more
 1079 | prescription drugs are not destroyed which could safely be
 1080 | reused. The agency's conclusion and recommendations shall be
 1081 | reported to the Legislature by December 1, 2005.

1082 | Section 14. Subsection (3) is added to section 430.707,
 1083 | Florida Statutes, to read:

1084 | 430.707 Contracts.—

1085 | (3) Any entity that provides or is authorized by state law
 1086 | to provide benefits pursuant to the Program of All-inclusive
 1087 | Care for the Elderly on or before July 1, 2010, may submit an
 1088 | application for an expansion of service capacity sufficient to
 1089 | meet the needs of potentially eligible program enrollees within
 1090 | the service area designated by state law. The agency, in
 1091 | consultation with the department, shall accept and forward to
 1092 | the Centers for Medicare and Medicaid Services the application

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1093 | for an expansion of service capacity for additional enrollees
1094 | from an entity that provides benefits pursuant to the Program of
1095 | All-inclusive Care for the Elderly and that is in good standing
1096 | with the agency, the department, and the Centers for Medicare
1097 | and Medicaid Services.

1098 | Section 15. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCA 10-03 Agency for Persons with Disabilities
SPONSOR(S): Health Care Appropriations Committee
TIED BILLS: IDEN./SIM. BILLS: SB 1468

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee		Perkins <i>RMP</i>	Massengale <i>AM</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill makes statutory changes to conform to the funding decisions included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2010-2011. Specifically, the bill makes the following changes:

- Amends section 393.065, Florida Statutes, to implement waitlist prioritization for the first two categories of the Agency for Persons with Disabilities (APD) Medicaid waiver waitlist. The bill delays prioritization of categories 3 through 7 until July 1, 2012.
- Amends section 393.0661, Florida Statutes, to specify the use of an assessment instrument to be either the Individual Cost Guidelines or the Questionnaire for Situational Information for determining the tier to which the client should be assigned.
 - Specifies that age is a client characteristic in assigning clients to a tier.
 - Specifies an annual client expenditure cap under the tier one waiver services to not exceed \$120,000.
 - Specifies that individuals enrolled in tier four on July 1, 2007, are assigned to the tier without needing an assessment.
 - Directs APD to eliminate behavior assistance services.
 - Specifies certain rate reductions to the geographic differential for Miami-Dade, Broward, Palm Beach, and Monroe Counties for residential habilitation services.
- Creates section 393.0662, Florida Statutes, relating to individual budgets or iBudgets to improve the financial management of waiver services.
- Amends section 393.125, Florida Statutes, to specify conditions for requesting APD Medicaid fair hearings and requires these hearings to be provided by the Department of Children and Families (DCF).

The House proposed GAA for FY 2010-11 reduces recurring general revenue expenditures by approximately \$4.1 million as a result of an annual client expenditure cap under the tier one waiver services to not exceed \$120,000, the elimination behavior assistance services, and reducing geographic differential residential rehabilitation rates.

While the fiscal impact on the implementation of the iBudget system is indeterminate, it is anticipated that clients and the agency will be able to operate within annual appropriated amounts once fully implemented, and thus, eliminate recurring deficits that the agency has faced in past years.

The fiscal impact associated with moving APD Medicaid fair hearings to DCF is anticipated to be an overall net savings of approximately \$4.4 million. This is primarily achieved through cost avoidance by moving the APD Medicaid fair hearings from the Division of Administrative Hearings (DOAH) to the DCF, Office of Appeal Hearings and APD providing legal representation. The House GAA appropriates 7 positions and \$301,500 in general revenue funds for APD and 19 positions and \$672,712 in general revenue funds for DCF. APD estimates that \$50 million in cost savings would be realized to the program when the hearings are completed (assuming the hearings uphold APD's tier placement decisions).

The bill provides an effective date of July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 3/9/2010

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities.¹ A developmental disability is defined in chapter 393, Florida Statutes, as “a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome that manifests before the age of 18, and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”² Children who are at high risk of having a developmental disability and are between the ages of 3 and 5 are also eligible for services.³

Services to Persons with Developmental Disabilities

APD provides an array of home and community based services through contract providers, as well as services in Developmental Disabilities Centers and forensic program services. APD administers home and community based services through 14 area offices that are responsible for day-to-day operations. As of January 2010, APD was serving 53,216 persons in all programs relating to developmental disabilities.

Four-Tier Medicaid Waiver System

The 2007 Legislature directed APD to establish a four-tier waiver system to replace the previous waiver program. APD currently serves 29,903 people in the Medicaid waiver tier system and has a waitlist of more than 18,800 people for the program. The agency assigns all clients receiving services through the developmental disabilities waiver to a tier based on a valid assessment instrument, client characteristics, and other appropriate assessment methods.⁴ Each of the tier waivers targets a specific group of people with certain needs.

- Tier one is for clients who have intensive medical or adaptive needs or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others. Total annual expenditures are not capped.

¹ s. 20.197(3), F.S.

² s. 393.063(9), F.S.

³ “High-risk child” is defined in s. 393.063(19), F.S.

⁴ s. 393.0661(3), F.S.

- Tier two is for clients whose service needs include a licensed residential facility and who are authorized to receive a moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus residential habilitation services or clients in supported living who receive greater than six hours a day of in-home support services. Total annual expenditures may not exceed \$55,000.
- Tier three is for clients requiring residential placements, clients in independent or supported living situations, and clients who live in their family home. Total annual expenditures may not exceed \$35,000 per client.
- Tier four services include adult day training, coaching, personal care assistance, environmental modifications, behavioral services, respite, transportation, supported employment, and in-home supports. Total annual expenditures are capped at \$14,792.

The purpose of the tier system is to create a predictable spending model for the program and help control over-utilization of services, which has led to significant program deficits in recent years. APD has had some success in controlling spending through the implementation of the Medicaid waiver tier legislation. When the tier legislation was passed, APD was projecting a deficit of more than \$150 million for Fiscal Year (FY) 2007-2008. This deficit was reduced to \$12 million for FY 2007-2008, in part by the implementing tier caps and other legislative actions. Delays have occurred in fully implementing the tiers as a result of approximately 5,500 people in the waiver program requesting a hearing on their tier assignment. This in affect freezes their current services and costs to the program until their hearing outcome is decided. This delay in assigning people to tiers has partially resulted in continued deficits in the waiver program, including a \$26.7 million deficit for FY 2008-2009 and projected deficit of \$36 million for the current year.

Recent litigation has challenged elements of APD's implementation of the Medicaid waiver tier program as directed in statute. In August 2009, the First District Court of Appeal (DCA) disagreed with a previous ruling by an administrative law judge at the Division of Administrative Hearings and found the APD rules for implementing the tier waivers invalid on three points.⁵ The ruling cited that APD failed to demonstrate adoption of a valid and reliable assessment instrument, improperly placed an age limit on client eligibility for tier three and improperly placed people in tier four without an assessment.

Service Rates for Residential Habilitation

Residential habilitation provides supervision and specific training activities that assist the person to acquire, maintain or improve skills related to activities of daily living. APD is required to implement a consolidated residential habilitation rate structure to increase savings to the state through a more cost-effective payment method and establish uniform rates for intensive behavioral residential habilitation services. Currently, a geographic differential rate in Miami-Dade, Broward, and Palm Beach Counties for residential habilitation services is 7.5 percent.⁶ Monroe County has a geographic differential rate of 20 percent.⁷

Waitlist Prioritization

The Medicaid waiver waitlist is organized by the individual's date of eligibility for the waiver program. However, individuals experiencing a crisis or children from the child welfare system receive priority consideration. As a result of funding constraints in the program, no other individuals from the waitlist were offered Medicaid waiver services during the last two years.

The 2009 Legislature directed APD to organize individuals on the waitlist into seven priority categories based on their level of need and medical necessity. Within each priority category, the individuals are to

⁵ *Washington v. DeBeaugrine*, US District Court, N. District of Florida, Case no. 4:09cv189-RH/WCS, Order Granting Preliminary Injunction and Order Clarifying Preliminary Injunction.

⁶ s. 393.0661(4), F.S.

⁷ s. 393.0661(5), F.S.

be numbered in accordance with the date in which they were determined eligible for services. APD was directed by the legislation to implement this priority order, effective July 1, 2010.

Individual Budget or "iBudget"

In an effort to control funding deficits and reduce the growing waitlist, the Florida Legislature included proviso language in the 2009 GAA requiring the APD in consultation with the Agency for Health Care Administration to develop a plan to establish individual budgets for individuals enrolled in the home and community based services waivers. On February 1, 2010,⁸ the plan was submitted to the Governor and Legislature.

Medicaid Fair Hearings

State agencies administering the Medicaid program are required by federal and state law to grant an opportunity for a hearing to persons in the program under certain circumstances. This includes, but is not limited to, applicants whose claim for services is denied or not acted upon promptly. Individuals may also request a hearing if they believe the state has taken erroneous action that affects them.⁹

The Department of Children and Families (DCF) is directed by statute to conduct fair hearings for public assistance programs, including state Medicaid administered by the Agency for Health Care Administration.¹⁰ Prior to August 2006, Medicaid fair hearings for participants in the APD Medicaid waiver programs were also conducted by DCF. Fair hearings conducted by DCF for the Medicaid program are presided over by hearing officers who are impartial arbiters of the case. As a result of a First District Court of Appeals ruling in 2006,¹¹ the APD hearings were moved to the Division of Administrative Hearings (DOAH). The DOAH hearings are more expensive and include a formal process that is not required by federal law.¹² The cost of APD hearings at DOAH performed during FY 2006-2007 was \$686,070 and the budgeted cost for hearings performed in FY 2007-2008 is \$728,683.¹³ APD estimates that hearing costs at DOAH for handling the more than 4,200 pending cases for hearing would be \$2.3 million. In addition, APD costs for representation by the Office of the Attorney General could reach \$4 million. This is a total cost for APD hearings of approximately \$6.3 million.

Effect of Proposed Changes

The bill implements the waitlist prioritization required in section 393.065(5), Florida Statutes, for the clients in crisis (category 1) and children in child welfare system (category 2) effective July 1, 2010. Categories 1 and 2 were existing priorities in law prior to the changes to section 393.065(5), Florida Statutes, in 2009. The bill also moves the implementation date for waitlist categories 3 through 7 to July 1, 2012. The July 1, 2010, implementation date would have adversely affected an estimated 63 percent of the people on the waitlist who would see their place on the waitlist drop to a lower position by the new categorization.

The bill makes changes to section 393.0661, Florida Statutes:

- The bill specifies the two assessment instruments that shall be used by APD in the process of assigning individuals in the four-tier waiver system.
- The bill specifies that age is a client characteristic that shall be used in the process of assigning clients to a tier.
- The bill specifies an annual expenditure cap of \$120,000 per client for tier one waiver services. APD reports that approximately 354 clients would be impacted by this financial cap.
- The bill specifies that individuals enrolled in the Family and Supported Living waiver on July 1, 2007, are to be included in tier four of the Medicaid waiver system without further assessment.

⁸ Report to the Legislature on the Agency's Plan for Implementing Individual Budgeting "iBudget," February 1, 2010.

⁹ 42CFR431.220, s. 409.285, F.S.

¹⁰ s. 409.285, F.S.

¹¹ *J.M. v. Florida Agency for Persons with Disabilities*, 938 So.2d 535 (Fla.1st DCA 2006).

¹² *Washington v. DeBeaugrine*, US District Court, N. District of Florida, Case no. 4:09cv189-RH/WCS, Order Granting Preliminary Injunction and Order Clarifying Preliminary Injunction.

¹³ APD report attached to email from Karen Fisher, APD, dated 2-5-10, on file with committee.

- The bill eliminates behavior assistance services. Behavior analysts will train direct care staff to correctly and appropriately implement behavioral interventions.
- Effective July 1, 2010, the bill revises the geographic differential for Miami-Dade, Broward, and Palm beach Counties for residential habilitation services from 7.5 percent to 4.5 percent. Effective July 1, 2010, the bill revises the geographic differential for Monroe County for residential habilitation services from 20 percent to 15 percent. Effective July 1, 2011, the bill further revises the geographic differential for Monroe County from 15 percent to 10 percent.

The bill creates section 393.0662, Florida Statutes, for APD in consultation with the Agency for Health Care Administration, to develop and implement a comprehensive redesign of the service delivery system using individual budgets, or iBudgets, as the basis for allocating funds appropriated for the Home and Community Based Services (HCSB) waiver among eligible enrolled clients pursuant to the following:

- The bill defines the service delivery system using individual budgets as the iBudget.
- The bill requires the agency to establish an iBudget for each individual served by the HCSB waiver. The iBudget system allocates the agency's appropriated funds for waiver services among eligible, enrolled clients pursuant to certain provisions.
- The bill specifies that in developing the clients' iBudget, the agency use an allocation algorithm and methodology. The algorithm and methodology may consider individual characteristics which may include, but not be limited, to a client's age and living setting, information from a formal assessment instrument which has been determined by the agency to be valid and reliable, and information from other assessment processes.
- The bill specifies that the agency has the authority to adjust the algorithm based on the individual having certain extraordinary needs or circumstances. The agency may use the services of an independent actuary in determining the portions to be reserved for certain extraordinary needs or circumstances.
- The bill specifies that the client's annual expenditures for waiver services may not exceed the limits of their iBudget and that the total of the clients' projected annual iBudget expenditures shall not exceed the agency's appropriation for waiver services.
- The bill requires the Agency for Health Care Administration, in consultation with APD, seek federal approval, including amending current waivers and requesting a new waiver, and amending contracts as necessary to implement the iBudget system for waiver services.
- The bill specifies that APD transition all eligible, enrolled clients to the iBudget system in a phased-in process. While the agency is phasing-in the iBudget system, the agency may continue to serve some untransitioned clients under the four-tiered waiver system while they wait transitioning into the iBudget system. APD shall ensure that no client experience more than one-half of any expected overall increase or decrease to their existing annualized cost plan for the first year the client is provided an iBudget.
- The bill requires that clients must use all available State Plan Medicaid services, school-based services, private insurance and other benefits, and any other resources that may be available to the client before using funds from their iBudget to pay for supports and services.
- The bill specifies that rates for services established through the Agency for Health Care Administration rules shall be designated as a maximum rather than fixed amounts for individuals who receive an iBudget, except for services specifically identified in rule which the agency determines are not appropriate for negotiation and may include but not be limited to residential habilitation services.
- The bill requires APD to ensure that clients and caregivers have access to training and education to inform them about the iBudget system and to enhance their ability for self-direction.
- The bill specifies that APD collect data to evaluate the implementation and outcomes of the iBudget system and authorizes APD and the Agency for Health Care Administration to adopt rules for the iBudget system.

The bill amends section 393.125, Florida Statutes, to require that requests for hearings for Medicaid programs administered by APD shall be in accordance with federal Medicaid law and rules and pursuant to specific sections of Florida's Administrative Procedures Act (sections 120.569 and 120.57,

Florida Statutes). The bill also requires that hearings under Medicaid programs administered by APD will be provided by DCF. The effect of this change is to restore a DCF process that existed prior to August 2006, when DCF provided these hearings for APD. This change should provide an overall savings and significant cost avoidance to the state. It is estimated that the savings/cost avoidance would be \$4.4 million if the 4,200 pending Medicaid tier hearings were held at DCF Office of Appeal Hearings (see Fiscal Comments section).

B. SECTION DIRECTORY:

Section 1. Amends s. 393.065, F.S., relating to application and eligibility determination.

Section 2. Amends s. 393.0661, F.S., relating to home and community based service system.

Section 3. Creates s. 393.0662, F.S., relating to individual budgets or iBudgets.

Section 4. Amends s. 393.125, F.S., relating to hearing rights.

Section 5. Provides the bill is effective July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The following issues are included in the House proposed GAA for FY 2010-11:

	<u>FY 2010-11</u>	<u>FY 2011-12</u>
<u>Agency for Persons with Disabilities</u>		
<u>Tier 1- \$120,000 Cap Reduction</u>		
General Revenue	(\$2,422,980)	(\$2,422,980)
Operations and Maintenance Trust Fund	<u>(\$3,877,020)</u>	<u>(\$3,877,020)</u>
	(\$6,300,000)	(\$6,300,000)
 <u>Elimination of Behavior Assistance Services</u>		
General Revenue	(\$ 769,200)	(\$ 769,200)
Operations and Maintenance Trust Fund	<u>(\$1,230,800)</u>	<u>(\$1,230,800)</u>
	(\$2,000,000)	(\$2,000,000)
 <u>Reduction in Geographic Differential Residential Rehabilitation Rates</u>		
General Revenue	(\$ 924,885)	(\$ 23,067)
Operations and Maintenance Trust Fund	<u>(\$1,479,911)</u>	<u>(\$ 36,909)</u>
	(\$2,404,796)	(\$ 59,976)
 <u>Medicaid Fair Hearings</u>		
7 attorneys		
General Revenue	\$ 301,500	\$ 287,930
Operations and Maintenance Trust Fund	<u>\$ 301,500</u>	<u>\$ 287,930</u>
	\$ 603,000	\$ 575,860

Department of Children and Families

Medicaid Fair Hearings

14 hearing officers, 2 supervisors and 3 support staff

General Revenue	\$ 672,712	\$ 632,409
Federal Grants Trust Fund	\$ 672,712	\$ 632,409
	<u>\$1,345,424</u>	<u>\$1,264,818</u>

NET REDUCTION (\$8,756,372) (\$6,519,298)

In addition, see Fiscal Comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Clients and providers operating within the APD waiver services may see an increase or decrease in available funds; however, the amount is indeterminate.

D. FISCAL COMMENTS:

Individual Budget or iBudget

While the fiscal impact on the implementation of the iBudget system is indeterminate, it is anticipated that clients and the agency will be able to operate within annual appropriated amounts once fully implemented, and thus, eliminate recurring deficits that the agency has faced in past years.

According to APD's report, individual budgets would not change the fundamental reality of the state's budget process. The Legislature will continue to decide how much to appropriate to APD and the agency will have a lawful obligation to operate within this amount. Policymakers will still have the prerogative to reduce or increase the agency's budget. However, in contrast to the current system, individual budgeting would allow any budget adjustments—up or down—to be made more equitably and in a fashion that keeps maximum control about service decisions in the hands of the consumer and his or her family.

APD Medicaid Fair Hearings

The fiscal impact associated with moving APD Medicaid fair hearings to DCF is anticipated to be an overall net savings of approximately \$4.4 million. This is primarily achieved through cost avoidance by moving the APD Medicaid fair hearings from the DOAH to the DCF, Office of Appeal Hearings and APD providing legal representation. In the calculations below, 4,200 hearings were used for comparison since this is the number of hearings pending for Medicaid tier waiver assignments.

Comparison of Cost of Hearings at DOAH and DCF

Hearings at DOAH

APD and DOAH estimates the cost of conducting Medicaid hearings at DOAH and legal representation would be \$6.3 million for 4,200 hearings.

DOAH hearing costs estimate	\$2.3 million
Legal Representation by Attorney General	<u>\$4.0 million</u>
Total Estimated cost at DOAH venue	\$6.3 million

Hearings at DCF

DCF and APD estimate the cost of conducting hearings at the DCF Office of Appeal Hearings with legal representation by APD would be \$ 1,949,266 for 4,200 hearings.

DCF Office of Appeal Hearing cost estimate (19 FTE)	\$1,345,424
APD estimated cost of legal representation (7 FTE)	<u>\$ 603,000</u>
Total Estimated Cost at DCF venue	\$1,948,626

Also, an indeterminate savings in the APD program will occur by more timely decisions in Medicaid hearings when the pending decision reduces services and cost to the program. Currently, once a hearing request is filed by a consumer, the service reduction is suspended and the current level of service is maintained until the outcome of the hearing is decided. APD estimates that hearings conducted at DOAH require 180 to 240 days to completion. DCF estimates that hearings conducted at the DCF Office of Appeal hearings would require 76 days on average. An example of the importance of timeliness in conducting hearings and the affect on the APD budget is evidenced by the current 4,200 hearings pending at DOAH. APD estimates that \$50 million in cost savings would be realized to the program when the hearings are completed (assuming the hearings uphold APD's tier placement decisions).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The agency has sufficient rulemaking authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Agency for Persons with
 3 Disabilities; amending s. 393.065, F.S.; revising
 4 provisions relating to the order of priority for clients
 5 with developmental disabilities waiting for waiver
 6 services; extending the date for implementation for
 7 certain categories of clients; amending s. 393.0661, F.S.;
 8 specifying assessment instruments to be used for the
 9 delivery of home and community-based Medicaid waiver
 10 program services; revising provisions relating to
 11 assignment of clients to waiver tiers; providing for tier
 12 one annual expenditure cap; directing the agency to
 13 eliminate behavior assistance services; reducing the
 14 geographic differential for Miami-Dade, Broward, Palm
 15 Beach, and Monroe Counties for residential habilitation
 16 services; creating s. 393.0662, F.S.; establishing the
 17 iBudget program for the delivery of home and community-
 18 based services; providing for amendment of current
 19 contracts to implement the iBudget system; providing for
 20 the phasing in of the program; requiring clients to use
 21 certain resources before using funds from their iBudget;
 22 requiring the agency to provide training for clients and
 23 evaluate and adopt rules with respect to the iBudget
 24 system; amending s. 393.125, F.S.; providing for hearings
 25 on Medicaid programs administered by the agency; providing
 26 an effective date.

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

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Section 1. Subsection (5) of section 393.065, Florida Statutes, is amended to read:

393.065 Application and eligibility determination.—

(5) Except as otherwise directed by law, beginning July 1, 2010, the agency shall assign and provide priority to clients waiting for waiver services in categories 1 and 2 and, beginning July 1, 2012, shall assign and provide priority to clients waiting for waiver services in categories 3, 4, 5, 6, and 7, in the following order:

(a) Category 1, which includes clients deemed to be in crisis as described in rule.

(b) Category 2, which includes children on the wait list who are from the child welfare system with an open case in the Department of Children and Family Services' statewide automated child welfare information system.

(c) Category 3, which includes, but is not required to be limited to, clients:

1. Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;

2. At substantial risk of incarceration or court commitment without supports;

3. Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

4. Who are identified as ready for discharge within the

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57 | next year from a state mental health hospital or skilled nursing
 58 | facility and who require a caregiver but for whom no caregiver
 59 | is available.

60 | (d) Category 4, which includes, but is not required to be
 61 | limited to, clients whose caregivers are 70 years of age or
 62 | older and for whom a caregiver is required but no alternate
 63 | caregiver is available.

64 | (e) Category 5, which includes, but is not required to be
 65 | limited to, clients who are expected to graduate within the next
 66 | 12 months from secondary school and need support to obtain or
 67 | maintain competitive employment, or to pursue an accredited
 68 | program of postsecondary education to which they have been
 69 | accepted.

70 | (f) Category 6, which includes clients 21 years of age or
 71 | older who do not meet the criteria for category 1, category 2,
 72 | category 3, category 4, or category 5.

73 | (g) Category 7, which includes clients younger than 21
 74 | years of age who do not meet the criteria for category 1,
 75 | category 2, category 3, or category 4.

76 |
 77 | Within categories 3, 4, 5, 6, and 7, the agency shall maintain a
 78 | wait list of clients placed in the order of the date that the
 79 | client is determined eligible for waiver services.

80 | Section 2. Paragraph (a) of subsection (1) and subsections
 81 | (3), (4), and (5) of section 393.0661, Florida Statutes, are
 82 | amended to read:

83 | 393.0661 Home and community-based services delivery
 84 | system; comprehensive redesign.—The Legislature finds that the

85 | home and community-based services delivery system for persons
 86 | with developmental disabilities and the availability of
 87 | appropriated funds are two of the critical elements in making
 88 | services available. Therefore, it is the intent of the
 89 | Legislature that the Agency for Persons with Disabilities shall
 90 | develop and implement a comprehensive redesign of the system.

91 | (1) The redesign of the home and community-based services
 92 | system shall include, at a minimum, all actions necessary to
 93 | achieve an appropriate rate structure, client choice within a
 94 | specified service package, appropriate assessment strategies, an
 95 | efficient billing process that contains reconciliation and
 96 | monitoring components, a redefined role for support coordinators
 97 | that avoids potential conflicts of interest, and ensures that
 98 | family/client budgets are linked to levels of need.

99 | (a) The agency shall use either the Department of Children
 100 | and Family Services' Individual Cost Guidelines or the agency's
 101 | Questionnaire for Situational Information as an assessment
 102 | instrument ~~that is reliable and valid~~. The agency may contract
 103 | with an external vendor or may use support coordinators to
 104 | complete client assessments if it develops sufficient safeguards
 105 | and training to ensure ongoing inter-rater reliability.

106 | (3) The Agency for Health Care Administration, in
 107 | consultation with the agency, shall seek federal approval and
 108 | implement a four-tiered waiver system to serve eligible clients
 109 | through the developmental disabilities and family and supported
 110 | living waivers. The agency shall assign all clients receiving
 111 | services through the developmental disabilities waiver to a tier
 112 | based on the Individual Cost Guidelines or the Questionnaire for

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113 Situational Information; a valid assessment instrument, client
114 characteristics, including, but not limited to, age; and other
115 appropriate assessment methods.

116 (a) Tier one is limited to clients who have service needs
117 that cannot be met in tier two, three, or four for intensive
118 medical or adaptive needs and that are essential for avoiding
119 institutionalization, or who possess behavioral problems that
120 are exceptional in intensity, duration, or frequency and present
121 a substantial risk of harm to themselves or others. Total
122 annual expenditures under tier one may not exceed \$120,000 per
123 clients each year.

124 (b) Tier two is limited to clients whose service needs
125 include a licensed residential facility and who are authorized
126 to receive a moderate level of support for standard residential
127 habilitation services or a minimal level of support for behavior
128 focus residential habilitation services, or clients in supported
129 living who receive more than 6 hours a day of in-home support
130 services. Total annual expenditures under tier two may not
131 exceed \$55,000 per client each year.

132 (c) Tier three includes, but is not limited to, clients
133 requiring residential placements, clients in independent or
134 supported living situations, and clients who live in their
135 family home. Total annual expenditures under tier three may not
136 exceed \$35,000 per client each year.

137 (d) Tier four includes individuals who were enrolled in is
138 the family and supported living waiver on July 1, 2007, who
139 shall be assigned to this tier without the assessments required
140 by this section. Tier four also ~~and~~ includes, but is not limited

141 to, clients in independent or supported living situations and
 142 clients who live in their family home. Total annual expenditures
 143 under tier four may not exceed \$14,792 per client each year.

144 (e) The Agency for Health Care Administration shall also
 145 seek federal approval to provide a consumer-directed option for
 146 persons with developmental disabilities which corresponds to the
 147 funding levels in each of the waiver tiers. The agency shall
 148 implement the four-tiered waiver system beginning with tiers
 149 one, three, and four and followed by tier two. The agency and
 150 the Agency for Health Care Administration may adopt rules
 151 necessary to administer this subsection.

152 (f) The agency shall seek federal waivers and amend
 153 contracts as necessary to make changes to services defined in
 154 federal waiver programs administered by the agency as follows:

155 1. Supported living coaching services may not exceed 20
 156 hours per month for persons who also receive in-home support
 157 services.

158 2. Limited support coordination services is the only type
 159 of support coordination service that may be provided to persons
 160 under the age of 18 who live in the family home.

161 3. Personal care assistance services are limited to 180
 162 hours per calendar month and may not include rate modifiers.
 163 Additional hours may be authorized for persons who have
 164 intensive physical, medical, or adaptive needs if such hours are
 165 essential for avoiding institutionalization.

166 4. Residential habilitation services are limited to 8
 167 hours per day. Additional hours may be authorized for persons
 168 who have intensive medical or adaptive needs and if such hours

169 are essential for avoiding institutionalization, or for persons
 170 who possess behavioral problems that are exceptional in
 171 intensity, duration, or frequency and present a substantial risk
 172 of harming themselves or others. This restriction shall be in
 173 effect until the four-tiered waiver system is fully implemented.

174 5. Chore services, nonresidential support services, and
 175 homemaker services are eliminated. The agency shall expand the
 176 definition of in-home support services to allow the service
 177 provider to include activities previously provided in these
 178 eliminated services.

179 6. Massage therapy, medication review, behavior assistance
 180 services, and psychological assessment services are eliminated.

181 7. The agency shall conduct supplemental cost plan reviews
 182 to verify the medical necessity of authorized services for plans
 183 that have increased by more than 8 percent during either of the
 184 2 preceding fiscal years.

185 8. The agency shall implement a consolidated residential
 186 habilitation rate structure to increase savings to the state
 187 through a more cost-effective payment method and establish
 188 uniform rates for intensive behavioral residential habilitation
 189 services.

190 9. Pending federal approval, the agency may extend current
 191 support plans for clients receiving services under Medicaid
 192 waivers for 1 year beginning July 1, 2007, or from the date
 193 approved, whichever is later. Clients who have a substantial
 194 change in circumstances which threatens their health and safety
 195 may be reassessed during this year in order to determine the
 196 necessity for a change in their support plan.

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197 | 10. The agency shall develop a plan to eliminate
 198 | redundancies and duplications between in-home support services,
 199 | companion services, personal care services, and supported living
 200 | coaching by limiting or consolidating such services.

201 | 11. The agency shall develop a plan to reduce the
 202 | intensity and frequency of supported employment services to
 203 | clients in stable employment situations who have a documented
 204 | history of at least 3 years' employment with the same company or
 205 | in the same industry.

206 | (4) Effective July 1, 2010, the geographic differential
 207 | for Miami-Dade, Broward, and Palm Beach Counties for residential
 208 | habilitation services shall be 4.5 ~~7.5~~ percent.

209 | (5) (a) Effective July 1, 2010, the geographic differential
 210 | for Monroe County for residential habilitation services shall be
 211 | 15 ~~20~~ percent.

212 | (b) Effective July 1, 2011, the geographic differential
 213 | for Monroe County for residential habilitation services shall be
 214 | 10 percent.

215 | Section 3. Section 393.0662, Florida Statutes, is created
 216 | to read:

217 | 393.0662 Individual budgets for delivery of home and
 218 | community-based services; iBudget system established.—The
 219 | Legislature finds that improved financial management of the
 220 | existing home and community-based Medicaid waiver program is
 221 | necessary to avoid deficits that impede the provision of
 222 | services to individuals who are on the waiting list for
 223 | enrollment in the program. The Legislature further finds that
 224 | clients and their families should have greater flexibility to

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225 choose the services that best allow them to live in their
226 community within the limits of an established budget. Therefore,
227 the Legislature intends that the agency, in consultation with
228 the Agency for Health Care Administration, develop and implement
229 a comprehensive redesign of the service delivery system using
230 individual budgets as the basis for allocating the funds
231 appropriated for the home and community-based services Medicaid
232 waiver program among eligible enrolled clients. The service
233 delivery system that uses individual budgets shall be called the
234 iBudget system.

235 (1) The agency shall establish an individual budget,
236 referred to as an iBudget, for each individual served by the
237 home and community-based services Medicaid waiver program. The
238 funds appropriated to the agency shall be allocated through the
239 iBudget system to eligible, Medicaid-enrolled clients. The
240 iBudget system shall be designed to provide for: enhanced client
241 choice within a specified service package; appropriate
242 assessment strategies; an efficient consumer budgeting and
243 billing process that includes reconciliation and monitoring
244 components; a redefined role for support coordinators that
245 avoids potential conflicts of interest; a flexible and
246 streamlined service review process; and a methodology and
247 process that ensures the equitable allocation of available funds
248 to each client based on the client's level of need, as
249 determined by the variables in the allocation algorithm.

250 (a) In developing each client's iBudget, the agency shall
251 use an allocation algorithm and methodology. The algorithm shall
252 use variables that have been determined by the agency to have a

253 statistically validated relationship to the client's level of
254 need for services provided through the home and community-based
255 services Medicaid waiver program. The algorithm and methodology
256 may consider individual characteristics, including, but not
257 limited to, a client's age and living situation, information
258 from a formal assessment instrument that the agency determines
259 is valid and reliable, and information from other assessment
260 processes.

261 (b) The allocation methodology shall provide the algorithm
262 that determines the amount of funds allocated to a client's
263 iBudget. The agency may approve an increase in the amount of
264 funds allocated, as determined by the algorithm, based on the
265 client having:

266 1. An extraordinary need that would place the health and
267 safety of the client, the client's caregiver, or the public in
268 immediate, serious jeopardy unless the increase is approved. An
269 extraordinary need may include, but is not limited to:

270 a. A documented history of significant, potentially life-
271 threatening behaviors, such as recent attempts at suicide,
272 arson, nonconsensual sexual behavior, or self-injurious behavior
273 requiring medical attention;

274 b. A complex medical condition that requires active
275 intervention by a licensed nurse on an ongoing basis that cannot
276 be taught or delegated to a nonlicensed person;

277 c. A chronic co-morbid condition. As used in this
278 subparagraph, the term "co-morbid condition" means a medical
279 condition existing simultaneously but independently with another
280 medical condition in a patient; or

281 d. A need for total physical assistance with activities
 282 such as eating, bathing, toileting, grooming, and personal
 283 hygiene.

284
 285 However, the presence of an extraordinary need alone does not
 286 warrant an increase in the amount of funds allocated to a
 287 client's iBudget as determined by the algorithm.

288 2. A significant need for one-time or temporary support or
 289 services that, if not provided, would place the health and
 290 safety of the client, the client's caregiver, or the public in
 291 serious jeopardy, unless the increase, as determined by the
 292 total of the algorithm and any adjustments based on
 293 subparagraphs 1. and 3., is approved. A significant need may
 294 include, but is not limited to, the provision of environmental
 295 modifications, durable medical equipment, services to address
 296 the temporary loss of support from a caregiver, or special
 297 services or treatment for a serious temporary condition when the
 298 service or treatment is expected to ameliorate the underlying
 299 condition. As used in this subparagraph, the term "temporary"
 300 means a period of fewer than 12 continuous months.

301 3. A significant increase in the need for services after
 302 the beginning of the service plan year that would place the
 303 health and safety of the client, the client's caregiver, or the
 304 public in serious jeopardy because of substantial changes in the
 305 client's circumstances, including, but not limited to, permanent
 306 or long-term loss or incapacity of a caregiver, loss of services
 307 authorized under the state Medicaid plan due to a change in age,
 308 or a significant change in medical or functional status which

309 requires the provision of additional services on a permanent or
 310 long-term basis that cannot be accommodated within the client's
 311 current iBudget. As used in this subparagraph, the term "long-
 312 term" means a period of 12 or more continuous months.

313
 314 The agency shall reserve portions of the appropriation for the
 315 home and community-based services Medicaid waiver program for
 316 adjustments required pursuant to this paragraph and may use the
 317 services of an independent actuary in determining the amount of
 318 the portions to be reserved.

319 (c) A client's iBudget shall be the total of the amount
 320 determined by the algorithm and any additional funding provided
 321 pursuant to paragraph (a). A client's annual expenditures for
 322 home and community-based services Medicaid waiver services may
 323 not exceed the limits of his or her iBudget. The total of a
 324 client's projected annual iBudget expenditures may not exceed
 325 the agency's appropriation for waiver services.

326 (2) The Agency for Health Care Administration, in
 327 consultation with the agency, shall seek federal approval to
 328 amend current waivers, request a new waiver, and amend contracts
 329 as necessary to implement the iBudget system to serve eligible,
 330 enrolled clients through the home and community-based services
 331 Medicaid waiver program and the Consumer-Directed Care Plus
 332 Program.

333 (3) The agency shall transition all eligible, enrolled
 334 clients to the iBudget system. The agency may gradually phase in
 335 the iBudget system.

336 (a) While the agency phases in the iBudget system, the

337 agency may continue to serve eligible, enrolled clients under
 338 the four-tiered waiver system established under s. 393.065 while
 339 those clients await transitioning to the iBudget system.

340 (b) The agency shall design the phase-in process to ensure
 341 that a client does not experience more than one-half of any
 342 expected overall increase or decrease to his or her existing
 343 annualized cost plan during the first year that the client is
 344 provided an iBudget due solely to the transition to the iBudget
 345 system.

346 (4) A client must use all available services authorized
 347 under the state Medicaid plan, school-based services, private
 348 insurance and other benefits, and any other resources that may
 349 be available to the client before using funds from his or her
 350 iBudget to pay for support and services.

351 (5) Rates for any or all services established under rules
 352 of the Agency for Health Care Administration shall be designated
 353 as the maximum rather than a fixed amount for individuals who
 354 receive an iBudget, except for services specifically identified
 355 in those rules that the agency determines are not appropriate
 356 for negotiation, which may include, but are not limited to,
 357 residential habilitation services.

358 (6) The agency shall ensure that clients and caregivers
 359 have access to training and education to inform them about the
 360 iBudget system and enhance their ability for self-direction.
 361 Such training shall be offered in a variety of formats and at a
 362 minimum shall address the policies and processes of the iBudget
 363 system; the roles and responsibilities of consumers, caregivers,
 364 waiver support coordinators, providers, and the agency;

365 information available to help the client make decisions
 366 regarding the iBudget system; and examples of support and
 367 resources available in the community.

368 (7) The agency shall collect data to evaluate the
 369 implementation and outcomes of the iBudget system.

370 (8) The agency and the Agency for Health Care
 371 Administration may adopt rules specifying the allocation
 372 algorithm and methodology; criteria and processes for clients to
 373 access reserved funds for extraordinary needs, temporarily or
 374 permanently changed needs, and one-time needs; and processes and
 375 requirements for selection and review of services, development
 376 of support and cost plans, and management of the iBudget system
 377 as needed to administer this section.

378 Section 4. Subsection (1) of section 393.125, Florida
 379 Statutes, is amended to read:

380 393.125 Hearing rights.—

381 (1) REVIEW OF AGENCY DECISIONS.—

382 (a) For Medicaid programs administered by the agency, any
 383 developmental services applicant or client, or his or her
 384 parent, guardian advocate, or authorized representative, may
 385 request a hearing in accordance with federal law and rules
 386 applicable to Medicaid cases and has the right to request an
 387 administrative hearing pursuant to ss. 120.569 and 120.57. These
 388 hearings shall be provided by the Department of Children and
 389 Family Services pursuant to s. 409.285 and shall follow
 390 procedures consistent with federal law and rules applicable to
 391 Medicaid cases.

392 (b) ~~(a)~~ Any other developmental services applicant or

393 client, or his or her parent, guardian, guardian advocate, or
 394 authorized representative, who has any substantial interest
 395 determined by the agency, has the right to request an
 396 administrative hearing pursuant to ss. 120.569 and 120.57, which
 397 shall be conducted pursuant to s. 120.57(1), (2), or (3).

398 (c)~~(b)~~ Notice of the right to an administrative hearing
 399 shall be given, both verbally and in writing, to the applicant
 400 or client, and his or her parent, guardian, guardian advocate,
 401 or authorized representative, at the same time that the agency
 402 gives the applicant or client notice of the agency's action. The
 403 notice shall be given, both verbally and in writing, in the
 404 language of the client or applicant and in English.

405 (d)~~(e)~~ A request for a hearing under this section shall be
 406 made to the agency, in writing, within 30 days after ~~of~~ the
 407 applicant's or client's receipt of the notice.

408 Section 5. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCA 10-04 Child Welfare
SPONSOR(S): Health Care Appropriations Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1466

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee		Massengale	Massengale <i>sm</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill creates or amends several statutes to conform to decisions made in the House proposed General Appropriations Act (GAA) for Fiscal Year 2010-11.

The bill creates section 402.7306, Florida Statutes, and requires the Department of Children and Families (DCF), as well as the Departments of Health and Juvenile Justice, and the Agencies for Persons with Disabilities and Health Care Administration, to implement changes to improve efficiency in health and human services contract administration. The bill also amends section 402.7305, Florida Statutes, requiring the Department of Children and Families to limit monitoring of a child-caring or child-placing services provider to only once per year.

The bill amends section 409.1451, Florida Statutes, making payments for independent living transition services subject to specific appropriation and limits the road-to-independence award to \$675 per month. The award shall be issued on the day the eligible student reaches 18 years of age, and payment for a partial month shall be prorated on the basis of a 30-day month. The bill also specifies that funds shall be terminated during the interim between an award and the evaluation for a renewal award if the department determines that the award recipient is no longer enrolled in an educational institution or is no longer a state resident.

The bill repeals section 409.1663 and amends section 409.166, Florida Statutes, to conform to the total elimination of the funding for adoption benefits for qualifying adopting employees of state agencies.

The bill amends section 409.1671, Florida Statutes, and specifies that contracts entered into with community-based care lead agencies must be funded by a grant of general revenue and by applicable other state and federal funding sources. A community-based care lead agency is authorized to carry forward documented unexpended funds from one fiscal year to the next, but must return any unexpended funds that remain at the end of the contract period. Funds carried forward may be retained through any contract renewals and any new procurement as long as the community-based care lead agency is retained by the department. The bill requires the department to enter into a fixed-price contract that provides for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

The House proposed GAA for FY 2010-11 reduces recurring general revenue expenditures by approximately \$2.3 million as a result of the elimination of adoption benefits for qualifying adopting employees of state agencies program and the reduction to community-based care lead agencies for a reduction in administrative monitoring activities.

The effective date of the bill is July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Administrative Monitoring

State agency procurement contracts typically include oversight mechanisms for contract management and program monitoring. Contract monitors ensure that contractually required services are delivered in accordance with the terms of the contract, approve corrective action plans for non-compliant providers, and withhold payment when services are not delivered or do not meet quality standards.

In November 2008, Children's Home Society of Florida (CHS) surveyed 162 child welfare providers, in an effort to "assess the quantity of external contract monitoring of CHS programs and identify any potential areas of duplication across monitoring by state and designated lead agencies."¹ One-hundred four programs (64 percent) responded to the survey.

According to the responses, between October 1, 2007 and September 30, 2008, these 104 programs were monitored 154 times by state agencies, and 1,369 documents were requested in advance of site monitoring visits. Of the document requests, 488 (36 percent) were requested by other state agencies or other departments within a state agency during the past year. According to the survey, examples of duplicative document requests included:

- Finance and Accounting Procedures;
- Human Resources Policies and Procedures;
- List of Board of Directors and Board Meeting Minutes;
- Financial Audit and Management Letter;
- IRS forms;
- By-laws; and
- Articles of Incorporation.²

According to the survey, professional program staff spends an average of 19 hours to prepare for each site visit, for a total of 3,777 hours, and an average of 60 hours on each site visit.³ The survey also disclosed that, during site visits, reviewers evaluated the same policies and procedures reviewed by other state agencies during the year 130 times. The following are examples of documents that were reviewed multiple times during site visits:

¹ CHS, *Case Study-Contract Monitoring Survey* (December 3, 2008).

² *Ibid.*

³ *Ibid.*

- Cash Management Policies and Procedures;
- Finance and Accounting Procedures; and
- Administrative Policies.

Proposed Committee Bill Changes

The bill creates section 402.7306, Florida Statutes, and requires the Department of Children and Families (DCF), as well as the Departments of Health and Juvenile Justice, and the Agencies for Persons with Disabilities and Health Care Administration, to implement changes to improve efficiency in health and human services contract administration. The bill includes the following provisions:

- Requires health and human services contracting agencies to limit administrative monitoring to once every three years, if the contracted provider is accredited by one of the following organizations:
 - Joint Commission on the Accreditation of Healthcare Organizations (JCAHO);⁴
 - Commission on Accreditation of Rehabilitation Facilities (CARF);⁵ or
 - Council on Accreditation (COA).⁶

The contracting agency does not, however, forfeit its right to monitor or investigate a provider under specified circumstances. In addition, Medicaid provider agreements are exempted from the requirement.

The bill also:

- Authorizes private-sector development and implementation of a data warehouse for maintaining corporate, fiscal and administrative records related to child welfare provider contracts.
- Requires state agencies that contract with child welfare providers to access records from this database, unless records are outdated or unavailable.
- Provides that the following records, at a minimum, must be included in the database:
 - Articles of incorporation;
 - Bylaws;
 - Governing board and committee minutes;
 - Financial audits;
 - Expenditure reports;
 - Compliance audits;
 - Organizational charts;
 - Staff resumes;
 - Governing board membership information; and
 - Human resource policies and procedures.

The bill also amends section 402.7305, Florida Statutes, requiring the Department of Children and Families to limit monitoring of a child-caring or child-placing services provider to only once per year. The bill also specifies that contract monitoring may not duplicate administrative monitoring that is

⁴ Since its founding in 1951, The Joint Commission has developed the highest standards for quality and safety in the delivery of health care, and evaluating organization performance based on these standards. Accreditation requires an evaluation by The Joint Commission. The evaluation covers compliance with the standards and other requirements and verifies improvement activities.

⁵ Founded in 1966, CARF is an independent, private, not-for-profit organization that promotes quality rehabilitation, substance abuse, and behavioral health services. It does this by establishing standards of quality for organizations to use as guidelines in developing and offering their programs or services to consumers and conducting on-site evaluations to insure that organization practices comply with these standards. CARF standards are developed with input from consumers, rehabilitation professionals, state and national organizations, and funders. Every year the standards are reviewed and new ones are developed to keep pace with changing conditions and current consumer needs. A CARF-accredited organization must demonstrate commitment to continually improving its services.

⁶ COA is an international, independent, not-for-profit, child- and family-service and behavioral healthcare accrediting organization. It was founded in 1977 by the Child Welfare League of America and Family Service America (now the Alliance for Children and Families). Originally known as an accrediting body for family and children's agencies, COA currently accredits 38 different service areas and over 60 types of programs. Among the service areas are substance abuse treatment, adult day care, services for the homeless, foster care, and inter-country adoption.

included in the survey of a child welfare provider conducted by national accreditation organization specified in section 402.7306, Florida Statutes.

Independent Living Services

Federal funds for independent living initiatives were first made available to states in 1985 to assist eligible youth 16 years of age and older to make the transition from foster care to independent living.⁷ A total of \$45 million was authorized for the program across the nation, with state shares based on the number of children/youth in foster care. The U.S. Department of Health and Human Services, Administration for Children, Youth and Families, issued the first set of program instructions to the states in early 1987. Each state was able to determine the nature and scope of their independent living program, but guidelines from the federal government provided recommended specific program components. The recommended list included services such as GED or vocational training, daily living skills, job readiness and employability skills, and assistance obtaining higher education.

In a further effort to increase services and strengthen state programs for teens in foster care, Congress passed the Foster Care Independence Act of 1999, which was signed into law as the John H. Chafee Foster Care Independence Program. The Chafee Program made substantial changes in federal efforts targeted toward youth and young adults up to age 21 in the foster care component of the child welfare system. The law significantly improved the ability of states to achieve the national goals of safety, permanence, and well-being for youth and young adults in the child welfare system and required states for the first time to serve youth younger than 16 years of age.⁸

With the passage of the federal law and increased available funding, the 2002 Legislature established a new framework for Florida's independent living transition services to be provided to these older youth by DCF. Federal funding requires a 20 percent state match. Specifically provided for was a continuum of independent living transition services to enable older children who are 13 but not yet 18 years of age and in foster care and young adults who are 18 but not yet 23 years of age who were formerly in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency.

One of the components of the program is road-to-independence services. It is intended to help eligible students who are former foster children receive the educational and vocational training needed to achieve independence. The amount of the award is based on the living and educational needs of the young adult and may be up to but not exceed the amount of earnings that the student would have been eligible to earn working a 40-hour week federal minimum wage job. The annual amount for Fiscal Year 2008-09 was \$13,620.⁹ This annual amount is funded in part by federal funds at a maximum per year of \$5,000 plus state match of \$1,250. The difference of \$7,370 is also state general revenue or tobacco settlement funds. According to the department, in Fiscal Year 2008-09 the average cost of a road-to-independence stipend was \$737 per month.¹⁰

Section 409.1451, Florida Statutes, specifies that the department shall provide the independent living transition services based on the availability of funds. This appropriation is not a separate appropriation, but is part of the funding in the appropriation for community based care services. The General Appropriations Act for Fiscal Year 2009-10 provided \$35,038,010 for all independent living services: \$9,042,586 in federal funds, \$2,260,647 in state matching funds, and \$23,734,777 in state funds for youth not eligible for federal funds or to be used once all the federal funds have been exhausted. However, the community based care lead agencies project to spend approximately \$48.4 million in the current year using nonrecurring unspent state funds from prior years and redirected funds from foster care services.¹¹

Proposed Committee Bill Changes

The bill amends section 409.1451(5), Florida Statutes, making payments for the road-to-independence stipend subject to specific appropriation and limits the award to \$675 per month. The award shall be

⁷ The Independent Living Program was initially authorized by Public Law 99-272, through the addition of section 477 to Title IV-E of the Social Security Act.

⁸ See P.L. 106-169.

⁹ E-mail from DCF staff, March 8, 2010, on file with Health Care Appropriations Committee.

¹⁰ *Ibid.*

¹¹ E-mail from DCF staff, February 2, 2010, on file with Health Care Appropriations Committee.

issued on the day the eligible student reaches 18 years of age, and payment for a partial month shall be prorated on the basis of a 30-day month. The bill also specifies that funds shall rather than may be terminated during the interim between an award and the evaluation for a renewal award if the department determines that the award recipient is no longer enrolled in an educational institution or is no longer a state resident.

The House proposed General Appropriations Act for Fiscal Year 2010-11 provides \$35 million in a separate specific appropriation for independent living services.

Adoption Benefits for Qualifying Adoptive Employees of State Agencies

Adoption benefits are currently provided for any full-time or part-time employee of the state, a state university or community college, a school district unit or a water management district that is paid from regular salary appropriations who adopts a child whose permanent custody has been awarded to the department or to a Florida-licensed child-placing agency in section 409.1663, Florida Statutes.

- State employees are eligible to receive a monetary benefit of \$10,000 per child, payable in equal monthly installments over a one-year period if they adopt a special needs child.
- State employees are eligible to receive a monetary benefit in the amount of \$5,000 per child, payable in equal monthly installments over a one-year period if they adopt a non-special needs child.

Benefits payable to a part-time employee must be prorated based on the employee's full-time equivalency status at the time of applying for the benefits.

For purposes of this adoption benefit, a special needs child is defined as a child whose permanent custody has been awarded to the department or to a Florida-licensed child-placing agency and who is not likely to be adopted because he or she is:

- Eight years of age or older;
- A person with a developmental disability;
- A person with a physical or emotional handicap;
- Of a minority race or of a racially mixed heritage; or
- A member of a sibling group of any age, provided that two or more members of a sibling group remain together for the purposes of adoption.

An employee of the state who adopts a special-needs child must apply to his or her agency head to obtain the monetary benefit. Any employee of the state who has a child placed in the custody of the employee for adoption, and who continues to reside in the same household as the child placed for adoption, must be granted parental leave in accordance with the personnel policies and procedures of the respective state agency employer.

The payment of a lump-sum benefit for adopting a child is subject to a specific appropriation. The current year appropriation is \$1,835,957 in general revenue funds.

However, this adoption benefits program does not affect the right of any state employee who adopts a special-needs child to receive subsidies for expenses related to the adoption of a special needs child under section 409.166, Florida Statutes, or any other statute that provides financial incentives for the adoption of children.

Proposed Committee Bill Changes

The bill repeals section 409.1663 and amends section 409.166, Florida Statutes, to conform to the total elimination of the funding in the House proposed Fiscal Year 2010-11 General Appropriations Act.

Outsourcing Foster Care and Related Services

In 2006, the Legislature created a three-year pilot project that allowed DCF to transfer fiscal, administrative, and program monitoring responsibilities for two community-based care lead agencies¹² to independent, non-governmental, third-party entities under contract with the department.¹³ The legislation required the outsourced monitoring to be conducted in a manner jointly agreed to by the lead agencies and the department, and the selection of the third-party entities was exempted from the competitive bidding process.¹⁴

The legislation required the department to enter into contracts with the designated community-based care lead agencies and mandated that the following provisions, *inter alia*, be included in the contracts:

- Contracts are fixed price, funded in 36 equal monthly installments and with an advance two-month payment;
- Contracts are funded by a grant of general revenue and by applicable federal funding sources;
- Lead agencies are responsible for documenting federal earnings, and undocumented earnings must be returned to the department; and
- Lead agencies' annual contract amounts may be increased by excess federal earnings.¹⁵

The legislation also authorized the department to implement these contract provisions with other community-based care lead agencies. The current contract between the department and the lead agencies is an advance, fixed-price, fixed payment contract comprising federal funds and a grant of state funds. Advance payments are equal to one-twelfth of the current fiscal year contract value or, if the contract value is increased during the year, the advance is equal to the fiscal year contract amount not yet paid, divided by the remaining months to be paid.

Chapter 2006-30, L.O.F., also made the following expenditures permissible, not just for the pilot sites, but for all community-based care lead agencies:

- Staff cellular phone allowances;
- Contracts requiring deferred payments and maintenance agreements;
- Security deposits for office leases;
- Related professional membership dues and license fees;
- Food and refreshment;
- Promotional materials; and
- Costs associated with fundraising personnel.

Prior to the passage of this legislation, these expenditures were prohibited in accordance with the Reference Guide for State Expenditures published by the Department of Financial Services.¹⁶

Chapter 2006-30, Laws of Florida, required the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of the Auditor General (Auditor General) to evaluate the pilot program and provide interim as well as final reports.¹⁷

¹² ChildNet, Inc. in Broward County and Our Kids of Miami-Dade/Monroe, Inc.

¹³ Chapter 2006-30, s. 2, L.O.F.

¹⁴ *Id.* To implement the pilot project, the department contracted with Abel and Associates, a certified public accounting firm, to conduct fiscal, administrative and federal funds monitoring. The department also contracted with Chapin Hall to conduct program monitoring through quality assurance reviews and to develop new performance measures. Chapin Hall is a child welfare research and demonstration institute of the University of Chicago. Administrators of the pilot lead agencies recommended Chapin Hall due to its national reputation in child welfare research.

¹⁵ Currently, pursuant to s. 409.1671(8), F.S., all documented federal funds earned for the current fiscal year by the department and community-based agencies which exceed the amount appropriated by the Legislature shall be distributed *pro rata* to all entities that contributed to the excess earnings and shall be used only in the service district in which they were earned. Additional state funds appropriated by the Legislature for community-based agencies or made available pursuant to the budgetary amendment process shall be transferred to the community-based agencies. The department shall amend a community-based agency's contract to permit expenditure of the funds.

¹⁶ Department of Financial Services, Division of Accounting and Auditing, Bureau of Auditing, *Reference Guide for State Expenditures*, available at http://www.fldfs.com/aadir/reference_guide/reference_guide.htm#d (last visited April 8, 2009). See also, <http://www.dcf.state.fl.us/cbc/> (follow link "CBC Fiscal Attachments" to "CBC Expenditure Guidelines") (last visited April 8, 2009), in which the department provided direction to CBC lead agencies regarding the permissibility of these expenditures.

¹⁷ OPPAGA, *CBC Pilot Project Implementation Delayed But Proceeding; Other Initiatives Implemented*, Report No. 07-03 (January 2007); OPPAGA, *Outsourced Oversight for Community-Based Care Produced Benefits But Substantive Challenges*, Report No. 09-09 (February 2009). Auditor General, *Department Of Children And Family Services, Community-Based Care Pilot Program, Fiscal And Administrative Monitoring, Operational Audit, Report*

Auditor General Reports

In its reports, the Auditor General found that the fiscal and administrative monitoring approach authorized under the pilot program “continued to meet the requirements of the [d]epartment and the lead agencies.”¹⁸ The Auditor General recommended that if the department elected to continue to contract for fiscal and administrative monitoring, the selection should be “accomplished using competitive means.”¹⁹

OPPAGA Reports

OPPAGA evaluated the outsourcing of programmatic oversight. In its interim report (January 2007), OPPAGA noted that the department had implemented the pilot project, but only after some delays. In addition, although stakeholders identified several benefits of the project, OPPAGA reported that the project still faced significant challenges.²⁰

In its final report (February 2009), OPPAGA noted that although, overall, the pilot project has helped the department and lead agencies improve their quality assurance, quality improvement, and performance measurement systems, outsourcing oversight has also created several challenges for the department.

The report noted the following disadvantages of outsourcing programmatic oversight:

- Weakens the relationship between the department and its contracted agents;
- Reduces the department’s control over the timing, scope and quality of oversight;
- Limits the department’s flexibility to respond quickly to problems; and
- Increases state costs.²¹

As to the increase in cost to the state, OPPAGA noted,

The department incurred additional costs of approximately \$525,000 per year to contract with Chapin Hall.²² The department funded this contract using federal dollars that could have been used to provide services to children. [footnote omitted] *DCF administrators indicate that the department has the capacity to absorb the quality assurance activities for the two pilot sites within existing resources. [emphasis added] . . .* If the pilot project is not continued into Fiscal Year 2009-10, the recurring federal funds supporting the pilot project could be redirected back into services to offset funding reductions resulting from the state’s budget crisis.

The report also noted that there is a limited market of entities that can perform child welfare program monitoring, making competitive bidding difficult. OPPAGA recommended that the Legislature not continue the pilot project beyond FY 2008-09 and not expand outsourced oversight statewide. OPPAGA further recommended,

If the pilot project is not continued, we recommend that the department maintain the quality assurance system improvements and assist the lead agencies in managing and improving their performance through the data analyses. It should also implement its revised quality assurance system for the pilot lead agencies when the pilot project ends in July 2009.

No. 2008-072 (January 2008); Auditor General, *Department Of Children And Family Services, Community-Based Care Pilot Program, Fiscal And Administrative Monitoring, Operational Audit, Report No.2009-095* (January 2009).

¹⁸ Auditor General, *Department Of Children And Family Services, Community-Based Care Pilot Program, Fiscal And Administrative Monitoring, Operational Audit, Report No.2009-095* (January 2009).

¹⁹ *Ibid.*

²⁰ OPPAGA, *CBC Pilot Project Implementation Delayed But Proceeding; Other Initiatives Implemented, Report No. 07-03* (January 2007).

²¹ OPPAGA, *Outsourced Oversight for Community-Based Care Produced Benefits But Substantive Challenges, Report No. 09-09* (February 2009).

²² Chapin Hall is a child welfare research and demonstration institute of the University of Chicago, chosen by the department and the pilot sites to conduct program monitoring as authorized by chapter 2006-30, L.O.F.

OPPAGA also reviewed the revised funding and payment methods, which were incorporated into all lead agency contracts by October 2006. The report identified the following benefits of the new system:

- Change from cost-reimbursement to fixed-price contracts results in predictable cash-flow;
- Fixed price payment requires less detailed invoices, resulting in simplified administrative processes; and
- Allowing lead agencies to delay reconciling unspent general revenue funds until the end of the contract term allows them to create a cash reserve fund to hedge against increased caseloads, to provide incentives or to develop new services.

OPPAGA recommended close monitoring of general revenue utilization by the lead agencies, in an effort to guard against "lead agency financial problems."

The legislation was scheduled for repeal on July 1, 2009. However, the pilot was extended for one more year in chapter 2009-82, Laws of Florida, the Fiscal Year 2009-10 Implementing Bill to the General Appropriations Act.

Proposed Committee Bill Changes

The bill amends section 409.1671, Florida Statutes, and specifies that contracts entered into with community-based care lead agencies must be funded by a grant of general revenue and by applicable other state and federal funding sources. A community-based care lead agency is authorized to carry forward documented unexpended funds from one fiscal year to the next, but must return any unexpended funds that remain at the end of the contract period. Funds carried forward may be retained through any contract renewals and any new procurement as long as the community-based care lead agency is retained by the department.²³

The bill permits the department to increase community-based care lead agency contracts by excess federal funds earned in accordance with the authority and requirements in section 216.181(11), Florida Statutes. The bill requires the department to enter into a fixed-price contract that provides for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

The bill also permits the department to outsource programmatic, administrative or fiscal monitoring oversight of community-based care lead agencies.

The bill also authorizes community-based agencies to continue to use funding received through contracts for the following expenditures:

- Staff cellular telephone allowances;
- Contracts requiring deferred payments and maintenance agreements;
- Security deposits for office leases;
- Agency but not personal professional membership dues;
- Promotional materials not related to fundraising;
- Grant writing services; and
- Food and refreshments for clients in the care of the agency and to foster parents, adoptive parents and caseworkers during training sessions.

B. SECTION DIRECTORY:

Section 1. Creates s. 402.7306, F.S., relating to administrative monitoring for child welfare providers.

Section 2. Amends s. 402.7305, F.S., relating to Department of Children and Family Services procurement of contractual services.

Section 3. Amends s. 409.1451, F.S., relating to independent living transition services.

²³ Section 216.301(1), F.S., requires that all general revenue funds appropriated but not disbursed by September 30 of each fiscal year are to revert to the state and be available for legislative re-appropriation.

Section 4. Repeals s. 409.1663, relating to adoption benefits for qualifying adoptive employees of state agencies.

Section 5. Amends s.409.1671, F.S., relating to outsourcing of foster care and related services.

Section 6. Amends s. 409.166, F.S., conforming a reference made by the act.

Section 7. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The House proposed General Appropriations Act (GAA) for Fiscal Year 2010-11 reduces funding to community-based care lead agencies by \$500,000 in recurring general revenue funds as a result of a reduction in administrative monitoring activities, and provides a separate recurring \$35 million specific appropriation for independent living transition services.

The House proposed GAA also eliminates the \$1.8 million appropriation in recurring general revenue funds for state employees' adoption incentives awards.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Former foster children receiving road-to-independence stipends may receive less of a monthly stipend if the stipend previously exceeded \$675 per month. Child welfare providers will experience less administrative monitoring.

Although all child welfare providers are not required to input data in to the warehouse that maintains corporate, fiscal and administrative records, any providers wanting to access the database that are not a member of the Florida Coalition for Children would be assessed a nominal fee, approximately \$50 per month.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to child welfare; creating s. 402.7306,
3 F.S.; requiring the Department of Children and Family
4 Services, the Department of Health, the Agency for Persons
5 with Disabilities, the Agency for Health Care
6 Administration, and community-based care lead agencies to
7 adopt policies for the administrative monitoring of child
8 welfare providers; authorizing private-sector entities to
9 establish an Internet-based data warehouse and archive for
10 the maintenance of specified records of child welfare
11 providers; providing agency and provider requirements;
12 amending s. 402.7305, F.S.; providing a limitation on the
13 frequency of monitoring of child-caring and child-placing
14 service providers; prohibiting certain duplicative
15 monitoring; amending s. 409.1451, F.S.; providing that
16 certain services provided to young adults formerly in
17 foster care are subject to a specific appropriation;
18 revising provisions relating to calculating the amount of,
19 issuing, and terminating an award granted under the Road-
20 to-Independence Program; repealing s. 409.1663, F.S.,
21 relating to adoption benefits for qualifying adoptive
22 employees of state agencies; amending s. 409.1671, F.S.;
23 revising provisions relating to funding for contracts
24 established between the Department of Children and Family
25 Services and community-based care lead agencies;
26 authorizing the department to outsource certain functions;
27 authorizing a community-based care lead agency to make
28 certain expenditures; amending s. 409.166, F.S.;

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29 conforming a reference to changes made by the act;
 30 providing an effective date.

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

33
 34 Section 1. Section 402.7306, Florida Statutes, is created
 35 to read:

36 402.7306 Administrative monitoring for child welfare
 37 providers.—The Department of Children and Family Services, the
 38 Department of Health, the Agency for Persons with Disabilities,
 39 the Agency for Health Care Administration, and community-based
 40 care lead agencies shall identify and implement changes that
 41 improve the efficiency of administrative monitoring of child
 42 welfare services. To assist with that goal, each such agency
 43 shall adopt the following policies:

44 (1) Limit administrative monitoring to once every 3 years
 45 if the child welfare provider is accredited by the Joint
 46 Commission on the Accreditation of Healthcare Organizations, the
 47 Commission on Accreditation of Rehabilitation Facilities, or the
 48 Council on Accreditation of Children and Family Services.
 49 Notwithstanding the survey or inspection of an accrediting
 50 organization specified in this subsection, an agency specified
 51 in and subject to this section may continue to monitor the
 52 provider as necessary with respect to:

53 (a) Ensuring that services for which the agency is paying
 54 are being provided.

55 (b) Investigating complaints or suspected problems and
 56 monitoring the provider's compliance with any resulting

57 negotiated terms and conditions, including provisions relating
 58 to consent decrees that are unique to a specific service and are
 59 not statements of general applicability.

60 (c) Ensuring compliance with federal and state laws,
 61 federal regulations, or state rules if such monitoring does not
 62 duplicate the accrediting organization's review pursuant to
 63 accreditation standards.

64 (2) Allow private-sector development and implementation of
 65 an Internet-based, secure, and consolidated data warehouse and
 66 archive for maintaining corporate, fiscal, and administrative
 67 records of child welfare providers. A provider shall ensure that
 68 the data is up to date and accessible to the applicable agency
 69 under this section and the appropriate agency subcontractor. A
 70 provider shall submit any revised, updated information to the
 71 data warehouse within 10 business days after receiving the
 72 request. An agency that conducts administrative monitoring of
 73 child welfare providers under this section must use the data
 74 warehouse for document requests. If the information provided to
 75 the agency by the provider's data warehouse is not current or is
 76 unavailable from the data warehouse and archive, the agency may
 77 contact the provider directly. At a minimum, the records must
 78 include the provider's:

- 79 (a) Articles of incorporation.
- 80 (b) Bylaws.
- 81 (c) Governing board and committee minutes.
- 82 (d) Financial audits.
- 83 (e) Expenditure reports.
- 84 (f) Compliance audits.

- 85 | (g) Organizational charts.
- 86 | (h) Governing board membership information.
- 87 | (i) Human resource policies and procedures.

88 | Section 2. Subsection (4) of section 402.7305, Florida
 89 | Statutes, is amended to read:

90 | 402.7305 Department of Children and Family Services;
 91 | procurement of contractual services; contract management.-

92 | (4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.-The
 93 | department shall establish contract monitoring units staffed by
 94 | career service employees who report to a member of the Selected
 95 | Exempt Service or Senior Management Service and who have been
 96 | properly trained to perform contract monitoring., ~~with~~ At least
 97 | one member of the contract monitoring unit must possess
 98 | ~~possessing~~ specific knowledge and experience in the contract's
 99 | program area. The department shall establish a contract
 100 | monitoring process that includes ~~must include~~, but is ~~need~~ not
 101 | be limited to, the following requirements:

102 | (a) Performing a risk assessment at the start of each
 103 | fiscal year and preparing an annual contract monitoring schedule
 104 | that considers ~~includes consideration for~~ the level of risk
 105 | assigned. The department may monitor any contract at any time
 106 | regardless of whether such monitoring was originally included in
 107 | the annual contract monitoring schedule.

108 | (b) Preparing a contract monitoring plan, including
 109 | sampling procedures, before performing onsite monitoring at
 110 | external locations of a service provider. The plan must include
 111 | a description of the programmatic, fiscal, and administrative
 112 | components that will be monitored on site. If appropriate,

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113 clinical and therapeutic components may be included.

114 (c) Conducting analyses of the performance and compliance
 115 of an external service provider by means of desk reviews if the
 116 external service provider will not be monitored on site during a
 117 fiscal year.

118 (d) Unless the department sets forth in writing the need
 119 for an extension, providing a written report presenting the
 120 results of the monitoring within 30 days after the completion of
 121 the onsite monitoring or desk review.

122 (e) Developing and maintaining a set of procedures
 123 describing the contract monitoring process.

124

125 Notwithstanding any other provision of this section, the
 126 department shall limit monitoring of a child-caring or child-
 127 placing services provider under this subsection to only once per
 128 year. Such monitoring may not duplicate administrative
 129 monitoring that is included in the survey of a child welfare
 130 provider conducted by a national accreditation organization
 131 specified under s. 402.7306(1).

132 Section 3. Subsection (5) of section 409.1451, Florida
 133 Statutes, is amended to read:

134 409.1451 Independent living transition services.—

135 (5) SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.—

136 Subject to a specific appropriation ~~Based on the availability of~~
 137 ~~funds~~, the department shall provide or arrange for the following
 138 services to young adults formerly in foster care who meet the
 139 prescribed conditions and are determined eligible by the
 140 department. The department, or a community-based care lead

141 | agency when the agency is under contract with the department to
 142 | provide the services described under this subsection, shall
 143 | develop a plan to implement those services. A plan shall be
 144 | developed for each community-based care service area in the
 145 | state. Each plan that is developed by a community-based care
 146 | lead agency shall be submitted to the department. Each plan
 147 | shall include the number of young adults to be served each month
 148 | of the fiscal year and specify the number of young adults who
 149 | will reach 18 years of age who will be eligible for the plan and
 150 | the number of young adults who will reach 23 years of age and
 151 | will be ineligible for the plan or who are otherwise ineligible
 152 | during each month of the fiscal year; staffing requirements and
 153 | all related costs to administer the services and program;
 154 | expenditures to or on behalf of the eligible recipients; costs
 155 | of services provided to young adults through an approved plan
 156 | for housing, transportation, and employment; reconciliation of
 157 | these expenses and any additional related costs with the funds
 158 | allocated for these services; and an explanation of and a plan
 159 | to resolve any shortages or surpluses in order to end the fiscal
 160 | year with a balanced budget. The categories of services
 161 | available to assist a young adult formerly in foster care to
 162 | achieve independence are:

163 | (a) Aftercare support services.—

164 | 1. Aftercare support services are available to assist
 165 | young adults who were formerly in foster care in their efforts
 166 | to continue to develop the skills and abilities necessary for
 167 | independent living. The aftercare support services available
 168 | include, but are not limited to, the following:

- 169 a. Mentoring and tutoring.
- 170 b. Mental health services and substance abuse counseling.
- 171 c. Life skills classes, including credit management and
- 172 preventive health activities.
- 173 d. Parenting classes.
- 174 e. Job and career skills training.
- 175 f. Counselor consultations.
- 176 g. Temporary financial assistance.
- 177 h. Financial literacy skills training.

178
 179 The specific services to be provided under this subparagraph
 180 shall be determined by an aftercare services assessment and may
 181 be provided by the department or through referrals in the
 182 community.

183 2. Temporary assistance provided to prevent homelessness
 184 shall be provided as expeditiously as possible and within the
 185 limitations defined by the department.

186 3. A young adult who has reached 18 years of age but is
 187 not yet 23 years of age who leaves foster care at 18 years of
 188 age but who requests services prior to reaching 23 years of age
 189 is eligible for such services.

190 (b) Road-to-Independence Program.-

191 1. The Road-to-Independence Program is intended to help
 192 eligible students who are former foster children in this state
 193 to receive the educational and vocational training needed to
 194 achieve independence. The amount of the award may ~~shall~~ be based
 195 on the living and educational needs of the young adult and may
 196 ~~be up to, but may~~ not exceed \$675 per month. Payment for a

197 partial month shall be prorated on the basis of a 30-day month,
 198 ~~the amount of earnings that the student would have been eligible~~
 199 ~~to earn working a 40-hour-a-week federal minimum wage job.~~

200 2. A young adult who has earned a standard high school
 201 diploma or its equivalent as described in s. 1003.43 or s.
 202 1003.435, has earned a special diploma or special certificate of
 203 completion as described in s. 1003.438, or has reached 18 years
 204 of age but is not yet 21 years of age is eligible for the
 205 initial award, and a young adult under 23 years of age is
 206 eligible for renewal awards, if he or she:

207 a. Was a dependent child, under chapter 39, and was living
 208 in licensed foster care or in subsidized independent living at
 209 the time of his or her 18th birthday or is currently living in
 210 licensed foster care or subsidized independent living, or, after
 211 reaching the age of 16, was adopted from foster care or placed
 212 with a court-approved dependency guardian and has spent a
 213 minimum of 6 months in foster care immediately preceding such
 214 placement or adoption;

215 b. Spent at least 6 months living in foster care before
 216 reaching his or her 18th birthday;

217 c. Is a resident of this state as defined in s. 1009.40;
 218 and

219 d. Meets one of the following qualifications:

220 (I) Has earned a standard high school diploma or its
 221 equivalent as described in s. 1003.43 or s. 1003.435, or has
 222 earned a special diploma or special certificate of completion as
 223 described in s. 1003.438, and has been admitted for full-time
 224 enrollment in an eligible postsecondary education institution as

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225 defined in s. 1009.533;
 226 (II) Is enrolled full time in an accredited high school;
 227 or
 228 (III) Is enrolled full time in an accredited adult
 229 education program designed to provide the student with a high
 230 school diploma or its equivalent.

231 3. A young adult applying for the Road-to-Independence
 232 Program must apply for any other grants and scholarships for
 233 which he or she may qualify. The department shall assist the
 234 young adult in the application process and may use the federal
 235 financial aid grant process to determine the funding needs of
 236 the young adult.

237 4. An award shall be available to a young adult who is
 238 considered a full-time student or its equivalent by the
 239 educational institution in which he or she is enrolled, unless
 240 that young adult has a recognized disability preventing full-
 241 time attendance. The amount of the award, whether it is being
 242 used by a young adult working toward completion of a high school
 243 diploma or its equivalent or working toward completion of a
 244 postsecondary education program, shall be determined based on an
 245 assessment of the funding needs of the young adult. This
 246 assessment must consider the young adult's living and
 247 educational costs and other grants, scholarships, waivers,
 248 earnings, and other income to be received by the young adult. An
 249 award shall be available only to the extent that other grants
 250 and scholarships are not sufficient to meet the living and
 251 educational needs of the young adult, but an award may not be
 252 less than \$25 in order to maintain Medicaid eligibility for the

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253 young adult as provided in s. 409.903.

254 5. The amount of the award may be disregarded for purposes
 255 of determining the eligibility for, or the amount of, any other
 256 federal or federally supported assistance.

257 6.a. The department must advertise the criteria,
 258 application procedures, and availability of the program to:

259 (I) Children and young adults in, leaving, or formerly in
 260 foster care.

261 (II) Case managers.

262 (III) Guidance and family services counselors.

263 (IV) Principals or other relevant school administrators.

264 (V) Guardians ad litem.

265 (VI) Foster parents.

266 b. The department shall issue awards from the program for
 267 each young adult who meets all the requirements of the program
 268 subject to a specific appropriation ~~to the extent funding is~~
 269 ~~available.~~

270 c. An award shall be issued on the day ~~at the time~~ the
 271 eligible student reaches 18 years of age.

272 d. A young adult who is eligible for the Road-to-
 273 Independence Program, transitional support services, or
 274 aftercare services and who so desires shall be allowed to reside
 275 with the licensed foster family or group care provider with whom
 276 he or she was residing at the time of attaining his or her 18th
 277 birthday or to reside in another licensed foster home or with a
 278 group care provider arranged by the department.

279 e. If the award recipient transfers from one eligible
 280 institution to another and continues to meet eligibility

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281 requirements, the award must be transferred with the recipient.

282 f. Funds awarded to any eligible young adult under this
 283 program are in addition to any other services or funds provided
 284 to the young adult by the department through transitional
 285 support services or aftercare services.

286 g. The department shall provide information concerning
 287 young adults receiving funding through the Road-to-Independence
 288 Program to the Department of Education for inclusion in the
 289 student financial assistance database, as provided in s.
 290 1009.94.

291 h. Funds are intended to help eligible young adults who
 292 are former foster children in this state to receive the
 293 educational and vocational training needed to become independent
 294 and self-supporting. The funds shall be terminated when the
 295 young adult has attained one of four postsecondary goals under
 296 subsection (3) or reaches 23 years of age, whichever occurs
 297 earlier. In order to initiate postsecondary education, to allow
 298 for a change in career goal, or to obtain additional skills in
 299 the same educational or vocational area, a young adult may earn
 300 no more than two diplomas, certificates, or credentials. A young
 301 adult attaining an associate of arts or associate of science
 302 degree shall be permitted to work toward completion of a
 303 bachelor of arts or a bachelor of science degree or an
 304 equivalent undergraduate degree. Road-to-Independence Program
 305 funds may not be used for education or training after a young
 306 adult has attained a bachelor of arts or a bachelor of science
 307 degree or an equivalent undergraduate degree.

308 i. The department shall evaluate and renew each award

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309 | annually during the 90-day period before the young adult's
 310 | birthday. In order to be eligible for a renewal award for the
 311 | subsequent year, the young adult must:

312 | (I) Complete the number of hours, or the equivalent
 313 | considered full time by the educational institution, unless that
 314 | young adult has a recognized disability preventing full-time
 315 | attendance, in the last academic year in which the young adult
 316 | earned an award, except for a young adult who meets the
 317 | requirements of s. 1009.41.

318 | (II) Maintain appropriate progress as required by the
 319 | educational institution, except that, if the young adult's
 320 | progress is insufficient to renew the award at any time during
 321 | the eligibility period, the young adult may restore eligibility
 322 | by improving his or her progress to the required level.

323 | j. Funds shall ~~may~~ be terminated during the interim
 324 | between an award and the evaluation for a renewal award if the
 325 | department determines that the award recipient is no longer
 326 | enrolled in an educational institution as defined in sub-
 327 | subparagraph 2.d., or is no longer a state resident. The
 328 | department shall notify a recipient who is terminated and inform
 329 | the recipient of his or her right to appeal.

330 | k. An award recipient who does not qualify for a renewal
 331 | award or who chooses not to renew the award may subsequently
 332 | apply for reinstatement. An application for reinstatement must
 333 | be made before the young adult reaches 23 years of age, and a
 334 | student may not apply for reinstatement more than once. In order
 335 | to be eligible for reinstatement, the young adult must meet the
 336 | eligibility criteria and the criteria for award renewal for the

337 program.

338 (c) Transitional support services.—

339 1. In addition to any services provided through aftercare
 340 support or the Road-to-Independence Program, a young adult
 341 formerly in foster care may receive other appropriate short-term
 342 funding and services, which may include financial, housing,
 343 counseling, employment, education, mental health, disability,
 344 and other services, if the young adult demonstrates that the
 345 services are critical to the young adult's own efforts to
 346 achieve self-sufficiency and to develop a personal support
 347 system. The department or community-based care provider shall
 348 work with the young adult in developing a joint transition plan
 349 that is consistent with a needs assessment identifying the
 350 specific need for transitional services to support the young
 351 adult's own efforts. The young adult must have specific tasks to
 352 complete or maintain included in the plan and be accountable for
 353 the completion of or making progress towards the completion of
 354 these tasks. If the young adult and the department or community-
 355 based care provider cannot come to agreement regarding any part
 356 of the plan, the young adult may access a grievance process to
 357 its full extent in an effort to resolve the disagreement.

358 2. A young adult formerly in foster care is eligible to
 359 apply for transitional support services if he or she has reached
 360 18 years of age but is not yet 23 years of age, was a dependent
 361 child pursuant to chapter 39, was living in licensed foster care
 362 or in subsidized independent living at the time of his or her
 363 18th birthday, and had spent at least 6 months living in foster
 364 care before that date.

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365 3. If at any time the services are no longer critical to
 366 the young adult's own efforts to achieve self-sufficiency and to
 367 develop a personal support system, they shall be terminated.

368 (d) Payment of aftercare, Road-to-Independence Program, or
 369 transitional support funds.-

370 1. Payment of aftercare, Road-to-Independence Program, or
 371 transitional support funds shall be made directly to the
 372 recipient unless the recipient requests in writing to the
 373 community-based care lead agency, or the department, that the
 374 payments or a portion of the payments be made directly on the
 375 recipient's behalf in order to secure services such as housing,
 376 counseling, education, or employment training as part of the
 377 young adult's own efforts to achieve self-sufficiency.

378 2. After the completion of aftercare support services that
 379 satisfy the requirements of sub-subparagraph (a)1.h., payment of
 380 awards under the Road-to-Independence Program shall be made by
 381 direct deposit to the recipient, unless the recipient requests
 382 in writing to the community-based care lead agency or the
 383 department that:

384 a. The payments be made directly to the recipient by check
 385 or warrant;

386 b. The payments or a portion of the payments be made
 387 directly on the recipient's behalf to institutions the recipient
 388 is attending to maintain eligibility under this section; or

389 c. The payments be made on a two-party check to a business
 390 or landlord for a legitimate expense, whether reimbursed or not.
 391 A legitimate expense for the purposes of this sub-subparagraph
 392 shall include automobile repair or maintenance expenses;

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393 | educational, job, or training expenses; and costs incurred,
 394 | except legal costs, fines, or penalties, when applying for or
 395 | executing a rental agreement for the purposes of securing a home
 396 | or residence.

397 | 3. The community-based care lead agency may purchase
 398 | housing, transportation, or employment services to ensure the
 399 | availability and affordability of specific transitional services
 400 | thereby allowing an eligible young adult to utilize these
 401 | services in lieu of receiving a direct payment. Prior to
 402 | purchasing such services, the community-based care lead agency
 403 | must have a plan approved by the department describing the
 404 | services to be purchased, the rationale for purchasing the
 405 | services, and a specific range of expenses for each service that
 406 | is less than the cost of purchasing the service by an individual
 407 | young adult. The plan must include a description of the
 408 | transition of a young adult using these services into
 409 | independence and a timeframe for achievement of independence. An
 410 | eligible young adult who prefers a direct payment shall receive
 411 | such payment. The plan must be reviewed annually and evaluated
 412 | for cost-efficiency and for effectiveness in assisting young
 413 | adults in achieving independence, preventing homelessness among
 414 | young adults, and enabling young adults to earn a livable wage
 415 | in a permanent employment situation.

416 | 4. The young adult who resides with a foster family may
 417 | not be included as a child in calculating any licensing
 418 | restriction on the number of children in the foster home.

419 | (e) Appeals process.—

420 | 1. The Department of Children and Family Services shall

421 adopt by rule a procedure by which a young adult may appeal an
 422 eligibility determination or the department's failure to provide
 423 aftercare, Road-to-Independence Program, or transitional support
 424 services, or the termination of such services, if such funds are
 425 available.

426 2. The procedure developed by the department must be
 427 readily available to young adults, must provide timely
 428 decisions, and must provide for an appeal to the Secretary of
 429 Children and Family Services. The decision of the secretary
 430 constitutes final agency action and is reviewable by the court
 431 as provided in s. 120.68.

432 Section 4. Section 409.1663, Florida Statutes, is
 433 repealed.

434 Section 5. Subsections (8), (9), (10), and (11) of section
 435 409.1671, Florida Statutes, are renumbered as subsections (10),
 436 (14), (15), and (16), respectively, and new subsections (8),
 437 (9), (11), (12), and (13) are added to that section to read:

438 409.1671 Foster care and related services; outsourcing.—

439 (8) A contract established between the department and a
 440 community-based care lead agency under this section must be
 441 funded by a grant of general revenue, other applicable state
 442 funds, or applicable federal funding sources. A community-based
 443 care lead agency may carry forward documented unexpended state
 444 funds from one fiscal year to the next. Any unexpended funds
 445 that remain at the end of the contract period shall be returned
 446 to the department. Funds carried forward may be retained through
 447 any contract renewals and any new procurements as long as the
 448 community-based care lead agency is retained by the department.

449 (9) The method of payment for a fixed-price contract with
 450 a community-based care lead agency shall provide for a 2-month
 451 advance payment at the beginning of each fiscal year and equal
 452 monthly payments thereafter.

453 (11) Notwithstanding subsection (10), the amount of the
 454 annual contract for a community-based care lead agency may be
 455 increased by excess federal funds earned in accordance with s.
 456 216.181(11).

457 (12) The department may outsource programmatic,
 458 administrative, or fiscal monitoring oversight of community-
 459 based care lead agencies.

460 (13) Notwithstanding any other provision of law, a
 461 community-based care lead agency may make expenditures for staff
 462 cellular telephone allowances, contracts requiring deferred
 463 payments and maintenance agreements, security deposits for
 464 office leases, related agency but not personal professional
 465 membership dues, promotional materials, and grant writing
 466 services. Expenditures for food and refreshments, other than
 467 those provided to clients in the care of the agency and to
 468 foster parents, adoptive parents, and caseworkers during
 469 training sessions, are not allowable.

470 Section 6. Paragraph (b) of subsection (2) of section
 471 409.166, Florida Statutes, is amended to read:

472 409.166 Children within the child welfare system; adoption
 473 assistance program.—

474 (2) DEFINITIONS.—As used in this section, the term:

475 (b) "Adoption assistance" means financial assistance and
 476 services provided to a child and his or her adoptive family.

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477 Such assistance may include a maintenance subsidy, medical
478 assistance, Medicaid assistance, and reimbursement of
479 nonrecurring expenses associated with the legal adoption. The
480 term also includes a tuition exemption at a postsecondary career
481 program, community college, or state university, ~~and a state~~
482 ~~employee adoption benefit under s. 409.1663.~~

483 Section 7. This act shall take effect July 1, 2010.

Amendment No.

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing PCB: Health Care Appropriations
2 Committee

3 Representative(s) Schwartz offered the following:

4
5 **Amendment (with title amendment)**

6 Between lines 482 and 483, insert:

7 Section 7. Paragraph (i) is added to subsection (8) of
8 section 287.0573, Florida Statutes, to read:

9 287.0573 Council on Efficient Government; membership;
10 duties.—

11 (8) The council shall:

12 (i) For the purpose of fulfilling the contract
13 requirements specified in s. 287.0574(5)(m), develop standards
14 and criteria for the disclosure of chief executive officer
15 compensation and executive compensation packages by prospective
16 contractors under consideration for a proposed outsourcing. The
17 council shall develop the standards and criteria based upon
18 established standards for disclosure of executive compensation
19 such as item 402 of Regulation S-K of the Securities and

Amendment No.

20 Exchange Commission. Required disclosure must include, but is
21 not limited to:

22 1. Compensatory information for the contracting entity's
23 chief executive officer and its four most highly compensated
24 executive officers other than the chief executive officer.

25 2. A series of tables setting forth each compensatory
26 element for a particular year.

27 3. A report by the contractor or subcontractor
28 articulating the bases for their compensation decisions,
29 including the relationship to corporate performance.

30 4. Where applicable, a comparison of total shareholder
31 returns of the contracting entity against those of a broad
32 market index and a peer group.

33 Section 8. Paragraph (m) is added to subsection (5) of
34 section 287.0574, Florida Statutes, to read:

35 287.0574 Business cases to outsource; review and analysis;
36 requirements.—

37 (5) In addition to the contract requirements provided in
38 s. 287.058, each contract for a proposed outsourcing, pursuant
39 to this section, must include, but need not be limited to, the
40 following contractual provisions:

41 (m) A provision that requires disclosure of the
42 contractor's chief executive officer compensation and executive
43 compensation packages in accordance with the standards and
44 criteria developed by the council under s. 287.0573(8)(i).

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T I T L E A M E N D M E N T

Between lines 29 and 30, insert:
amending s. 287.0573, F.S.; requiring the Council on Efficient
Government to develop standards and criteria for the disclosure
of chief executive officer compensation and executive
compensation packages by prospective contractors under
consideration for a proposed outsourcing; amending s. 287.0574,
F.S.; requiring the disclosure of compensation packages in
accordance with standards and criteria developed by the Council
on Efficient Government;

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 394.655, Florida Statutes, relates to the Substance Abuse and Mental Health Corporation which is a non-profit corporation created by the Legislature to oversee the state's publicly funded substance abuse and mental health services. The Governor, President of the Senate and Speaker of the House appoint its 12 directors. The corporation is charged with making recommendations annually to the Governor and the Legislature on policies designed to improve coordination and effectiveness of the state's publicly funded mental health and substance abuse system.¹

Section 14.20195, Florida Statutes, relates to the Suicide Prevention Coordinating Council, which is a permanent entity comprising 28 statutorily designated voting members and other non-voting members that is held accountable to the Legislature for designing strategies to implement the Florida Suicide Prevention Strategy. In addition to members appointed by the Governor and specified state officials, the Suicide Prevention Coordinating Council is made up of representatives of the following organizations:

- The Substance Abuse and Mental Health Corporation described in section 394.655, Florida Statutes.
- The Florida Association of School Psychologists.
- The Florida Sheriffs Association.
- The Suicide Prevention Action Network USA.
- The Florida Initiative of Suicide Prevention.
- The Florida Suicide Prevention Coalition.
- The Alzheimer's Association.
- The Florida School Board Association.
- Volunteer Florida.
- The state chapter of AARP.
- The Florida Alcohol and Drug Abuse Association.
- The Florida Council for Community Mental Health.
- The Florida Counseling Association.
- NAMI Florida.

¹ www.samhcorp.org

The Criminal Justice, Mental Health and Substance Abuse Reinvestment Grant Program is created within the Department of Children and Family (DCF) Services.² The purpose of the Criminal Justice, Mental Health and Substance Abuse Reinvestment Grant Program is to demonstrate that investment in diversion strategies and in treatment efforts related to mental illness, substance abuse disorders and co-occurring disorders will result in a reduced demand on the resources of the judicial, corrections, juvenile detention and health and social services systems. In keeping with this purpose, the Substance Abuse and Mental Health Corporation awarded nearly \$4 million dollars to 23 Florida counties.³ The Substance Abuse and Mental Health Corporation, Inc., created in section 394.655, Florida Statutes, is required to establish a statewide grant review committee. The committee shall include:

- Five current members or appointees of the corporation;
- One representative of the Department of Children and Family Services;
- One representative of the Department of Corrections;
- One representative of the Department of Juvenile Justice;
- One representative of the Department of Elderly Affairs; and
- One representative of the Office of the State Courts Administrator.

Effect of Proposed Change

The bill repeals section 394.655, Florida Statutes, which would eliminate the Substance Abuse and Mental Health Corporation. With the elimination of the Substance Abuse and Mental Health Corporation, the bill makes conforming changes in the following areas of statute(s):

- Section 14.20195, Florida Statutes, relating to the reduction in number of voting members and representation of certain organizations. The bill removes the Substance Abuse and Mental Health Corporation from the representation of the Suicide Prevention Coordinating Council. Thus, the Suicide Prevention Coordinating Council is reduced from 28 voting members to 27 voting members and the number of members appointed by the director of the Office of Drug Control is reduced from fourteen members to thirteen members.
- Section 394.656, Florida Statutes, relating to the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program. The bill requires DCF to be responsible for establishing a Statewide Grant Review Committee, which is renamed the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee. The bill revises the current committee structure by deleting five current members or appointees by the Substance Abuse and Mental Health Corporation.
- Section 394.657, Florida Statutes, relating to the review of county planning councils or committees application on their efforts to implement the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program. The bill specifies that the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee will be responsible for the review of such applications.
- Section 394.658, Florida Statutes, relating to the review of Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant applications. The bill specifies that the Criminal Justice, Mental Health, and Substance Abuse Statewide Grant Review Committee will participate along with certain state entities in the development of criteria and the review of grant applications.
- Section 394.659, Florida Statutes, relating to the submittal of an annual report by January 1 of each year on the activities associated with the Criminal Justice, Mental Health, and Substance Abuse Technical Assistance Center.

B. SECTION DIRECTORY:

Section 1. Repeals s. 394.655, F.S., eliminating the Substance Abuse and Mental Health Corporation.

² s. 394.656, F.S.

³ CJMHSA Reinvestment Grant Program, Site Summary Report, July 8, 2009.

Section 2. Amends s. 14.20195, F.S., relating to Suicide Prevention Coordinating Council.

Section 3. Amends s. 394.656, F.S., relating to Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program.

Section 4. Amends s. 394.657, F.S., relating to county planning councils or committees.

Section 5. Amends 394.658, F.S., relating to Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program requirements.

Section 6. Amends s. 394.659, F.S., relating to the Criminal Justice, Mental Health, and Substance Abuse Technical Assistance Center.

Section 7. Provides the bill is effective July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Elimination of the Substance Abuse and Mental Health Corporation:

FY 2010-11

Department of Children & Families

General Revenue

(\$245,457)

Federal Trust Fund(s)

(\$ 58,220)

(\$303,677)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to mental health and substance abuse;
 3 repealing s. 394.655, F.S., relating to the establishment
 4 of the Substance Abuse and Mental Health Corporation;
 5 amending ss. 14.20195, 394.656, 394.657, 394.658, and
 6 394.659, F.S.; conforming references to changes made by
 7 the act; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Section 394.655, Florida Statutes, is repealed.

12 Section 2. Paragraph (a) of subsection (2) of section
 13 14.20195, Florida Statutes, is amended to read:

14 14.20195 Suicide Prevention Coordinating Council;
 15 creation; membership; duties.—There is created within the
 16 Statewide Office for Suicide Prevention a Suicide Prevention
 17 Coordinating Council. The council shall develop strategies for
 18 preventing suicide.

19 (2) MEMBERSHIP.—The Suicide Prevention Coordinating
 20 Council shall consist of 27 ~~28~~ voting members.

21 (a) Thirteen ~~Fourteen~~ members shall be appointed by the
 22 director of the Office of Drug Control and shall represent the
 23 following organizations:

24 ~~1. The Substance Abuse and Mental Health Corporation~~
 25 ~~described in s. 394.655.~~

26 1.2. The Florida Association of School Psychologists.

27 2.3. The Florida Sheriffs Association.

28 3.4. The Suicide Prevention Action Network USA.

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- 29 | ~~4.5.~~ The Florida Initiative of Suicide Prevention.
- 30 | ~~5.6.~~ The Florida Suicide Prevention Coalition.
- 31 | ~~6.7.~~ The Alzheimer's Association.
- 32 | ~~7.8.~~ The Florida School Board Association.
- 33 | ~~8.9.~~ Volunteer Florida.
- 34 | ~~9.10.~~ The state chapter of AARP.
- 35 | ~~10.11.~~ The Florida Alcohol and Drug Abuse Association.
- 36 | ~~11.12.~~ The Florida Council for Community Mental Health.
- 37 | ~~12.13.~~ The Florida Counseling Association.
- 38 | ~~13.14.~~ NAMI Florida.

39 | Section 3. Subsection (2) of section 394.656, Florida
 40 | Statutes, is amended to read:

41 | 394.656 Criminal Justice, Mental Health, and Substance
 42 | Abuse Reinvestment Grant Program.—

43 | (2) The department ~~Florida Substance Abuse and Mental~~
 44 | ~~Health Corporation, Inc., created in s. 394.655,~~ shall establish
 45 | a Criminal Justice, Mental Health, and Substance Abuse Statewide
 46 | Grant Review Committee. The committee shall include:

47 | ~~(a) Five current members or appointees of the corporation;~~

48 | (a) ~~(b)~~ One representative of the Department of Children
 49 | and Family Services;

50 | (b) ~~(c)~~ One representative of the Department of
 51 | Corrections;

52 | (c) ~~(d)~~ One representative of the Department of Juvenile
 53 | Justice;

54 | (d) ~~(e)~~ One representative of the Department of Elderly
 55 | Affairs; and

56 | (e) ~~(f)~~ One representative of the Office of the State

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57 Courts Administrator.

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59 To the extent possible, the members of the committee shall have
60 expertise in grant writing, grant reviewing, and grant
61 application scoring.

62 Section 4. Subsection (1) of section 394.657, Florida
63 Statutes, is amended to read:

64 394.657 County planning councils or committees.—

65 (1) Each board of county commissioners shall designate the
66 county public safety coordinating council established under s.
67 951.26, or designate another criminal or juvenile justice mental
68 health and substance abuse council or committee, as the planning
69 council or committee. The public safety coordinating council or
70 other designated criminal or juvenile justice mental health and
71 substance abuse council or committee, in coordination with the
72 county offices of planning and budget, shall make a formal
73 recommendation to the board of county commissioners regarding
74 how the Criminal Justice, Mental Health, and Substance Abuse
75 Reinvestment Grant Program may best be implemented within a
76 community. The board of county commissioners may assign any
77 entity to prepare the application on behalf of the county
78 administration for submission to the Criminal Justice, Mental
79 Health, and Substance Abuse Statewide Grant Review Committee
80 ~~cooperation~~ for review. A county may join with one or more
81 counties to form a consortium and use a regional public safety
82 coordinating council or another county-designated regional
83 criminal or juvenile justice mental health and substance abuse
84 planning council or committee for the geographic area

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85 represented by the member counties.

86 Section 5. Subsection (1) of section 394.658, Florida
87 Statutes, is amended to read:

88 394.658 Criminal Justice, Mental Health, and Substance
89 Abuse Reinvestment Grant Program requirements.—

90 (1) The Criminal Justice, Mental Health, and Substance
91 ~~Abuse and Mental Health Corporation~~ Statewide Grant Review
92 Committee, in collaboration with the Department of Children and
93 Family Services, the Department of Corrections, the Department
94 of Juvenile Justice, the Department of Elderly Affairs, and the
95 Office of the State Courts Administrator, shall establish
96 criteria to be used ~~by the corporation~~ to review submitted
97 applications and to select the county that will be awarded a 1-
98 year planning grant or a 3-year implementation or expansion
99 grant. A planning, implementation, or expansion grant may not be
100 awarded unless the application of the county meets the
101 established criteria.

102 (a) The application criteria for a 1-year planning grant
103 must include a requirement that the applicant county or counties
104 have a strategic plan to initiate systemic change to identify
105 and treat individuals who have a mental illness, substance abuse
106 disorder, or co-occurring mental health and substance abuse
107 disorders who are in, or at risk of entering, the criminal or
108 juvenile justice systems. The 1-year planning grant must be used
109 to develop effective collaboration efforts among participants in
110 affected governmental agencies, including the criminal,
111 juvenile, and civil justice systems, mental health and substance
112 abuse treatment service providers, transportation programs, and

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113 housing assistance programs. The collaboration efforts shall be
 114 the basis for developing a problem-solving model and strategic
 115 plan for treating adults and juveniles who are in, or at risk of
 116 entering, the criminal or juvenile justice system and doing so
 117 at the earliest point of contact, taking into consideration
 118 public safety. The planning grant shall include strategies to
 119 divert individuals from judicial commitment to community-based
 120 service programs offered by the Department of Children and
 121 Family Services in accordance with ss. 916.13 and 916.17.

122 (b) The application criteria for a 3-year implementation
 123 or expansion grant shall require information from a county that
 124 demonstrates its completion of a well-established collaboration
 125 plan that includes public-private partnership models and the
 126 application of evidence-based practices. The implementation or
 127 expansion grants may support programs and diversion initiatives
 128 that include, but need not be limited to:

- 129 1. Mental health courts;
- 130 2. Diversion programs;
- 131 3. Alternative prosecution and sentencing programs;
- 132 4. Crisis intervention teams;
- 133 5. Treatment accountability services;
- 134 6. Specialized training for criminal justice, juvenile
 135 justice, and treatment services professionals;
- 136 7. Service delivery of collateral services such as
 137 housing, transitional housing, and supported employment; and
- 138 8. Reentry services to create or expand mental health and
 139 substance abuse services and supports for affected persons.

140 (c) Each county application must include the following

141 information:

142 1. An analysis of the current population of the jail and
143 juvenile detention center in the county, which includes:

144 a. The screening and assessment process that the county
145 uses to identify an adult or juvenile who has a mental illness,
146 substance abuse disorder, or co-occurring mental health and
147 substance abuse disorders;

148 b. The percentage of each category of persons admitted to
149 the jail and juvenile detention center that represents people
150 who have a mental illness, substance abuse disorder, or co-
151 occurring mental health and substance abuse disorders; and

152 c. An analysis of observed contributing factors that
153 affect population trends in the county jail and juvenile
154 detention center.

155 2. A description of the strategies the county intends to
156 use to serve one or more clearly defined subsets of the
157 population of the jail and juvenile detention center who have a
158 mental illness or to serve those at risk of arrest and
159 incarceration. The proposed strategies may include identifying
160 the population designated to receive the new interventions, a
161 description of the services and supervision methods to be
162 applied to that population, and the goals and measurable
163 objectives of the new interventions. The interventions a county
164 may use with the target population may include, but are not
165 limited to:

166 a. Specialized responses by law enforcement agencies;

167 b. Centralized receiving facilities for individuals
168 evidencing behavioral difficulties;

- 169 c. Postbooking alternatives to incarceration;
- 170 d. New court programs, including pretrial services and
171 specialized dockets;
- 172 e. Specialized diversion programs;
- 173 f. Intensified transition services that are directed to
174 the designated populations while they are in jail or juvenile
175 detention to facilitate their transition to the community;
- 176 g. Specialized probation processes;
- 177 h. Day-reporting centers;
- 178 i. Linkages to community-based, evidence-based treatment
179 programs for adults and juveniles who have mental illness or
180 substance abuse disorders; and
- 181 j. Community services and programs designed to prevent
182 high-risk populations from becoming involved in the criminal or
183 juvenile justice system.
- 184 3. The projected effect the proposed initiatives will have
185 on the population and the budget of the jail and juvenile
186 detention center. The information must include:
- 187 a. The county's estimate of how the initiative will reduce
188 the expenditures associated with the incarceration of adults and
189 the detention of juveniles who have a mental illness;
- 190 b. The methodology that the county intends to use to
191 measure the defined outcomes and the corresponding savings or
192 averted costs;
- 193 c. The county's estimate of how the cost savings or
194 averted costs will sustain or expand the mental health and
195 substance abuse treatment services and supports needed in the
196 community; and

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197 | d. How the county's proposed initiative will reduce the
 198 | number of individuals judicially committed to a state mental
 199 | health treatment facility.

200 | 4. The proposed strategies that the county intends to use
 201 | to preserve and enhance its community mental health and
 202 | substance abuse system, which serves as the local behavioral
 203 | health safety net for low-income and uninsured individuals.

204 | 5. The proposed strategies that the county intends to use
 205 | to continue the implemented or expanded programs and initiatives
 206 | that have resulted from the grant funding.

207 | Section 6. Subsection (2) of section 394.659, Florida
 208 | Statutes, is amended to read:

209 | 394.659 Criminal Justice, Mental Health, and Substance
 210 | Abuse Technical Assistance Center.—

211 | (2) ~~The Substance Abuse and Mental Health Corporation and~~
 212 | ~~the~~ Criminal Justice, Mental Health, and Substance Abuse
 213 | Technical Assistance Center shall submit an annual report to the
 214 | Governor, the President of the Senate, and the Speaker of the
 215 | House of Representatives by January 1 of each year, ~~beginning on~~
 216 | ~~January 1, 2009~~. The report must include:

217 | (a) A detailed description of the progress made by each
 218 | grantee in meeting the goals described in the application;

219 | (b) A description of the effect the grant-funded
 220 | initiatives have had on meeting the needs of adults and
 221 | juveniles who have a mental illness, substance abuse disorder,
 222 | or co-occurring mental health and substance abuse disorders,
 223 | thereby reducing the number of forensic commitments to state
 224 | mental health treatment facilities;

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225 (c) A summary of the effect of the grant program on the
 226 growth and expenditures of the jail, juvenile detention center,
 227 and prison;

228 (d) A summary of the initiative's effect on the
 229 availability and accessibility of effective community-based
 230 mental health and substance abuse treatment services for adults
 231 and juveniles who have a mental illness, substance abuse
 232 disorder, or co-occurring mental health and substance abuse
 233 disorders. The summary must describe how the expanded community
 234 diversion alternatives have reduced incarceration and
 235 commitments to state mental health treatment facilities; and

236 (e) A summary of how the local matching funds provided by
 237 the county or consortium of counties leveraged additional
 238 funding to further the goals of the grant program.

239 Section 7. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCA 10-07 Tobacco Education and Prevention

SPONSOR(S): Health Care Appropriations Committee

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee		Massengale	Massengale 
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

The bill makes statutory changes to conform to funding decisions in the House proposed General Appropriations Act (GAA) for Fiscal Year 2010-11. The bill amends section 381.84, Florida Statutes, relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program.

The bill deletes obsolete provisions and updates terminology and changes references to "smoking" to "tobacco use" to ensure the program covers cessation for all types of tobacco products.

The bill expands the media campaign component to include innovative communication strategies that incorporate the use of personal communication devices and online networking, deletes language that exempts each county health department from the competitive bid process to receive core funding, and ensures administration and management expenditures for the Department of Health are limited to 5 percent as provided elsewhere in the section.

The bill deletes obsolete language related to Area Health Education Centers (AHECs), makes the AHEC's continued function in each county permissive, and deletes language requiring the AHECs to compete for future funding. Additionally, the bill expands upon the state and community intervention component of the state tobacco control program with regard to tobacco-related disparities by authorizing community mental health providers under contract with the Department of Children and Families pursuant to section 394.74, Florida Statutes, to receive a portion of the annual tobacco appropriation to provide intervention and tobacco-use cessation treatment for persons with mental illness, subject to a specific appropriation in the General Appropriations Act.

The bill requires the department to submit a written proposal for implementing an incentive-based pilot program using commitment contracts for tobacco-users and provides specific guidance for decision-points that must be included in the department's proposal. The proposal must be submitted to the Legislature, including the appropriate substantive committees, by December 1, 2010.

The House proposed GAA for Fiscal Year 2010-11 continues a \$10 million Tobacco Settlement Trust Fund appropriation for Area Health Education Centers and redirects \$9 million from county health department core funding to community mental health providers.

The bill takes effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Constitutional Amendment

On November 7, 2006, the voters in the State of Florida adopted Amendment 4, creating the Comprehensive Statewide Tobacco Education and Prevention Program.¹ Pursuant to the amendment, the state is required to create a comprehensive, statewide program consistent with the United States Department of Health and Human Services, Centers for Disease Control and Prevention (CDC) 1999 best practices, as periodically amended. In particular, the program must consist of the following program components:

- An advertising campaign, funded by at least one-third of the required annual appropriation.
- Evidence-based curricula and programs to educate youth about tobacco and discourage their use of it.
- Programs of local community-based partnerships.
- Enforcement of laws, regulations, and policies against the sale or other provision of tobacco to minors, and the possession of tobacco by minors.
- Publicly-reported annual evaluations to ensure that moneys appropriated for the program are spent properly.

The Constitution specifies that the Legislature must appropriate 15 percent of the total gross funds that tobacco companies paid to the State of Florida in 2005 under the Tobacco Settlement. This amount must be adjusted annually for inflation using the Consumer Price Index. For Fiscal Year 2009-2010, the mandated appropriation is \$61.8 million.

In 2007, the Legislature created section 381.84, Florida Statutes, the Comprehensive Statewide Tobacco Education and Use Prevention Program, to implement the constitutional amendment.

¹ Art. X, s. 27, Fla. Const.

The CDC released an amended best practices document in October 2007, the Best Practices for Comprehensive Tobacco Control Programs—October 2007 (“2007 Best Practices”).² The 2007 Best Practices comprise the following components:

- State and Community Interventions
- Health Communication Interventions
- Cessation Interventions
- Surveillance and Evaluation
- Administration and Management

State and Community Interventions

State and Community Interventions include statewide programs, community programs, programs to identify and eliminate tobacco related disparities, programs to prevent tobacco use among youth, and programs to reduce the burden of tobacco-related diseases.

The 2007 Best Practices provide that the program focus on identifying and eliminating tobacco-related disparities among population groups. Tobacco-related disparities are defined to include “[d]ifferences in the risk, incidence, morbidity, mortality, and burden of tobacco-related illness that exist among specific population groups in the United States.”

The CDC notes that “because some populations experience a disproportionate health and economic burden from tobacco use, a focus on eliminating such tobacco-related disparities is necessary.” The CDC encourages state programs to fund organizations that can “effectively reach, involve and mobilize identified specific populations.” As an example of how states can address tobacco-related disparities, the CDC notes that New York’s tobacco control program has integrated tobacco dependence treatment into treatment protocols for mentally ill persons, promoted tobacco-free campuses for mental health treatment facilities and has partnered with agencies representing mental health groups.³

Individuals with mental illness, including those who are treated in mental health clinics, are almost twice as likely to smoke than individuals without mental illness,⁴ and close to half of cigarettes sales in the United States are to individuals suffering from mental illness.⁵ Research by the National Institute on Drug Abuse suggests that treating mental illness can reduce smoking “intensity and nicotine addiction” and that addressing nicotine addiction in conjunction with providing mental health treatment is important to avoid increased risk for tobacco dependence.⁶

Health Communication Interventions

According to the CDC, research indicates that point-of-sale advertising is associated with encouraging youth, particularly younger teens, to try smoking and that cigarette promotions are more influential with youth already experimenting with cigarettes as they progress to regular smoking. Furthermore, the CDC points out that youth-and parent-focuses anti-tobacco advertising campaigns sponsored by the tobacco industry have been shown to actually increase youth tobacco use. In 2005, tobacco companies spent \$13.4 billion to market cigarettes and smokeless tobacco, outspending the nation’s total tobacco prevention and cessation efforts by a ratio of more than 22 to 1. For this reason, it is recommended that sustained media campaigns, combined with other interventions and strategies, are used to decrease the likelihood of tobacco initiation and promote smoking cessation. According to the CDC, an effective

² Located at http://www.cdc.gov/tobacco/stateandcommunity/best_practices/index.htm (last viewed on March 10, 2010).

³ The New York Program also works with substance abuse treatment providers.

⁴ Karen Lasser, MD, et al., “Smoking and Mental Illness – A Population-Based Prevalence Study”, *Journal of American Medical Association*, Vol. 284, No. 20 (November 22-29, 2000); located at <http://jama.ama-assn.org/cgi/content/abstract/284/20/2606> (last viewed on March 10, 2010).

⁵ Patrick Zickler, “NIDA Research Illuminates Associations Between Psychiatric Disorders and Smoking,” *National Institute of Drug Abuse Notes*, Vol. 20, No. 2 (August 2005); located at http://www.nida.nih.gov/NIDA_notes/NNvol20N2/NIDA.html (last viewed on March 10, 2010).

⁶ *Id.*

state health communication intervention should deliver strategic, culturally appropriate, and high-impact messages that employ a number of approaches, including not only traditional print, radio, television, and web-based advertisements, but also press releases, media literacy, health promotion, and efforts to reduce or replace tobacco industry sponsorship and promotions. The CDC also recognizes innovative interventions such as targeting specific audiences by using personal communication devices, text messaging, online networking, and blogs as useful tools.

Cessation Interventions

The CDC recommends that tobacco use treatment should include the following: (1) sustaining, expanding, and promoting the services available through population-based counseling and treatment programs; (2) covering treatment for tobacco use under both public and private insurance, including individual, group, and telephone counseling and all FDA-approved medications; (3) eliminating cost and other barriers to treatment for underserved populations, particularly the uninsured and populations disproportionately affected by tobacco use; and (4) making the health care system changes recommended by the Public Health Service, such as using brief advice by medical providers about cessation, social support and coaching on problem-solving skills, FDA-approved pharmacotherapy, Quitline services, and comprehensive insurance coverage to decrease smoking prevalence.

Surveillance and Evaluation

State surveillance should monitor tobacco-related attitudes, behaviors and health outcomes. The CDC has identified the following surveillance goals: (1) preventing initiation of tobacco use among adults and youth; (2) promoting quitting among adults and youth; (3) eliminating exposure to secondhand smoke; and (4) identifying and eliminating tobacco-related disparities among population groups. By participating in national surveillance systems such as the Behavioral Risk Factor Surveillance System, Youth Risk Behavior Surveillance System, and the Pregnancy Risk Assessment Monitoring System states can compare a program's impact and outcomes with national trends. Program evaluation efforts should link statewide and local program efforts; use short-term and intermediate indicators of program effectiveness; identify needed policy and social norms changes; and monitor counter-marketing efforts to examine the impact of pro-tobacco influences. The CDC also recommends collecting data from the Quitline Minimal Data set, vital statistics, air quality studies, opinion surveys, and media programming data. The CDC has developed several guides for states that provide information on selecting evidence-based indicators and linking them to program outcomes.

Administration and Management

The CDC recommends up to 5 percent of the state's program budget be allocated to administration and management.

County Health Departments and Area Health Education Centers

Section 381.84(3)(g), Florida Statutes, authorizes county health departments to coordinate tobacco use and prevention programs and improve infrastructure of the county health departments to implement such programs. According to the Department of Health,⁷ in furtherance of this statutory mission, county health departments currently provide:

- One-on-one counseling to individuals seeking to quit smoking;
- Fax referrals of individuals to the Florida Tobacco Quitline; and
- \$500,000 in free Nicotine Replacement Therapy for Floridians.⁸

⁷ See February 18, 2010 Presentation by Janine Myrick, J.D., Florida Department of Health Bureau of Tobacco Prevention Program, before the House Health Care Appropriations Committee.

⁸ According to the department, current funding for Florida's Tobacco Quitline includes approximately \$4 million for free Nicotine Replacement Therapy for Quitline participants. See *id.*

Additionally, county health departments are required to prominently display counter-marketing and advertising materials, such as wall posters and brochures in treating rooms and waiting rooms; and display screen savers, and internet and television advertising if internet kiosks or televisions are available. County health departments currently receive \$9.4 million from the State and Community Interventions component of the Tobacco Cessation Program.

Section 381.84(3)(i), Florida Statutes, requires Area Health Education Centers (AHECs), for the 2009-2010 fiscal year, to expand tobacco-cessation initiatives to each county of the state. AHECs provide tobacco cessation, prevention and treatment training for health care practitioners and, in partnership with the Florida Quitline, provide in-person cessation counseling for individuals attempting to quit smoking.⁹ Area Health Education Centers received: \$4 million for tobacco cessation counseling services, while the remaining \$6 million is used for prevention and treatment training. Current law authorizes AHECs to compete for funding beginning in the 2010-2011 fiscal year.

Community Mental Health Centers

Publicly-funded substance abuse and mental health services in Florida are primarily provided through the Department of Children and Family Services (DCF). The 2003 Legislature established separate substance abuse and mental health program offices within DCF under the Assistant Secretary for Substance Abuse and Mental Health.

Community mental health centers are publicly-funded, not-for-profit entities that contract with DCF pursuant to section 394.74, Florida Statutes, to provide inpatient, outpatient, day treatment or emergency mental health treatment services adults and children with mental illness or co-occurring substance abuse and mental illnesses.

Commitment Contracts

Commitment contracts are contracts entered into by two parties with the aim of helping one party fulfill a plan for future actions.¹⁰ Commitment contracts can be in the form of hard commitments (those with harsh penalties for failure, or rewards for success) or soft commitments (those which do not have large economic consequences).¹¹ Such contracts could be used in a variety of ways to encourage results, including helping people meet smoking cessation, weight loss, or money management goals.¹²

A study in the Philippines tested the effectiveness of commitment contracts for individuals interesting in quitting smoking.¹³ In the study, one group of smokers was randomly offered the opportunity to sign a commitment contract, called Committed Action to Reduce and End Smoking, with a Philippine Bank offering interest-free savings accounts to smokers as an incentive to stop smoking.¹⁴ These test group participants made an initial deposit, and for the next six months they were encouraged to deposit into the savings account the money they would have spent on tobacco-related products.¹⁵

Participants could not withdraw the funds prior to the end of the six-month period, and risked losing all funds deposited in the account if they failed to cease smoking.¹⁶ At the end of the six months, participants took urine tests to evidence smoking cessation. If they failed the test, then the participants' accumulated deposit funds were donated to charity.¹⁷ Accumulated savings for successful participants was returned.

⁹ See February 18, 2010 Presentation by Dr. Cynthia S. Selleck before the House Health Care Appropriations Committee.

¹⁰ Gharad Bryan, et al., "Commitment Contracts," Economic Growth Center, Yale University, Discussion Paper No. 980 (October 2009); located at <http://ssrn.com/abstract=1493378> (last viewed March 8, 2010).

¹¹ *Id.*

¹² *Id.*

¹³ Xavier Giné, et al., "Putt Your Money Where Your Butt Is: A Commitment Contract for Smoking Cessation," Financial Access Initiative and Innovations for Poverty Action (December 2008); located at

http://www.povertyactionlab.com/papers/85_Karlan_Zinman_Smoking_Cessation.pdf (last visited on March 10, 2010).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

Another group of smokers, the control group, was not provided the opportunity for a commitment contract and, instead, was provided picture cards used as reminders of the health risks associated with smoking.¹⁸

At the conclusion of the experiment, smokers who utilized commitment contracts were 3.3 to 5.8 percentage points more likely to pass the 6-month urine test than the control group.¹⁹ Because urine tests are not the best indicator of continued cessation, “surprise” tests were conducted at 12-months and the results still indicated a greater increase in cessation for the commitment contract group than the control group (3.5 to 5.7 percentage points higher).²⁰

Effect of Proposed Changes:

The bill makes statutory changes to conform to funding decisions made in the House proposed General Appropriations Act for Fiscal Year 2010-11. The bill amends section 381.84, Florida Statutes, relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program. The bill deletes obsolete provisions and updates references to “cyberspace” to “internet.” The bill also changes references to “smoking” to “tobacco use,” which broadens the program to include cessation activity for all types of tobacco products.

The bill expands the media campaign component of the program to include innovative communication strategies that target specific audiences who use personal communication devices and frequent social networking websites. The bill also amends the current “administration, statewide programs, and county health departments” component to “administration and management” and deletes language that exempts each county health department from the competitive bid process to receive core funding. Additionally, the bill limits administration and management expenditures for the department to 5 percent.

The bill deletes obsolete language related to Area Health Education Centers (AHECs), makes the AHECs continued function in each county of the state permissive, and removes a provision authorizing AHECs to compete for future tobacco cessation funding. The House proposed General Appropriations Act (GAA) for Fiscal Year 2010-11 continues a \$10 million appropriation for AHECs.

The bill creates a new component related to tobacco related disparities, which authorizes community mental health providers under contract with the Department of Children and Families pursuant to section 394.74, Florida Statutes, to receive a portion of the annual tobacco appropriation to provide intervention and tobacco-use cessation treatment for persons with mental illness. This paragraph is subject to a specific appropriation in the General Appropriations Act. The House proposed GAA for Fiscal Year 2010-11 redirects \$9 million from county health department core funding to community mental health providers.

The bill requires the department to submit to the President of the Senate, Speaker of the Florida House of Representatives and the appropriate substantive committees of the Legislature a written proposal for implementing an incentive-based pilot program using commitment contracts for tobacco-users. The bill provides that the proposal must include a recommended amount and source of funding for the program, as well as recommendations related to: (1) the location of the pilot program; (2) the type of commitment contract; (3) proposed terms for the commitment contract, including any additional incentives the state could provide or proposed penalties for failing to abstain from smoking; (4) the method for testing for smoking abstinence; and (5) locations of testing centers, which may include AHECs, county health departments or Federally Qualified Health Centers.

The bill deletes obsolete language related to department rulemaking authority.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

Finally, the bill provides an effective date of July 1, 2010.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Use Prevention Program.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The House proposed GAA for Fiscal Year 2010-11 continues a \$10 million Tobacco Settlement Trust Fund appropriation for Area Health Education Centers and redirects \$9 million from county health department core funding to community mental health providers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Community mental health providers will receive a portion of the annual tobacco appropriation to provide intervention and tobacco use cessation treatment for persons with mental illness.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department has sufficient rulemaking authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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29 Prevention Program.—

30 (3) PROGRAM COMPONENTS AND REQUIREMENTS.—The department
 31 shall conduct a comprehensive, statewide tobacco education and
 32 use prevention program consistent with the recommendations for
 33 effective program components contained in the 1999 Best
 34 Practices for Comprehensive Tobacco Control Programs of the CDC,
 35 as amended by the CDC. The program shall include the following
 36 components, each of which shall focus on educating people,
 37 particularly youth and their parents, about the health hazards
 38 of tobacco and discouraging the use of tobacco:

39 (a) Counter-marketing and advertising; Internet cyberspace
 40 resource center.—The counter-marketing and advertising campaign
 41 shall include, at a minimum, Internet, print, radio, and
 42 television advertising and shall be funded with a minimum of
 43 one-third of the total annual appropriation required by s. 27,
 44 Art. X of the State Constitution.

45 1. The campaign shall include an Internet A-cyberspace
 46 resource center for copyrighted materials and information
 47 concerning tobacco education and use prevention, including
 48 cessation, ~~shall be maintained by the program.~~ The Internet Such
 49 resource center must be accessible to the public, including
 50 parents, teachers, and students, at each level of public and
 51 private schools, universities, and colleges in the state and
 52 shall provide links to other relevant resources. The Internet
 53 address for the resource center must be incorporated in all
 54 advertising. The information maintained in the resource center
 55 shall be used by the other components of the program.

56 2. The campaign shall use innovative communication

57 strategies, such as targeting specific audiences who use
 58 personal communication devices and frequent social networking
 59 websites.

60 (b) Cessation programs, counseling, and treatment.—This
 61 program component shall include two subcomponents:

62 1. A statewide toll-free cessation service, which may
 63 include counseling, referrals to other local resources and
 64 support services, and treatment to the extent funds are
 65 available for treatment services; and

66 2. A local community-based program to disseminate
 67 information about tobacco-use ~~smoking~~ cessation, how tobacco-use
 68 ~~smoking~~ cessation relates to prenatal care and obesity
 69 prevention, and other chronic tobacco-related diseases.

70 (c) Surveillance and evaluation.—The program shall conduct
 71 ongoing epidemiological surveillance and shall contract for
 72 annual independent evaluations of the effectiveness of the
 73 various components of the program in meeting the goals as set
 74 forth in subsection (2).

75 (d) Youth school programs.—School and after-school
 76 programs shall use current evidence-based curricula and programs
 77 that involve youth to educate youth about the health hazards of
 78 tobacco, help youth develop skills to refuse tobacco, and
 79 demonstrate to youth how to stop using tobacco.

80 (e) Community programs and chronic disease prevention.—The
 81 department shall promote and support local community-based
 82 partnerships that emphasize programs involving youth, including
 83 programs for the prevention, detection, and early intervention
 84 of tobacco-related ~~smoking-related~~ chronic diseases.

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85 (f) Training.—The program shall include the training of
86 health care practitioners, tobacco-use cessation ~~smoking-~~
87 ~~cessation~~ counselors, and teachers by health professional
88 students and other tobacco-use prevention specialists who are
89 trained in preventing tobacco use and health education. Tobacco-
90 use cessation ~~Smoking-cessation~~ counselors shall be trained by
91 specialists who are certified in tobacco-use cessation.

92 (g) Administration and management, ~~statewide programs, and~~
93 ~~county health departments.~~—The department shall administer the
94 program within the expenditure limit established in subsection
95 (8). As part of this component, the department shall coordinate
96 the activities of state and community-based tobacco control
97 organizations. In addition, ~~Each county health department is~~
98 ~~eligible to receive a portion of the annual appropriation, on a~~
99 ~~per capita basis, for coordinating tobacco education and use~~
100 ~~prevention programs within that county. Appropriated funds may~~
101 ~~be used to improve the infrastructure of the county health~~
102 ~~department to implement the comprehensive, statewide tobacco~~
103 ~~education and use prevention program.~~ each county health
104 department shall prominently display in all treatment rooms and
105 waiting rooms, counter-marketing and advertisement materials in
106 the form of wall posters, brochures, television advertising if
107 televisions are used in the lobby or waiting room, and
108 screensavers and Internet advertising if computer kiosks are
109 available for use or viewing by people at the county health
110 department.

111 (h) Enforcement and awareness of related laws.—In
112 coordination with the Department of Business and Professional

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113 Regulation, the program shall monitor the enforcement of laws,
114 rules, and policies prohibiting the sale or other provision of
115 tobacco to minors, as well as the continued enforcement of the
116 Clean Indoor Air Act prescribed in chapter 386. The
117 advertisements produced in accordance with paragraph (a) may
118 also include information designed to make the public aware of
119 these related laws and rules. The departments may enter into
120 interagency agreements to carry out this program component.

121 (i) AHEC tobacco-use cessation ~~smoking-cessation~~
122 ~~initiative. For the 2009-2010 fiscal year, The AHEC network may~~
123 ~~administer shall expand~~ the AHEC tobacco-use cessation ~~smoking-~~
124 ~~cessation~~ initiative ~~in~~ to each county within the state and
125 perform other activities as determined by the department.

126 (j) Community-based organizations providing services to
127 specific populations.—Subject to a specific appropriation in the
128 General Appropriations Act, and in order to reach, involve, and
129 mobilize tobacco-users with mental illness, community mental
130 health providers under contract with the Department of Children
131 and Family Services pursuant to s. 394.74 are eligible to
132 receive a portion of the annual appropriation to provide
133 intervention services and tobacco-use cessation treatments for
134 persons with mental illness.

135 (4) ADVISORY COUNCIL; MEMBERS, APPOINTMENTS, AND
136 MEETINGS.—The Tobacco Education and Use Prevention Advisory
137 Council is created within the department.

138 (a) The council shall consist of 23 members, including:

139 1. The State Surgeon General, who shall serve as the
140 chairperson.

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141 2. One county health department director, appointed by the
142 State Surgeon General.

143 3. Two members appointed by the Commissioner of Education,
144 of whom one must be a school district superintendent.

145 4. The chief executive officer of the Florida Division of
146 the American Cancer Society, or his or her designee.

147 5. The chief executive officer of the Greater Southeast
148 Affiliate of the American Heart Association, or his or her
149 designee.

150 6. The chief executive officer of the American Lung
151 Association of Florida, or his or her designee.

152 7. The dean of the University of Miami School of Medicine,
153 or his or her designee.

154 8. The dean of the University of Florida College of
155 Medicine, or his or her designee.

156 9. The dean of the University of South Florida College of
157 Medicine, or his or her designee.

158 10. The dean of the Florida State University College of
159 Medicine, or his or her designee.

160 11. The dean of Nova Southeastern College of Osteopathic
161 Medicine, or his or her designee.

162 12. The dean of the Lake Erie College of Osteopathic
163 Medicine in Bradenton, Florida, or his or her designee.

164 13. The chief executive officer of the Campaign for
165 Tobacco Free Kids, or his or her designee.

166 14. The chief executive officer of the Legacy Foundation,
167 or his or her designee.

168 15. Four members appointed by the Governor, of whom two

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169 must have expertise in the field of tobacco-use prevention and
 170 education or tobacco-use ~~smoking~~ cessation and one individual
 171 who shall be between the ages of 16 and 21 at the time of his or
 172 her appointment.

173 16. Two members appointed by the President of the Senate,
 174 of whom one must have expertise in the field of tobacco-use
 175 prevention and education or tobacco-use ~~smoking~~ cessation.

176 17. Two members appointed by the Speaker of the House of
 177 Representatives, of whom one must have expertise in the field of
 178 tobacco-use prevention and education or tobacco-use ~~smoking~~
 179 cessation.

180 (6) CONTRACT REQUIREMENTS.—Contracts or grants for the
 181 program components or subcomponents described in paragraphs
 182 (3) (a) - (f) shall be awarded by the State Surgeon General, after
 183 consultation with the council, on the basis of merit, as
 184 determined by an open, competitive, peer-reviewed process that
 185 ensures objectivity, consistency, and high quality. The
 186 department shall award such grants or contracts no later than
 187 October 1 for each fiscal year. A recipient of a contract or
 188 grant for the program component described in paragraph (3) (c) is
 189 not eligible for a contract or grant award for any other program
 190 component described in subsection (3) in the same state fiscal
 191 year. A school or college of medicine that is represented on the
 192 council is not eligible to receive a contract or grant under
 193 this section. ~~For the 2009-2010 fiscal year only, the department~~
 194 ~~shall award a contract or grant in the amount of \$10 million to~~
 195 ~~the AHEC network for the purpose of developing the components~~
 196 ~~described in paragraph (3) (i). The AHEC network may apply for a~~

197 ~~competitive contract or grant after the 2009-2010 fiscal year.~~

198 (a) In order to ensure that all proposals for funding are
 199 appropriate and are evaluated fairly on the basis of merit, the
 200 State Surgeon General, in consultation with the council, shall
 201 appoint a peer review panel of independent, qualified experts in
 202 the field of tobacco control to review the content of each
 203 proposal and establish its priority score. The priority scores
 204 shall be forwarded to the council and must be considered in
 205 determining which proposals will be recommended for funding.

206 (b) The council and the peer review panel shall establish
 207 and follow rigorous guidelines for ethical conduct and adhere to
 208 a strict policy with regard to conflicts of interest. A member
 209 of the council or panel may not participate in any discussion or
 210 decision with respect to a research proposal by any firm,
 211 entity, or agency with which the member is associated as a
 212 member of the governing body or as an employee or with which the
 213 member has entered into a contractual arrangement. Meetings of
 214 the council and the peer review panels are subject to chapter
 215 119, s. 286.011, and s. 24, Art. I of the State Constitution.

216 ~~(e) Notwithstanding the competitive process for contracts~~
 217 ~~prescribed in this subsection, each county health department is~~
 218 ~~eligible for core funding, on a per capita basis, to implement~~
 219 ~~tobacco education and use prevention activities within that~~
 220 ~~county.~~

221 (c) ~~(d)~~ In each advertising contract, the department shall
 222 limit the total of production fees, buyer commissions, and
 223 related costs to no more than 10 percent of the total contract
 224 amount.

225 ~~(d)-(e)~~ Notwithstanding the competitive process for
 226 contracts prescribed in this subsection, each county health
 227 department is eligible for core funding, on a per capita basis,
 228 to implement tobacco education and use prevention activities
 229 within that county.

230 (7) ANNUAL REPORT REQUIRED.—

231 (a) By January 31 of each year, the department shall
 232 provide to the Governor, the President of the Senate, and the
 233 Speaker of the House of Representatives a report that evaluates
 234 the program's effectiveness in reducing and preventing tobacco
 235 use and that recommends improvements to enhance the program's
 236 effectiveness. The report must contain, at a minimum, an annual
 237 survey of youth attitudes and behavior toward tobacco, as well
 238 as a description of the progress in reducing the prevalence of
 239 tobacco use among youth, adults, and pregnant women; reducing
 240 per capita tobacco consumption; and reducing exposure to
 241 environmental tobacco smoke.

242 (b) By December 1, 2010, the department shall submit to
 243 the Governor, the President of the Senate, the Speaker of the
 244 House of Representatives, and the appropriate substantive
 245 committees of the Legislature a written proposal for
 246 implementing an incentive-based pilot program using commitment
 247 contracts for tobacco-users. The proposal shall include a
 248 recommended amount and source of funding for the pilot program,
 249 as well as recommendations related to:

- 250 1. The location of the pilot program.
- 251 2. The type of commitment contract to be used.
- 252 3. Proposed terms for the commitment contract, including

253 any additional incentives that could be provided by the state
 254 and penalties or consequences for failure to abstain from using
 255 tobacco by program participants.

256 4. The method for testing for tobacco abstention by
 257 program participants.

258 5. The locations of testing site centers, which may
 259 include area health education centers, county health
 260 departments, and federally qualified health centers.

261 (8) LIMITATION ON ADMINISTRATIVE EXPENSES.—From the total
 262 funds appropriated for the Comprehensive Statewide Tobacco
 263 Education and Use Prevention Program in the General
 264 Appropriations Act, an amount of up to 5 percent may be used by
 265 the department for administrative expenses.

266 (9) RULEMAKING AUTHORIZED.—~~By January 1, 2008,~~ The
 267 department shall adopt rules pursuant to ss. 120.536(1) and
 268 120.54 to administer this section.

269 Section 2. This act shall take effect July 1, 2010.