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# Healthcare Council

Tuesday, March 20, 2007  
1:00 PM  
Morris Hall

Revised

# Council Meeting Notice

## HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

### Healthcare Council

**Start Date and Time:** Tuesday, March 20, 2007 01:00 pm  
**End Date and Time:** Tuesday, March 20, 2007 05:00 pm  
**Location:** Morris Hall (17 HOB)  
**Duration:** 4.00 hrs

**Consideration of the following bill(s):**

HB 139 Suicide Prevention by Gibson, H.  
HB 281 Paramedic Certification by Kreegel  
HB 469 Informed Consent by Hays

**Workshop on the following:**

Budget FY 2007-2008

**Consideration of the following proposed council bill(s):**

PCB HCC 07-01 -- relating to trust funds  
PCB HCC 07-02 -- tobacco education and prevention  
PCB HCC 07-10 -- biomedical research funding  
PCB HCC 07-11a -- model fixed payment service delivery system for people with developmental disabilities  
PCB HCC 07-12 -- Medicaid  
PCB HCC 07-13 -- health care

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, March 19, 2007.

By request of the Chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, March 19, 2007.

NOTE: PCB HCC 07-11a had a title change and there is no other change in the body of the bill.

**NOTICE FINALIZED on 03/16/2007 16:05 by BAI**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 139 Suicide Prevention  
SPONSOR(S): Gibson and others  
TIED BILLS: IDEN./SIM. BILLS: SB 224

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Quality	10 Y, 0 N	Guy	Lowell
2) Healthcare Council		Guy	Gormley
3) Policy & Budget Council			
4)			
5)			

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SUMMARY ANALYSIS

The bill creates the Statewide Office for Suicide Prevention in the Office of Drug Control within the Executive Office of the Governor. The bill requires the director of the Office of Drug Control to employ a coordinator for the Statewide Office of Suicide Prevention.

The bill also creates a 28-member Suicide Prevention Coordinating Council within the Statewide Office of Suicide Prevention. Council membership consists of representatives from private sector organizations, agency secretaries and executive directors, and Governor's appointees. The council is required to develop a statewide plan for suicide prevention to coordinate and direct numerous suicide prevention initiatives.

The bill appropriates \$150,000 from the General Revenue Fund and authorizes two positions, one of which is a coordinator for the office to implement the provisions of the bill for Fiscal Year 2007-2008.

The effective date of this bill is July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Limited Government**—The bill creates the Statewide Office for Suicide Prevention in the Office of Drug Control within the Executive Office of the Governor, creates a 28-member Suicide Prevention Coordinating Council, and authorizes two positions to implement the provisions of the bill.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

In Florida, the tenth leading cause of death for the overall population is suicide, with 2,308 suicides in the state during 2005. Suicide is the third leading cause of death for 15-24 year olds, the second leading cause of death for 25-34 year olds, and the fifth leading cause of death for 35-44 year olds.<sup>1</sup> Florida is ranked 15<sup>th</sup> nationally for the number of suicides.<sup>2</sup>

In January 2005, the Office of Drug Control released a guidance document entitled, *Florida Suicide Prevention Strategy 2005-2010*. Among other things, the Strategy advocates for the adoption of a strategic, long-term approach to suicide prevention, which includes the formation of a statewide office for suicide prevention.

Currently, the Office of Drug Control has one staff member who acts as a suicide prevention coordinator. The coordinator distributes the Florida Suicide Prevention Strategy and assists in the implementation of goals and objectives stated within the document by facilitating communication among the numerous public and private entities whose mission is suicide prevention. This position is currently funded through grants to the Office of Drug Control.

Chapter 14, Florida Statutes, describes the organizational structure of the Executive Office of the Governor (EOG). Section 397.332, Florida Statutes, creates the Office of Drug Control inside the EOG. Chapter 20, Florida Statutes, defines several types of advisory bodies:

Name	Duration	Additional Comment
"Council" or "Advisory Council"	"[On] a continuing basis..."	Created by specific statutory enactment and intended to focus on a specific function or program area. Provides recommendations and policy alternatives.
"Committee" or "Task Force"	1 year (without specific statutory enactment); 3 years (with specific statutory enactment)	Appointed to study a particular problem and recommend a solution. Existence terminates upon completion of assignment.
"Coordinating Council"	Not explicitly stated.	An interdepartmental advisory body – one department has primary responsibility but other agencies have an interest.
"Commission"	Not explicitly stated.	Exercises quasi-legislative or quasi-judicial power, and its members must generally be confirmed by the Legislature.

<sup>1</sup> Florida Vital Statistics Annual Report 2005.

<sup>2</sup> Suicide Data Page 2004, Report to the American Association of Suicidology.

Pursuant to section 20.052, Florida Statutes, the creation of any new advisory body requires the following findings or requirements:

- It must be necessary and beneficial to the furtherance of a public purpose.
- It must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose.
- The Legislature and the public must be kept informed of its activities and expenses.
- It meets a statutorily defined purpose.
- Its powers and responsibilities conform to the definitions for governmental units in section 20.03, Florida Statutes (outlined in the table above).
- Its members, unless expressly provided otherwise in the State Constitution, are appointed for 4-year staggered terms.
- Its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are authorized to receive only per diem and reimbursement for travel expenses as provided in section 112.061, Florida Statutes.

In addition, the agency head or the governor appoints private citizen members of a committee or council. Private citizen members of a commission or board of trustees are appointed by the governor and confirmed by the Legislature, and are subject to the dual-office-holding prohibition of section 5(a), Article II of the State Constitution. All meetings of any entity are public, and minutes must be kept. Public records are maintained by the agency under which the entity is created.

#### Effect of Proposed Changes

The bill creates the Statewide Office for Suicide Prevention (“office”) in the Office of Drug Control and specifies duties for the office including:

- Developing a network of community-based programs to improve suicide prevention initiatives.
- Implementing a statewide plan for suicide prevention.
- Increasing public awareness concerning topics relating to suicide prevention.
- Coordinating education and training curricula in suicide prevention efforts for professionals who may have contact with persons at risk of committing suicide.
- Soliciting grants from federal, state, and local sources to fund operations and expenses of the office and the council.

The bill requires the office to employ a coordinator whose responsibility it is to achieve the office’s goals and objectives as set forth in the bill. The bill also creates a Suicide Prevention Coordinating Council (“council”) of 28 members within the office. The council is required to develop a statewide plan for suicide prevention. Further, the council is required to prepare and submit an annual report to the Legislature and the governor regarding suicide prevention programs, activities, and future initiatives.

Council membership is specified within the bill and includes: Office of Drug Control director appointees, who are from the private sector; state agency secretaries and executive directors; and appointees by the governor. The bill specifies terms of office, a meeting schedule, and authorizes per diem and travel reimbursement for council members as authorized by section 112.061, Florida Statutes.

#### C. SECTION DIRECTORY:

Section 1: Creates s. 14.2019, F.S., creating the Statewide Office for Suicide Prevention.

Section 2: Creates s. 14.20195, F.S., creating the Suicide Prevention Coordinating Council.

Section 3: Provides an appropriation.

Section 4: Provides for an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill authorizes the office to seek grants and other methods of funding from federal, state and local sources.

#### 2. Expenditures:

The bill appropriates \$150,000 from the General Revenue Fund and authorizes two positions, one of which is a coordinator for the office to implement the provisions of the bill for Fiscal Year 2007-2008.

### 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:

No additional rule-making authority is required as a result of this bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A.

### D. STATEMENT OF THE SPONSOR

No statement submitted.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES



A bill to be entitled

An act relating to suicide prevention; creating s. 14.2019, F.S.; creating the Statewide Office for Suicide Prevention as a unit of the Office of Drug Control in the Executive Office of the Governor; providing the goals and objectives of the office; creating the position of statewide coordinator for the statewide office, contingent upon a specific appropriation; authorizing the Statewide Office for Suicide Prevention to seek and accept grants or funds from any source to support its operation; creating s. 14.20195, F.S.; creating the Suicide Prevention Coordinating Council within the Statewide Office for Suicide Prevention; providing the scope of activities for the coordinating council; authorizing the coordinating council to assemble an ad hoc committee to advise the coordinating council; providing for membership on the coordinating council; providing an appropriation and authorizing additional positions; providing an effective date.

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

Section 1. Section 14.2019, Florida Statutes, is created to read:

14.2019 Statewide Office for Suicide Prevention.--

(1) The Statewide Office for Suicide Prevention is created as a unit of the Office of Drug Control within the Executive Office of the Governor.

29        (2) The statewide office shall, within available  
 30 resources:

31        (a) Develop a network of community-based programs to  
 32 improve suicide prevention initiatives. The network shall  
 33 identify and work to eliminate barriers to providing suicide  
 34 prevention services to individuals who are at risk of suicide.  
 35 The network shall consist of stakeholders advocating suicide  
 36 prevention, including, but not limited to, not-for-profit  
 37 suicide prevention organizations, faith-based suicide prevention  
 38 organizations, law enforcement agencies, first responders to  
 39 emergency calls, suicide prevention community coalitions,  
 40 schools and universities, mental health agencies, substance  
 41 abuse treatment agencies, health care providers, and school  
 42 personnel.

43        (b) Implement the statewide plan prepared by the Suicide  
 44 Prevention Coordinating Council.

45        (c) Increase public awareness concerning topics relating  
 46 to suicide prevention.

47        (d) Coordinate education and training curricula in suicide  
 48 prevention efforts for law enforcement personnel, first  
 49 responders to emergency calls, health care providers, school  
 50 employees, and other persons who may have contact with persons  
 51 at risk of suicide.

52        (3) Contingent upon a specific appropriation, the director  
 53 of the Office of Drug Control shall employ a coordinator for the  
 54 Statewide Office for Suicide Prevention who shall work under the  
 55 direction of the director to achieve the goals and objectives  
 56 set forth in this section.

57       (4) The Statewide Office for Suicide Prevention may seek  
 58 and accept grants or funds from any federal, state, or local  
 59 source to support the operation and defray the authorized  
 60 expenses of the office and the Suicide Prevention Coordinating  
 61 Council.

62       (5) Agencies under the control of the Governor or the  
 63 Governor and Cabinet are directed, and all others are  
 64 encouraged, to provide information and support to the Statewide  
 65 Office for Suicide Prevention as requested.

66       Section 2. Section 14.20195, Florida Statutes, is created  
 67 to read:

68       14.20195 Suicide Prevention Coordinating Council;  
 69 creation; membership; duties.--There is created within the  
 70 Statewide Office for Suicide Prevention a Suicide Prevention  
 71 Coordinating Council. The council shall develop strategies for  
 72 preventing suicide.

73       (1) SCOPE OF ACTIVITY.--The Suicide Prevention  
 74 Coordinating Council is a coordinating council as defined in s.  
 75 20.03 and shall:

76       (a) Advise the Statewide Office for Suicide Prevention  
 77 regarding the development of a statewide plan for suicide  
 78 prevention, with the guiding principle being that suicide is a  
 79 preventable problem. The statewide plan must:

80       1. Align and provide direction for statewide suicide  
 81 prevention initiatives.

82       2. Establish partnerships with state and private agencies  
 83 for the purpose of promoting public awareness of suicide  
 84 prevention.

85 3. Address specific populations in this state who are at  
 86 risk for suicide.

87 4. Identify ways to improve access to help individuals in  
 88 acute situations.

89 5. Identify resources to support the implementation of the  
 90 statewide plan.

91 (b) Assemble an ad hoc advisory committee comprised of  
 92 members from outside the council, if necessary, in order for the  
 93 council to receive advice and assistance in carrying out its  
 94 responsibilities.

95 (c) Make findings and recommendations regarding suicide  
 96 prevention programs and activities. The council shall prepare an  
 97 annual report and present it to the Governor, the President of  
 98 the Senate, and the Speaker of the House of Representatives by  
 99 January 1, 2008, and each year thereafter. The annual report  
 100 must describe the status of existing and planned initiatives  
 101 identified in the statewide plan for suicide prevention and any  
 102 recommendations arising therefrom.

103 (2) MEMBERSHIP.--The Suicide Prevention Coordinating  
 104 Council shall consist of 28 voting members.

105 (a) Fourteen members shall be appointed by the director of  
 106 the Office of Drug Control and shall represent the following  
 107 organizations:

108 1. The Substance Abuse and Mental Health Corporation  
 109 described in s. 394.655.

110 2. The Florida Association of School Psychologists.

111 3. The Florida Sheriffs Association.

112 4. The Suicide Prevention Action Network USA.

- 113 |       5. The Florida Initiative of Suicide Prevention.
- 114 |       6. The Florida Suicide Prevention Coalition.
- 115 |       7. The Alzheimer's Association.
- 116 |       8. The Florida School Board Association.
- 117 |       9. Volunteer Florida.
- 118 |       10. The state chapter of AARP.
- 119 |       11. The Florida Alcohol and Drug Abuse Association.
- 120 |       12. The Florida Council for Community Mental Health.
- 121 |       13. The Florida Counseling Association.
- 122 |       14. NAMI Florida.
- 123 |       (b) The following state officials or their designees shall
- 124 | serve on the coordinating council:
- 125 |       1. The Secretary of Elderly Affairs.
- 126 |       2. The Secretary of Health.
- 127 |       3. The Commissioner of Education.
- 128 |       4. The Secretary of Health Care Administration.
- 129 |       5. The Secretary of Juvenile Justice.
- 130 |       6. The Secretary of Corrections.
- 131 |       7. The executive director of the Department of Law
- 132 | Enforcement.
- 133 |       8. The executive director of the Department of Veterans'
- 134 | Affairs.
- 135 |       9. The Secretary of Children and Family Services.
- 136 |       10. The director of the Agency for Workforce Innovation.
- 137 |       (c) The Governor shall appoint four additional members to
- 138 | the coordinating council. The appointees must have expertise
- 139 | that is critical to the prevention of suicide or represent an
- 140 | organization that is not already represented on the coordinating

141 council.

142 (d) For the members appointed by the director of the  
 143 Office of Drug Control, seven members shall be appointed to  
 144 initial terms of 3 years, and seven members shall be appointed  
 145 to initial terms of 4 years. For the members appointed by the  
 146 Governor, two members shall be appointed to initial terms of 4  
 147 years, and two members shall be appointed to initial terms of 3  
 148 years. Thereafter, such members shall be appointed to terms of 4  
 149 years. Any vacancy on the coordinating council shall be filled  
 150 in the same manner as the original appointment, and any member  
 151 who is appointed to fill a vacancy occurring because of death,  
 152 resignation, or ineligibility for membership shall serve only  
 153 for the unexpired term of the member's predecessor. A member is  
 154 eligible for reappointment.

155 (e) The director of the Office of Drug Control shall be a  
 156 nonvoting member of the coordinating council and shall act as  
 157 chair.

158 (f) Members of the coordinating council shall serve  
 159 without compensation. Any member of the coordinating council who  
 160 is a public employee is entitled to reimbursement for per diem  
 161 and travel expenses as provided in s. 112.061.

162 (3) MEETINGS.--The coordinating council shall meet at  
 163 least quarterly or upon the call of the chair. The council  
 164 meetings may be held via teleconference or other electronic  
 165 means.

166 Section 3. Two full-time equivalent positions are  
 167 authorized and the sum of \$150,000 is appropriated from the  
 168 General Revenue Fund to the Office of Drug Control for the

HB 139

2007

169 purpose of implementing this act during the 2007-2008 fiscal  
170 year.

171       Section 4. This act shall take effect July 1, 2007.





HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

23 schools and universities, mental health agencies, substance  
24 abuse treatment agencies, health care providers, and school  
25 personnel.

26 (b) Prepare and implement the statewide plan with the  
27 advice of the Suicide Prevention Coordinating Council.

28 (c) Increase public awareness concerning topics relating  
29 to suicide prevention.

30 (d) Coordinate education and training curricula in suicide  
31 prevention efforts for law enforcement personnel, first  
32 responders to emergency calls, health care providers, school  
33 employees, and other persons who may have contact with persons  
34 at risk of suicide.

35 (3) Contingent upon a specific appropriation, the director  
36 of the Office of Drug Control shall employ a coordinator for the  
37 Statewide Office for Suicide Prevention who shall work under the  
38 direction of the director to achieve the goals and objectives  
39 set forth in this section.

40 (4) The Statewide Office for Suicide Prevention may seek  
41 and accept grants or funds from any federal, state, or local  
42 source to support the operation and defray the authorized  
43 expenses of the office and the Suicide Prevention Coordinating  
44 Council. Revenues from grants shall be deposited in the Grants  
45 and Donations Trust Fund within the Executive Office of the  
46 Governor. In accordance with s. 216.181(11), the Executive  
47 Office of the Governor may request changes to the approved  
48 operating budget to allow the expenditure of any additional  
49 grant funds collected pursuant to this subsection.

50 (5) Agencies under the control of the Governor or the  
51 Governor and Cabinet are directed, and all others are  
52 encouraged, to provide information and support to the Statewide  
53 Office for Suicide Prevention as requested.

h0139 strike all by Gibson

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

54 Section 2. Section 14.20195, Florida Statutes, is created  
55 to read:

56 14.20195 Suicide Prevention Coordinating Council;  
57 creation; membership; duties.--There is created within the  
58 Statewide Office for Suicide Prevention a Suicide Prevention  
59 Coordinating Council. The council shall develop strategies for  
60 preventing suicide.

61 (1) SCOPE OF ACTIVITY.--The Suicide Prevention  
62 Coordinating Council is a coordinating council as defined in s.  
63 20.03 and shall:

64 (a) Advise the Statewide Office for Suicide Prevention  
65 regarding the development of a statewide plan for suicide  
66 prevention, with the guiding principle being that suicide is a  
67 preventable problem. The statewide plan must:

68 1. Align and provide direction for statewide suicide  
69 prevention initiatives.

70 2. Establish partnerships with state and private agencies  
71 for the purpose of promoting public awareness of suicide  
72 prevention.

73 3. Address specific populations in this state who are at  
74 risk for suicide.

75 4. Identify ways to improve access to crisis services for  
76 individuals in acute situations.

77 5. Identify resources to support the implementation of the  
78 statewide plan.

79 (b) Assemble an ad hoc advisory committee comprised of  
80 members from outside the council, if necessary, in order for the  
81 council to receive advice and assistance in carrying out its  
82 responsibilities.

83 (c) Make findings and recommendations regarding suicide  
84 prevention programs and activities. The council shall prepare an

h0139 strike all by Gibson

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

85 annual report and present it to the Governor, the President of  
86 the Senate, and the Speaker of the House of Representatives by  
87 January 1, 2008, and each year thereafter. The annual report  
88 must describe the status of existing and planned initiatives  
89 identified in the statewide plan for suicide prevention and any  
90 recommendations arising therefrom.

91 (2) MEMBERSHIP.--The Suicide Prevention Coordinating  
92 Council shall consist of 28 voting members.

93 (a) Fourteen members shall be appointed by the director of  
94 the Office of Drug Control and shall represent the following  
95 organizations:

96 1. The Substance Abuse and Mental Health Corporation  
97 described in s. 394.655.

98 2. The Florida Association of School Psychologists.

99 3. The Florida Sheriffs Association.

100 4. The Suicide Prevention Action Network USA.

101 5. The Florida Initiative of Suicide Prevention.

102 6. The Florida Suicide Prevention Coalition.

103 7. The Alzheimer's Association.

104 8. The Florida School Board Association.

105 9. Volunteer Florida.

106 10. The state chapter of AARP.

107 11. The Florida Alcohol and Drug Abuse Association.

108 12. The Florida Council for Community Mental Health.

109 13. The Florida Counseling Association.

110 14. NAMI Florida.

111 (b) The following state officials or their designees shall  
112 serve on the coordinating council:

113 1. The Secretary of Elderly Affairs.

114 2. The Secretary of Health.

115 3. The Commissioner of Education.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

116 4. The Secretary of Health Care Administration.

117 5. The Secretary of Juvenile Justice.

118 6. The Secretary of Corrections.

119 7. The executive director of the Department of Law  
120 Enforcement.

121 8. The executive director of the Department of Veterans'  
122 Affairs.

123 9. The Secretary of Children and Family Services.

124 10. The director of the Agency for Workforce Innovation.

125 (c) The Governor shall appoint four additional members to  
126 the coordinating council. The appointees must have expertise  
127 that is critical to the prevention of suicide or represent an  
128 organization that is not already represented on the coordinating  
129 council.

130 (d) For the members appointed by the director of the  
131 Office of Drug Control, seven members shall be appointed to  
132 initial terms of 3 years, and seven members shall be appointed  
133 to initial terms of 4 years. For the members appointed by the  
134 Governor, two members shall be appointed to initial terms of 4  
135 years, and two members shall be appointed to initial terms of 3  
136 years. Thereafter, such members shall be appointed to terms of 4  
137 years. Any vacancy on the coordinating council shall be filled  
138 in the same manner as the original appointment, and any member  
139 who is appointed to fill a vacancy occurring because of death,  
140 resignation, or ineligibility for membership shall serve only  
141 for the unexpired term of the member's predecessor. A member is  
142 eligible for reappointment.

143 (e) The director of the Office of Drug Control shall be a  
144 nonvoting member of the coordinating council and shall act as  
145 chair.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

146       (f) Members of the coordinating council shall serve  
147 without compensation. Any member of the coordinating council who  
148 is a public employee is entitled to reimbursement for per diem  
149 and travel expenses as provided in s. 112.061.

150       (3) MEETINGS.--The coordinating council shall meet at  
151 least quarterly or upon the call of the chair. The council  
152 meetings may be held via teleconference or other electronic  
153 means.

154       Section 3. Two full-time equivalent positions are  
155 authorized, and the sum of \$150,000 is appropriated from the  
156 General Revenue Fund to the Office of Drug Control for the  
157 purpose of implementing this act during the 2007-2008 fiscal  
158 year.

159       Section 4. This act shall take effect July 1, 2007.

160  
161 ===== T I T L E   A M E N D M E N T =====

162       Remove the entire title and insert:

163               A bill to be entitled

164       An act relating to suicide prevention; creating s.  
165       14.2019, F.S.; creating the Statewide Office for Suicide  
166       Prevention as a unit of the Office of Drug Control in the  
167       Executive Office of the Governor; providing the goals and  
168       objectives of the office; creating the position of  
169       statewide coordinator for the statewide office, contingent  
170       upon a specific appropriation; authorizing the Statewide  
171       Office for Suicide Prevention to seek and accept grants or  
172       funds from any source to support its operation; requiring  
173       that revenues from grants be deposited into the Grants and  
174       Donations Trust Fund within the Executive Office of the  
175       Governor; creating s. 14.20195, F.S.; creating the Suicide  
176       Prevention Coordinating Council within the Statewide

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

177 Office for Suicide Prevention; providing the scope of  
178 activities for the coordinating council; authorizing the  
179 coordinating council to assemble an ad hoc committee to  
180 advise the coordinating council; providing for membership  
181 on the coordinating council; providing an appropriation  
182 and authorizing additional positions; providing an  
183 effective date.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 281  
SPONSOR(S): Kreegel  
TIED BILLS:

Paramedic Certification

IDEN./SIM. BILLS: SB 1700

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Health Quality	10 Y, 0 N	Guy	Lowell
2) Healthcare Council		Guy	Gormley
3)			
4)			
5)			

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SUMMARY ANALYSIS

The bill adds physician assistants within the list of health care practitioners who are exempt from certain requirements for paramedic certification.

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

The effective date of this bill is July 1, 2007.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Limited Government**—The bill adds physician assistants within the list of health care practitioners who are exempt from certain requirements for paramedic certification.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### *Emergency Medical Technicians and Paramedics*

Part III, chapter 401, Florida Statutes, provides for the regulation of emergency medical technicians and paramedics by the Department of Health (“department”). Any person who wishes to be certified as an emergency medical technician or paramedic must apply to the department, under oath, on forms provided by the department. An applicant for certification must do the following:

- complete the most recent emergency medical technician or paramedic training course as provided for by the United States Department of Transportation and as approved by the department.
- With respect to paramedics, within 1 year after course completion, pass a state-developed certification examination.
- With respect to emergency medical technicians, within 1 year after course completion, pass the National Registry of Emergency Medical Technicians-developed certification examination.
- Certify under oath that he or she is not addicted to alcohol or any controlled substance.
- Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant’s ability to perform his or her duties.
- With respect to paramedic certification, hold a certificate of successful course completion of advanced cardiac life support from the American Heart Association or the Continuing Education Coordinating Board for Emergency Medical Services (CECBEMS).
- With respect to emergency medical technician certification, hold either a current American Heart Association, American Red Cross or the (CECBEMS) cardiopulmonary resuscitation course card.

Emergency medical technicians and paramedics must renew their certification on a biennial basis. Renewal candidates are subject to continuing education requirements and demonstration of current certifications. Renewal candidates must take 30 hours of refresher training in their respective area and an additional 2 hours of HIV AIDS training.<sup>1</sup>

There are approximately 18,456 paramedics and 30,010 emergency medical technicians (EMTs) in Florida.<sup>2</sup> Each paramedic and emergency medical technician employed within an emergency medical services system must operate under the direct supervision of a physician medical director, or indirectly by standing orders or protocols. Each emergency medical system agency employs or contracts with a physician medical director to provide this medical oversight and quality assurance. The larger emergency medical system providers in Florida have more than 1,000 emergency medical technicians and paramedics on staff, all of them working under one medical director.

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<sup>1</sup> Certification renewal requirements for paramedics and emergency medical technicians may be found in 64E-2.009 and 64E-2.008, Florida Administrative Code, respectively.

<sup>2</sup> Florida Department of Health, Division of Medical Quality Assurance Annual Report 2005-2006.

Medical directors must supervise and assume direct responsibility for the medical performance of the emergency medical technicians and paramedics, and must perform duties including advising, consulting, training, counseling, and overseeing of services. This includes appropriate quality assurance but does not include administrative or managerial functions. Each medical director is required to establish a quality assurance committee to provide reviews of all emergency medical technicians and paramedics operating under the director's supervision.

### *Physician Assistants*

Sections 458.347(7), and 459.022(7), Florida Statutes, govern the licensure of physician assistants in Florida. Physician assistants are licensed by the department and are regulated by the Florida Board of Medicine or the Florida Board of Osteopathic Medicine. Among other requirements, an applicant for licensure as a physician assistant must demonstrate passage of the National Commission on Certification of Physician Assistants examination and submit certification of completion of a physician assistant training program. Fees for licensure and renewal are set in statute. Applicants for renewal must complete 100 hours of continuing medical education every two years or hold a current certification issued by the National Commission on Certification of Physician Assistants. There are currently 3,675 active, licensed physician assistants practicing in the state of Florida.<sup>3</sup>

### *Paramedic Certification for Physicians, Dentists, and Nurses*

Section 401.27(7), Florida Statutes, authorizes a physician, dentist, or registered nurse to be certified as a paramedic if the practitioner is certified as an emergency medical technician and successfully completes the emergency medical technician course, the paramedic examination, and an advanced cardiac life support course. However, a physician, dentist, or registered nurse is not required to complete the paramedic training course. Once certified as a paramedic, physicians, dentists, and registered nurses are still subject to all criteria for licensure and renewal of licensure in their respective practice acts.

### Effect of Proposed Changes

The bill extends the paramedic training course exemption for practitioners contained in section 401.27(7), Florida Statutes, to physician assistants. Physician assistants would be subject to the same process for certification as other practitioners listed in section 401.27(7), Florida Statutes. In addition, physician assistants are licensed by the department and thus would be subject to all criteria for licensure or renewal of licensure as a physician assistant while certified as a paramedic.

## C. SECTION DIRECTORY:

Section 1: Amends s. 401.27, F.S., allowing physician assistants to be certified as paramedics.

Section 2: Provides for an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

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<sup>3</sup> The Florida Department of Health, Division of Medical Quality Assurance Annual Report 2005-2006.

According to department staff, certification of physician assistants as paramedics will not increase the workload for department staff and consequently will not result in a significant fiscal impact on the department.

**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:**

No additional rule-making authority is required as a result of this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

N/A.

**D. STATEMENT OF THE SPONSOR**

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to paramedic certification; amending s.  
 3           401.27, F.S.; authorizing physician assistants who meet  
 4           specified criteria to be certified as paramedics;  
 5           providing an effective date.

6  
 7   Be It Enacted by the Legislature of the State of Florida:

8  
 9           Section 1. Subsection (7) of section 401.27, Florida  
 10          Statutes, is amended to read:

11           401.27 Personnel; standards and certification.--

12           (7) A physician, physician assistant, dentist, or  
 13          registered nurse may be certified as a paramedic if the  
 14          physician, physician assistant, dentist, or registered nurse is  
 15          certified in this state as an emergency medical technician, has  
 16          passed the required emergency medical technician curriculum, has  
 17          successfully completed an advanced cardiac life support course,  
 18          has passed the examination for certification as a paramedic, and  
 19          has met other certification requirements specified by rule of  
 20          the department. A physician, physician assistant, dentist, or  
 21          registered nurse so certified must be recertified under this  
 22          section.

23           Section 2. This act shall take effect July 1, 2007.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 469                      Informed Consent  
**SPONSOR(S):** Hays and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 1508

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Quality</u>	<u>10 Y, 0 N</u>	<u>Lowell</u>	<u>Lowell</u>
2) <u>Healthcare Council</u>	<u></u>	<u>Lowell</u>	<u>Gormley</u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

This bill adds advanced registered nurse practitioners and physician assistants to the list of health care practitioners who are immune from a civil recovery under section 401.445, Florida Statutes, emergency examination and treatment of incapacitated persons, and section 766.103, Florida Statutes, the Florida Medical Consent Law.

This bill may implicate Article I, section 21 of the Florida Constitution, the right of access to the courts, by barring a civil recovery against advanced registered nurse practitioners and physician assistants under specific circumstances.

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

The bill takes effect July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### *Advanced Registered Nurse Practitioners*

Nurses are licensed and regulated by the Board of Nursing pursuant to part I of chapter 464, Florida Statutes. There are approximately 10,305 Advanced Registered Nurse Practitioners (ARNPs) in Florida<sup>1</sup>. ARNPs practice under a protocol with a supervising physician and are not required to be under direct supervision.

ARNPs perform medical acts of diagnosis, treatment, and operation pursuant to a protocol between the ARNP and a Florida-licensed medical doctor, osteopathic physician, or dentist. The degree and method of supervision is determined by the ARNP and the supervisor, must be appropriate for prudent health care providers under similar circumstances, and must be specifically identified in a written protocol.

##### *Paramedics and Emergency Medical Technicians*

Paramedics and emergency medical technicians are regulated under chapter 401, Florida Statutes, Medical Transportation and Services. There are approximately 18,456 paramedics and 30,010 emergency medical technicians (EMTs) in Florida<sup>2</sup>. Each paramedic and EMT employed within an Emergency Medical Services (EMS) system must operate under the direct supervision of a physician medical director, or indirectly by standing orders or protocols. Each EMS agency employs or contracts with a physician medical director to provide this medical oversight and quality assurance. The larger EMS providers in Florida have more than 1,000 EMTs and paramedics on staff, all of them working under one medical director.

Medical directors must supervise and assume direct responsibility for the medical performance of the EMTs and paramedics, and must perform duties including advising, consulting, training, counseling, and overseeing of services. This includes appropriate quality assurance, but does not include administrative or managerial functions. Each medical director is required to establish a quality assurance committee to provide reviews of all EMTs and paramedics operating under the director's supervision.

##### *Physician Assistants*

Sections 458.347(7), and 459.022(7), Florida Statutes, govern the licensure of physician assistants in Florida. Physician assistants are licensed by the department and regulated by either the Florida Board of Medicine or the Florida Board of Osteopathic Medicine. Among other requirements, an applicant for licensure as a physician assistant must demonstrate passage of the National Commission on Certification of Physician Assistants examination and submit certification of completion of a physician assistant training program. Applicants for renewal must complete 100 hours of continuing medical education every two years or hold a current certification issued by the National Commission on

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<sup>1</sup> The Florida Department of Health, Division of Medical Quality Assurance Annual Report 2005-2006.

<sup>2</sup> *Id.*

Certification of Physician Assistants. There are currently 3,675 active, licensed physician assistants practicing in the State of Florida.<sup>3</sup>

### *Informed Consent*

In general, a health care practitioner may not treat a patient without his or her informed consent. In Florida, this general principle is codified in what is known as the "Florida Medical Consent Law."<sup>4</sup> This law prohibits a civil recovery for treating, examining, or operating upon a patient without his or her informed consent against a physician, chiropractic physician, podiatric physician, or dentist ("health care practitioners") under two circumstances.

In the first circumstance, the civil recovery is barred when:

- the action of the health care practitioner, in obtaining the consent of the patient or a person authorized to give consent for the patient, was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community; and
- a reasonable individual, from the information provided by the health care practitioner under the circumstances would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among other health care practitioners in the same or similar community who perform similar treatments of procedures.

In the alternative, a civil recovery is also barred when the patient would reasonably, under the circumstances, have undergone such treatment or procedure had he or she been advised by the health care practitioner in the manner noted above. In addition, written consent to medical treatment given by a patient or another authorized person is presumptively valid.

### *Florida Patient's Bill of Rights and Responsibilities*

Florida law delineates information that must be provided to the patient within the Patient's Bill of Rights and Responsibilities<sup>5</sup>. These rights include the right of a patient:

- to know the name, function, and qualifications of each health care provider who is providing medical services to the patient;
- to be given by his or her health care provider information concerning diagnosis, planned course of treatment, alternatives, risks, and prognosis, unless it is medically inadvisable or impossible to give this information to the patient, in which case the information must be given to the patient's guardian or a person designated as the patient's representative. A patient has the right to refuse this information; and
- to refuse any treatment based on information required by this paragraph, except as otherwise provided by law.

### *Emergency Examination and Treatment of Incapacitated Persons*

Florida law also bars a civil recovery for an emergency examination or treatment without the patient's informed consent by an emergency medical technician, paramedic, physician, or any person acting under the direct medical supervision of a physician<sup>6</sup>. This immunity is available where the patient:

- at the time of examination or treatment is intoxicated, under the influence of drugs, or otherwise incapable of providing informed consent under s. 766.103, F.S.;
- at the time of examination or treatment is experiencing an emergency medical condition; and

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<sup>3</sup> *Id.*

<sup>4</sup> s. 766.103, F.S.

<sup>5</sup> s. 381.026, F.S.

<sup>6</sup> s. 401.445, F.S.



- would reasonably, under the circumstances, undergo the examination, treatment, or procedure if he or she were advised by the emergency medical technician, paramedic, or physician under section 766.103, Florida Statutes.

An examination or treatment must be limited to a reasonable examination of the patient to determine his or her medical condition and treatment reasonably necessary to alleviate the emergency medical condition or to stabilize the patient. If the patient reasonably appears to be incapacitated and refuses consent, the patient may be examined or treated if he or she needs emergency attention; however, unreasonable force may not be used.

#### Effect of Proposed Changes

The bill adds advanced registered nurse practitioners and physician assistants to the list of health care practitioners who are immune from a civil recovery under the Florida Medical Consent Law as well as section 401.445, Florida Statutes, emergency examination and treatment of incapacitated persons.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 401.445, F.S., relating to immunity for medical personnel for emergency examination and treatment without consent of the patient.

Section 2. Amends s. 766.103, F.S., relating to immunity for medical personnel under the medical consent law.

Section 3. Provides an effective date of July 1, 2007.

### **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:

This bill may protect a larger number of health care practitioners from civil lawsuits, and thus large monetary judgments, where informed consent is at issue.

#### 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:

This bill may implicate Article I, section 21 of the Florida Constitution, which states that the courts "shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay." The test for ensuring the right of access to the courts was declared in *Kluger v. White*, 281 So.2d 1 (Fla. 1973), in which the Florida Supreme Court held that the Legislature is without power to abolish or otherwise restrict a statutory law right that predated the adoption of the constitution or a common law right without providing a reasonable alternative remedy, unless there is a showing of an overpowering public necessity to limit or abolish such right and no alternative remedy of meeting such public necessity exists.

The Florida Supreme Court refined the *Kluger* test in *Smith v. Department of Ins.*, 507 So.2d 1080 (Fla. 1986). There, comprehensive tort reform legislation capping non-economic damages at \$450,000 was challenged on the basis that it denied claimants access to the courts. In that case, the Court noted the *Kluger* test requires either (1) providing a reasonable alternative remedy or commensurate benefit, or (2) a legislative showing of overpowering public necessity for the abolishment of the right *and* no alternative method of meeting such public necessity. The Court noted that the right to sue and recover non-economic damages of any amount existed at the time the Florida Constitution was adopted. Consequently, the Court found the cap on non-economic damages unconstitutional as the Legislature did not provide an alternative remedy or commensurate benefit and the parties did not assert the existence of an overpowering public necessity.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is required as a result of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Paragraph (a)2. of subsection (3), section 766.103, F.S., appears to contain a drafting error. The end of the paragraph reads, "which are recognized among other physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, or dentists in the same or similar community who perform similar treatments or procedures; or"; this language fails to reference advanced registered nurse practitioners or physician assistants.

D. STATEMENT OF THE SPONSOR

This bill will enhance access to medical care by more fully utilizing the skills and talents of our Physician Assistants and our Advanced Registered Nurse Practitioners.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On February 20, 2007, the Health Quality Committee adopted one amendment to the bill. The amendment corrects a drafting error by adding "advanced registered nurse practitioner" and "physician assistant" to the end of paragraph (a)2. of subsection (3).

The bill was reported favorably as amended.

1                                   A bill to be entitled  
 2           An act relating to informed consent; amending s. 401.445,  
 3           F.S.; adding additional medical personnel to provisions  
 4           allowing immunity for certain emergency examination and  
 5           treatment of incapacitated persons done without consent if  
 6           informed consent would have reasonably been given under  
 7           the medical consent law; conforming provisions; amending  
 8           s. 766.103, F.S.; adding additional medical personnel to  
 9           the medical consent law; providing an effective date.

10

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

12

13           Section 1. Subsections (1) and (2) of section 401.445,  
 14 Florida Statutes, are amended to read:

15           401.445 Emergency examination and treatment of  
 16 incapacitated persons.--

17           (1) No recovery shall be allowed in any court in this  
 18 state against any emergency medical technician, paramedic, or  
 19 physician as defined in this chapter, any advanced registered  
 20 nurse practitioner certified under s. 464.012, or any physician  
 21 assistant licensed under s. 458.347 or s. 459.022, or any person  
 22 acting under the direct medical supervision of a physician, in  
 23 an action brought for examining or treating a patient without  
 24 his or her informed consent if:

25           (a) The patient at the time of examination or treatment is  
 26 intoxicated, under the influence of drugs, or otherwise  
 27 incapable of providing informed consent as provided in s.  
 28 766.103;

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29 (b) The patient at the time of examination or treatment is  
 30 experiencing an emergency medical condition; and

31 (c) The patient would reasonably, under all the  
 32 surrounding circumstances, undergo such examination, treatment,  
 33 or procedure if he or she were advised by the emergency medical  
 34 technician, paramedic, ~~or physician,~~ advanced registered nurse  
 35 practitioner, or physician assistant in accordance with s.  
 36 766.103(3).

37  
 38 Examination and treatment provided under this subsection shall  
 39 be limited to reasonable examination of the patient to determine  
 40 the medical condition of the patient and treatment reasonably  
 41 necessary to alleviate the emergency medical condition or to  
 42 stabilize the patient.

43 (2) In examining and treating a person who is apparently  
 44 intoxicated, under the influence of drugs, or otherwise  
 45 incapable of providing informed consent, the emergency medical  
 46 technician, paramedic, ~~or physician,~~ advanced registered nurse  
 47 practitioner, or physician assistant, or any person acting under  
 48 the direct medical supervision of a physician, shall proceed  
 49 wherever possible with the consent of the person. If the person  
 50 reasonably appears to be incapacitated and refuses his or her  
 51 consent, the person may be examined, treated, or taken to a  
 52 hospital or other appropriate treatment resource if he or she is  
 53 in need of emergency attention, without his or her consent, but  
 54 unreasonable force shall not be used.

55 Section 2. Subsection (3) of section 766.103, Florida  
 56 Statutes, is amended to read:

57           766.103 Florida Medical Consent Law.--  
 58           (3) No recovery shall be allowed in any court in this  
 59 state against any physician licensed under chapter 458,  
 60 osteopathic physician licensed under chapter 459, chiropractic  
 61 physician licensed under chapter 460, podiatric physician  
 62 licensed under chapter 461, ~~or~~ dentist licensed under chapter  
 63 466, advanced registered nurse practitioner certified under s.  
 64 464.012, or physician assistant licensed under s. 458.347 or s.  
 65 459.022 in an action brought for treating, examining, or  
 66 operating on a patient without his or her informed consent when:  
 67           (a)1. The action of the physician, osteopathic physician,  
 68 chiropractic physician, podiatric physician, ~~or~~ dentist,  
 69 advanced registered nurse practitioner, or physician assistant  
 70 in obtaining the consent of the patient or another person  
 71 authorized to give consent for the patient was in accordance  
 72 with an accepted standard of medical practice among members of  
 73 the medical profession with similar training and experience in  
 74 the same or similar medical community; and  
 75           2. A reasonable individual, from the information provided  
 76 by the physician, osteopathic physician, chiropractic physician,  
 77 podiatric physician, ~~or~~ dentist, advanced registered nurse  
 78 practitioner, or physician assistant, under the circumstances,  
 79 would have a general understanding of the procedure, the  
 80 medically acceptable alternative procedures or treatments, and  
 81 the substantial risks and hazards inherent in the proposed  
 82 treatment or procedures, which are recognized among other  
 83 physicians, osteopathic physicians, chiropractic physicians,

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84 | podiatric physicians, or dentists in the same or similar  
 85 | community who perform similar treatments or procedures; or  
 86 |       (b) The patient would reasonably, under all the  
 87 | surrounding circumstances, have undergone such treatment or  
 88 | procedure had he or she been advised by the physician,  
 89 | osteopathic physician, chiropractic physician, podiatric  
 90 | physician, ~~or dentist,~~ advanced registered nurse practitioner,  
 91 | or physician assistant in accordance with the provisions of  
 92 | paragraph (a).

93 |       Section 3. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.2 (for drafter's use only)

Bill No. 0469

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 bill: Healthcare Council

2 Representative(s) Hays offered the following:

3

4           **Amendment**

5           Remove line(s) 74 and insert:

6           the same or similar medical community as that of the person  
7           treating, examining, or operating on the patient for whom the  
8           consent is obtained; and

000000

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 469

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 bill:   Healthcare Council  
2 Committee on Health Quality offered the following:

3  
4  
5  
6  
7  
8

**Amendment**

Remove line 84 and insert:  
podiatric physicians, ~~or~~ dentists, advanced registered nurse  
practitioners, or physician assistants in the same or similar

This amendment was adopted in Health Quality and is traveling with the bill and requires no further action.





**MATERIALS WILL BE  
AVAILABLE AT THE  
MEETING**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB HCC 07-01 Trust Funds  
**SPONSOR(S):** Healthcare Council and Representative Bean  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Massengale <i>Am</i>	Gormley <i>14</i>
1)			
2)			
3)			
4)			
5)			

**SUMMARY ANALYSIS**

The bill terminates the Florida World War II Veterans Memorial Matching Trust Fund in the Department of Veterans' Affairs, repeals cross references, and provides for the disposition of remaining unobligated funds. The bill also makes two technical changes to delete an obsolete reference to the Community Resources Development Trust Fund that was previously terminated from the Department of Children and Family Services and removes a provision providing for the future repeal of the Biomedical Research Trust Fund in the Department of Health.

**I. SUBSTANTIVE ANALYSIS**

**A. PRESENT SITUATION:**

The Florida World War II Veterans Memorial Matching Trust Fund was created in 1999 to receive private donations and matching state funds to build a Florida World War II Veterans memorial. The memorial has since been completed, and the fund has a \$24,386 unobligated remaining cash balance.

The Community Resources Development Trust Fund in the Department of Children and Family Services was terminated in 2004, but one cross reference remains in statute.

The Biomedical Research Trust Fund in the Department of Health was created to provide an annual and perpetual source of funding to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. Estimated annual expenditures from this trust fund are \$18.5 million. The trust fund is scheduled to terminate on July 1, 2008.

**B. EFFECT OF PROPOSED CHANGES:**

The bill terminates the Florida World War II Veterans Memorial Matching Trust Fund in the Department of Veterans' Affairs, repeals cross references, and transfers the remaining unobligated funds of \$24,386 to the department's Grants and Donations Trust Fund for use by veterans in the State Veterans' Homes Program. The bill also makes two technical changes to delete an obsolete reference to the Community Resources Development Trust Fund that was previously terminated from the Department of Children and Family Services and removes a provision providing for the future repeal of the Biomedical Research Trust Fund in the Department of Health.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

The sections that delete an obsolete reference and remove a future repeal have no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. The section that terminates the Florida World War II Veterans Memorial Matching Trust Fund specifies the transfer of the unobligated \$24,386 cash balance to the Department of Veterans' Affairs Grants and Donations Trust Fund for use by veterans' in the State Veterans' Homes Program.

## **III. COMMENTS**

## **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

→

PCB HCC 07-01

ORIGINAL

YEAR

1                                    A bill to be entitled  
 2                    An act relating to trust funds; terminating the Florida  
 3                    World War II Veterans Memorial Matching Trust Fund within  
 4                    the Department of Veterans' Affairs; providing for the  
 5                    disposition of balances in and revenues of the trust fund;  
 6                    prescribing procedures for the termination of the trust  
 7                    fund; repealing ss. 295.18, 295.181, 295.182, 295.183, and  
 8                    295.185, F.S.; repealing the Florida World War II Veterans  
 9                    Memorial Matching Trust Fund and related provisions of the  
 10                    Florida World War II Veterans Memorial Act to conform to  
 11                    the termination of the trust fund; amending s. 17.61,  
 12                    F.S.; removing the Community Resources Development Trust  
 13                    Fund within the Department of Children and Family Services  
 14                    from among enumerated trust funds of the department that  
 15                    are not excepted from required investment by the Chief  
 16                    Financial Officer; amending s. 20.435, F.S.; removing the  
 17                    scheduled termination of the Biomedical Research Trust  
 18                    Fund within the Department of Health; providing an  
 19                    effective date.

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

22  
 23                    Section 1. (1) The Florida World War II Veterans Memorial  
 24 Matching Trust Fund, FLAIR number 50-2-755, within the Department  
 25 of Veterans' Affairs is terminated.

26                    (2) All current balances remaining in, and all revenues of,  
 27 the trust fund shall be transferred to the Grants and Donations  
 28 Trust Fund within the Department of Veterans' Affairs, FLAIR  
 29 number 50-2-339.

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PCB HCC 07-01

ORIGINAL

YEAR

30           (3) The Department of Veteran's Affairs shall pay any  
 31 outstanding debts and obligations of the terminated fund as soon  
 32 as practicable, and the Chief Financial Officer shall close out  
 33 and remove the terminated fund from the various state accounting  
 34 systems using generally accepted accounting principles concerning  
 35 warrants outstanding, assets, and liabilities.

36           Section 2. Sections 295.18, 295.181, 295.182, 295.183, and  
 37 295.185, Florida Statutes, are repealed.

38           Section 3. Paragraph (c) of subsection (3) of section  
 39 17.61, Florida Statutes, is amended to read:

40           17.61 Chief Financial Officer; powers and duties in the  
 41 investment of certain funds.--

42           (3)

43           (c) Except as provided in this paragraph and except for  
 44 moneys described in paragraph (d), the following agencies shall  
 45 not invest trust fund moneys as provided in this section, but  
 46 shall retain such moneys in their respective trust funds for  
 47 investment, with interest appropriated to the General Revenue  
 48 Fund, pursuant to s. 17.57:

49           1. The Agency for Health Care Administration, except for  
 50 the Tobacco Settlement Trust Fund.

51           2. The Agency for Persons with Disabilities, except for:

52           a. The Federal Grants Trust Fund.

53           b. The Tobacco Settlement Trust Fund.

54           3. The Department of Children and Family Services, except  
 55 for:

56           a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.

57           ~~b. The Community Resources Development Trust Fund.~~

58           ~~b.e.~~ The Refugee Assistance Trust Fund.

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PCB HCC 07-01

ORIGINAL

YEAR

- 59        ~~c.d.~~ The Social Services Block Grant Trust Fund.
- 60        ~~d.e.~~ The Tobacco Settlement Trust Fund.
- 61        ~~e.f.~~ The Working Capital Trust Fund.
- 62        4. The Department of Community Affairs, only for the
- 63        Operating Trust Fund.
- 64        5. The Department of Corrections.
- 65        6. The Department of Elderly Affairs, except for:
- 66        a. The Federal Grants Trust Fund.
- 67        b. The Tobacco Settlement Trust Fund.
- 68        7. The Department of Health, except for:
- 69        a. The Federal Grants Trust Fund.
- 70        b. The Grants and Donations Trust Fund.
- 71        c. The Maternal and Child Health Block Grant Trust Fund.
- 72        d. The Tobacco Settlement Trust Fund.
- 73        8. The Department of Highway Safety and Motor Vehicles,
- 74        only for:
- 75        a. The DUI Programs Coordination Trust Fund.
- 76        b. The Security Deposits Trust Fund.
- 77        9. The Department of Juvenile Justice.
- 78        10. The Department of Law Enforcement.
- 79        11. The Department of Legal Affairs.
- 80        12. The Department of State, only for:
- 81        a. The Grants and Donations Trust Fund.
- 82        b. The Records Management Trust Fund.
- 83        13. The Executive Office of the Governor, only for:
- 84        a. The Economic Development Transportation Trust Fund.
- 85        b. The Economic Development Trust Fund.
- 86        14. The Florida Public Service Commission, only for the
- 87        Florida Public Service Regulatory Trust Fund.



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88 | 15. The Justice Administrative Commission.

89 | 16. The state courts system.

90 | Section 4. Paragraph (h) of subsection (1) of section  
91 | 20.435, Florida Statutes, is amended to read:

92 | 20.435 Department of Health; trust funds.--

93 | (1) The following trust funds are hereby created, to be  
94 | administered by the Department of Health:

95 | (h) Biomedical Research Trust Fund.

96 | 1. Funds to be credited to the trust fund shall consist of  
97 | funds deposited pursuant to s. 215.5601 and any other funds  
98 | appropriated by the Legislature. Funds shall be used for the  
99 | purposes of the James and Esther King Biomedical Research Program  
100 | and the William G. "Bill" Bankhead, Jr., and David Coley Cancer  
101 | Research Program as specified in ss. 215.5602, 288.955, and  
102 | 381.922. The trust fund is exempt from the service charges  
103 | imposed by s. 215.20.

104 | 2. Notwithstanding the provisions of s. 216.301 and  
105 | pursuant to s. 216.351, any balance in the trust fund at the end  
106 | of any fiscal year shall remain in the trust fund at the end of  
107 | the year and shall be available for carrying out the purposes of  
108 | the trust fund. The department may invest these funds  
109 | independently through the Chief Financial Officer or may  
110 | negotiate a trust agreement with the State Board of  
111 | Administration for the investment management of any balance in  
112 | the trust fund.

113 | 3. Notwithstanding s. 216.301 and pursuant to s. 216.351,  
114 | any balance of any appropriation from the Biomedical Research  
115 | Trust Fund which is not disbursed but which is obligated pursuant  
116 | to contract or committed to be expended may be carried forward

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117 | for up to 3 years following the effective date of the original  
118 | appropriation.

119 |       ~~4. The trust fund shall, unless terminated sooner, be~~  
120 | ~~terminated on July 1, 2008.~~

121 |       Section 5. This act shall take effect July 1, 2007.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB HCC 07-02 Tobacco education and prevention  
**SPONSOR(S):** Healthcare Council and Representative Harrell  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Lowell	Gormley
1)			
2)			
3)			
4)			
5)			

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**SUMMARY ANALYSIS**

This Proposed Council Bill requires the Department of Health to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.

The bill creates the Tobacco Education and Prevention Advisory Council to advise the Secretary of Health as to the direction and scope of the program. The bill also creates a competitive grant and contract award program. Grants and contracts will be awarded by the Secretary of Health, in consultation with the council, on the basis of merit through a competitive, peer review process.

Article X, section 27 of the Florida Constitution requires the Legislature to annually appropriate for the program 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.

The effective date of this bill is July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government** – The bill creates a tobacco education and prevention program within the department, creates an advisory council, and authorizes the award of grants and contracts through a competitive, peer review process.

**Empower families** – The bill increases opportunities for local and statewide organizations to support and encourage prevention and cessation of tobacco use by parents and their children.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### *National Best Practices for Comprehensive Tobacco Control Programs*

In August of 1999, the United States Department of Health and Human Services, Centers for Disease Control and Prevention (“CDC”) published *Best Practices for Comprehensive Tobacco Control Programs* (“best practices”).<sup>1</sup> The best practices were developed from analyses of programs in California and Massachusetts, as well as from the CDC’s involvement in providing technical assistance to Florida, Maine, Minnesota, Mississippi, Oregon, and Texas. The best practices are designed to help states develop comprehensive tobacco control programs and evaluate funding priorities. As noted by the CDC in the best practices, the four primary goals of a comprehensive tobacco control program are the following:

- Prevent the initiation of tobacco use among young people.
- Promote cessation among young people and adults.
- Eliminate nonsmokers’ exposure to environmental tobacco smoke.
- Identify and eliminate disparities related to tobacco use and its effects among different population groups.

The CDC recommends the following components within each state’s tobacco control program:<sup>2</sup>

- Community programs to reduce tobacco use.
- Chronic disease programs to reduce the burden of tobacco-related diseases.
- School programs.
- Enforcement.
- Statewide programs.
- Counter-marketing.
- Cessation programs;
- Surveillance and evaluation.
- Administration and management.

The following is a brief description of each component.

**Community programs to reduce tobacco use.** The CDC notes that this component should focus on four primary goals: (1) prevention of the initiation of tobacco use among young people; (2) cessation for current users of tobacco; (3) protection from environmental tobacco smoke; and (4) elimination of

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<sup>1</sup> *Best Practices for Comprehensive Tobacco Control Programs, August 1999* (visited March 9, 2007) [http://www.cdc.gov/tobacco/tobacco\\_control\\_programs/stateandcommunity/best\\_practices/index.htm](http://www.cdc.gov/tobacco/tobacco_control_programs/stateandcommunity/best_practices/index.htm)

<sup>2</sup> The CDC has informed staff that the *Best Practices* are being updated, which may result in the consolidation and renaming of some of the program components.

disparities in tobacco use among populations. In particular, the CDC states that effective community programs “involve people in their homes, work sites, schools, places of worship and entertainment, civic organizations, and other public places.”

**Chronic disease programs to reduce the burden of tobacco-related diseases.** Examples of activities that may reduce the burden of tobacco-related diseases include: (1) community interventions that link tobacco control interventions with cardiovascular disease prevention; (2) counter-marketing to increase awareness of environmental tobacco smoke as a trigger for asthma; (3) training dental providers to counsel their patients on the role of tobacco use in the development of oral cancer; and (4) expanding cancer registries to monitor tobacco-related cancers.

**School programs.** The CDC notes that, since most people who are smokers start smoking before age 18, school-based programs are a “crucial part” of a state’s prevention program. Specifically, education should be provided in elementary school and continued through and middle and high school.

**Enforcement.** The CDC best practices focus on two areas of enforcement: restriction on minors’ access to tobacco and restrictions on smoking. Florida law currently addresses both of these areas.<sup>3</sup>

**Statewide programs.** The CDC states that these programs are a “major element” of the best practices. Examples of statewide programs include: (1) funding municipal organizations and networks to collect data and develop and implement culturally appropriate interventions; (2) sponsoring local, regional, and statewide training, conferences, and technical assistance on best practices; and (3) supporting innovative demonstration and research projects to prevent youth tobacco use, promote cessation, and promote smoke free communities.

**Counter-marketing.** According to the CDC, children are most susceptible to advertised brands and are three times more affected by advertising than adults. Consequently, a sustained counter-marketing campaign in intensity similar to tobacco advertising is needed. Counter-marketing consists of a number of approaches, including not only traditional print, radio, and television advertisements, but also press releases, media advocacy, and local events.

**Cessation programs.** The CDC notes that cessation programs may produce a quicker and larger short-term public health benefit than any other best practice component. Examples of cessation programs include: (1) covering treatment for tobacco use under both public and private insurance and (2) establishing population-based counseling and treatment programs, including cessation quitlines.

**Surveillance and Evaluation.** This component is necessary to assess program accountability and effectiveness. In particular, surveillance should monitor the decrease of the prevalence of tobacco use among young people and adults; per-capita tobacco consumption; and exposure to environmental tobacco smoke. In addition, evaluation programs should focus on individual program activities. The CDC recommends that 10 percent of the state’s program budget be allocated for surveillance and evaluation.

**Administration and management.** The CDC recommends that 5 percent of the state’s program budget be allocated to administration and management.

#### *The Department of Health Tobacco Prevention Program*

On August 25, 1997, the State of Florida entered into a settlement agreement with five tobacco companies, ending a lawsuit to recover Medicaid costs for tobacco-related illnesses. These five companies are Philip Morris, R.J. Reynolds, Brown & Williamson, Lorillard, and the United States Tobacco Company. As a result of the settlement agreement, in Fiscal Year 1997-98, Florida’s tobacco prevention program began as the Youth Tobacco Pilot Program created in proviso.

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<sup>3</sup> See Part II of Chapter 386, F.S., the Clean Indoor Air Act. Also see s. 569.101, F.S. (prohibiting the sale of tobacco products to persons under the age of 18).

The program has evolved to placing a Tobacco Prevention Specialist in 39 county health departments. These specialists create comprehensive tobacco prevention programs in each of the 39 counties, specifically: (1) a youth initiation prevention component (SWAT); (2) a cessation component; and (3) second hand smoke reduction programs. The remaining 28 counties receive \$10,000 to support the tobacco component of the Chronic Disease Program; these funds maybe used for SWAT support; cessation services; and secondhand smoke awareness. In addition, the department operates the "Florida Tobacco Quit-For-Life Line" quitline through contract with the American Cancer Society.

#### *Amendment 4*

On November 7, 2006, the people of the state of Florida adopted Amendment 4,<sup>4</sup> creating the Comprehensive Statewide Tobacco Education and Prevention Program. Under the amendment, the state is required to create a comprehensive, statewide program consistent with the CDC's 1999 best practices. 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; and
- Publicly-reported annual evaluations to ensure that moneys appropriated for the program are spent properly.

The amendment 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.

#### Effect of Proposed Changes

The Proposed Council Bill requires the Department of Health to conduct a comprehensive, statewide tobacco education and prevention program consistent with the 1999 Best Practices for Comprehensive Tobacco Control Programs developed by the United States Centers for Disease Control and Prevention.

The department is required to include the following components within the program:

- An advertising campaign.
- Cessation programs.
- Evaluations of community and statewide programs.
- Evidence-based curricula and programs.
- Programs of local-community based partnerships.
- Training of health care providers and smoking cessation counselors.

The bill also creates the Tobacco Education and Prevention Advisory Council ("council") in order to advise the Secretary of Health as to the direction and scope of the program. The council consists of 14 members:

- The Secretary of Health, or a designee.
- Two members appointed by the Commissioner of Education, of which one must be a school district superintendent.
- The CEO of the Florida Division of the American Cancer Society.
- The CEO of the Greater Southeast Affiliate of the American Heart Association.
- The CEO of the American Lung Association of Florida.
- Four members appointed by the Governor.
- Two members appointed by the Speaker of the House.

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<sup>4</sup> Art. X, s. 27, Fla. Const.

- Two members appointed by the President of the Senate.

In addition, the council is also provided a number of specific duties:

- Providing advice on program priorities and emphases.
- Participating in periodic program evaluation.
- Recommending meaningful outcome measures.
- Recommending policies to encourage a coordinate response to tobacco use in the state.

The bill creates a competitive grant and contract award program that will award grants and contracts under the program components listed above. Grants and contracts will be awarded by the Secretary of Health, in consultation with the council, on the basis of merit through a competitive, peer review process.

Grant and contract awards are restricted by limiting: (1) the use of food and promotional items to no more than 2.5 percent of the total amount of the contract or grant; (2) overhead or indirect costs to no more than 7.5 percent of the total amount of the contract or grant; and (3) production fees, buyer commissions, and related costs to no more than 5 percent of the total advertising contract amount.

The department is required to annually report on the program's effectiveness, including a survey of youth attitudes and behavior towards tobacco, and the department's administrative expenses are limited to 5 percent of the total appropriation for the program.

#### C. SECTION DIRECTORY:

Section 1. Creates s. 381.84, F.S., relating to the Comprehensive Statewide Tobacco Education and Prevention Program.

Section 2. Provides an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See fiscal comments below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector will directly benefit from the availability of grant and contract awards under the program.



**D. FISCAL COMMENTS:**

Article X, section 27 of the Florida Constitution requires the Legislature to annually appropriate for the program 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. In addition, at least one third of this annual appropriation must be used for the advertising campaign component of the program.

**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 is provided rulemaking authority to implement the provisions of this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**D. STATEMENT OF THE SPONSOR**

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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ORIGINAL

YEAR

1 A bill to be entitled  
 2 An act relating to tobacco education and prevention;  
 3 creating s. 381.84, F.S.; requiring the Department of  
 4 Health to conduct a statewide tobacco education and  
 5 prevention program; providing definitions; providing  
 6 legislative purpose and findings; establishing components  
 7 of the program; creating the Tobacco Education and  
 8 Prevention Advisory Council; providing membership and  
 9 duties of the council; providing reimbursement for travel  
 10 and other expenses for council members; requiring the  
 11 Secretary of Health to award grants in consultation with  
 12 the council; providing for the appointment of a peer  
 13 review panel to review proposals for funding; specifying  
 14 the use of funds appropriated under the program; requiring  
 15 an annual report by the department; providing rulemaking  
 16 authority; providing an effective date.

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

20 Section 1. Section 381.84, Florida Statutes, is created to  
21 read:

22 381.84 Comprehensive Statewide Tobacco Education and  
23 Prevention Program.--

24 (1) As used in this section and for purposes of the  
25 provisions of s. 27, Art. X of the State Constitution, the term:

26 (a) "CDC" means the United States Centers for Disease  
27 Control and Prevention.

28 (b) "Department" means the Department of Health.

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29           (c) "Tobacco" means, without limitation, tobacco itself and  
 30 tobacco products that include tobacco and are intended or  
 31 expected for human use or consumption, including, but not limited  
 32 to, cigarettes, cigars, pipe tobacco, and smokeless tobacco.

33           (d) "Youth" means minors and young adults.

34           (2) It is the purpose of this section to implement s. 27,  
 35 Art. X of the State Constitution. The Legislature finds that s.  
 36 27, Art. X of the State Constitution is intended to require the  
 37 department to conduct a statewide tobacco education and  
 38 prevention program that focuses on youth tobacco use. The  
 39 Legislature further finds that the primary goals of the program  
 40 are to reduce the prevalence of tobacco use among youth and  
 41 adults, reduce per capita tobacco consumption, and reduce  
 42 exposure to environmental tobacco smoke.

43           (3) The department shall conduct a comprehensive, statewide  
 44 tobacco education and prevention program consistent with the  
 45 recommendations for effective program components contained in the  
 46 1999 Best Practices for Comprehensive Tobacco Control Programs of  
 47 the CDC, as amended by the CDC. The program shall include the  
 48 following components, each of which shall focus on educating  
 49 people, particularly youth and their parents, about the health  
 50 hazards of tobacco and discouraging the use of tobacco:

51           (a) An advertising campaign using, at a minimum, Internet,  
 52 print, radio, and television advertising, funded with a minimum  
 53 of one-third of the total annual appropriation required by s. 27,  
 54 Art. X of the State Constitution.

55           (b) Cessation programs, including counseling and treatment.

56           (c) Evaluation of the effectiveness of community and  
 57 statewide programs.

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58        (d) Evidence-based curricula and programs, including  
 59 school-based and after-school programs, which involve youth,  
 60 educate youth about the health hazards of tobacco, help youth  
 61 develop skills to refuse tobacco, and demonstrate to youth how to  
 62 stop using tobacco.

63        (e) Programs of local community-based partnerships,  
 64 including programs for the prevention, detection, and early  
 65 intervention of smoking-related chronic diseases.

66        (f) Training of health care providers and smoking cessation  
 67 counselors.

68        (4) The Tobacco Education and Prevention Advisory Council  
 69 is created within the department.

70        (a) The council shall consist of 14 members, including:

71        1. The Secretary of Health, or a designee.

72        2. Two members appointed by the Commissioner of Education,  
 73 of whom one must be a school district superintendent.

74        3. The chief executive officer of the Florida Division of  
 75 the American Cancer Society, or a designee.

76        4. The chief executive officer of the Greater Southeast  
 77 Affiliate of the American Heart Association, or a designee.

78        5. The chief executive officer of the American Lung  
 79 Association of Florida, or a designee.

80        6. Four members appointed by the Governor, of whom two must  
 81 have expertise in the field of tobacco prevention and education  
 82 or smoking cessation.

83        7. Two members appointed by the President of the Senate, of  
 84 whom one must have expertise in the field of tobacco prevention  
 85 and education or smoking cessation.

86 8. Two members appointed by the Speaker of the House of  
 87 Representatives, of whom one must have expertise in the field of  
 88 tobacco prevention and education or smoking cessation.

89 (b) The appointments shall be for a 3-year term and shall  
 90 reflect the diversity of the state's population. A vacancy shall  
 91 be filled by appointment by the original appointing authority for  
 92 the unexpired portion of the term.

93 (c) An appointed member may not serve more than two  
 94 consecutive terms.

95 (d) The council shall annually elect from its membership  
 96 one member to serve as chairperson of the council and one member  
 97 to serve as vice chairperson.

98 (e) The council shall meet at least quarterly and upon the  
 99 call of the chairperson.

100 (f) Members of the council shall serve without compensation  
 101 but may be reimbursed for per diem and travel expenses pursuant  
 102 to s. 112.061.

103 (g) The department shall provide council members with  
 104 information and other assistance as is reasonably necessary to  
 105 assist the council in carrying out its responsibilities.

106 (5) The council shall advise the Secretary of Health as to  
 107 the direction and scope of the Tobacco Education and Prevention  
 108 Program. The responsibilities of the council include, but are not  
 109 limited to:

110 (a) Providing advice on program priorities and emphases.

111 (b) Providing advice on the overall program budget.

112 (c) Participating in periodic program evaluation.

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113        (d) Assisting in the development of guidelines to ensure  
 114 fairness, neutrality, and adherence to the principles of merit  
 115 and quality in the conduct of the program.

116        (e) Assisting in the development of administrative  
 117 procedures relating to solicitation, review, and award of  
 118 contracts and grants, to ensure an impartial, high-quality peer  
 119 review system.

120        (f) Assisting in the development and supervision of peer  
 121 review panels.

122        (g) Reviewing reports of peer review panels and making  
 123 recommendations for contracts and grants.

124        (h) Recommending meaningful outcome measures through a  
 125 regular review of tobacco prevention and education strategies and  
 126 programs of other states and the Federal Government.

127        (i) Recommending policies to encourage a coordinated  
 128 response to tobacco use in this state, focusing specifically on  
 129 creating partnerships within and between the public and private  
 130 sectors.

131        (6) Contracts and grants for the program components  
 132 described in subsection (3) shall be awarded by the Secretary of  
 133 Health, after consultation with the council, on the basis of  
 134 merit, as determined by an open, competitive, peer review process  
 135 that ensures objectivity, consistency, and high quality. A  
 136 recipient of a contract or grant for the program component  
 137 described in paragraph (3)(c) shall not be eligible for a  
 138 contract or grant award for any other program component described  
 139 in subsection (3) in the same state fiscal year.

140        (a) To ensure that all proposals for funding are  
 141 appropriate and are evaluated fairly on the basis of merit, the

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142 Secretary of Health, in consultation with the council, shall  
 143 appoint a peer review panel of independent, qualified experts in  
 144 the field of tobacco control to review the content of each  
 145 proposal and establish its priority score. The priority scores  
 146 shall be forwarded to the council and must be considered in  
 147 determining which proposals shall be recommended for funding.

148 (b) The council and the peer review panel shall establish  
 149 and follow rigorous guidelines for ethical conduct and adhere to  
 150 a strict policy with regard to conflict of interest. A member of  
 151 the council or panel may not participate in any discussion or  
 152 decision with respect to a research proposal by any firm, entity,  
 153 or agency with which the member is associated as a member of the  
 154 governing body or as an employee or with which the member has  
 155 entered into a contractual arrangement. Meetings of the council  
 156 and the peer review panels shall be subject to the provisions of  
 157 chapter 119, s. 286.011, and s. 24, Art. I of the State  
 158 Constitution.

159 (c) In each contract or grant agreement, the department  
 160 shall limit the use of food and promotional items to no more than  
 161 2.5 percent of the total amount of the contract or grant and  
 162 limit overhead or indirect costs to no more than 7.5 percent of  
 163 the total amount of the contract or grant. The department, in  
 164 consultation with the Department of Financial Services, shall  
 165 publish guidelines for appropriate food and promotional items.

166 (d) In each advertising contract, the department shall  
 167 limit the total of production fees, buyer commissions, and  
 168 related costs to no more than 5 percent of the total contract  
 169 amount.

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170       (7) By January 31 of each year, the department shall  
 171 provide to the Governor, the President of the Senate, and the  
 172 Speaker of the House of Representatives a report that evaluates  
 173 the program's effectiveness in reducing and preventing tobacco  
 174 use and that recommends improvements to enhance the program's  
 175 effectiveness. The report shall contain, at a minimum, an annual  
 176 survey of youth attitudes and behavior toward tobacco, as well as  
 177 a description of the progress in reducing the prevalence of  
 178 tobacco use among youth and adults, reducing per capita tobacco  
 179 consumption, and reducing exposure to environmental tobacco  
 180 smoke.

181       (8) From the total funds appropriated for the Comprehensive  
 182 Statewide Tobacco Education and Prevention Program in the General  
 183 Appropriations Act, an amount of up to 5 percent may be used by  
 184 the department for administrative expenses.

185       (9) The department may adopt rules pursuant to ss.  
 186 120.536(1) and 120.54 necessary to implement this section.

187       Section 2. This act shall take effect July 1, 2007.







## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide limited government**—The bill consolidates under a single entity, the James and Esther King Biomedical Research Program, similar or redundant functions for providing grants for biomedical research.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Florida Statutes define at least ten different programs with some responsibility for making biomedical research grants. Five other state authorized corporations, commissions, and councils are charged with various responsibilities for generating and awarding research grants, or otherwise stimulating research programs in the state. Another 15 advisory groups and councils are given statutory responsibilities for programs involving medical research. Although connected by a common theme and purpose, these various programs operate independently, sometimes redundantly to focus on selected diseases, narrowly defined objectives, and single-purpose initiatives.

In several of these cases, the legislation provides for annual allocations of state general revenue funds to be used for developing research capabilities or awarding research grants. Annual funding based in statute includes \$9.5 million annually is appropriated to the James and Esther King Biomedical Research Program, \$9 million to the William G. Bankhead and David Coley Cancer Research Program, and \$15 million to the Johnny B. Byrd, Sr. Alzheimer's Institute. Additional funds for research may be allocated through the General Appropriations Act or raised by other means and awarded through various procedures by numerous state-authorized entities.

##### Effect of Proposed Changes

The bill amends the James and Esther King Biomedical Research Program to consolidate processes for awarding funds appropriated by the Legislature for biomedical research. To accomplish this purpose, the bill revises provisions relating to funding and broadens the long-term goals of the program. The bill also amends the membership requirements of the Biomedical Research Advisory Council and provides that the council serve as the exclusive source of state funding for biomedical research. The bill requires establishment of certain committees, revises duties of the council and prohibits the use of state funds for certain research with human embryonic stem cells. The bill deletes requirements for other entities to establish and implement grant funding programs and revises or repeals other sections of statute in order to conform to the consolidation of these activities under the James and Esther King Biomedical Research Program.

#### C. SECTION DIRECTORY:

Section 1. Amends 20.435(h)1, F.S., deleting reference to the William G. "Bill" Bankhead and David Coley Cancer Research Program.

Section 2. Amends 215.5602, F.S., as follows:

- Adding reference to the Biomedical Research Trust Fund pursuant to s. 20.435(1)(h).
- Broadening the purpose of the program to include research into diseases other than those that are tobacco-related.
- Provides that the James and Esther King Biomedical Research Program shall be the exclusive source of state funds for biomedical research;
- Revising the membership of the Biomedical Research Advisory Council to expand from 11 to 29 members and names specific organizations to be represented.

- Specifying that the Council shall be the exclusive source of recommendations for grant awards and directs the Council to establish certain committees.
- Expanding the subjects to be covered in the Council's annual report.
- Prohibiting funds appropriated for biomedical research to be used for research with human embryonic stem cells derived from a process resulting from the death or destruction of the donor embryo or human cloning.

Section 3. Amends s. 381.853, F.S., limiting the purposes of the Florida Center for Brain Tumor Research regarding grant awards.

Section 4. Amends s. 381.912, F.S., eliminating references to the Center for Universal Research to Eradicate Disease.

Section 5 Amends s. 381.92(3), F.S., eliminating references to the Center for Universal Research to Eradicate Disease.

Section 6. Amends s. 381.921, F.S., eliminating references to the Center for Universal Research to Eradicate Disease and limiting the mission and duties of the Florida Cancer Council regarding awarding grants for biomedical research.

Section 7. Amends s. 381.98(8) and (12), F.S., eliminating references to the Center for Universal Research to Eradicate Disease.

Section 8. Repeals s. 381.855, F.S., relating to the William G. "Bill" Bankhead Jr. and the David Coley Cancer Research Program.

Section 9. Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill eliminates \$15 million in annual appropriations for biomedical research including \$6 million for the James and Esther King Biomedical Research Program and \$9 million for the William G. "Bill" Bankhead Jr. and the David Coley Cancer Research Program.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Consolidation of process for awarding state funds for biomedical research will make it easier for researchers, including those in the private sector, to identify and apply for available funding.

### **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:**

No new rule-making authority is necessary.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill does not include language placing the consolidated funding sources within the James and Esther King Biomedical Research Program.

#### **D. STATEMENT OF THE SPONSOR**

### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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A bill to be entitled

An act relating to biomedical research funding; amending s. 20.435, F.S.; deleting a reference to conform to the provisions of this act; amending s. 215.5602, F.S.; revising provisions relating to the James and Esther King Biomedical Research Program; revising provisions relating to program funds and funding; revising long-term goals of the program; revising membership provisions relating to the Biomedical Research Advisory Council; providing that the council serves as the exclusive source of certain biomedical research grant and fellowship awards; requiring the council to create committees; providing requirements for the committees; revising duties of the council; deleting references to conform to the provisions of this act; revising a requirement relating to the council's annual progress report; prohibiting the use of funds for certain research with human embryonic stem cells; amending s. 381.853, F.S.; deleting a requirement for the Florida Center for Brain Tumor Research to develop a competitive grant process relating to brain tumor research; amending s. 381.921, F.S.; specifying that certain cancer research funding shall be for research other than biomedical research; amending ss. 381.912, 381.92, and 381.98, F.S.; deleting references to conform to the provisions of this act; repealing s. 381.855, F.S., relating to the Florida Center for Universal Research to Eradicate Disease; repealing s. 381.922, F.S., relating to the William "Bill" Bankhead, Jr., and David Coley Cancer Research Program; providing an effective date.

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

Section 1. Paragraph (h) of subsection (1) of section 20.435, Florida Statutes, is amended to read:

20.435 Department of Health; trust funds.--

(1) The following trust funds are hereby created, to be administered by the Department of Health:

(h) Biomedical Research Trust Fund.

1. Funds to be credited to the trust fund shall consist of funds deposited pursuant to s. 215.5601 and any other funds appropriated by the Legislature. Funds shall be used for the purposes of the James and Esther King Biomedical Research Program ~~and the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program~~ as specified in ss. 215.5602 and 288.955, ~~and 381.922~~. The trust fund is exempt from the service charges imposed by s. 215.20.

2. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund. The department may invest these funds independently through the Chief Financial Officer or may negotiate a trust agreement with the State Board of Administration for the investment management of any balance in the trust fund.

3. Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance of any appropriation from the Biomedical Research Trust Fund which is not disbursed but which is obligated pursuant

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59 | to contract or committed to be expended may be carried forward  
 60 | for up to 3 years following the effective date of the original  
 61 | appropriation.

62 | 4. The trust fund shall, unless terminated sooner, be  
 63 | terminated on July 1, 2008.

64 | Section 2. Section 215.5602, Florida Statutes, is amended  
 65 | to read:

66 | 215.5602 James and Esther King Biomedical Research  
 67 | Program.--

68 | (1) There is established within the Department of Health  
 69 | the James and Esther King Biomedical Research Program funded by  
 70 | the proceeds of the Lawton Chiles Endowment Fund pursuant to s.  
 71 | 215.5601 and the Biomedical Research Trust Fund within the  
 72 | Department of Health pursuant to s. 20.435(1)(h). The purpose of  
 73 | the James and Esther King Biomedical Research Program is to  
 74 | provide an annual and perpetual source of funding for biomedical  
 75 | ~~in order to support~~ research initiatives that address the health  
 76 | care problems of Floridians, including tobacco-related diseases  
 77 | ~~in the areas of tobacco related cancer, cardiovascular disease,~~  
 78 | ~~stroke, and pulmonary disease.~~ The long-term goals of the program  
 79 | are to:

80 | (a) Improve the health of Floridians by researching better  
 81 | prevention, diagnoses, treatments, and cures for the most deadly  
 82 | and widespread diseases, including cancer, cardiovascular  
 83 | disease, stroke, and pulmonary disease, diabetes, autoimmune  
 84 | disorders, and neurological disorders, including Alzheimer's  
 85 | disease, epilepsy, and Parkinson's disease.

86 | (b) Expand the foundation of biomedical knowledge relating  
 87 | to the prevention, diagnosis, treatment, and cure of diseases



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88 related to tobacco use, including cancer, cardiovascular disease,  
89 stroke, and pulmonary disease.

90 (c) Expand the foundation of biomedical knowledge relating  
91 to the prevention, diagnosis, treatment, and cure of the most  
92 deadly and widespread diseases unrelated to tobacco use,  
93 including cancer, cardiovascular disease, stroke, pulmonary  
94 disease, diabetes, autoimmune disorders, and neurological  
95 disorders, including Alzheimer's disease, epilepsy, and  
96 Parkinson's disease.

97 (d)-(e) Improve the quality of the state's academic health  
98 centers by bringing the advances of biomedical research into the  
99 training of physicians and other health care providers.

100 (e)-(d) Increase the state's per capita funding for research  
101 by undertaking new initiatives in public health and biomedical  
102 research that will attract additional funding from outside the  
103 state.

104 (f)-(e) Stimulate economic activity in the state in areas  
105 related to biomedical research, such as the research and  
106 production of pharmaceuticals, biotechnology, and medical  
107 devices.

108 (2) Funds appropriated for the James and Esther King  
109 Biomedical Research Program shall be the exclusive source of  
110 state funds used exclusively for the award of grants and  
111 fellowships as established in this section; for research relating  
112 to the prevention, diagnosis, treatment, and cure of the diseases  
113 set forth in this section ~~related to tobacco use, including~~  
114 ~~cancer, cardiovascular disease, stroke, and pulmonary disease;~~  
115 and for expenses incurred in the administration of this section.

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116 Priority shall be granted to research designed to prevent or cure  
117 disease.

118 (3) There is created within the James and Esther King  
119 Biomedical Research Program in the Department of Health the  
120 Biomedical Research Advisory Council.

121 (a) The council shall consist of 29 ~~41~~ members, including:  
122 the chief executive officer of Enterprise Florida, Inc., or a  
123 designee; the chief executive officer of the Florida Division of  
124 the American Cancer Society, or a designee; the chief executive  
125 officer of the Florida/Puerto Rico Affiliate of the American  
126 Heart Association, or a designee; ~~and~~ the chief executive officer  
127 of the American Lung Association of Florida, or a designee; the  
128 chief executive officer of the H. Lee Moffitt Cancer Center, or a  
129 designee; the director of the University of Florida Shands Cancer  
130 Center, or a designee; the chief executive officer of the  
131 University of Miami Sylvester Comprehensive Cancer Center, or a  
132 designee; the chief executive officer of the Mayo Clinic,  
133 Jacksonville, or a designee; the president of the Florida Society  
134 of Clinical Oncology, or a designee; the president of the  
135 American College of Surgeons, Florida Chapter, or a designee; and  
136 the chair of the Florida Dialogue on Cancer, or a designee. The  
137 remaining 18 ~~8~~ members of the council shall be appointed as  
138 follows:

139 1. The Governor shall appoint eight ~~four~~ members, two  
140 members with expertise in the field of biomedical research, one  
141 member from a research university in the state, one  
142 representative of the Epilepsy Foundation, one representative of  
143 the Florida Medical Foundation, two members from the Florida

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144 Cancer Council, and one member representing the general  
 145 population of the state.

146 2. The President of the Senate shall appoint five ~~two~~  
 147 members, one member with expertise in the field of behavioral or  
 148 social research, one representative of BioFlorida, one  
 149 representative of Pharmaceutical Research and Manufacturers of  
 150 America, one representative of the South Coastal Region of the  
 151 American Diabetes Association, and one representative from a  
 152 cancer program approved by the American College of Surgeons.

153 3. The Speaker of the House of Representatives shall  
 154 appoint five ~~two~~ members, one representative of the National  
 155 Parkinson Foundation, one representative of the Alzheimer's  
 156 Association, one representative of the Florida Research  
 157 Consortium, one member from a professional medical organization,  
 158 and one representative from a cancer program approved by the  
 159 American College of Surgeons.

160  
 161 In making these appointments, the Governor, the President of the  
 162 Senate, and the Speaker of the House of Representatives shall  
 163 select primarily, but not exclusively, Floridians with biomedical  
 164 and lay expertise in the general areas of cancer, cardiovascular  
 165 disease, stroke, and pulmonary disease, diabetes, autoimmune  
 166 disorders, and neurological disorders, including Alzheimer's  
 167 disease, epilepsy, and Parkinson's disease. The appointments  
 168 shall be for a 3-year term and shall reflect the diversity of the  
 169 state's population. An appointed member may not serve more than  
 170 two consecutive terms.

171 (b) The council shall serve as the exclusive source of  
 172 awarding or recommending the award of grants or fellowships for

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173 biomedical research in the state using state-appropriated funds.  
 174 This paragraph shall not preclude another grant or fellowship  
 175 program in the state from awarding grants from funds received  
 176 from private or federal sources where permitted by state law.

177 (c)1. The council shall create a committee responsible for  
 178 each of the following research areas:

- 179 a. Tobacco-related diseases.
- 180 b. Cancer, including brain tumor research.
- 181 c. Stroke.
- 182 d. Cardiovascular disease.
- 183 e. Pulmonary disease.
- 184 f. Diabetes.
- 185 g. Autoimmune disorders.
- 186 h. Alzheimer's disease.
- 187 i. Parkinson's disease.
- 188 j. Neurological disorders, including epilepsy.

189 2. The committees shall be comprised of council members and  
 190 shall focus on issues and proposed research related to that  
 191 committee. The committees shall report findings and make  
 192 recommendations to the council regarding the award of grants and  
 193 the areas of focus or need for future grants and fellowships.

194 (d)-(b) The council shall adopt internal organizational  
 195 procedures as necessary for its efficient organization, including  
 196 procedures for assigning council members to committees and  
 197 coordination between the council and committees.

198 (e)-(e) The department shall provide such staff,  
 199 information, and other assistance as is reasonably necessary to  
 200 assist the council, including its committees, in carrying out its  
 201 responsibilities.

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202            ~~(f)~~(d) Members of the council shall serve without  
 203 compensation, but may receive reimbursement as provided in s.  
 204 112.061 for travel and other necessary expenses incurred in the  
 205 performance of their official duties.

206            (4) The council, after consulting with its committees,  
 207 shall advise the Secretary of Health as to the direction and  
 208 scope of the biomedical research program. The responsibilities of  
 209 the council may include, but are not limited to:

210            (a) Providing advice on program priorities and emphases.

211            (b) Providing advice on the overall program budget.

212            (c) Participating in periodic program evaluation.

213            (d) Assisting in the development of guidelines to ensure  
 214 fairness, neutrality, and adherence to the principles of merit  
 215 and quality in the conduct of the program.

216            (e) Assisting in the development of appropriate linkages to  
 217 nonacademic entities, such as voluntary organizations, health  
 218 care delivery institutions, industry, government agencies, and  
 219 public officials.

220            (f) Developing criteria and standards for the award of  
 221 research grants.

222            (g) Developing administrative procedures relating to  
 223 solicitation, review, and award of research grants and  
 224 fellowships, to ensure an impartial, high-quality peer review  
 225 system.

226            (h) Developing and supervising research peer review panels.

227            (i) Reviewing reports of peer review panels and making  
 228 recommendations for research grants and fellowships.

229            (j) Developing and providing oversight regarding mechanisms  
 230 for the dissemination of research results.

231 (5) (a) Applications for biomedical research funding under  
 232 the program may be submitted from any university or established  
 233 research institute in the state. All qualified investigators in  
 234 the state, regardless of institution affiliation, shall have  
 235 equal access and opportunity to compete for the research funding.

236 (b) The council, after consulting with its committees,  
 237 shall recommend the award of grants and fellowships for  
 238 biomedical research to the Secretary of Health, who shall make  
 239 the award ~~Grants and fellowships shall be awarded by the~~  
 240 ~~Secretary of Health, after consultation with the council,~~ on the  
 241 basis of scientific merit, as determined by an open competitive  
 242 peer review process that ensures objectivity, consistency, and  
 243 high quality. The following types of applications shall be  
 244 considered for funding:

- 245 1. Investigator-initiated research grants.
- 246 2. Institutional research grants.
- 247 3. Predoctoral and postdoctoral research fellowships.

248 (6) To ensure that all proposals for research funding are  
 249 appropriate and are evaluated fairly on the basis of scientific  
 250 merit, the Secretary of Health, in consultation with the council,  
 251 shall appoint a peer review panel of independent, scientifically  
 252 qualified individuals to review the scientific content of each  
 253 proposal and establish its scientific priority score. The  
 254 priority scores shall be forwarded to the council and its  
 255 committees and must be considered in determining which proposals  
 256 shall be recommended for funding.

257 (7) The council, the committees, and the peer review panel  
 258 shall establish and follow rigorous guidelines for ethical  
 259 conduct and adhere to a strict policy with regard to conflict of

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260 interest. A member of the council or panel may not participate in  
 261 any discussion or decision with respect to a research proposal by  
 262 any firm, entity, or agency with which the member is associated  
 263 as a member of the governing body or as an employee, or with  
 264 which the member has entered into a contractual arrangement.  
 265 Meetings of the council and the peer review panels shall be  
 266 subject to the provisions of chapter 119, s. 286.011, and s. 24,  
 267 Art. I of the State Constitution.

268 (8) The department may contract on a competitive-bid basis  
 269 with an appropriate entity to administer the program.  
 270 Administrative expenses may not exceed 15 percent of the total  
 271 funds available to the program in any given year.

272 (9) The department, after consultation with the council,  
 273 may adopt rules as necessary to implement this section.

274 (10) The council shall submit an annual progress report on  
 275 the state of biomedical research in this state ~~to the Florida~~  
 276 ~~Center for Universal Research to Eradicate Disease~~ and to the  
 277 Governor, the Secretary of Health, the President of the Senate,  
 278 and the Speaker of the House of Representatives by February 1.  
 279 The report must include:

280 (a) A list of research projects supported by grants or  
 281 fellowships awarded under the program.

282 (b) A list of recipients of program grants or fellowships.

283 (c) A list of publications in peer reviewed journals  
 284 involving research supported by grants or fellowships awarded  
 285 under the program.

286 (d) The total amount of biomedical research funding  
 287 currently flowing into the state.

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288 (e) New grants for biomedical research which were funded  
 289 based on research supported by grants or fellowships awarded  
 290 under the program.

291 (f) Progress in the prevention, diagnosis, treatment, and  
 292 cure of the most deadly and widespread diseases, including  
 293 cancer, cardiovascular disease, stroke, pulmonary disease,  
 294 diabetes, autoimmune disorders, and neurological disorders,  
 295 including Alzheimer's disease, epilepsy, and Parkinson's disease  
 296 ~~diseases related to tobacco use, including cancer, cardiovascular~~  
 297 ~~disease, stroke, and pulmonary disease.~~

298 ~~(11) The council shall award grants for cancer research~~  
 299 ~~through the William G. "Bill" Bankhead, Jr., and David Coley~~  
 300 ~~Cancer Research Program created in s. 381.922.~~

301 (11)(12) Funds for the Biomedical Research Advisory Council  
 302 shall be Beginning in fiscal year 2006-2007, the sum of \$6  
 303 million is appropriated annually from recurring funds in the  
 304 General Revenue Fund to the Biomedical Research Trust Fund within  
 305 the Department of Health for purposes of the James and Esther  
 306 King Biomedical Research Program pursuant to this section. From  
 307 these funds up to \$250,000 shall be available for the operating  
 308 costs of the James and Esther King Biomedical Research Program.  
 309 None of the funds appropriated for biomedical research pursuant  
 310 to this section shall be used for research with human embryonic  
 311 stem cells that are derived by a process resulting from the death  
 312 or destruction of the donor embryo or human cloning. If a grant  
 313 or fellowship recipient awarded a grant or fellowship for  
 314 biomedical research pursuant to this section uses state funds for  
 315 embryonic stem cell research or human cloning, the grant or  
 316 fellowship shall be immediately revoked and the council shall



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317 | have the right to seek recovery of the funds used for such  
 318 | unauthorized purposes ~~Florida Center for Universal Research to~~  
 319 | ~~Eradicate Disease.~~

320 |       (12)~~(13)~~ By June 1, 2009, the Division of Statutory  
 321 | Revision of the Office of Legislative Services shall certify to  
 322 | the President of the Senate and the Speaker of the House of  
 323 | Representatives the language and statutory citation of this  
 324 | section, which is scheduled to expire January 1, 2011.

325 |       (13)~~(14)~~ The Legislature shall review the performance, the  
 326 | outcomes, and the financial management of the James and Esther  
 327 | King Biomedical Research Program during the 2010 Regular Session  
 328 | of the Legislature and shall determine the most appropriate  
 329 | funding source and means of funding the program based on its  
 330 | review.

331 |       (14)~~(15)~~ This section expires January 1, 2011, unless  
 332 | reviewed and reenacted by the Legislature before that date.

333 |       Section 3. Subsection (4) of section 381.853, Florida  
 334 | Statutes, is amended to read:

335 |       381.853 Florida Center for Brain Tumor Research.--

336 |       (4) The Florida Center for Brain Tumor Research is  
 337 | established within the Evelyn F. and William L. McKnight Brain  
 338 | Institute of the University of Florida.

339 |       (a) The purpose of the center is to foster collaboration  
 340 | with brain cancer research organizations and other institutions,  
 341 | provide a central repository for brain tumor biopsies from  
 342 | individuals throughout the state, improve and monitor brain tumor  
 343 | biomedical research programs within the state, facilitate funding  
 344 | opportunities, and foster improved technology transfer of brain

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345 tumor research findings into clinical trials and widespread  
 346 public use.

347 (b) The goal of the center is to find cures for brain  
 348 tumors.

349 (c) Funds specifically appropriated by the Legislature for  
 350 peer-reviewed brain tumor research shall be awarded using a  
 351 competitive grant process developed by the center; however, the  
 352 funds may not be used to award grants for or related to  
 353 biomedical research.

354 (d) The center shall hold an annual brain tumor biomedical  
 355 technology summit in the state to which scientists conducting  
 356 basic peer-reviewed scientific research from the state's public  
 357 and private universities, teaching hospitals, and for-profit and  
 358 nonprofit institutions are invited to share biomedical research  
 359 findings in order to expedite the discovery of cures. Summit  
 360 attendees shall cover the costs of such attendance or obtain  
 361 sponsorship for such attendance.

362 (e) The center shall encourage clinical trials in the state  
 363 on research that holds the promise of curing brain tumors. The  
 364 center shall facilitate the formation of partnerships between  
 365 researchers, physicians, clinicians, and hospitals for the  
 366 purpose of sharing new techniques and new research findings and  
 367 coordinating the voluntary donation of brain tumor biopsies.

368 (f) The center shall submit an annual report to the  
 369 Governor, the President of the Senate, the Speaker of the House  
 370 of Representatives, and the Secretary of Health no later than  
 371 January 15 that contains recommendations for legislative changes  
 372 necessary to foster a positive climate for the pursuit of brain

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373 tumor research and the development of treatment modalities in the  
374 state.

375 (g) The center shall be funded through private, state, and  
376 federal sources.

377 Section 4. Subsection (1) of section 381.912, Florida  
378 Statutes, is amended to read:

379 381.912 Cervical Cancer Elimination Task Force.--

380 (1) Effective July 1, 2004, the Cervical Cancer Elimination  
381 Task Force is established for the purpose of recommending  
382 strategies and actions to reduce the costs and burdens of  
383 cervical cancer in Florida. The task force shall present interim  
384 reports to the Florida Public Health Foundation, Inc., the  
385 Florida Cancer Council, ~~the Center for Universal Research to~~  
386 ~~Eradicate Disease~~, the Governor, the President of the Senate, and  
387 the Speaker of the House of Representatives on January 1, 2006,  
388 and July 1, 2007, with a final report due on June 30, 2008. After  
389 submitting its final report on or before June 30, 2008, the task  
390 force is dissolved.

391 Section 5. Subsection (3) of section 381.92, Florida  
392 Statutes, is amended to read:

393 381.92 Florida Cancer Council.--

394 (3) The council shall issue an annual report to ~~the Center~~  
395 ~~for Universal Research to Eradicate Disease~~, the Governor, the  
396 Speaker of the House of Representatives, and the President of the  
397 Senate by December 15 of each year, with policy and funding  
398 recommendations regarding cancer research capacity in Florida and  
399 related issues.

400 Section 6. Section 381.921, Florida Statutes, is amended to  
401 read:

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402           381.921 Florida Cancer Council mission and duties.--The  
 403 council, ~~which shall work in concert with the Florida Center for~~  
 404 ~~Universal Research to Eradicate Disease to ensure that the goals~~  
 405 ~~of the center are advanced,~~ shall endeavor to dramatically  
 406 improve cancer research and treatment in this state through:  
 407           (1) Efforts to significantly expand cancer research  
 408 capacity in the state by:  
 409           (a) Identifying ways to attract new research talent and  
 410 attendant national grant-producing researchers to cancer research  
 411 facilities in this state;  
 412           (b) Implementing a peer-reviewed, competitive process to  
 413 identify and fund the best proposals to expand cancer research  
 414 institutes performing research other than biomedical research in  
 415 this state;  
 416           (c) Funding through available resources for those proposals  
 417 for research other than biomedical research that demonstrate the  
 418 greatest opportunity to attract federal research grants and  
 419 private financial support;  
 420           (d) Encouraging the employment of bioinformatics in order  
 421 to create a cancer informatics infrastructure that enhances  
 422 information and resource exchange and integration through  
 423 researchers working in diverse disciplines, to facilitate the  
 424 full spectrum of cancer investigations;  
 425           (e) Facilitating the technical coordination, business  
 426 development, and support of intellectual property as it relates  
 427 to the advancement of cancer research; and  
 428           (f) Aiding in other multidisciplinary research-support  
 429 activities as they inure to the advancement of cancer research.

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430 (2) Efforts to improve both research and treatment through  
431 greater participation in clinical trials networks by:

432 (a) Identifying ways to increase adult enrollment in cancer  
433 clinical trials;

434 (b) Supporting public and private professional education  
435 programs designed to increase the awareness and knowledge about  
436 cancer clinical trials;

437 (c) Providing tools to cancer patients and community-based  
438 oncologists to aid in the identification of cancer clinical  
439 trials available in the state; and

440 (d) Creating opportunities for the state's academic cancer  
441 centers to collaborate with community-based oncologists in cancer  
442 clinical trials networks.

443 (3) Efforts to reduce the impact of cancer on disparate  
444 groups by:

445 (a) Identifying those cancers that disproportionately  
446 impact certain demographic groups; and

447 (b) Building collaborations designed to reduce health  
448 disparities as they relate to cancer.

449 Section 7. Subsections (8) and (12) of section 381.98,  
450 Florida Statutes, are amended to read:

451 381.98 The Florida Public Health Foundation, Inc.;  
452 establishment; purpose; mission; duties; board of directors.--

453 (8) The corporation, in consultation with the Department of  
454 Health and ~~the Florida Center for Universal Research to Eradicate~~  
455 ~~Disease~~, shall facilitate communication between biomedical  
456 researchers and health care providers each month according to the  
457 health awareness schedule established by the Florida Public

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458 Health Foundation, Inc., in order to ensure ongoing dialogue  
 459 between researchers, treatment providers, and the department.

460 (12) The corporation shall provide an annual report  
 461 concerning its activities and finances to ~~the Florida Center for~~  
 462 ~~Universal Research to Eradicate Disease and shall provide copies~~  
 463 ~~of the annual report to~~ the Governor, the President of the  
 464 Senate, and the Speaker of the House of Representatives.

465 Section 8. Sections 381.855 and 381.922, Florida Statutes,  
 466 are repealed.

467 Section 9. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. PCB HCC 07-10

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 bill: Healthcare Council  
2 Representative(s) Bean offered the following:

3  
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (h) of subsection (1) of section  
7 20.435, Florida Statutes, is amended to read:

8 20.435 Department of Health; trust funds.--

9 (1) The following trust funds are hereby created, to be  
10 administered by the Department of Health:

11 (h) Biomedical Research Trust Fund.

12 1. Funds to be credited to the trust fund shall consist of  
13 funds deposited pursuant to s. 215.5601 and any other funds  
14 appropriated by the Legislature. Funds shall be used for the  
15 purposes of the James and Esther King Biomedical Research  
16 Program ~~and the William G. "Bill" Bankhead, Jr., and David Coley~~  
17 ~~Cancer Research Program~~ as specified in ss. 215.5602 and  
18 ~~288.955, and 381.922~~. The trust fund is exempt from the service  
19 charges imposed by s. 215.20.

20 2. Notwithstanding the provisions of s. 216.301 and  
21 pursuant to s. 216.351, any balance in the trust fund at the end  
22 of any fiscal year shall remain in the trust fund at the end of

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

23 the year and shall be available for carrying out the purposes of  
24 the trust fund. The department may invest these funds  
25 independently through the Chief Financial Officer or may  
26 negotiate a trust agreement with the State Board of  
27 Administration for the investment management of any balance in  
28 the trust fund.

29 3. Notwithstanding s. 216.301 and pursuant to s. 216.351,  
30 any balance of any appropriation from the Biomedical Research  
31 Trust Fund which is not disbursed but which is obligated  
32 pursuant to contract or committed to be expended may be carried  
33 forward for up to 3 years following the effective date of the  
34 original appropriation.

35 4. The trust fund shall, unless terminated sooner, be  
36 terminated on July 1, 2008.

37 Section 2. Paragraph (d) of subsection (1) of section  
38 215.5601, Florida Statutes, is amended to read:

39 215.5601 Lawton Chiles Endowment Fund.--

40 (1) LEGISLATIVE INTENT.-- It is the intent of the  
41 Legislature to:

42 (d) Provide funds to help support public-health and  
43 biomedical research for the prevention, diagnosis, treatment,  
44 and cure of diseases related to tobacco use by creating an  
45 annual and perpetual source of funding for biomedical research  
46 in the state through the James and Esther King Biomedical  
47 Research Program in order to expand the foundation of biomedical  
48 knowledge relating to the prevention, diagnosis, treatment, and  
49 cure of diseases related to tobacco use, including cancer,  
50 cardiovascular disease, stroke, and pulmonary disease; improve  
51 the quality of the state's academic health centers by bringing  
52 the advances of biomedical research into the training of  
53 physicians and other health care providers; and increase the



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54 state's per capita funding for biomedical research by  
55 undertaking new initiatives in biomedical research which will  
56 attract additional funding from outside the state while also  
57 stimulating economic activity in the state in areas related to  
58 biomedical research, such as the research and production of  
59 pharmaceuticals, biotechnology, and medical devices.

60 Section 3. Section 215.5602, Florida Statutes, is amended  
61 to read:

62 215.5602 James and Esther King Biomedical Research  
63 Program.—

64 (1) The Legislature finds that an estimated 128 million  
65 Americans suffer from acute, chronic, and degenerative diseases  
66 and that biomedical research is the key to finding cures for  
67 these diseases that negatively affect Floridians. The  
68 Legislature further finds that the biomedical technology sector  
69 meets the criteria of a high-impact sector, pursuant to s.  
70 288.108, having a high importance to this state's economy with a  
71 significant potential for growth and contribution to our  
72 universities and quality of life.

73 (2) It is the intent of the Legislature that Florida  
74 strive to become the nation's leader in biomedical research and  
75 commit itself to being the state to find cures for the most  
76 deadly and widespread diseases. Moreover, it is the intent of  
77 the Legislature to expand the state economy by attracting  
78 biomedical researchers and research companies to this state.

79 (3)~~(1)~~ There is established within the Department of  
80 Health the James and Esther King Biomedical Research Program  
81 funded by the proceeds of the Lawton Chiles Endowment Fund  
82 pursuant to s. 215.5601 and the Biomedical Research Trust Fund  
83 within the Department of Health pursuant to s. 20.435(1)(h). The  
84 purpose of the James and Esther King Biomedical Research Program

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85 is to provide an annual and perpetual source of funding for  
86 biomedical ~~in order to support~~ research initiatives that address  
87 the health care problems of Floridians ~~in the areas of tobacco-~~  
88 ~~related cancer, cardiovascular disease, stroke, and pulmonary~~  
89 ~~disease.~~ The long-term goals of the program are to:

90 (a) Improve the health of Floridians by researching better  
91 prevention, diagnoses, treatments, and cures for the most deadly  
92 and widespread diseases, including, but not limited to, tobacco-  
93 related diseases, cancer, cardiovascular disease, stroke, and  
94 pulmonary disease, diabetes, autoimmune disorders, and  
95 neurological disorders, including Alzheimer's disease, epilepsy,  
96 and Parkinson's disease.

97 (b) Expand the foundation of biomedical knowledge relating  
98 to the prevention, diagnosis, treatment, and cure of diseases  
99 related to tobacco use, including cancer, cardiovascular  
100 disease, stroke, and pulmonary disease.

101 (c) Expand the foundation of biomedical knowledge relating  
102 to the prevention, diagnosis, treatment, and cure of the most  
103 deadly and widespread diseases affecting Floridians.

104 (d)-(e) Improve the quality of the state's academic health  
105 centers by bringing the advances of biomedical research into the  
106 training of physicians and other health care providers.

107 (e)-(d) Increase the state's per capita funding for  
108 research by undertaking new initiatives in public health and  
109 biomedical research that will attract additional funding from  
110 outside the state.

111 (f)-(e) Stimulate economic activity in the state in areas  
112 related to biomedical research, such as the research and  
113 production of pharmaceuticals, biotechnology, and medical  
114 devices.

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115 (g) Facilitate communication between biomedical  
116 researchers and health care providers in order to ensure ongoing  
117 dialogue between researchers, treatment providers, and the  
118 department.

119 (h) Coordinate, improve, and expand, and monitor all  
120 biomedical research programs within the state, facilitate  
121 funding opportunities, and foster improved technology transfer  
122 of research findings into clinical trials and widespread public  
123 use.

124 (i) Hold periodic biomedical technology summits in Florida  
125 to which biomedical researchers, biomedical technology  
126 companies, business incubators, pharmaceutical manufacturers,  
127 and others around the nation and world are invited to share  
128 biomedical research findings in order to expedite the discovery  
129 of cures. Summit attendees shall cover the costs of such  
130 attendance or obtain sponsorship for such attendance.

131 (j) Encourage clinical trials in this state on research  
132 that holds promise of curing a disease or condition.

133 (k) Encourage partnerships between researchers in this  
134 state and institutions in other states and countries where  
135 research with rare plants or animals could lead to cures.

136 (l) Encourage agricultural colleges and agricultural  
137 businesses in this state to be active in the search for cures  
138 and in providing information to the public about disease  
139 prevention.

140 (m) Encourage partnerships among researchers working to  
141 cure all types of diseases, including those that are prevalent  
142 in developed countries and those that occur mainly in developing  
143 countries.

144 (n) Encourage the discovery and production in Florida of  
145 vaccines that prevent disease.

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146        (4)(2) Beginning in fiscal year 2007-2008, the sum of \$25  
147 million is appropriated annually from recurring funds in the  
148 General Revenue Fund to the Biomedical Research Trust Fund  
149 within the Department of Health for the James and Esther King  
150 Biomedical Research Program for the purposes as provided under  
151 this section. Funds appropriated for the James and Esther King  
152 Biomedical Research Program shall be the exclusive source of  
153 state funds used exclusively for the award of biomedical  
154 research grants and fellowships in Florida, as established in  
155 this section; for research relating to the prevention,  
156 diagnosis, treatment, and cure of diseases affecting Floridians  
157 related to tobacco use, including cancer, cardiovascular  
158 disease, stroke, and pulmonary disease; and for expenses  
159 incurred in the administration of this section. Priority shall  
160 be granted to research designed to prevent or cure disease.

161        (5)(3) There is created within the James and Esther King  
162 Biomedical Research Program in the Department of Health the  
163 Biomedical Research Advisory Council.

164        (a) The council shall consist of 34 ~~41~~ members, including:  
165 the chief executive officer of Enterprise Florida, Inc., or a  
166 designee; the chief executive officer of the Florida Division of  
167 the American Cancer Society, or a designee; the chief executive  
168 officer of the Florida/Puerto Rico Affiliate of the American  
169 Heart Association, or a designee; and the chief executive  
170 officer of the American Lung Association of Florida, or a  
171 designee; the chief executive officer of the H. Lee Moffitt  
172 Cancer Center, or a designee; the director of the University of  
173 Florida Shands Cancer Center, or a designee; the chief executive  
174 officer of the University of Miami Sylvester Comprehensive  
175 Cancer Center, or a designee; the chief executive officer of the  
176 Mayo Clinic, Jacksonville, or a designee; the president of the

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177 Florida Society of Clinical Oncology, or a designee; the  
178 president of the American College of Surgeons, Florida Chapter,  
179 or a designee; and the chair of the Florida Dialogue on Cancer,  
180 or a designee. The remaining 23 & members of the council shall  
181 be appointed as follows:

182 1. The Governor shall appoint eleven ~~four~~ members, two  
183 members with expertise in the field of biomedical research, one  
184 member from a research university in the state, one  
185 representative of the Epilepsy Foundation, one representative of  
186 the Florida Medical Foundation, one representative of the  
187 American Liver Foundation, one representative of the Florida  
188 Academy of Family Physicians, one public health academian, one  
189 representative of the Florida Public Health Association, one  
190 representative of the Florida Council for Behavioral Health  
191 Care, Inc., one representative of the Florida Association of  
192 County Health Officers, and one member representing the general  
193 population of the state.

194 2. The President of the Senate shall appoint six ~~two~~  
195 members, one former member of the Senate, one member with  
196 expertise in the field of behavioral or social research, one  
197 representative of BioFlorida, one representative of  
198 Pharmaceutical Research and Manufacturers of America, one  
199 representative of the South Coastal Region of the American  
200 Diabetes Association, and one representative from a cancer  
201 program approved by the American College of Surgeons.

202 3. The Speaker of the House of Representatives shall  
203 appoint six ~~two~~ members, one former member of the House of  
204 Representatives, one representative of the National Parkinson  
205 Foundation, one representative of the Alzheimer's Association,  
206 one representative of the Florida Research Consortium, one  
207 member from a professional medical organization, and one

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208 representative from a cancer program approved by the American  
209 College of Surgeons.

210 In making these appointments, the Governor, the President of the  
211 Senate, and the Speaker of the House of Representatives shall  
212 select primarily, but not exclusively, Floridians with  
213 biomedical and lay expertise in the general areas of cancer,  
214 cardiovascular disease, stroke, ~~and~~ pulmonary disease, diabetes,  
215 autoimmune disorders, and neurological disorders, including  
216 Alzheimer's disease, epilepsy, and Parkinson's disease. The  
217 appointments shall be for a 3-year term and shall reflect the  
218 diversity of the state's population. An appointed member may not  
219 serve more than two consecutive terms.

220 (b) The council shall serve as the exclusive source of  
221 awarding or recommending the award of grants or fellowships for  
222 biomedical research in this state using state-appropriated  
223 funds. This paragraph shall not preclude another grant or  
224 fellowship program in the state from awarding grants from funds  
225 received from private or federal sources where permitted by  
226 state law.

227 (c) 1. The council shall create the following committees:

228 a. Committee on Tobacco-related Diseases.

229 b. Bankhead-Coley Committee on Cancer.

230 c. Committee on Strokes.

231 d. Committee on Cardiovascular Disease.

232 e. Committee on Pulmonary Disease.

233 f. Committee on Diabetes.

234 g. Committee on Autoimmune Disorders.

235 h. Johnnie B. Byrd, Sr., Committee on Alzheimer's Disease.

236 i. Committee on Parkinson's Disease.

237 j. Committee on Neurological Disorders.

238 The council may create other committees as it deems necessary.

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239        2. The committees shall be comprised of council members  
240 and shall focus on issues and proposed research related to that  
241 committee. The committees shall report findings and make  
242 recommendations to the council regarding the award of grants and  
243 the areas of focus or need for future grants and fellowships.

244        (d) (b) The council shall adopt internal organizational  
245 procedures as necessary for its efficient organization,  
246 including procedures for assigning council members to committees  
247 and coordination between the council and committees.

248        (e) (e) The department shall provide such staff,  
249 information, and other assistance as is reasonably necessary to  
250 assist the council, including its committees, in carrying out  
251 its responsibilities.

252        (f) (d) Members of the council shall serve without  
253 compensation, but may receive reimbursement as provided in s.  
254 112.061 for travel and other necessary expenses incurred in the  
255 performance of their official duties.

256        (6) (4) The council, after consulting with its committees,  
257 shall advise the Secretary of Health as to the direction and  
258 scope of the biomedical research program. The responsibilities  
259 of the council may include, but are not limited to:

260            (a) Providing advice on program priorities and emphases.

261            (b) Providing advice on the overall program budget.

262            (c) Participating in periodic program evaluation.

263            (d) Assisting in the development of guidelines to ensure  
264 fairness, neutrality, and adherence to the principles of merit  
265 and quality in the conduct of the program.

266            (e) Assisting in the development of appropriate linkages  
267 to nonacademic entities, such as voluntary organizations, health  
268 care delivery institutions, industry, government agencies, and  
269 public officials.

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270 (f) Developing criteria and standards for the award of  
271 research grants.

272 (g) Developing administrative procedures relating to  
273 solicitation, review, and award of research grants and  
274 fellowships, to ensure an impartial, high-quality peer review  
275 system.

276 (h) Developing and supervising research peer review  
277 panels.

278 (i) Reviewing reports of peer review panels and making  
279 recommendations for research grants and fellowships.

280 (j) Developing and providing oversight regarding  
281 mechanisms for the dissemination of research results.

282 (k) Monitoring the supply and demand needs of researchers  
283 relating to stem cell research and other types of human tissue  
284 research consistent with this section. If the council determines  
285 that there is a need for increased donation of stem cells or  
286 human tissue, it shall notify hospitals licensed pursuant to  
287 chapter 395 which have entered into partnership agreements with  
288 research institutes conducting stem cell research located in the  
289 same geographic region as the researchers demanding the adult  
290 stem cells, placentas, or cord blood.

291 (l) The council shall maintain a website with links to  
292 peer-reviewed biomedical research and future opportunities to  
293 apply for an award of a biomedical research grants from the  
294 council. The website shall also contain a list of all known  
295 biomedical research being conducted in Florida and shall  
296 facilitate communication among researchers and other interested  
297 parties.

298 (m) Disseminating breakthrough findings in, and  
299 information about, innovative biomedical research and clinical  
300 trials that will assist in making Floridians and their treatment



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301 providers aware of specified diseases and conditions and  
302 available methods of preventing, diagnosing, treating, and  
303 curing those diseases and conditions.

304 ~~(7)~~(5)(a) Applications for biomedical research funding  
305 under the program may be submitted from any university or  
306 established research institute in the state. All qualified  
307 investigators in the state, regardless of institution  
308 affiliation, shall have equal access and opportunity to compete  
309 for the research funding.

310 (b) The council, after consulting with its committees,  
311 shall recommend the award of grants and fellowships for  
312 biomedical research to the Secretary of Health, who shall accept  
313 the recommendations of the council and make the award ~~Grants and~~  
314 ~~fellowships shall be awarded by the Secretary of Health, after~~  
315 ~~consultation with the council,~~ on the basis of scientific merit,  
316 as determined by an open competitive peer review process that  
317 ensures objectivity, consistency, and high quality. The  
318 following types of applications shall be considered for funding:

- 319 1. Investigator-initiated research grants.  
320 2. Institutional research grants.  
321 3. Predoctoral and postdoctoral research fellowships.

322 ~~(8)~~(6) To ensure that all proposals for research funding  
323 are appropriate and are evaluated fairly on the basis of  
324 scientific merit, the Secretary of Health, in consultation with  
325 the council, shall appoint a peer review panel of independent,  
326 scientifically qualified individuals to review the scientific  
327 content of each proposal and establish its scientific priority  
328 score. The priority scores shall be forwarded to the council and  
329 its committees and must be considered in determining which  
330 proposals shall be recommended for funding.

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331           ~~(9)-(7)~~ The council, the committees, and the peer review  
332 panel shall establish and follow rigorous guidelines for ethical  
333 conduct and adhere to a strict policy with regard to conflict of  
334 interest. A member of the council or panel may not participate  
335 in any discussion or decision with respect to a research  
336 proposal by any firm, entity, or agency with which the member is  
337 associated as a member of the governing body or as an employee,  
338 or with which the member has entered into a contractual  
339 arrangement. Meetings of the council and the peer review panels  
340 shall be subject to the provisions of chapter 119, s. 286.011,  
341 and s. 24, Art. I of the State Constitution.

342           (10) The council shall take into consideration the  
343 following factors when prioritizing grant or fellowship awards:

344           (a) Research applications that appear to have the most  
345 profound impact on the most deadly and widespread diseases  
346 affecting Floridians at the time the grant or fellowship is  
347 awarded;

348           (b) Research applications that meet the priorities of the  
349 program while proposing the best and most efficient use of state  
350 funds.

351           ~~(11)-(8)~~ The department may contract on a competitive-bid  
352 basis with an appropriate entity to administer the program.  
353 Administrative expenses may not exceed 15 percent of the total  
354 funds available to the program in any given year.

355           ~~(12)-(9)~~ The department, after consultation with the  
356 council, may adopt rules as necessary to implement this section.

357           ~~(13)-(10)~~ The council shall submit an annual progress  
358 report on the state of biomedical research in this state ~~to the~~  
359 ~~Florida Center for Universal Research to Eradicate Disease and~~  
360 ~~to the Governor, the Secretary of Health, the President of the~~

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361 Senate, and the Speaker of the House of Representatives by  
362 February 1. The report must include:

363 (a) A list of research projects supported by grants or  
364 fellowships awarded under the program.

365 (b) A list of recipients of program grants or fellowships.

366 (c) A list of publications in peer reviewed journals  
367 involving research supported by grants or fellowships awarded  
368 under the program.

369 (d) The total amount of biomedical research funding  
370 currently flowing into the state.

371 (e) New grants for biomedical research which were funded  
372 based on research supported by grants or fellowships awarded  
373 under the program.

374 (f) Progress in the prevention, diagnosis, treatment, and  
375 cure of the most deadly and widespread diseases, including  
376 cancer, cardiovascular disease, stroke, pulmonary disease,  
377 diabetes, autoimmune disorders, and neurological disorders,  
378 including Alzheimer's disease, epilepsy, and Parkinson's disease  
379 ~~diseases related to tobacco use, including cancer,~~  
380 ~~cardiovascular disease, stroke, and pulmonary disease.~~

381 ~~(11) The council shall award grants for cancer research~~  
382 ~~through the William G. "Bill" Bankhead, Jr., and David Coley~~  
383 ~~Cancer Research Program created in s. 381.922.~~

384 ~~(14)(12)~~ Funds for the Biomedical Research Advisory  
385 Council shall be Beginning in fiscal year 2006-2007, the sum of  
386 ~~\$6 million is~~ appropriated annually from recurring funds in the  
387 General Revenue Fund to the Biomedical Research Trust Fund  
388 within the Department of Health for purposes of the James and  
389 Esther King Biomedical Research Program pursuant to this  
390 section. From these funds up to \$500,000 ~~250,000~~ shall be  
391 available for the operating costs of the James and Esther King

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392 Biomedical Research Program. Any biomedical research grants  
393 awarded pursuant to this section for cancer research shall be  
394 named "Bankhead-Coley Cancer Research Grants." None of the funds  
395 appropriated for biomedical research pursuant to this section  
396 shall be used for research with human embryonic stem cells that  
397 are derived by a process resulting from the death or destruction  
398 of the donor embryo or human cloning. If a grant or fellowship  
399 recipient awarded a grant or fellowship for biomedical research  
400 pursuant to this section uses state funds for embryonic stem  
401 cell research or human cloning, the grant or fellowship shall be  
402 immediately revoked and the council shall have the right to seek  
403 recovery of the funds used for such unauthorized purposes  
404 ~~Florida Center for Universal Research to Eradicate Disease.~~

405 ~~(15)-(13)~~ By June 1, 2009, the Division of Statutory  
406 Revision of the Office of Legislative Services shall certify to  
407 the President of the Senate and the Speaker of the House of  
408 Representatives the language and statutory citation of this  
409 section, which is scheduled to expire January 1, 2011.

410 ~~(16)-(14)~~ The Legislature shall review the performance, the  
411 outcomes, and the financial management of the James and Esther  
412 King Biomedical Research Program during the 2010 Regular Session  
413 of the Legislature and shall determine the most appropriate  
414 funding source and means of funding the program based on its  
415 review.

416 ~~(17)-(15)~~ This section expires January 1, 2011, unless  
417 reviewed and reenacted by the Legislature before that date.

418 Section 4. Subsection(4) of section 381.853, Florida  
419 Statutes, is amended to read:

420 381.853 Florida Center for Brain Tumor Research.--

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421 (4) The Florida Center for Brain Tumor Research is  
422 established within the Evelyn F. and William L. McKnight Brain  
423 Institute of the University of Florida.

424 (a) The purpose of the center is to foster collaboration  
425 with brain cancer research organizations and other institutions,  
426 provide a central repository for brain tumor biopsies from  
427 individuals throughout the state, ~~improve and monitor brain~~  
428 ~~tumor biomedical research programs within the state, facilitate~~  
429 ~~funding opportunities,~~ and foster improved technology transfer  
430 of brain tumor research findings into clinical trials and  
431 widespread public use.

432 (b) The goal of the center is to find cures for brain  
433 tumors.

434 ~~(c) Funds specifically appropriated by the Legislature for~~  
435 ~~peer reviewed brain tumor research shall be awarded using a~~  
436 ~~competitive grant process developed by the center.~~

437 (c)~~(d)~~ The center shall hold an annual brain tumor  
438 biomedical technology summit in the state to which scientists  
439 conducting basic peer-reviewed scientific research from the  
440 state's public and private universities, teaching hospitals, and  
441 for-profit and nonprofit institutions are invited to share  
442 biomedical research findings in order to expedite the discovery  
443 of cures. Summit attendees shall cover the costs of such  
444 attendance or obtain sponsorship for such attendance.

445 (d)~~(e)~~ The center shall encourage clinical trials in the  
446 state on research that holds the promise of curing brain tumors.  
447 The center shall facilitate the formation of partnerships  
448 between researchers, physicians, clinicians, and hospitals for  
449 the purpose of sharing new techniques and new research findings  
450 and coordinating the voluntary donation of brain tumor biopsies.

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451        ~~(e)(f)~~ The center shall submit an annual report to the  
452 Governor, the President of the Senate, the Speaker of the House  
453 of Representatives, and the Secretary of Health no later than  
454 January 15 that contains recommendations for legislative changes  
455 necessary to foster a positive climate for the pursuit of brain  
456 tumor research and the development of treatment modalities in  
457 the state.

458        ~~(f)(g)~~ The center shall be funded through private, state,  
459 and federal sources.

460        Section 5. Subsection (1) of section 381.912, Florida  
461 Statutes, is amended to read:

462        381.912 Cervical Cancer Elimination Task Force.--

463        (1) Effective July 1, 2004, the Cervical Cancer  
464 Elimination Task Force is established for the purpose of  
465 recommending strategies and actions to reduce the costs and  
466 burdens of cervical cancer in Florida. The task force shall  
467 present interim reports to the William G. "Bill" Bankhead, Jr.  
468 and David Coley Cancer Research Council, ~~Florida Public Health~~  
469 ~~Foundation, Inc., the Florida Cancer Council, the Center for~~  
470 ~~Universal Research to Eradicate Disease,~~ the Governor, the  
471 President of the Senate, and the Speaker of the House of  
472 Representatives on January 1, 2006, and July 1, 2007, with a  
473 final report due on June 30, 2008. After submitting its final  
474 report on or before June 30, 2008, the task force is dissolved.

475        Section 6. Section 381.922, Florida Statutes, is amended  
476 to read:

477        381.922 William G. "Bill" Bankhead, Jr. and David Coley  
478 Cancer Research Council.--

479        (1) Effective July 1, 2007, the William G. "Bill"  
480 Bankhead, Jr. and David Coley Cancer Research Council, which may  
481 be otherwise cited as the "Bankhead-Coley Cancer Council," is

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482 created within the Department of Health for the purpose of  
483 making the state a center of excellence for cancer research.

484 (2) (a) The council shall be representative of the state's  
485 cancer centers, hospitals, and patient groups and shall be  
486 organized and shall operate in accordance with this act.

487 (b) The Bankhead-Coley Cancer Council may create not-for-  
488 profit corporations to receive, hold, invest, and administer  
489 property and any moneys acquired from private, local, state, and  
490 federal sources, as well as technical and professional income  
491 generated or derived from the mission-related activities of the  
492 council.

493 (c) The members of the council shall consist of:

494 1. Chair of the Florida Dialogue on Cancer, who shall  
495 serve as the chair of the council;

496 2. Secretary of the Department of Health or his or her  
497 designee;

498 3. Chief Executive Officer of the H. Lee Moffitt Cancer  
499 Center or his or her designee;

500 4. Director of the University of Florida Shands Cancer  
501 Center or his or her designee;

502 5. Chief Executive Officer of the University of Miami  
503 Sylvester Comprehensive Cancer Center or his or her designee;

504 6. Chief Executive Officer of the Mayo Clinic,  
505 Jacksonville, or his or her designee;

506 7. Chief Executive Officer of the American Cancer Society,  
507 Florida Division, Inc., or his or her designee;

508 8. President of the American Cancer Society, Florida  
509 Division, Inc., Board of Directors or his or her designee;

510 9. President of the Florida Society of Clinical Oncology  
511 or his or her designee;

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512 10. President of the American College of Surgeons, Florida  
513 Chapter, or his or her designee;

514 11. Chief Executive Officer of Enterprise Florida, Inc.,  
515 or his or her designee;

516 12. Five representatives from cancer programs approved by  
517 the American College of Surgeons. Three shall be appointed by  
518 the Governor, one shall be appointed by the Speaker of the House  
519 of Representatives, and one shall be appointed by the President  
520 of the Senate;

521 13. One member of the House of Representatives, to be  
522 appointed by the Speaker of the House of Representatives; and

523 14. One member of the Senate, to be appointed by the  
524 President of the Senate.

525 (d) Appointments made by the Speaker of the House of  
526 Representatives and the President of the Senate pursuant to  
527 paragraph (c) shall be for 2-year terms, concurrent with the  
528 bienniums in which they serve as presiding officers.

529 (e) Appointments made by the Governor pursuant to  
530 paragraph (c) shall be for 2-year terms, although the Governor  
531 may reappoint members.

532 (f) Members of the council and officers of any not-for-  
533 profit corporations shall serve without compensation, and each  
534 organization represented on the council shall cover the expenses  
535 of its representatives.

536 (3) The council shall issue an annual report to the James  
537 and Esther King Biomedical Research Program, the Governor, the  
538 Speaker of the House of Representatives, and the President of  
539 the Senate by December 15 of each year, with policy  
540 recommendations regarding cancer research capacity in Florida  
541 and related issues.



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542 ~~381.922 William G. "Bill" Bankhead, Jr., and David Coley~~  
543 ~~Cancer Research Program.~~

544 ~~(1) The William G. "Bill" Bankhead, Jr., and David Coley~~  
545 ~~Cancer Research Program, which may be otherwise cited as the~~  
546 ~~"Bankhead Coley Program," is created within the Department of~~  
547 ~~Health. The purpose of the program shall be to advance progress~~  
548 ~~towards cures for cancer through grants awarded through a peer-~~  
549 ~~reviewed, competitive process.~~

550 ~~(2) The program shall provide grants for cancer research~~  
551 ~~to further the search for cures for cancer.~~

552 ~~(a) Emphasis shall be given to the goals enumerated in s.~~  
553 ~~381.921, as those goals support the advancement of such cures.~~

554 ~~(b) Preference may be given to grant proposals that foster~~  
555 ~~collaborations among institutions, researchers, and community~~  
556 ~~practitioners, as such proposals support the advancement of~~  
557 ~~cures through basic or applied research, including clinical~~  
558 ~~trials involving cancer patients and related networks. (~~

559 ~~3) (a) Applications for funding for cancer research may be~~  
560 ~~submitted by any university or established research institute in~~  
561 ~~the state. All qualified investigators in the state, regardless~~  
562 ~~of institutional affiliation, shall have equal access and~~  
563 ~~opportunity to compete for the research funding. Collaborative~~  
564 ~~proposals, including those that advance the program's goals~~  
565 ~~enumerated in subsection (2), may be given preference. Grants~~  
566 ~~shall be awarded by the Secretary of Health, after consultation~~  
567 ~~with the Biomedical Research Advisory Council, on the basis of~~  
568 ~~scientific merit, as determined by an open, competitive peer~~  
569 ~~review process that ensures objectivity, consistency, and high~~  
570 ~~quality. The following types of applications shall be considered~~  
571 ~~for funding:~~

572 ~~1. Investigator initiated research grants.~~

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573 ~~2. Institutional research grants.~~

574 ~~3. Collaborative research grants, including those that~~  
575 ~~advance the finding of cures through basic or applied research.~~

576 ~~(b) In order to ensure that all proposals for research~~  
577 ~~funding are appropriate and are evaluated fairly on the basis of~~  
578 ~~scientific merit, the Secretary of Health, in consultation with~~  
579 ~~the council, shall appoint a peer review panel of independent,~~  
580 ~~scientifically qualified individuals to review the scientific~~  
581 ~~content of each proposal and establish its priority score. The~~  
582 ~~priority scores shall be forwarded to the council and must be~~  
583 ~~considered in determining which proposals shall be recommended~~  
584 ~~for funding.~~

585 ~~(c) The council and the peer review panel shall establish~~  
586 ~~and follow rigorous guidelines for ethical conduct and adhere to~~  
587 ~~a strict policy with regard to conflicts of interest. A member~~  
588 ~~of the council or panel may not participate in any discussion or~~  
589 ~~decision with respect to a research proposal by any firm,~~  
590 ~~entity, or agency with which the member is associated as a~~  
591 ~~member of the governing body or as an employee or with which the~~  
592 ~~member has entered into a contractual arrangement. Meetings of~~  
593 ~~the council and the peer review panels are subject to chapter~~  
594 ~~119, s. 286.011, and s. 24, Art. I of the State Constitution.~~

595 ~~(4) By December 15 of each year, the Department of Health~~  
596 ~~shall submit to the Governor, the President of the Senate, and~~  
597 ~~the Speaker of the House of Representatives a report indicating~~  
598 ~~progress towards the program's mission and making~~  
599 ~~recommendations that further its purpose.~~

600 ~~(5) Beginning in fiscal year 2006-2007, the sum of \$9~~  
601 ~~million is appropriated annually from recurring funds in the~~  
602 ~~General Revenue Fund to the Biomedical Research Trust Fund~~  
603 ~~within the Department of Health for purposes of the William G.~~

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604 ~~"Bill" Bankhead, Jr., and David Coley Cancer Research Program~~  
605 ~~and shall be distributed pursuant to this section to provide~~  
606 ~~grants to researchers seeking cures for cancer, with emphasis~~  
607 ~~given to the goals enumerated in s. 381.921. From the total~~  
608 ~~funds appropriated, an amount of up to 10 percent may be used~~  
609 ~~for administrative expenses.~~

610 ~~(6) By June 1, 2009, the Division of Statutory Revision of~~  
611 ~~the Office of Legislative Services shall certify to the~~  
612 ~~President of the Senate and the Speaker of the House of~~  
613 ~~Representatives the language and statutory citation of this~~  
614 ~~section, which is scheduled to expire January 1, 2011.~~

615 ~~(7) The Legislature shall review the performance, the~~  
616 ~~outcomes, and the financial management of the William G. "Bill"~~  
617 ~~Bankhead, Jr., and David Coley Cancer Research Program during~~  
618 ~~the 2010 Regular Session of the Legislature and shall determine~~  
619 ~~the most appropriate funding source and means of funding the~~  
620 ~~program based on its review.~~

621 ~~(8) This section expires January 1, 2011, unless reviewed~~  
622 ~~and reenacted by the Legislature before that date.~~

623 Section 7. Section 381.923, Florida Statutes, is created  
624 to read:

625 381.923 Bankhead-Coley Cancer Council mission and  
626 duties.--The council shall ensure that the goals of the council  
627 are advanced and shall endeavor to dramatically improve cancer  
628 research and treatment in this state through:

629 (1) Efforts to significantly expand cancer research  
630 capacity in the state by:

631 (a) Identifying ways to attract new research talent and  
632 attendant national grant-producing researchers to cancer  
633 research facilities in this state;

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634 (b) Encouraging the employment of bioinformatics in order  
635 to create a cancer informatics infrastructure that enhances  
636 information and resource exchange and integration through  
637 researchers working in diverse disciplines, to facilitate the  
638 full spectrum of cancer investigations;

639 (c) Facilitating the technical coordination, business  
640 development, and support of intellectual property as it relates  
641 to the advancement of cancer research; and

642 (d) Aiding in other multidisciplinary research-support  
643 activities as they inure to the advancement of cancer research.

644 (2) Efforts to improve both research and treatment through  
645 greater participation in clinical trials networks by:

646 (a) Identifying ways to increase adult enrollment in  
647 cancer clinical trials;

648 (b) Supporting public and private professional education  
649 programs designed to increase the awareness and knowledge about  
650 cancer clinical trials;

651 (c) Providing tools to cancer patients and community-based  
652 oncologists to aid in the identification of cancer clinical  
653 trials available in the state; and

654 (d) Creating opportunities for the state's academic cancer  
655 centers to collaborate with community-based oncologists in  
656 cancer clinical trials networks.

657 (3) Efforts to reduce the impact of cancer on disparate  
658 groups by:

659 (a) Identifying those cancers that disproportionately  
660 impact certain demographic groups; and

661 (b) Building collaborations designed to reduce health  
662 disparities as they relate to cancer.

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663 Section 8. Subsection (8) of Section 381.98, Florida  
664 Statutes, is deleted, and Subsections (1), (2), and (9) through  
665 (12) are amended to read as follows:

666 381.98. The Florida Public Health Foundation, Inc.;  
667 establishment; purpose; mission; duties; board of directors.--

668 (1) The Florida Public Health Foundation, Inc., referred to  
669 in this section as "the corporation," is established for the  
670 purpose of ~~disseminating breakthrough findings in biomedical~~  
671 ~~research and~~ promoting health awareness in this state and  
672 providing services to the Department of Health.

673 (2) The corporation's mission includes ~~disseminating~~  
674 ~~information about innovative biomedical research and clinical~~  
675 ~~trials in this state as well as~~ making Floridians and their  
676 treatment providers aware of specified diseases and conditions  
677 and available methods of preventing, diagnosing, treating, and  
678 curing those diseases and conditions.

679 (3) The purpose and objective of the corporation shall be  
680 to operate exclusively for charitable, scientific, and  
681 educational purposes; to protect and improve the health and  
682 well-being of Florida's people and environment through  
683 partnerships committed to program innovation, education, applied  
684 research, and policy development; and to engage in charitable  
685 programs dedicated to improving the health of Floridians.

686 (4) The corporation shall be established as a not-for-  
687 profit entity qualifying under s. 501(c)(3) of the Internal  
688 Revenue Code. The corporation may receive, hold, invest, and  
689 administer property and any moneys acquired from private, local,  
690 state, and federal sources, as well as technical and  
691 professional income generated or derived from the mission-  
692 related activities of the corporation. The corporation shall  
693 have all of the powers conferred upon corporations organized

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694 under chapter 617.

695 (5) The corporation's duties include procuring funds  
696 necessary for accomplishing the purpose and mission of the  
697 corporation. The corporation shall strive to complement,  
698 supplement, and enhance the missions of the various  
699 organizations, entities, and departments represented on its  
700 board by serving as the lead corporation in the state for  
701 promoting public health awareness.

702 (6) The affairs of the corporation shall be managed by an  
703 executive director appointed by a board of directors consisting  
704 of:

705 (a) The Secretary of Health or his or her designee.

706 (b) A former member of the Senate appointed by the  
707 President of the Senate.

708 (c) A former member of the House of Representatives  
709 appointed by the Speaker of the House of Representatives.

710 (d) A representative of the American Heart Association.

711 (e) A representative of the American Cancer Society,  
712 Florida Division, Inc.

713 (f) A representative of the American Lung Association of  
714 Florida.

715 (g) A representative of the American Diabetes Association,  
716 South Coastal Region.

717 (h) A representative of the Alzheimer's Association.

718 (i) A representative of the Epilepsy Foundation.

719 (j) A representative of the National Parkinson Foundation.

720 (k) A representative of the March of Dimes, Florida  
721 Chapter.

722 (l) A representative of the Arthritis Foundation, Florida  
723 Chapter.

724 (m) A representative of the American Liver Foundation.

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725 (n) A representative of the Florida Council for Behavioral  
726 Healthcare, Inc.

727 (o) A representative of the Florida Alcohol and Drug Abuse  
728 Association.

729 (p) A representative of Pharmaceutical Research and  
730 Manufacturers of America.

731 (q) A representative of the Florida Public Health  
732 Association.

733 (r) A representative of the Florida Association of County  
734 Health Officers.

735 (s) A public health academician selected by the State  
736 Health Officer.

737 (t) A representative of the Florida Academy of Family  
738 Physicians.

739 (u) Three consumers who have demonstrated an interest in  
740 protecting the public health appointed by the Florida Public  
741 Health Association.

742 (v) A representative of the Florida Association of Health  
743 plans.

744 (7) Members of the board of directors shall serve for 2-  
745 year terms and shall serve without compensation. Each  
746 organization represented on the board of directors shall cover  
747 the expenses of its representative.

748 ~~(8) The corporation, in consultation with the Department of~~  
749 ~~Health and the Florida Center for Universal Research to~~  
750 ~~Eradicate Disease, shall facilitate communication between~~  
751 ~~biomedical researchers and health care providers each month~~  
752 ~~according to the health awareness schedule established by the~~  
753 ~~Florida Public Health Foundation, Inc., in order to ensure~~  
754 ~~ongoing dialogue between researchers, treatment providers, and~~  
755 ~~the department.~~

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756        (8)~~(9)~~ The corporation and the Department of Health shall  
757 enter into partnerships with providers of continuing education  
758 for health care practitioners, including, but not limited to,  
759 hospitals and state and local medical organizations, to ensure  
760 that practitioners are aware of the most recent and complete  
761 diagnostic and treatment tools.

762        (9)~~(10)~~ The corporation may provide personnel to the  
763 Department of Health for the purpose of performing duties and  
764 responsibilities outlined in private and public grants received  
765 by the Department of Health. These personnel are not state  
766 employees and are not entitled to retirement credit and other  
767 benefits provided to state employees under chapters 110 and 112.  
768 These personnel shall perform services pursuant to an agreement  
769 between the corporation and the Department of Health.

770        (10)~~(11)~~ The corporation may purchase goods, services, and  
771 property for use by the Department of Health. These purchases  
772 are not subject to the provisions of chapters 253, 255, and 287,  
773 nor to the control or direction of the Department of  
774 Environmental Protection or the Department of Management  
775 Services.

776        (11)~~(12)~~ The corporation shall provide an annual report  
777 concerning its activities and finances to ~~the Florida Center for~~  
778 ~~Universal Research to Eradicate Disease and shall provide copies~~  
779 ~~of the annual report to~~ the Governor, the President of the  
780 Senate, and the Speaker of the House of Representatives.

781        Section 9. Subsection (4) of Section 430.501, Florida  
782 Statutes, is amended to read:

783        430.501 Alzheimer's Disease Advisory Committee; research  
784 grants.--

785        (4) If funds are made available through gifts, grants, or  
786 other sources, the Department of Elderly Affairs shall deposit



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787 such funds into its Grants and Donations Trust Fund and shall  
788 award research grants for research other than biomedical  
789 research to qualified profit or nonprofit associations and  
790 institutions or governmental agencies in order to plan,  
791 establish, or conduct programs in Alzheimer's disease control or  
792 prevention, education and training, and research. The  
793 department may adopt rules as necessary to carry out these  
794 duties.

795 Section 10. Subsection (2) of Section 430.502, Florida  
796 Statutes, is amended to read:

797 430.502 Alzheimer's disease; memory disorder clinics and  
798 day care and respite care programs.--

799 (2) It is the intent of the Legislature that research  
800 conducted by a memory disorder clinic and supported by state  
801 funds pursuant to subsection (1) be applied research, be  
802 service-related, and be selected in conjunction with the  
803 department. Such research may address, but is not limited to,  
804 diagnostic technique, therapeutic interventions, and supportive  
805 services for persons suffering from Alzheimer's disease and  
806 related memory disorders and their caregivers. A memory disorder  
807 clinic shall conduct such research in accordance with a research  
808 plan developed by the clinic which establishes research  
809 objectives that are in accordance with this legislative intent.  
810 Should a memory disorder clinic supported by state funds  
811 pursuant to subsection (1) perform or seek to perform any  
812 biomedical research, funding for any and all such biomedical  
813 research must be awarded by, the James and Esther King  
814 Biomedical Research Program as provided for in s. 215.5602,  
815 Florida Statutes. A memory disorder clinic shall also complete  
816 and submit to the department a report of the findings,  
817 conclusions, and recommendations of completed research. This

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818 subsection does not apply to those memory disorder clinics at  
819 the three medical schools in the state or at the major private  
820 nonprofit research-oriented teaching hospital or other  
821 affiliated teaching hospital.

822 Section 11. Subsection (8) of Section 1004.445, Florida  
823 Statutes, is deleted, and Subsections (9) through (15) of  
824 Section 1004.445, Florida Statutes are amended to read:

825 1004.445 Johnnie B. Byrd, Sr., Alzheimer's Center and  
826 Research Institute.--

827 ~~(8) (a) Applications for Alzheimer's disease research~~  
828 ~~funding may be submitted from any university or established~~  
829 ~~research institute in the state. All qualified investigators in~~  
830 ~~the state, regardless of institutional affiliation, shall have~~  
831 ~~equal access and opportunity to compete for the research~~  
832 ~~funding. Grants shall be awarded by the board of directors of~~  
833 ~~the not for profit corporation on the basis of scientific merit,~~  
834 ~~as determined by an open, competitive peer review process that~~  
835 ~~ensures objectivity, consistency, and high quality. The~~  
836 ~~following types of applications shall be considered for funding:~~

- 837 1. ~~Investigator initiated research grants.~~  
838 2. ~~Institutional research grants.~~  
839 3. ~~Collaborative research grants, including those that~~  
840 ~~advance the finding of cures through basic or applied research.~~

841 ~~(b) Preference may be given to grant proposals that foster~~  
842 ~~collaboration among institutions, researchers, and community~~  
843 ~~practitioners because these proposals support the advancement of~~  
844 ~~cures through basic or applied research, including clinical~~  
845 ~~trials involving Alzheimer's patients and related networks.~~

846 ~~(c) To ensure that all proposals for research funding are~~  
847 ~~appropriate and are evaluated fairly on the basis of scientific~~  
848 ~~merit, the board of directors of the not for profit corporation,~~

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849 ~~in consultation with the council of scientific advisors, shall~~  
850 ~~appoint a peer review panel of independent, scientifically~~  
851 ~~qualified individuals to review the scientific content of each~~  
852 ~~proposal and establish its scientific priority score. The~~  
853 ~~priority scores shall be forwarded to the council and must be~~  
854 ~~considered by the board of directors of the not for profit~~  
855 ~~corporation in determining which proposals shall be recommended~~  
856 ~~for funding.~~

857 ~~(d) The council of scientific advisors and the peer review~~  
858 ~~panel shall establish and follow rigorous guidelines for ethical~~  
859 ~~conduct and adhere to a strict policy with regard to conflict of~~  
860 ~~interest. All employees, members of the board of directors, and~~  
861 ~~affiliates of the not for profit corporation shall follow the~~  
862 ~~same rigorous guidelines for ethical conduct and shall adhere to~~  
863 ~~the same strict policy with regard to conflict of interest. A~~  
864 ~~member of the council or panel may not participate in any~~  
865 ~~discussion or decision with respect to a research proposal by~~  
866 ~~any firm, entity, or agency with which the member is associated~~  
867 ~~as a member of the governing body or as an employee or with~~  
868 ~~which the member has entered into a contractual arrangement.~~  
869 ~~Meetings of the council and the peer review panels are subject~~  
870 ~~to chapter 119, s. 286.011, and s. 24, Art. I of the State~~  
871 ~~Constitution.~~

872 ~~(8)-(9)~~ In carrying out the provisions of this section, the  
873 not-for-profit corporation and its subsidiaries are not agencies  
874 within the meaning of s. 20.03(11).

875 ~~(9)-(10)~~ The following information is confidential and  
876 exempt from s. 119.07(1) and s. 24, Art. I of the State  
877 Constitution:

878 (a) Personal identifying information relating to clients  
879 of programs created or funded through the Johnnie B. Byrd, Sr.,

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880 Alzheimer's Center and Research Institute that is held by the  
881 institute, the University of South Florida, or the State Board  
882 of Education;

883 (b) Medical or health records relating to patients held by  
884 the institute;

885 (c) Materials that relate to methods of manufacture or  
886 production, potential trade secrets, potentially patentable  
887 material, actual trade secrets as defined in s. 688.002, or  
888 proprietary information received, generated, ascertained, or  
889 discovered during the course of research conducted by or through  
890 the institute and business transactions resulting from such  
891 research;

892 (d) The personal identifying information of a donor or  
893 prospective donor to the institute who wishes to remain  
894 anonymous; and

895 (e) Any information received by the institute from a  
896 person from another state or nation or the Federal Government  
897 that is otherwise confidential or exempt pursuant to the laws of  
898 that state or nation or pursuant to federal law.

899 Any governmental entity that demonstrates a need to access such  
900 confidential and exempt information in order to perform its  
901 duties and responsibilities shall have access to such  
902 information.

903 ~~(10)~~~~(11)~~ Any appropriation to the institute provided in a  
904 general appropriations act shall be paid directly to the board  
905 of directors of the not-for-profit corporation by warrant drawn  
906 by the Chief Financial Officer from the State Treasury.

907 ~~(11)~~~~(12)~~ Beginning in fiscal year 2007~~6~~-2008~~7~~, the sum of  
908 \$5~~15~~ million is appropriated annually from recurring funds in  
909 the General Revenue Fund to the Grants and Donations Trust Fund  
910 within the Department of Elderly Affairs for the Johnnie B.

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911 Byrd, Sr., Alzheimer's Center and Research Institute at the  
912 University of South Florida for the purposes as provided under  
913 paragraph (6) (a), conducting and supporting research with  
914 funding from private or federal sources or from grants awarded  
915 by the James and Esther King Biomedical Research Program,  
916 ~~providing institutional research grants and investigator-~~  
917 ~~initiated research grants,~~ developing and operating integrated  
918 data projects, and providing assistance to statutorily  
919 designated memory disorder clinics as provided under s. 430.502.  
920 ~~Not less than 80 percent of the appropriated funds shall be~~  
921 ~~expended for these purposes, and not less than 20 percent of the~~  
922 ~~appropriated funds shall be expended for peer-reviewed~~  
923 ~~investigator initiated research grants.~~

924 ~~(12)~~(13) By June 1, 2009, the Division of Statutory  
925 Revision of the Office of Legislative Services shall certify to  
926 the President of the Senate and the Speaker of the House of  
927 Representatives the language and statutory citation of this  
928 section, which is scheduled to expire January 1, 2011.

929 ~~(13)~~(14) The Legislature shall review the performance, the  
930 outcomes, and the financial management of the Johnnie B. Byrd,  
931 Sr., Alzheimer's Center and Research Institute during the 2010  
932 Regular Session of the Legislature and shall determine the most  
933 appropriate funding source and means of funding the center and  
934 institute based on its review.

935 ~~(14)~~(15) This section expires January 1, 2011, unless  
936 reviewed and reenacted by the Legislature before that date.

937 Section 12. Sections 381.855, 381.92, and 381.921, Florida  
938 Statutes, are repealed.

939 Section 13. If any provision of this act or the  
940 application thereof to any person or circumstance is held  
941 invalid, the invalidity does not affect other provisions or

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942 applications of the act which can be given effect without the  
943 invalid provision or application, and to this end the provisions  
944 of this act are declared severable.

945 Section 14. This act shall take effect July 1, 2007.

946  
947 ===== T I T L E A M E N D M E N T =====

948 Remove the entire title and insert:

949 A bill to be entitled  
950 An act relating to biomedical research; amending s.  
951 20.435, F.S.; deleting a reference to conform to the  
952 provisions of this act; amending s. 215.5601, F.S.; adding  
953 a provisions to conform to the provisions on this act;  
954 amending s. 215.5602, F.S.; providing legislative findings  
955 related to biomedical research; revising provisions  
956 relating to the James and Esther King Biomedical Research  
957 Program; revising provisions relating to program funds and  
958 funding; revising long-term goals of the program; revising  
959 membership provisions relating to the Biomedical Research  
960 Advisory Council; providing that the council serves as the  
961 exclusive source of certain biomedical research grant and  
962 fellowship awards; requiring the council to create  
963 committees; providing requirements for the committees;  
964 revising duties of the council; deleting references to  
965 conform to the provisions of this act; revising a  
966 requirement relating to the council's annual progress  
967 report; prohibiting the use of funds for certain research  
968 with human embryonic stem cells or for human cloning;  
969 amending s. 381.853, F.S.; revising functions of the  
970 Florida Center for Brain Tumor Research; deleting a  
971 requirement for the Florida Center for Brain Tumor  
972 Research to develop a competitive grant process relating

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973 to brain tumor research; amending s. 381.912, F.S.;

974 deleting references to conform to the provisions of this

975 act; amending s. 381.922, F.S.; creating the William G.

976 "Bill" Bankhead, Jr. and David Coley Cancer Research

977 Council effective July 1, 2007 within the Department of

978 Health; providing for organization of the council;

979 providing that the council may create not-for-profit

980 corporate subsidiaries authorized to receive, hold, invest

981 and administer property and monies received from private,

982 local, state, and federal sources; providing for

983 membership of the council; providing that the council

984 members shall serve without compensation; providing for an

985 annual report from the council by December 15 each year;

986 creating s. 381.923, F.S.; providing for mission and

987 duties of the Bankhead-Coley Cancer Council; amending s.

988 381.98, F.S.; revising the purpose of the Florida Public

989 Health Foundation, Inc.; deleting a portion of the mission

990 of the Foundation; deleting the requirement that the

991 Foundation in consultation with the Department and the

992 Florida Center for universal Research to Eradicate Disease

993 to facilitate communication between biomedical researchers

994 and other health care providers; amending s. 430.501,

995 F.S.; adding a provision to preclude the award of grants

996 for biomedical research; amending 430.502, F.S.; adding a

997 provision to preclude the use of state funds for

998 biomedical research; amending s. 1004.445, F.S.; deleting

999 requirement to develop a competitive grant process

1000 relating to Alzheimer's disease research; providing for an

1001 annual appropriation of \$5 million beginning fiscal year

1002 2007-2008; requiring that funding for research be provided

1003 from private or federal sources or from grants awarded by

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1004 the James and Esther King Biomedical Research Program;  
1005 repealing s. 381.855, F.S., relating to the Florida Center  
1006 for Universal Research to Eradicate Disease; repealing ss.  
1007 381.92 and 381.921, F.S., relating to the Florida Cancer  
1008 Council; providing for severability; providing an  
1009 effective date.

1010

1011 WHEREAS, the Legislature of the State of Florida finds  
1012 that the health of Floridians is of utmost importance, and

1013 WHEREAS, continuing and promoting biomedical research in  
1014 the state of Florida is key to finding cures for the and  
1015 widespread acute, chronic, and degenerative diseases affecting  
1016 millions of Floridians, and

1017 WHEREAS, there are a number of agencies, councils,  
1018 committees or other nonprofit entities within the state of  
1019 Florida that are currently awarding state dollars for grants or  
1020 fellowships for biomedical research in order to find cures for  
1021 and improve treatment of various diseases affecting Floridians,  
1022 and

1023 WHEREAS, the most effective and efficient use of state  
1024 biomedical research dollars is to establish a single,  
1025 comprehensive program for the award of state-funded biomedical  
1026 research grants and fellowships, and

1027 WHEREAS, the consolidated process for awarding state-  
1028 funded grants and fellowships for biomedical research in the  
1029 state of Florida will also serve to enhance, encourage and  
1030 coordinate biomedical research biomedical research programs  
1031 within the state and foster improved transfer of research  
1032 findings into clinical trials and widespread public use.

1033







## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government**—The bill reduces the role of government in determining the long-term care options available to recipients of the program.

**Promote Personal Responsibility**—The bill will allow Medicaid recipients greater choice of long-term care service delivery plans.

#### B. EFFECT OF PROPOSED CHANGES:

##### Background

##### Agency for Health Care Administration (AHCA)

The Agency for Health Care Administration (AHCA) has primary responsibility for administering the State Medicaid program for 2.1 million eligible individuals. AHCA administers this program through 11 Area Offices and purchases services from approximately 80,000 fee for service providers and 18 Managed Care Plans. Other state agencies also assist with Medicaid program responsibilities. For example, the Department of Children and Families determines eligibility and the Department of Legal Affairs Medicaid Fraud Control Unit prosecutes Medicaid Fraud. In addition, AHCA operates some of the Medicaid waiver programs for home and community based services through memorandums of agreement with state agencies. The Agency for Persons with Disabilities is under agreement with AHCA to administer three of the Medicaid waiver programs.

##### The Agency for Persons with Disabilities (APD)

In 2004, the Developmental Disabilities program in the Department of Children and Family Services (DCF or department) was transferred to the newly-created Agency for Persons with Disabilities (APD or agency).<sup>1</sup> The agency is responsible for providing services for persons with developmental disabilities in Florida. The stated agency mission is to support persons with developmental disabilities in living, learning, and working in all aspects of community life.<sup>2</sup>

A developmental disability is defined as “a disorder or syndrome that is attributable to retardation, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”<sup>3</sup> An individual is eligible for services if their domicile is in Florida, they have a developmental disability, and are three years of age or older.<sup>4</sup> 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.<sup>5</sup>

APD Services: During FY 2005-2006, APD served more than 48,000 persons with developmental disabilities.<sup>6</sup> Services provided by the agency include an array of community services and supports, as well as a limited institutional program, and include employment and training services, environmental adaptive equipment, personal or family supports, residential habilitation, support coordination, therapeutic supports, and wellness management. There may be eligibility requirements specific to a particular service or support in addition to the general eligibility criteria for services from APD. The

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<sup>1</sup> Chapter 2004-267, L.O.F.

<sup>2</sup> Agency for Persons with Disabilities, briefing materials, October 18, 2005.

<sup>3</sup> s. 393.063(10), F.S.

<sup>4</sup> Children from birth to three years of age with developmental disabilities are served by Children’s Medical Services in the Department of Health, s. 393.064, F.S.

<sup>5</sup> “High-risk child” is defined in s. 393.063(23) F.S.

<sup>6</sup> Presentation to Senate Children and Families Committee, January 24, 2007.

majority of services provided to clients of the agency are funded by Medicaid and authorized through a federal waiver. As of September 2006, there were 12,501 people on the APD waitlist for Medicaid waiver services.<sup>7</sup>

The Developmental Disabilities Home and Community-Based Services (DD-HCBS) waiver program is a Medicaid funded program and the largest source of funding for APD services. The funding appropriated for this program during Fiscal Year 2006-2007 is \$776,837,838. Services provided through the DD-HCBS waiver program enable children and adults to live in a family setting in their own home or in a licensed residential setting, thereby avoiding institutionalization. Clients receiving services through this program are also eligible for all services in the Medicaid state plan. As of December 2006, APD has 25,418 people enrolled in this program.<sup>8</sup>

The Family and Supported Living (FSL) waiver makes services available to children and adults who live with their family or in their own home. This waiver is capped at \$14,282/person each year. The funding appropriated for this program during Fiscal Year 2006-2007 is \$74,711,734. Although fewer DD services are available under this waiver, clients are also eligible for all services in the Medicaid state plan. As of December 2006, APD has 6,071 people enrolled in this waiver program.<sup>9</sup>

The Consumer-Directed Care Plus program is the third Medicaid waiver operated by APD. This waiver offers clients great flexibility and choice in the selection of services and providers and the determination of rates of payment. Service providers are often family members or friends. As of June 2006, APD was serving 1,031 individuals in this program with expenditures exceeding \$32,500,000.<sup>10</sup>

The agency also provides fiscal and programmatic management of four developmental disabilities institutions serving approximately 1,100 residents. APD also provides community-based services from state only funds for individuals not on Medicaid waivers. The Individual and Family Supports and Contracted Services appropriations are the primary resources used for these services.

In recent years, the Legislature has significantly increased funding to the Medicaid waiver programs allowing the agency to increase the number of clients served, while reducing the waiting list for services. In addition, APD has instituted a number of fiscal and programmatic management controls intended to address escalating costs and growing waiting lists for services. These include a standardized rate structure, prior service authorization, and pre-payment billing reviews. In spite of the management controls employed by APD, the cost of serving people in the APD Medicaid waiver programs is projected to exceed appropriations in FY 2006-2007 by \$46,905,017 in state matching funds. The agency reports that the increased use of services by program participants (utilization increase) and caseload are the attributing factors to the projected deficit. Since 2003 the number of services received per participant has increased by 102.14 percent. APD indicated in a January 2007, presentation to the Senate Health and Human Services Appropriation Committee that possible long-term options to address escalating cost include transition to a capitated service model and amending current Medicaid waivers.<sup>11</sup>

### **Effect of Proposed Legislation:**

*Model Fixed Payment Service Delivery System:* PCB HCC-07-11a directs the Agency for Healthcare Administration (AHCA) in consultation with the Agency for Persons with Disabilities (APD) to create a model fixed payment service delivery system for persons with developmental disabilities who receive services from Medicaid waiver programs operated by APD. The Medicaid waiver programs included in the model are the Developmental Disabilities Home and Community Based Services Medicaid waiver,

<sup>7</sup> Agency for Persons with Disabilities Resource Notebook, November 2006.

<sup>8</sup> Agency for Persons with Disabilities Quarterly Report, Second Quarter 2006-2007, February 2007.

<sup>9</sup> Ibid

<sup>10</sup> APD waiver cost by Area FY 2005-2006, L. Mabile March 13, 2007 email.

<sup>11</sup> Presentation to Senate Health and Human Services Appropriation Committee, January 25, 2007, Agency for Persons with Disabilities.

Family and Supported Living Medicaid waiver and the Consumer Directed Care Plus Medicaid waiver programs. This bill provides legislative intent for the model program, including:

- Increasing cost predictability.
- Stabilizing rate of increase in Medicaid waiver expenditures in the pilot areas.
- Providing recipients a coordinated system of services.

The model fixed-payment service delivery program must also ensure: consumer choice, opportunities for consumer directed services, access to medically necessary services, coordination of community based services and reduction in unnecessary services utilization.

AHCA and APD must create this model program by December 31, 2007, and AHCA has authority to seek Medicaid waivers or amendments necessary to begin implementation of the program.

*Pilot Projects:* The model fixed-payment service delivery program is to be demonstrated in two pilot areas of the state. One pilot site must be an urban Area of the Agency for Persons with Disabilities. This site will be selected by AHCA in consultation with APD. The participation of Medicaid waiver recipients in the urban area is voluntary. Participants will have the choice of participating in the pilot project or continuing to receive services through the traditional fee for services Medicaid waiver program. APD Area One is designated as the rural pilot site, which includes Okaloosa, Walton, Escambia and Santa Rosa counties. The enrollment into the rural Area one pilot site will be mandatory.

**Medicaid waiver Participants and Expenditures in APD Area One Pilot Site<sup>12</sup>**

<i>Medicaid Waiver</i>	<i>Recipients</i>	<i>Estimated Expenditures</i>
Developmental Disabilities HCBS waiver	1,202	\$26,073,890
Family and Supported Living waiver	260	\$997,233
Consumer Directed Care Plus waiver	38	\$827,177
<b>Total</b>	<b>1500</b>	<b>\$27,898,300</b>

*Project Administration:* AHCA has the primary responsibility for creation of the model service delivery program. AHCA is responsible for obtaining any necessary federal Medicaid waivers and/or state plan amendments to implement the model. In addition, AHCA will be responsible for the procurement of qualified entities to operate as managed care organizations for the pilot program at both pilot sites. AHCA will also set the rates that will be paid to the managed care entities. After the “development phase” of the fixed-payment model service delivery program, AHCA is directed to delegate administration of the pilots to APD. The bill calls for APD to administer the contract(s) with the managed care entities, provide quality assurance, monitoring oversight and other duties necessary for the implementation and completion of the pilot programs.

*Plan Contractors:* The bill requires a competitive procurement process to select entities to serve as the managed care plan contractors in the pilot areas. The entities designated as eligible to submit bids include health maintenance organization and prepaid health plans licensed under chapter 641, Florida Statutes and Community Service Networks. The Community Service Networks are not required to be licensed, but would need to meet standards set by AHCA, demonstrate financial solvency and have the ability to accept financial risk for managing the care of the participants in the pilot areas. An example of a Community Services Network could include existing APD provider organizations that align themselves into a network to provide services under the pilot project. The agency is directed to endeavor to provide a choice of contractors/plans to participants in the pilots.

AHCA is also directed to ensure that plans include the following:

- Standardized needs assessment process: The needs assessment process typically includes a psycho/social assessment instrument to identify the needs of an individual so that appropriate service can be authorized. The assessment used by a plan provider must be approved by AHCA.

<sup>12</sup> APD waiver cost by Area FY 2005-2006, L. Mabile email March 13, 2007.

- Provider choice: Enrollees in the pilot programs will be allowed to choose from among all the providers under contract to the managed care organization as long as the provider chosen is appropriate to meet the need of the individual.
- Subcontracts: The plan contractor is required to make a good faith effort to contract with existing providers of service to the Agency for Persons with Disabilities.
- Subcontract Provider Qualifications: The plan contractor must set subcontractor qualification and quality of care standards. The plans must also exclude where feasible poor performing subcontractors. These standards must be approved by AHCA.
- Quality Assurance: Plan contractors must demonstrate a quality assurance system and performance improvement system which is approved by AHCA.

Capitated Rates: The fixed-payment model service delivery system will use capitated rates that have been determined to be actuarially sound and capable of providing quality care. Capitated rates are rates per person per month paid to managed care plans in advance of service delivery. This is the most common method of payment to managed care organizations for providing services.<sup>13</sup> Managed care is defined as an arrangement where the state Medicaid Program contracts with an organization to provide a package of long-term care benefits on a risk basis.<sup>14</sup> Managed care organizations are considered “at risk” since they receive a fixed payment (capitated rate) for an enrolled participant and then must provide all of the services that are medically necessary for the individual. In other words, they are at risk to ensure that all service needs are met with the funds received. Medical necessity is defined by AHCA in the Florida Administrative Code 59G-1.01(166) (a). This bill allows AHCA to limit the financial risk of the plan contractors to cover high-cost recipients or catastrophic care needs. The bill does not specify how AHCA must address this. However, methods could include the continuation of fee for service payments or offering reinsurance programs for high-cost or catastrophic care individuals in the pilot areas.

Residential Care: The bill requires the plan contractor to allow a participant to continue to live in their licensed residence (home) even if the residence is not a subcontractor with the plan. However, the residential facility must accept either the plan subcontract rate or the Medicaid waiver rates authorized by chapter 409.919, Florida Statutes. The licensed residences that are included in this provision include, Group Homes, Foster Homes, and Residential Habilitation Facilities licensed under chapter 393, Florida Statutes or Assisted Living Facilities and Adult Family Care Homes licensed under chapter 429, Florida Statutes.

Evaluation: The Agency for Health Care Administration is required to procure a comprehensive evaluation of the pilot programs within 24 months of implementation and provide a final report by June 30, 2010. The evaluation will include an assessment of cost savings, cost effectiveness, recipient outcomes, choice, access to services, coordination of care, and quality of care. The evaluation also requires a description of legal and administrative barriers and a recommendation for regarding expansion of the program statewide.

## C. SECTION DIRECTORY:

Section 1. Creates subsection 53 of s. 409.912, F.S., providing direction and authorization to the Agency for Health Care Administration to create a model fixed payment service delivery system for people with developmental disabilities, provides pilot sites, contracting and quality requirements for managed care plans. This section gives authority to the Agency for Health Care Administration to procure an evaluation, seek federal waivers, and adopt rules.

Section 2. Provides an effective date of July 1, 2007

<sup>13</sup> Capitation Rate Development Guide for States Implementing Medicaid Managed Care Programs, National Association of State Medicaid Directors, 1999.

<sup>14</sup> Capitated Payment of Medicaid Long-Term Care for older Americans: An Analysis of Current Methods, Kronick and Dreyfus, AARP Public Policy Institute, 2001-03, March 2001.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The agency may incur cost associated with providing choice counseling and enrollment broker services associated with this implementation, but not until Fiscal Year 2008/2009. This amount is indeterminate at this time.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities providing choice counseling services will be able to contract with the agency.

### 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 bill provides the agency with rule-making authority as necessary to implement the pilot program for the model fixed-payment service delivery system.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

### D. STATEMENT OF THE SPONSOR

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES



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PCB HCC 07-11a

Redraft - A

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A bill to be entitled  
 An act relating to a model fixed-payment service delivery system for people with developmental disabilities; amending s. 409.912, F.S.; requiring the Agency for Health Care Administration to implement federal waivers to administer a model fixed-payment service delivery system for Medicaid recipients with developmental disabilities; providing legislative intent; providing for implementation of the system on a pilot basis in specified areas of the state; providing for administration of the system by the Agency for Persons with Disabilities; providing requirements for selection of managed care entities to operate the system; providing for mandatory or voluntary enrollment in system pilot areas; requiring an evaluation of the system; requiring the agency to submit a report to the Governor and Legislature; authorizing the agency to seek certain waivers and adopt rules; requiring the agency to receive specific authorization prior to expanding the system; providing an effective date.

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

Section 1. Subsection (53) is added to section 409.912, Florida Statutes, to read:

409.912 Cost-effective purchasing of health care.--The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a

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Redraft - A

YEAR

30 confirmation or second physician's opinion of the correct  
 31 diagnosis for purposes of authorizing future services under the  
 32 Medicaid program. This section does not restrict access to  
 33 emergency services or poststabilization care services as defined  
 34 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
 35 shall be rendered in a manner approved by the agency. The agency  
 36 shall maximize the use of prepaid per capita and prepaid  
 37 aggregate fixed-sum basis services when appropriate and other  
 38 alternative service delivery and reimbursement methodologies,  
 39 including competitive bidding pursuant to s. 287.057, designed to  
 40 facilitate the cost-effective purchase of a case-managed  
 41 continuum of care. The agency shall also require providers to  
 42 minimize the exposure of recipients to the need for acute  
 43 inpatient, custodial, and other institutional care and the  
 44 inappropriate or unnecessary use of high-cost services. The  
 45 agency shall contract with a vendor to monitor and evaluate the  
 46 clinical practice patterns of providers in order to identify  
 47 trends that are outside the normal practice patterns of a  
 48 provider's professional peers or the national guidelines of a  
 49 provider's professional association. The vendor must be able to  
 50 provide information and counseling to a provider whose practice  
 51 patterns are outside the norms, in consultation with the agency,  
 52 to improve patient care and reduce inappropriate utilization. The  
 53 agency may mandate prior authorization, drug therapy management,  
 54 or disease management participation for certain populations of  
 55 Medicaid beneficiaries, certain drug classes, or particular drugs  
 56 to prevent fraud, abuse, overuse, and possible dangerous drug  
 57 interactions. The Pharmaceutical and Therapeutics Committee shall  
 58 make recommendations to the agency on drugs for which prior

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Redraft - A

YEAR

59 authorization is required. The agency shall inform the  
 60 Pharmaceutical and Therapeutics Committee of its decisions  
 61 regarding drugs subject to prior authorization. The agency is  
 62 authorized to limit the entities it contracts with or enrolls as  
 63 Medicaid providers by developing a provider network through  
 64 provider credentialing. The agency may competitively bid single-  
 65 source-provider contracts if procurement of goods or services  
 66 results in demonstrated cost savings to the state without  
 67 limiting access to care. The agency may limit its network based  
 68 on the assessment of beneficiary access to care, provider  
 69 availability, provider quality standards, time and distance  
 70 standards for access to care, the cultural competence of the  
 71 provider network, demographic characteristics of Medicaid  
 72 beneficiaries, practice and provider-to-beneficiary standards,  
 73 appointment wait times, beneficiary use of services, provider  
 74 turnover, provider profiling, provider licensure history,  
 75 previous program integrity investigations and findings, peer  
 76 review, provider Medicaid policy and billing compliance records,  
 77 clinical and medical record audits, and other factors. Providers  
 78 shall not be entitled to enrollment in the Medicaid provider  
 79 network. The agency shall determine instances in which allowing  
 80 Medicaid beneficiaries to purchase durable medical equipment and  
 81 other goods is less expensive to the Medicaid program than long-  
 82 term rental of the equipment or goods. The agency may establish  
 83 rules to facilitate purchases in lieu of long-term rentals in  
 84 order to protect against fraud and abuse in the Medicaid program  
 85 as defined in s. 409.913. The agency may seek federal waivers  
 86 necessary to administer these policies.

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87        (53) By December 1, 2007, the Agency for Health Care  
 88 Administration, in consultation with the Agency for Persons with  
 89 Disabilities, shall create a model fixed-payment service delivery  
 90 system for persons with developmental disabilities who receive  
 91 services under the developmental disabilities waiver program, the  
 92 family and supported living waiver program, or the consumer-  
 93 directed care plus waiver program administered by the Agency for  
 94 Persons with Disabilities. The system must transfer and combine  
 95 all Medicaid waiver and state-funded services for individuals who  
 96 participate.

97        (a) The Legislature intends that the system provide  
 98 recipients in Medicaid waiver programs with a coordinated system  
 99 of services, increased cost predictability, and a stabilized rate  
 100 of increase in Medicaid expenditures compared to Medicaid  
 101 expenditures in the pilot areas specified in paragraph (b) for  
 102 the 3 years before the system was implemented while ensuring:

- 103        1. Consumer choice.
- 104        2. Opportunities for consumer-directed services.
- 105        3. Access to medically necessary services.
- 106        4. Coordination of community-based services.
- 107        5. Reductions in the unnecessary use of services.

108        (b) The agency shall implement the system on a pilot basis  
 109 in Area 1 of the Agency for Persons with Disabilities and in  
 110 another area that is determined by the agency, in consultation  
 111 with the Agency for Persons with Disabilities, to be an  
 112 appropriate urban pilot site. After completion of the development  
 113 phase of the system, attainment of necessary federal approval,  
 114 procurement of qualified entities, and rate setting, the agency  
 115 shall delegate administration of the system to the Agency for

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PCB HCC 07-11a

Redraft - A

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116 Persons with Disabilities. The Agency for Persons with  
 117 Disabilities shall administer contracts with qualified entities  
 118 and provide quality assurance, monitoring oversight, and other  
 119 duties necessary for the system. The enrollment of Medicaid  
 120 waiver recipients into the system in Area 1 shall be mandatory.  
 121 The enrollment of Medicaid waiver recipients in the urban pilot  
 122 site shall be voluntary.

123 (c) The agency shall use a competitive procurement process  
 124 to select entities to operate the system. Entities eligible to  
 125 submit bids include managed care organizations licensed under  
 126 chapter 641 and other state-certified community service networks  
 127 that meet comparable standards of financial solvency, as defined  
 128 by the agency in consultation with the Agency for Persons with  
 129 Disabilities and the Office of Insurance Regulation, and that are  
 130 able to take on financial risk for managed care. Community  
 131 service networks that are certified pursuant to such comparable  
 132 standards are not required to be licensed under chapter 641.

133 (d) When the agency implements the system in an area of the  
 134 state, the agency shall endeavor to provide recipients enrolled  
 135 in the system with a choice of plans from qualified entities. The  
 136 agency shall ensure that an entity operating a system, in  
 137 addition to other requirements:

138 1. Identifies the needs of the recipients using a  
 139 standardized assessment process approved by the agency.

140 2. Allows a recipient to select any provider that has a  
 141 contract with the entity, provided that the service offered by  
 142 the provider is appropriate to meet the needs of the recipient.

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143       3. Makes a good faith effort to develop contracts with  
 144 qualified providers currently under contract with the Agency for  
 145 Persons with Disabilities.

146       4. Develops and uses a service provider qualification  
 147 system approved by the agency that describes the quality of care  
 148 standards that providers of services to persons with  
 149 developmental disabilities must meet in order to obtain a  
 150 contract with the plan entity.

151       5. Excludes, when feasible, chronically poor-performing  
 152 facilities and providers as determined by the agency.

153       6. Demonstrates a quality assurance system and a  
 154 performance improvement system that are satisfactory to the  
 155 agency.

156       (e) The agency must ensure that the capitation-rate-setting  
 157 methodology for the system is actuarially sound and reflects the  
 158 intent to provide quality care in the least restrictive setting.  
 159 The agency may choose to limit financial risk for entities  
 160 operating the system to cover high-cost recipients or to address  
 161 the catastrophic care needs of recipients enrolled in the system.

162       (f) The system must provide that if the recipient resides  
 163 in a noncontracted residential facility licensed under chapter  
 164 393 or chapter 429 at the time of enrollment in the system, the  
 165 recipient must be permitted to continue to reside in the  
 166 noncontracted facility. The system must also provide that, in the  
 167 absence of a contract between the system provider and the  
 168 residential facility licensed under chapter 393 or chapter 429,  
 169 the current Medicaid waiver rates must prevail.

170       (g) Within 24 months after implementation, the agency shall  
 171 contract for a comprehensive evaluation of the system. The

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Redraft - A

YEAR

172 evaluation must include assessments of cost savings, cost-  
 173 effectiveness, recipient outcomes, consumer choice, access to  
 174 services, coordination of care, and quality of care. The  
 175 evaluation must describe administrative or legal barriers to the  
 176 implementation and operation of the system and include  
 177 recommendations regarding statewide expansion of the system. The  
 178 agency shall submit its evaluation report to the Governor, the  
 179 President of the Senate, and the Speaker of the House of  
 180 Representatives no later than June 30, 2010.

181 (h) The agency may seek federal waivers or Medicaid state  
 182 plan amendments and adopt rules as necessary to administer the  
 183 system on a pilot basis. The agency must receive specific  
 184 authorization from the Legislature prior to expanding beyond the  
 185 pilot areas designated for the implementation of the system.

186 Section 2. This act shall take effect July 1, 2007.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

Bill No.PCB HCC 07-11a

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                                    \_\_\_\_\_

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1 Council/Committee hearing bill: Healthcare Council  
2 Representative Galvano offered the following:

3  
4       **Amendment (with title amendment)**

5       Remove everything after the enacting clause and insert:  
6 Be It Enacted by the Legislature of the State of Florida:

7  
8       Section 1. Subsection (53) is added to section 409.912,  
9 Florida Statutes, to read:

10       409.912 Cost-effective purchasing of health care.--The  
11 agency shall purchase goods and services for Medicaid recipients  
12 in the most cost-effective manner consistent with the delivery  
13 of quality medical care. To ensure that medical services are  
14 effectively utilized, the agency may, in any case, require a  
15 confirmation or second physician's opinion of the correct  
16 diagnosis for purposes of authorizing future services under the  
17 Medicaid program. This section does not restrict access to  
18 emergency services or poststabilization care services as defined  
19 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
20 shall be rendered in a manner approved by the agency. The agency  
21 shall maximize the use of prepaid per capita and prepaid  
22 aggregate fixed-sum basis services when appropriate and other



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

23 alternative service delivery and reimbursement methodologies,  
24 including competitive bidding pursuant to s. 287.057, designed  
25 to facilitate the cost-effective purchase of a case-managed  
26 continuum of care. The agency shall also require providers to  
27 minimize the exposure of recipients to the need for acute  
28 inpatient, custodial, and other institutional care and the  
29 inappropriate or unnecessary use of high-cost services. The  
30 agency shall contract with a vendor to monitor and evaluate the  
31 clinical practice patterns of providers in order to identify  
32 trends that are outside the normal practice patterns of a  
33 provider's professional peers or the national guidelines of a  
34 provider's professional association. The vendor must be able to  
35 provide information and counseling to a provider whose practice  
36 patterns are outside the norms, in consultation with the agency,  
37 to improve patient care and reduce inappropriate utilization.  
38 The agency may mandate prior authorization, drug therapy  
39 management, or disease management participation for certain  
40 populations of Medicaid beneficiaries, certain drug classes, or  
41 particular drugs to prevent fraud, abuse, overuse, and possible  
42 dangerous drug interactions. The Pharmaceutical and Therapeutics  
43 Committee shall make recommendations to the agency on drugs for  
44 which prior authorization is required. The agency shall inform  
45 the Pharmaceutical and Therapeutics Committee of its decisions  
46 regarding drugs subject to prior authorization. The agency is  
47 authorized to limit the entities it contracts with or enrolls as  
48 Medicaid providers by developing a provider network through  
49 provider credentialing. The agency may competitively bid single-  
50 source-provider contracts if procurement of goods or services  
51 results in demonstrated cost savings to the state without  
52 limiting access to care. The agency may limit its network based  
53 on the assessment of beneficiary access to care, provider

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

54 availability, provider quality standards, time and distance  
55 standards for access to care, the cultural competence of the  
56 provider network, demographic characteristics of Medicaid  
57 beneficiaries, practice and provider-to-beneficiary standards,  
58 appointment wait times, beneficiary use of services, provider  
59 turnover, provider profiling, provider licensure history,  
60 previous program integrity investigations and findings, peer  
61 review, provider Medicaid policy and billing compliance records,  
62 clinical and medical record audits, and other factors. Providers  
63 shall not be entitled to enrollment in the Medicaid provider  
64 network. The agency shall determine instances in which allowing  
65 Medicaid beneficiaries to purchase durable medical equipment and  
66 other goods is less expensive to the Medicaid program than long-  
67 term rental of the equipment or goods. The agency may establish  
68 rules to facilitate purchases in lieu of long-term rentals in  
69 order to protect against fraud and abuse in the Medicaid program  
70 as defined in s. 409.913. The agency may seek federal waivers  
71 necessary to administer these policies.

72 (53) By December 1, 2007, the Agency for Health Care  
73 Administration, in consultation with the Agency for Persons with  
74 Disabilities, shall create a model fixed-payment service  
75 delivery system for persons with developmental disabilities who  
76 receive services under the developmental disabilities waiver  
77 program administered by the Agency for Persons with  
78 Disabilities. The family and supported living waiver program,  
79 and or the consumer-directed care plus waiver program  
80 administered by the Agency for Persons with Disabilities may  
81 also be included in the system if the agency determines that it  
82 is feasible and will improve coordination of care and management  
83 of cost. The system must transfer and combine all Medicaid  
84 waiver funded services and state only-funded services including

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.1 (for drafter's use only)

85 room and board and supported living payments for individuals who  
86 participate.

87 (a) The Legislature intends that the system provide  
88 recipients in Medicaid waiver programs with a coordinated system  
89 of services, increased cost predictability, and a stabilized  
90 rate of increase in Medicaid expenditures compared to Medicaid  
91 expenditures in the pilot areas specified in paragraph (b) for  
92 the 3 years before the system was implemented while ensuring:

- 93 1. Consumer choice.
- 94 2. Opportunities for consumer-directed services.
- 95 3. Access to medically necessary services.
- 96 4. Coordination of community-based services.
- 97 5. Reductions in the unnecessary use of services.

98 (b) The agency shall implement the system on a pilot basis  
99 in Area 1 of the Agency for Persons with Disabilities and in  
100 another area that is determined by the agency, in consultation  
101 with the Agency for Persons with Disabilities, to be an  
102 appropriate pilot site. After completion of the development  
103 phase of the system, attainment of necessary federal approval,  
104 procurement of qualified entities, and rate setting, the agency  
105 shall delegate administration of the system to the Agency for  
106 Persons with Disabilities. The Agency for Persons with  
107 Disabilities shall administer contracts with qualified entities  
108 and provide quality assurance, monitoring oversight, and other  
109 duties necessary for the system. The enrollment of Medicaid  
110 waiver recipients into the system in pilot areas shall be  
111 mandatory.

112 (c) The agency shall use a competitive procurement process  
113 to select entities to operate the system. Entities eligible to  
114 submit bids include community service networks that meet  
115 standards of financial solvency, as defined and determined by

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116 the agency in consultation with the Agency for Persons with  
117 Disabilities and the Office of Insurance Regulation, and that  
118 are able to take on financial risk for managed care. The agency  
119 shall ensure that bid requirements for entities include but are  
120 not limited to standards related to:

- 121 1.Fiscal solvency,
- 122 2.Quality of care,
- 123 3.Adequacy of access to provider services,
- 124 4.Specific requirements of the Medicaid program designed to  
125 meet the needs of the Medicaid recipients.
- 126 5.The network's infrastructure capacity to manage financial  
127 transactions, recordkeeping, data collection and other  
128 administrative functions.
- 129 6.The network's ability to submit any financial,  
130 programmatic, or recipient encounter data or other  
131 information required by the agency to determine the actual  
132 services provided and the cost of administering the plan.

133 (d) When the agency implements the system in an area of  
134 the state, the agency shall endeavor to provide recipients  
135 enrolled in the system with a choice of plans from qualified  
136 entities. The agency shall ensure that an entity operating a  
137 system, in addition to other requirements:

- 138 1. Identifies the needs of the recipients using a  
139 standardized assessment process approved by the agency.
- 140 2. Allows a recipient to select any provider that has a  
141 contract with the entity, provided that the service offered by  
142 the provider is appropriate to meet the needs of the recipient.
- 143 3. Makes a good faith effort to develop contracts with  
144 qualified providers currently under contract with the Agency for  
145 Persons with Disabilities.

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146 4. Develops and uses a service provider qualification  
147 system approved by the agency that describes the quality of care  
148 standards that providers of services to persons with  
149 developmental disabilities must meet in order to obtain a  
150 contract with the plan entity.

151 5. Excludes, when feasible, chronically poor-performing  
152 facilities and providers as determined by the agency.

153 6. Demonstrates a quality assurance system and a  
154 performance improvement system that are satisfactory to the  
155 agency.

156 (e) The agency must ensure that the capitation-rate-  
157 setting methodology for the system is actuarially sound and  
158 reflects the intent to provide quality care in the least  
159 restrictive setting. The agency may choose to limit financial  
160 risk for entities operating the system to cover high-cost  
161 recipients or to address the catastrophic care needs of  
162 recipients enrolled in the system.

163 (f) The system must provide that if the recipient resides  
164 in a noncontracted residential facility licensed under chapter  
165 393 or chapter 429 at the time of enrollment in the system, the  
166 recipient must be permitted to continue to reside in the  
167 noncontracted facility. The system must also provide that, in  
168 the absence of a contract between the system provider and the  
169 residential facility licensed under chapter 393 or chapter 429,  
170 the current Medicaid waiver rates must prevail.

171 (g) Within 24 months after implementation, the agency  
172 shall contract for a comprehensive evaluation of the system. The  
173 evaluation must include assessments of cost savings, cost-  
174 effectiveness, recipient outcomes, consumer choice, access to  
175 services, coordination of care, and quality of care. The  
176 evaluation must describe administrative or legal barriers to the

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177 implementation and operation of the system and include  
178 recommendations regarding statewide expansion of the system. The  
179 agency shall submit its evaluation report to the Governor, the  
180 President of the Senate, and the Speaker of the House of  
181 Representatives no later than June 30, 2010.

182 (h) The agency may seek federal waivers or Medicaid state  
183 plan amendments and adopt rules as necessary to administer the  
184 system on a pilot basis. The agency must receive specific  
185 authorization from the Legislature prior to expanding beyond the  
186 pilot areas designated for the implementation of the system.

187  
188

189 ===== T I T L E A M E N D M E N T =====

190 Remove the entire title and insert:

191 A bill to be entitled

192 An act relating to a model fixed-payment service delivery  
193 system for people with developmental disabilities;  
194 amending s. 409.912, F.S.; requiring the Agency for Health  
195 Care Administration to implement federal waivers to  
196 administer a model fixed-payment service delivery system  
197 for Medicaid recipients with developmental disabilities;  
198 providing legislative intent; providing for implementation  
199 of the system on a pilot basis in specified areas of the  
200 state; providing for administration of the system by the  
201 Agency for Persons with Disabilities; providing  
202 requirements for selection of entities to operate the  
203 system; providing for mandatory enrollment in system pilot  
204 areas; requiring an evaluation of the system; requiring  
205 the agency to submit a report to the Governor and  
206 Legislature; authorizing the agency to seek certain  
207 waivers and adopt rules; requiring the agency to receive

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208           specific authorization prior to expanding the system;  
209           providing an effective date.

210



211





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB HCC 07-12 Medicaid  
**SPONSOR(S):** Healthcare Council and Representative Bean  
**TIED BILLS:** IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		Schoolfield 	Gormley 
1)			
2)			
3)			
4)			
5)			

**SUMMARY ANALYSIS**

The bill provides amendments to section 409.912(5), Florida Statutes, to implement an integrated fixed-payment service delivery system (Florida Senior Care) for Medicaid recipients age 60 and older at two pilot sites. The bill provides the Agency for Health Care Administration with the authority to implement the Florida Senior Care program in accordance with approved federal waivers.

The bill makes participation of eligible individuals voluntary at two pilot sites. The bill specifies that individuals who choose to participate in the pilot may remain in their current licensed residence even if this residence is not under contract to the managed care program operator. The bill also provides enrollees access to an additional grievance processes through the Subscriber Assistance Panel by designating the participating managed care organizations as prepaid health plans. In addition, providers who participate are also provided with a grievance system that includes a formal and informal process. The bill creates a 10-business-day prompt payment requirement for participating managed care organizations in the pilot projects to make payment to nursing homes that bill electronically.

Finally, the bill makes changes to the OPPAGA evaluation requirement and requires AHCA to perform an analysis of to the merits of seeking a combined Medicaid and Medicare federal waiver.

The House version of the General Appropriations Act appropriates \$649,384 from the General Revenue Fund and \$649,384 in a matching trust fund to provide choice counseling services.

The bill is to be effective July 1, 2007.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government**—The bill reduces the role of government in determining the long-term care options available to recipients

**Promote Personal Responsibility**—The bill will allow Medicaid recipients greater choice of health and long-term care services delivery plans.

#### B. EFFECT OF PROPOSED CHANGES:

Proposed Council Bill HCC-07-11 authorizes the Agency for Healthcare Administration (AHCA) to implement an integrated, fixed-payment service delivery program called Florida Senior Care, which was created in response to 2005 Legislation.<sup>1</sup> The following provides background on the original authorizing legislation, details of the Florida Senior Care program created in response to the legislation, and the effects of this bill, which gives the Agency for Healthcare Administration authority to implement the pilot program.

#### **Background**

The 2005 Legislature amended chapter 409.912(5) as part of Medicaid reform legislation to direct the Agency for Health Care in partnership with the Department of Elderly Affairs (DOEA) to create an integrated fixed-payment service delivery system for Medicaid recipients age 60 years of age or older. The program must combine all Medicaid funds for participating recipients (health and long-term care services). This includes Medicaid home and community based waiver services and all mandatory and optional Medicaid service funding authorized in chapters 409.905 and 409.906. Some individuals were excluded from the program including individuals enrolled in the developmental disabilities waiver program, family and supported living waiver program, project AIDS care waiver program, traumatic brain injury and spinal cord injury waiver program, consumer directed care waiver program, program for all inclusive care for the elderly waiver program and residents of institutional care facilities for the developmentally disabled. Medicaid nursing home funds were to be excluded from the program unless AHCA can demonstrate how integration of these funds improves care and is cost effective. The program was to be implemented on a pilot basis in two areas of the state and in one pilot area enrollment the program would be voluntary. The legislation also directed AHCA to competitively procure eligible entities to operate the program and required the credentialing of subcontract service providers. In addition, AHCA was directed to use a capitated rate methodology for the program and to ensure that rates are actuarially sound for providing quality care. The legislation also allowed program participants who enrolled at the implementation of the program to remain in their current licensed residence if they desire. AHCA was given permission by the legislation to seek federal waivers and to adopt rules to administer the program. OPPAGA is required to conduct an evaluation of the pilot program within 24 months of program implementation.

#### **Florida Senior Care Approved Medicaid Waiver**<sup>2</sup>

In response to the Legislative directives in chapter 409.912(5), AHCA in partnership with DOEA requested and received approval in September 2006, from federal Centers for Medicaid and Medicare services of 1915(b) and 1915(c) Medicaid waivers to implement the Legislative directive. Called Florida Senior Care, the integrated service delivery program will provide health and long-term care services to Medicaid recipients in two pilot areas of the state. The agency has included nursing home funding in the integrated program and has provided analysis that this will potentially improve coordination of care,

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<sup>1</sup> Senate Bill 838,

<sup>2</sup> Florida Senior Care Summary of Approved Waiver Documents, November 2006, Agency for Health Care Administration.

reduce cost and increase budget predictability.<sup>3</sup> The pilots are planned for demonstration in rural and urban areas. The rural pilot is in Area One (Escambia, Santa Rosa, Okaloosa and Walton counties). The urban pilot is in Area Seven (Seminole, Orange, Osceola and Brevard counties). Individuals participating will have a choice of at least two plans from managed care organizations that will coordinate service delivery. A capitated payment structure is planned to give managed care organizations the flexibility to expend resources on the care needed most and in settings desired most by elder participants.

Florida Senior Care is intended to address fragmentation of service coordination for Medicaid participants by having one managed care organization provide all Medicaid services for a participant age 60 or older, including long term care. This plan includes physician services, hospitalization, prescription drugs, durable medical equipment, transportation, mental health services, and more. Home and Community Based waiver services will be limited as they are now, but the managed care organization can choose to provide additional services as a substitute for other, generally more expensive services such as nursing home care. This flexibility in the service menu is one of the key features of the Florida Senior Care plan.

Florida has operated a voluntary managed long-term care program for dually eligible participants age 65 and older for the last six years. The long-term care community diversion pilot project, also known as the Nursing Home Diversion waiver, currently serves more than 8,500 frail elders with plans to expand to 10,000 participants during Fiscal Year 2006-2007<sup>4</sup>. The Nursing Home Diversion program is fully capitated for almost all Medicaid services for the population served, including Medicare co-pays and deductibles, home and community based services and, if needed, nursing home care. The program is considered successful in providing integrated care with a focus on community based long term care. Limitations to this diversion model include the requirement that participants meet high frailty criteria to enter the program. This ensures that the program serves only individuals that are most needy, but it also increases the financial risk to the managed care plan and denies the plan the opportunity to provide preventative services before frailty advances and caregivers burn out from their care duties. Under Florida Senior Care, the inclusion of all elders, rather than just those who are frail and in need of formal long term care services will allow managed care organizations to spread their risk by incorporating more healthy individuals into their plan.

The Agency for Health Care Administration reports that Florida Senior Care will provide the following:

- *Coordinate all health care services*—Florida Senior Care will coordinate care across all health care settings including primary care doctors, specialists, hospital care, and when needed, long-term care in the home or in a nursing home.
- *Allow seniors to maintain their independence longer*—This system will provide flexibility to deliver care in the home or in the community as an alternative to nursing home care when appropriate based on an individual's needs. As a result, Florida Senior Care will allow Medicaid to provide a greater percentage of home and community based services to Florida's seniors.
- *Allow enrollees to choose the plan that's best for them*—Enrollment counseling will be available to help seniors make an informed choice. Once seniors have selected a plan, enrollees are free to change their primary care provider anytime under Florida Senior Care.
- *Provide a care coordinator to help arrange for needed services while encouraging individuals to participate in developing their plan of care*—Florida Senior Care will help seniors navigate a complicated health care system. Seniors will have one place to contact to arrange for health care services. The provision of a care coordinator will be especially beneficial for seniors who receive services through both the Medicare and Medicaid programs (dual eligible).

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<sup>3</sup> Florida Senior Care: Inclusion of Funds for Medicaid Nursing Home Services, February 16, 2006, Mercer Government Human Services Consulting.

<sup>4</sup> Long-Term Care Community Diversion Pilot Project - Legislative Report, January 2007, Department of Elder Affairs.

## Major Program Components

**Program Objectives**—The Florida Senior Care program is intended to achieve the following outcomes: coordinate care, manage all health costs, and establish accountability for eligible Medicaid participants. In addition, the project strives to promote home and community based services; streamline long term care eligibility determinations; develop new quality management systems; create integrated networks of care at the local level; and develop an appropriate risk adjusted reimbursement method that will include incentives for community living arrangements.

**Pilot Areas**—As directed by the legislature, two pilot areas were chosen to test the program concept. The Panhandle and Central Florida pilot areas were chosen to represent both rural and urban areas, and will encompass two of the eleven AHCA and Department of Elder Affairs (DOEA) service areas. In selecting the Panhandle area as a pilot, priority was given to an area of the state that has fewer Home and Community Based Service waiver programs to simplify implementation and to promote increased access to services in a predominately rural area of the state.

**Eligibility and Enrollment**—Most individuals age 60 or older enrolled in Medicaid in the pilot areas will be able to choose a Florida Senior Care provider. Individuals enrolled in certain programs are excluded from Florida Senior Care. Eligible individuals in the pilot areas may opt to continue receiving Medicaid services outside of Florida Senior Care.<sup>5</sup> If the individual does not opt out or select a Florida Senior Care provider within 30 days, they will be automatically enrolled into one of the Florida Senior Care Plans. All individuals may elect to change their plan within 90 days. However, after this time period they must remain in the plan for one year. These individuals will be provided choice counseling to assist them in making an informed choice. An emphasis on face to face counseling will be made for the seniors. The auto-enrollment provision is intended to require individuals to make a conscious choice about Florida Senior Care and to respond to the enrollment offer for the program.

There are approximately 26,000 Medicaid participants age 60 or older who would be eligible for enrollment in a Florida Senior Care plan in the selected pilot areas. Participants will continue to enter the Medicaid program through financial eligibility determination by DCF Offices of Economic Self-Sufficiency or the Social Security Administration. Medical eligibility for long term care services will continue to be determined by the Department of Elder Affairs' CARES (Comprehensive Assessment Review and Evaluation of LTC Services) unit.

**Service Provision**—All Medicaid services will be available to Florida Senior Care enrollees including primary, acute, and long term care, and prescription medications. Each enrollee will have a care coordinator to assist in planning and coordinating the enrollee's care and in navigating the program. The majority of enrollees in the selected pilot areas, 86 percent, are also eligible for Medicare. These "dual eligibles" will continue to receive Medicare services as they do now, but the Florida Senior Care Coordinator will also assist with coordinating, as much as possible, Medicare and Medicaid services.

**Delivery Systems**—Managed care organizations will be selected through competitive procurement for each pilot area. A variety of types of entities are eligible to submit bids. Each managed care organization must be able to demonstrate that it has a comprehensive network of qualified providers for each service that must be provided under the plan.

**Program Administration**—The state will competitively procure the managed care organizations and administer their contracts. All program decisions will be made by AHCA in partnership with DOEA, who will share operational responsibilities for the Florida Senior Care program. The Department of Children and Family Services its local offices will continue to establish financial eligibility of Medicaid participants under agreement with AHCA. The agency will determine whether managed care organizations seeking

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<sup>5</sup> Note: The panhandle/ Area One pilot site is approved for mandatory enrollment in the federal waiver. However, this bill makes both pilot sites voluntary enrollment. Therefore, individuals at both sites will have to make a choice of whether to participate in the pilot program. In addition, the federal waiver will need to be amended to comport with statute.

to be Florida Senior Care providers meet financial solvency standards and will review quarterly reports from the managed care organizations to ensure that solvency standards are maintained.

**Accountability, Monitoring, and Evaluation**—An independent evaluation of the pilots will be conducted. If the program meets the goal of creating seamless, integrated care for elders with an emphasis on community based care options and is able to demonstrate that it is not more costly than traditional service models, AHCA and DOEA will re/commend statewide expansion. The Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Auditor General, will comprehensively evaluate the pilot within 24 months of implementation.

**Financing**—Funding for the Florida Senior Care program will come from individual Medicaid services line items in the budget, as appropriated by the Florida Legislature. These funds will be taken in proportion to the population age 60 and older served in the pilot areas. Service funds will be pooled in order to make fixed monthly payments to FSC plans for each enrolled individual. Capitated payments will be developed based on the current cost to Medicaid to provide services for this population.

**Effect of Legislation:**

The bill amends section 409.912(5), Florida Statutes, to make changes to the integrated fixed-payment delivery system for the implementation of the pilot programs. The following changes or additions are reflected in this bill:

*System to Program word change:* The name of the integrated fixed payment delivery *system* is changed to integrated fixed-payment delivery *program*. This technical change to using the word program instead of system provides a more accurate description of the project since the project is voluntary at pilot sites and does not comprise the total system of services offered to individuals.

*Voluntary Enrollment:* The bill changes enrollment to voluntary for both pilot sites. Individuals will have a choice of enrolling in the Florida Senior Care Pilot, remaining in their current service arrangement (e.g. Medipass, Medicaid managed care, Medicaid fee for service or Home and Community Based Medicaid waiver). The change to voluntary will require federal approval of an amendment to the Medicaid waiver for Florida Senior Care. The current pilot sites are AHCA Area One, (Okaloosa, Walton, Escambia and Santa Rosa counties) and Area Seven (Orange, Seminole, Brevard and Osceola counties). The bill also requires the enrollment of participants to conform to the approved federal Medicaid waivers and 409.912(5).

*Designates plan operators (entities) as prepaid health plans:* This bill designates the plan provider or entity as a prepaid health plan as referenced in section 408.7056(1) (e), Florida Statutes. This designation provides Florida Senior Care enrollees access to the Subscriber Assistance Panel grievance process. All enrollees will have access to internal grievance processes in their health plan and the Medicaid Fair Hearing Process. In addition, Florida Senior Care enrollees will have access to the Subscriber Assistance Panel to hear external grievances from Medicaid recipients in managed care plans.

*Provider grievance system:* This bill requires the agency to develop and maintain an informal and formal grievance system for providers of service. This provision also directs that the formal system will address grievances which have not been handled informally. This grievance system would give providers a forum for resolving disputes between the managed care entity and subcontract providers as well as the managed care entity and the state. This provision would make Florida Senior Care more consistent with the Medicaid reform pilot requirements for a provider grievance system (409.91211(3) (r).

*Allow participants to remain in current residence:* The bill amends the current statute to allow individuals who participate in Florida Senior Care to choose to remain in their current residence regardless of when they enter the program. This provision would be contingent on the individual's

current residential facility accepting the Medicaid rate or the contracted rate from the managed care organization. The residential settings are limited to those facilities licensed under chapters 400 and 429, Florida Statutes (e.g., nursing homes, assisted living facilities, adult family care homes, transitional living facilities, and homes for special services).

*Prompt Payment for Nursing Homes:* The bill requires managed care entities to pay nursing home providers within 10 business days when they submit electronic claims that have sufficient information to process the claim. The nursing home industry has expressed concern about prompt payment under Florida Senior care pilots and warned that cash flow problems could develop if a prompt payment provision was not implemented. The bill also provides an alternate method for managed care entities to make payments to nursing homes on a prospective capitated payment basis. This would provide payment for nursing homes in advance of delivery of services and alleviate cash flow concerns from late payment.

*Evaluation by the OPPAGA:* This bill amends the existing requirements for an evaluation by OPPAGA as follows:

- Requires OPPAGA to begin the evaluation as soon as Medicaid recipients are enrolled in the plan. This would allow OPPAGA to advise on progress from the beginning of the pilots.
- Sets 24 month duration of the evaluation once Medicaid recipients are enrolled.
- Clarifies the intent of the evaluation which is to assess each of the managed care plans in the program.
- Changes the deadline for a report to the Governor, Speaker of the House, and President of the Senate to December 31, 2009.

*State Plan Option:* The bill also adds language that allows the agency to seek Medicaid state plan amendments in addition to the existing Medicaid waiver authority in the statute. This addition contemplates changes in federal law under the Deficit Reduction Act which the agency may choose to consider if additional federal approvals are necessary.

*Implementation Authority:* This bill gives AHCA the authority to implement the Florida Senior Care waivers approved by the federal Centers for Medicaid and Medicare Services. Implementation must be in accordance with section 409.912(5), Florida Statutes.

*Additional Analysis for Future waivers:* The bill directs AHCA to provide an analysis to the Legislature regarding the merits and challenge of seeking a federal waiver that combines Medicare and Medicaid funding in a program for dually enrolled individuals age 65 and older. Some states (e.g., Wisconsin, Massachusetts and Minnesota) have received federal waivers to operate these type programs.

#### C. SECTION DIRECTORY:

Section 1: Amends s.409.912(5), F.S., specifying provisions of the integrated fixed-payment delivery program.

Section 2: Amends s. 408.40, F.S., making technical wording changes

Section 3: Provides an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Title XIX Medicaid Match	\$649,384	\$649,384

2. Expenditures:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Choice Counseling Services	\$900,797	\$900,797
Choice Counseling Materials/Training	\$124,971	\$124,971
Project Manager Contractual Services	<u>\$273,000</u>	<u>\$273,000</u>
<b>Total</b>	<b>\$1,298,768</b>	<b>\$1,298,768</b>
General Revenue Fund	\$649,384	\$649,384
Administrative Trust Fund	\$649,384	\$649,384

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Existing section 409.915, Florida Statutes, relates to county contributions to Medicaid. Existing subsection (a) specifically states that counties shall provide certain payments for Medicaid services "for both health maintenance members and fee-for-service beneficiaries." Existing subsection (b) simply states that counties shall make certain other payments for Medicaid services without reference to beneficiary coverage type, and applies only to fee-for-service enrollees. By application of the doctrine of *expressio unius est exclusio alterius* (the express mention of one thing is the exclusion of the other), the absence of reference to health maintenance members suggests that counties are not be required to make payment for nursing home care provided through FSC. As beneficiaries in the eight counties comprising the pilot sites enroll in managed care programs (and fee-for service arrangements), the state could potentially lose \$4,948,641 because of reductions in counties' contributions to nursing home care.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities providing choice counseling services will be able to contract with AHCA.

D. FISCAL COMMENTS:

AHCA reports that an appropriation of \$1,298,768 is necessary to fund the choice counseling and enrollment broker services necessary to implement Florida Senior Care in the two pilot sites selected. This figure includes \$900,797 for choice counseling (\$37.82 per recipient for 23,818 anticipated enrollees), \$124,971 for the development of choice counseling materials and training for choice counselors, and \$273,000 for a contract project manager for the reform projects.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES



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PCB HCC 07-12

ORIGINAL

YEAR

1 A bill to be entitled  
 2 An act relating to Medicaid; amending s. 409.912, F.S.;  
 3 requiring the Agency for Health Care Administration to  
 4 implement federal waivers to administer an integrated,  
 5 fixed-payment delivery program for Medicaid recipients 60  
 6 years of age or older; providing for voluntary enrollment  
 7 in the program in specified locations, in accordance with  
 8 certain requirements; requiring selection of managed care  
 9 entities to operate the program; providing that such  
 10 managed care entities shall be considered prepaid health  
 11 plans; providing for the establishment of informal and  
 12 formal provider grievance systems; requiring payment of  
 13 certain nursing home claims within a time certain;  
 14 providing a timeframe for evaluation of the program by the  
 15 Office of Program Policy Analysis and Government  
 16 Accountability; extending the deadline for submission of  
 17 the evaluation report; authorizing the agency to seek  
 18 Medicaid state plan amendments; requiring the agency to  
 19 submit a report to the Legislature; amending s. 408.040,  
 20 F.S.; conforming terminology to changes made by the act;  
 21 providing an effective date.

22  
 23 Be It Enacted by the Legislature of the State of Florida:

24  
 25 Section 1. Subsection (5) of section 409.912, Florida  
 26 Statutes, is amended to read:

27 409.912 Cost-effective purchasing of health care.--The  
 28 agency shall purchase goods and services for Medicaid recipients  
 29 in the most cost-effective manner consistent with the delivery of

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PCB HCC 07-12

ORIGINAL

YEAR

30 | quality medical care. To ensure that medical services are  
 31 | effectively utilized, the agency may, in any case, require a  
 32 | confirmation or second physician's opinion of the correct  
 33 | diagnosis for purposes of authorizing future services under the  
 34 | Medicaid program. This section does not restrict access to  
 35 | emergency services or poststabilization care services as defined  
 36 | in 42 C.F.R. part 438.114. Such confirmation or second opinion  
 37 | shall be rendered in a manner approved by the agency. The agency  
 38 | shall maximize the use of prepaid per capita and prepaid  
 39 | aggregate fixed-sum basis services when appropriate and other  
 40 | alternative service delivery and reimbursement methodologies,  
 41 | including competitive bidding pursuant to s. 287.057, designed to  
 42 | facilitate the cost-effective purchase of a case-managed  
 43 | continuum of care. The agency shall also require providers to  
 44 | minimize the exposure of recipients to the need for acute  
 45 | inpatient, custodial, and other institutional care and the  
 46 | inappropriate or unnecessary use of high-cost services. The  
 47 | agency shall contract with a vendor to monitor and evaluate the  
 48 | clinical practice patterns of providers in order to identify  
 49 | trends that are outside the normal practice patterns of a  
 50 | provider's professional peers or the national guidelines of a  
 51 | provider's professional association. The vendor must be able to  
 52 | provide information and counseling to a provider whose practice  
 53 | patterns are outside the norms, in consultation with the agency,  
 54 | to improve patient care and reduce inappropriate utilization. The  
 55 | agency may mandate prior authorization, drug therapy management,  
 56 | or disease management participation for certain populations of  
 57 | Medicaid beneficiaries, certain drug classes, or particular drugs  
 58 | to prevent fraud, abuse, overuse, and possible dangerous drug

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YEAR

59 interactions. The Pharmaceutical and Therapeutics Committee shall  
 60 make recommendations to the agency on drugs for which prior  
 61 authorization is required. The agency shall inform the  
 62 Pharmaceutical and Therapeutics Committee of its decisions  
 63 regarding drugs subject to prior authorization. The agency is  
 64 authorized to limit the entities it contracts with or enrolls as  
 65 Medicaid providers by developing a provider network through  
 66 provider credentialing. The agency may competitively bid single-  
 67 source-provider contracts if procurement of goods or services  
 68 results in demonstrated cost savings to the state without  
 69 limiting access to care. The agency may limit its network based  
 70 on the assessment of beneficiary access to care, provider  
 71 availability, provider quality standards, time and distance  
 72 standards for access to care, the cultural competence of the  
 73 provider network, demographic characteristics of Medicaid  
 74 beneficiaries, practice and provider-to-beneficiary standards,  
 75 appointment wait times, beneficiary use of services, provider  
 76 turnover, provider profiling, provider licensure history,  
 77 previous program integrity investigations and findings, peer  
 78 review, provider Medicaid policy and billing compliance records,  
 79 clinical and medical record audits, and other factors. Providers  
 80 shall not be entitled to enrollment in the Medicaid provider  
 81 network. The agency shall determine instances in which allowing  
 82 Medicaid beneficiaries to purchase durable medical equipment and  
 83 other goods is less expensive to the Medicaid program than long-  
 84 term rental of the equipment or goods. The agency may establish  
 85 rules to facilitate purchases in lieu of long-term rentals in  
 86 order to protect against fraud and abuse in the Medicaid program

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87 as defined in s. 409.913. The agency may seek federal waivers  
 88 necessary to administer these policies.

89 (5) ~~By December 1, 2005,~~ The Agency for Health Care  
 90 Administration, in partnership with the Department of Elderly  
 91 Affairs, shall create an integrated, fixed-payment delivery  
 92 program system for Medicaid recipients who are 60 years of age or  
 93 older. The Agency for Health Care Administration shall implement  
 94 the integrated program system initially on a pilot basis in two  
 95 areas of the state. ~~In one of the areas~~ Enrollment in the pilot  
 96 areas shall be on a voluntary basis and in accordance with  
 97 approved federal waivers and this section. The integrated program  
 98 must transfer all Medicaid services for eligible elderly  
 99 individuals who choose to participate into an integrated-care  
 100 management model designed to serve Medicaid recipients in the  
 101 community. The integrated program must combine all funding for  
 102 Medicaid services provided to individuals 60 years of age or  
 103 older into the integrated program system, including funds for  
 104 Medicaid home and community-based waiver services; all Medicaid  
 105 services authorized in ss. 409.905 and 409.906, excluding funds  
 106 for Medicaid nursing home services unless the agency is able to  
 107 demonstrate how the integration of the funds will improve  
 108 coordinated care for these services in a less costly manner; and  
 109 Medicare coinsurance and deductibles for persons dually eligible  
 110 for Medicaid and Medicare as prescribed in s. 409.908(13).

111 (a) Individuals who are 60 years of age or older and  
 112 enrolled in the developmental disabilities waiver program, the  
 113 family and supported-living waiver program, the project AIDS care  
 114 waiver program, the traumatic brain injury and spinal cord injury  
 115 waiver program, the consumer-directed care waiver program, and

116 the program of all-inclusive care for the elderly program, and  
 117 residents of institutional care facilities for the  
 118 developmentally disabled, must be excluded from the integrated  
 119 program system.

120 (b) The integrated program must use a competitive  
 121 procurement process to select managed care entities to operate  
 122 the integrated program system. For the purpose of this section,  
 123 managed care entities shall be considered prepaid health plans as  
 124 provided in s. 408.7056(1)(e). Entities eligible to submit bids  
 125 include managed care organizations licensed under chapter 641,  
 126 including entities eligible to participate in the nursing home  
 127 diversion program, other qualified providers as defined in s.  
 128 430.703(7), community care for the elderly lead agencies, and  
 129 other state-certified community service networks that meet  
 130 comparable standards as defined by the agency, in consultation  
 131 with the Department of Elderly Affairs and the Office of  
 132 Insurance Regulation, to be financially solvent and able to take  
 133 on financial risk for managed care. Community service networks  
 134 that are certified pursuant to the comparable standards defined  
 135 by the agency are not required to be licensed under chapter 641.

136 (c) The agency must ensure that the capitation-rate-setting  
 137 methodology for the integrated program system is actuarially  
 138 sound and reflects the intent to provide quality care in the  
 139 least restrictive setting. The agency must also require  
 140 integrated-program ~~integrated-system~~ providers to develop a  
 141 credentialing system for service providers and to contract with  
 142 all Gold Seal nursing homes, where feasible, and exclude, where  
 143 feasible, chronically poor-performing facilities and providers as  
 144 defined by the agency. The integrated program must develop and

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145 | maintain an informal provider grievance system that addresses  
 146 | provider payment and contract problems. The agency shall also  
 147 | establish a formal grievance system to address those issues that  
 148 | were not resolved through the informal grievance system. The  
 149 | integrated program system must provide that if the recipient  
 150 | resides in a noncontracted residential facility licensed under  
 151 | chapter 400 or chapter 429 at the time of enrollment in the  
 152 | integrated program system ~~is initiated~~, the recipient must be  
 153 | permitted to continue to reside in the noncontracted facility as  
 154 | long as the recipient desires. The integrated program system must  
 155 | also provide that, in the absence of a contract between the  
 156 | integrated-program ~~integrated-system~~ provider and the residential  
 157 | facility licensed under chapter 400 or chapter 429, current  
 158 | Medicaid rates must prevail. The integrated-program provider must  
 159 | ensure that electronic nursing home claims that contain  
 160 | sufficient information for processing are paid within 10 business  
 161 | days after receipt. Alternately, the integrated-program provider  
 162 | may establish a capitated payment mechanism to prospectively pay  
 163 | nursing homes at the beginning of each month. The agency and the  
 164 | Department of Elderly Affairs must jointly develop procedures to  
 165 | manage the services provided through the integrated program  
 166 | system in order to ensure quality and recipient choice.

167 | (d) ~~Within 24 months after implementation,~~ The Office of  
 168 | Program Policy Analysis and Government Accountability, in  
 169 | consultation with the Auditor General, shall comprehensively  
 170 | evaluate the pilot project for the integrated, fixed-payment  
 171 | delivery program system for Medicaid recipients created under  
 172 | this subsection who are 60 years of age or older. The evaluation  
 173 | shall begin as soon as Medicaid recipients are enrolled in the

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174 managed care pilot program plans and shall continue for 24 months  
 175 thereafter. The evaluation must include assessments of each  
 176 managed care plan in the integrated program with regard to cost  
 177 savings; consumer education, choice, and access to services;  
 178 coordination of care; and quality of care. The evaluation must  
 179 describe administrative or legal barriers to the implementation  
 180 and operation of the pilot program and include recommendations  
 181 regarding statewide expansion of the pilot program. The office  
 182 shall submit its an evaluation report to the Governor, the  
 183 President of the Senate, and the Speaker of the House of  
 184 Representatives no later than December 31, 2009 ~~June 30, 2008~~.

185 (e) The agency may seek federal waivers or Medicaid state  
 186 plan amendments and adopt rules as necessary to administer the  
 187 integrated program system. The agency may implement the approved  
 188 federal waivers and other provisions as specified in this  
 189 subsection ~~must receive specific authorization from the~~  
 190 ~~Legislature prior to implementing the waiver for the integrated~~  
 191 ~~system.~~

192 (f) No later than December 31, 2007, the agency shall  
 193 provide a report to the President of the Senate and the Speaker  
 194 of the House of Representatives containing an analysis of the  
 195 merits and challenges of seeking a waiver to implement a  
 196 voluntary program that integrates payments and services for  
 197 dually enrolled Medicare and Medicaid recipients who are 65 years  
 198 of age or older.

199 Section 2. Paragraph (d) of subsection (1) of section  
 200 408.040, Florida Statutes, is amended to read:

201 408.040 Conditions and monitoring.--

202 (1)

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203 | (d) If a nursing home is located in a county in which a  
 204 | long-term care community diversion pilot project has been  
 205 | implemented under s. 430.705 or in a county in which an  
 206 | integrated, fixed-payment delivery program ~~system~~ for Medicaid  
 207 | recipients who are 60 years of age or older has been implemented  
 208 | under s. 409.912(5), the nursing home may request a reduction in  
 209 | the percentage of annual patient days used by residents who are  
 210 | eligible for care under Title XIX of the Social Security Act,  
 211 | which is a condition of the nursing home's certificate of need.  
 212 | The agency shall automatically grant the nursing home's request  
 213 | if the reduction is not more than 15 percent of the nursing  
 214 | home's annual Medicaid-patient-days condition. A nursing home may  
 215 | submit only one request every 2 years for an automatic reduction.  
 216 | A requesting nursing home must notify the agency in writing at  
 217 | least 60 days in advance of its intent to reduce its annual  
 218 | Medicaid-patient-days condition by not more than 15 percent. The  
 219 | agency must acknowledge the request in writing and must change  
 220 | its records to reflect the revised certificate-of-need condition.  
 221 | This paragraph expires June 30, 2011.

222 | Section 3. This act shall take effect July 1, 2007.







## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Provide Limited Government**—The bill provides \$208.3 million in special payments to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals.

#### B. EFFECT OF PROPOSED CHANGES:

Each year the Low-Income Pool Council (formerly Disproportionate Share Council) makes recommendations to the Legislature on the Medicaid Disproportionate Share Program funding distributions to hospitals that provide a disproportionate share of the Medicaid or charity care services to uninsured individuals. This bill amends chapter 409, Florida Statutes, to implement the current recommendations of the Low-Income Pool Council.

The bill amends section 409.911, Florida Statutes, revising the method for calculating disproportionate share payments to hospitals for Fiscal Year 2007-2008 by changing the years of averaged audited data from 2000, 2001 and 2002 to 2001, 2002 and 2003. The bill amends section 409.9112, Florida Statutes, revising the time period from Fiscal Year 2006-2007 to Fiscal Year 2007-2008 during which the agency is prohibited from distributing funds under the Disproportionate Share Program for Regional Perinatal Intensive Care Centers. The bill also amends section 409.9113, Florida Statutes, requiring that funds for statutorily defined teaching hospitals in Fiscal Year 2007-2008 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for Teaching Hospitals in Fiscal Year 2003-04. Finally, the bill amends section 409.9117, Florida Statutes, revising the time period from Fiscal Year 2006-2007 to Fiscal Year 2007-2008 during which the agency is prohibited from distributing funds under the Primary Care Disproportionate Share Program.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 409.911, F.S., implementing Fiscal Year 2007-2008 provisions to the Disproportionate Share Program.

**Section 2.** Amends s. 409.9112, F.S., implementing Fiscal Year 2007-2008 provisions for the Disproportionate Share Program for Regional Perinatal Intensive Care Centers.

**Section 3.** Amends s. 409.9113, F.S., implementing Fiscal Year 2007-2008 provisions for the Disproportionate Share Program for Teaching Hospitals.

**Section 4.** Amends s. 409.9117, F.S., implementing Fiscal Year 2007-2008 provisions for the Primary Care Disproportionate Share Program.

**Section 5.** Provides an effective date.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

\$118.4 million—Medicaid funds

##### 2. Expenditures:

\$6.2 million—General Revenue funds transferred from the Department of Health for the Disproportionate Share Program for Teaching Hospitals

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None

2. Expenditures:

\$83.7 million in local governments and other local political subdivisions contributions

**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.

**D. FISCAL COMMENTS:**

None

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

**B. RULE-MAKING AUTHORITY:**

No additional rulemaking authority is required to implement the provisions of this bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**D. STATEMENT OF THE SPONSOR**

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

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1 A bill to be entitled  
 2 An act relating to health care; amending s. 409.911, F.S.;  
 3 revising the method for calculating disproportionate share  
 4 payments to hospitals; amending s. 409.9112, F.S.;  
 5 revising the time period during which the Agency for  
 6 Health Care Administration is prohibited from distributing  
 7 disproportionate share payments to regional perinatal  
 8 intensive care centers; amending s. 409.9113, F.S.;  
 9 revising the time period for distribution of  
 10 disproportionate share payments to teaching hospitals;  
 11 amending s. 409.9117, F.S.; revising the time period  
 12 during which the agency is prohibited from distributing  
 13 certain moneys under the primary care disproportionate  
 14 share program; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Subsection (2) of section 409.911, Florida  
 19 Statutes, is amended to read:

20 409.911 Disproportionate share program.--Subject to  
 21 specific allocations established within the General  
 22 Appropriations Act and any limitations established pursuant to  
 23 chapter 216, the agency shall distribute, pursuant to this  
 24 section, moneys to hospitals providing a disproportionate share  
 25 of Medicaid or charity care services by making quarterly Medicaid  
 26 payments as required. Notwithstanding the provisions of s.  
 27 409.915, counties are exempt from contributing toward the cost of  
 28 this special reimbursement for hospitals serving a  
 29 disproportionate share of low-income patients.

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30 (2) The Agency for Health Care Administration shall use the  
 31 following actual audited data to determine the Medicaid days and  
 32 charity care to be used in calculating the disproportionate share  
 33 payment:

34 (a) The average of the 2001, 2002, and 2003 ~~2000, 2001, and~~  
 35 ~~2002~~ audited disproportionate share data to determine each  
 36 hospital's Medicaid days and charity care for the 2007-2008 ~~2006-~~  
 37 ~~2007~~ state fiscal year.

38 (b) If the Agency for Health Care Administration does not  
 39 have the prescribed 3 years of audited disproportionate share  
 40 data as noted in paragraph (a) for a hospital, the agency shall  
 41 use the average of the years of the audited disproportionate  
 42 share data as noted in paragraph (a) which is available.

43 (c) In accordance with s. 1923(b) of the Social Security  
 44 Act, a hospital with a Medicaid inpatient utilization rate  
 45 greater than one standard deviation above the statewide mean or a  
 46 hospital with a low-income utilization rate of 25 percent or  
 47 greater shall qualify for reimbursement.

48 Section 2. Section 409.9112, Florida Statutes, is amended  
 49 to read:

50 409.9112 Disproportionate share program for regional  
 51 perinatal intensive care centers.--In addition to the payments  
 52 made under s. 409.911, the Agency for Health Care Administration  
 53 shall design and implement a system of making disproportionate  
 54 share payments to those hospitals that participate in the  
 55 regional perinatal intensive care center program established  
 56 pursuant to chapter 383. This system of payments shall conform  
 57 with federal requirements and shall distribute funds in each  
 58 fiscal year for which an appropriation is made by making

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59 quarterly Medicaid payments. Notwithstanding the provisions of s.  
 60 409.915, counties are exempt from contributing toward the cost of  
 61 this special reimbursement for hospitals serving a  
 62 disproportionate share of low-income patients. For the state  
 63 fiscal year 2007-2008 ~~2005-2006~~, the agency shall not distribute  
 64 moneys under the regional perinatal intensive care centers  
 65 disproportionate share program.

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

69

$$70 \quad \text{TAE} = \text{HDSP} / \text{THDSP}$$

71

72 Where:

73 TAE = total amount earned by a regional perinatal intensive  
 74 care center.

75 HDSP = the prior state fiscal year regional perinatal  
 76 intensive care center disproportionate share payment to the  
 77 individual hospital.

78 THDSP = the prior state fiscal year total regional perinatal  
 79 intensive care center disproportionate share payments to all  
 80 hospitals.

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

84

$$85 \quad \text{TAP} = \text{TAE} \times \text{TA}$$

86

87 Where:

88 TAP = total additional payment for a regional perinatal  
 89 intensive care center.

90 TAE = total amount earned by a regional perinatal intensive  
 91 care center.

92 TA = total appropriation for the regional perinatal  
 93 intensive care center disproportionate share program.

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

98 (a) Agree to conform to all departmental and agency  
 99 requirements to ensure high quality in the provision of services,  
 100 including criteria adopted by departmental and agency rule  
 101 concerning staffing ratios, medical records, standards of care,  
 102 equipment, space, and such other standards and criteria as the  
 103 department and agency deem appropriate as specified by rule.

104 (b) Agree to provide information to the department and  
 105 agency, in a form and manner to be prescribed by rule of the  
 106 department and agency, concerning the care provided to all  
 107 patients in neonatal intensive care centers and high-risk  
 108 maternity care.

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

112 (d) Agree to develop arrangements with other maternity and  
 113 neonatal care providers in the hospital's region for the  
 114 appropriate receipt and transfer of patients in need of  
 115 specialized maternity and neonatal intensive care services.



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

119 (f) Agree to sponsor a program of continuing education in  
 120 perinatal care for health care professionals within the region of  
 121 the hospital, as specified by rule.

122 (g) Agree to provide backup and referral services to the  
 123 department's county health departments and other low-income  
 124 perinatal providers within the hospital's region, including the  
 125 development of written agreements between these organizations and  
 126 the hospital.

127 (h) Agree to arrange for transportation for high-risk  
 128 obstetrical patients and neonates in need of transfer from the  
 129 community to the hospital or from the hospital to another more  
 130 appropriate facility.

131 (4) Hospitals which fail to comply with any of the  
 132 conditions in subsection (3) or the applicable rules of the  
 133 department and agency shall not receive any payments under this  
 134 section until full compliance is achieved. A hospital which is  
 135 not in compliance in two or more consecutive quarters shall not  
 136 receive its share of the funds. Any forfeited funds shall be  
 137 distributed by the remaining participating regional perinatal  
 138 intensive care center program hospitals.

139 Section 3. Section 409.9113, Florida Statutes, is amended  
 140 to read:

141 409.9113 Disproportionate share program for teaching  
 142 hospitals.--In addition to the payments made under ss. 409.911  
 143 and 409.9112, the Agency for Health Care Administration shall  
 144 make disproportionate share payments to statutorily defined

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145 teaching hospitals for their increased costs associated with  
 146 medical education programs and for tertiary health care services  
 147 provided to the indigent. This system of payments shall conform  
 148 with federal requirements and shall distribute funds in each  
 149 fiscal year for which an appropriation is made by making  
 150 quarterly Medicaid payments. Notwithstanding s. 409.915, counties  
 151 are exempt from contributing toward the cost of this special  
 152 reimbursement for hospitals serving a disproportionate share of  
 153 low-income patients. For the state fiscal year 2007-2008 ~~2006-~~  
 154 ~~2007~~, the agency shall distribute the moneys provided in the  
 155 General Appropriations Act to statutorily defined teaching  
 156 hospitals and family practice teaching hospitals under the  
 157 teaching hospital disproportionate share program. The funds  
 158 provided for statutorily defined teaching hospitals shall be  
 159 distributed in the same proportion as the state fiscal year 2003-  
 160 2004 teaching hospital disproportionate share funds were  
 161 distributed. The funds provided for family practice teaching  
 162 hospitals shall be distributed equally among family practice  
 163 teaching hospitals.

164 (1) On or before September 15 of each year, the Agency for  
 165 Health Care Administration shall calculate an allocation fraction  
 166 to be used for distributing funds to state statutory teaching  
 167 hospitals. Subsequent to the end of each quarter of the state  
 168 fiscal year, the agency shall distribute to each statutory  
 169 teaching hospital, as defined in s. 408.07, an amount determined  
 170 by multiplying one-fourth of the funds appropriated for this  
 171 purpose by the Legislature times such hospital's allocation  
 172 fraction. The allocation fraction for each such hospital shall be

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173 | determined by the sum of three primary factors, divided by three.

174 | The primary factors are:

175 |       (a) The number of nationally accredited graduate medical  
 176 | education programs offered by the hospital, including programs  
 177 | accredited by the Accreditation Council for Graduate Medical  
 178 | Education and the combined Internal Medicine and Pediatrics  
 179 | programs acceptable to both the American Board of Internal  
 180 | Medicine and the American Board of Pediatrics at the beginning of  
 181 | the state fiscal year preceding the date on which the allocation  
 182 | fraction is calculated. The numerical value of this factor is the  
 183 | fraction that the hospital represents of the total number of  
 184 | programs, where the total is computed for all state statutory  
 185 | teaching hospitals.

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

188 |       1. The number of trainees enrolled in nationally accredited  
 189 | graduate medical education programs, as defined in paragraph (a).  
 190 | Full-time equivalents are computed using the fraction of the year  
 191 | during which each trainee is primarily assigned to the given  
 192 | institution, over the state fiscal year preceding the date on  
 193 | which the allocation fraction is calculated. The numerical value  
 194 | of this factor is the fraction that the hospital represents of  
 195 | the total number of full-time equivalent trainees enrolled in  
 196 | accredited graduate programs, where the total is computed for all  
 197 | state statutory teaching hospitals.

198 |       2. The number of medical students enrolled in accredited  
 199 | colleges of medicine and engaged in clinical activities,  
 200 | including required clinical clerkships and clinical electives.  
 201 | Full-time equivalents are computed using the fraction of the year

→

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202 during which each trainee is primarily assigned to the given  
 203 institution, over the course of the state fiscal year preceding  
 204 the date on which the allocation fraction is calculated. The  
 205 numerical value of this factor is the fraction that the given  
 206 hospital represents of the total number of full-time equivalent  
 207 students enrolled in accredited colleges of medicine, where the  
 208 total is computed for all state statutory teaching hospitals.

209  
 210 The primary factor for full-time equivalent trainees is computed  
 211 as the sum of these two components, divided by two.

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

213 1. The Agency for Health Care Administration Service Index,  
 214 computed by applying the standard Service Inventory Scores  
 215 established by the Agency for Health Care Administration to  
 216 services offered by the given hospital, as reported on Worksheet  
 217 A-2 for the last fiscal year reported to the agency before the  
 218 date on which the allocation fraction is calculated. The  
 219 numerical value of this factor is the fraction that the given  
 220 hospital represents of the total Agency for Health Care  
 221 Administration Service Index values, where the total is computed  
 222 for all state statutory teaching hospitals.

223 2. A volume-weighted service index, computed by applying  
 224 the standard Service Inventory Scores established by the Agency  
 225 for Health Care Administration to the volume of each service,  
 226 expressed in terms of the standard units of measure reported on  
 227 Worksheet A-2 for the last fiscal year reported to the agency  
 228 before the date on which the allocation factor is calculated. The  
 229 numerical value of this factor is the fraction that the given  
 230 hospital represents of the total volume-weighted service index

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231 values, where the total is computed for all state statutory  
 232 teaching hospitals.

233 3. Total Medicaid payments to each hospital for direct  
 234 inpatient and outpatient services during the fiscal year  
 235 preceding the date on which the allocation factor is calculated.  
 236 This includes payments made to each hospital for such services by  
 237 Medicaid prepaid health plans, whether the plan was administered  
 238 by the hospital or not. The numerical value of this factor is the  
 239 fraction that each hospital represents of the total of such  
 240 Medicaid payments, where the total is computed for all state  
 241 statutory teaching hospitals.

242  
 243 The primary factor for the service index is computed as the sum  
 244 of these three components, divided by three.

245 (2) By October 1 of each year, the agency shall use the  
 246 following formula to calculate the maximum additional  
 247 disproportionate share payment for statutorily defined teaching  
 248 hospitals:

$$TAP = THAF \times A$$

249  
 250  
 251  
 252 Where:

253 TAP = total additional payment.

254 THAF = teaching hospital allocation factor.

255 A = amount appropriated for a teaching hospital  
 256 disproportionate share program.

257 Section 4. Section 409.9117, Florida Statutes, is amended  
 258 to read:

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259 409.9117 Primary care disproportionate share program.--For  
 260 the state fiscal year 2007-2008 ~~2006-2007~~, the agency shall not  
 261 distribute moneys under the primary care disproportionate share  
 262 program.

263 (1) If federal funds are available for disproportionate  
 264 share programs in addition to those otherwise provided by law,  
 265 there shall be created a primary care disproportionate share  
 266 program.

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

$$TAE = HDSP/THDSP$$

273 Where:

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

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

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

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

$$TAP = TAE \times TA$$

286 Where:

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

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

289 TA = total appropriation for the primary care

290 disproportionate share program.

291 (4) In the establishment and funding of this program, the  
 292 agency shall use the following criteria in addition to those  
 293 specified in s. 409.911, payments may not be made to a hospital  
 294 unless the hospital agrees to:

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

297 (b) Ensure the availability of primary and specialty care  
 298 physicians to Medicaid recipients who are not enrolled in a  
 299 prepaid capitated arrangement and who are in need of access to  
 300 such physicians.

301 (c) Coordinate and provide primary care services free of  
 302 charge, except copayments, to all persons with incomes up to 100  
 303 percent of the federal poverty level who are not otherwise  
 304 covered by Medicaid or another program administered by a  
 305 governmental entity, and to provide such services based on a  
 306 sliding fee scale to all persons with incomes up to 200 percent  
 307 of the federal poverty level who are not otherwise covered by  
 308 Medicaid or another program administered by a governmental  
 309 entity, except that eligibility may be limited to persons who  
 310 reside within a more limited area, as agreed to by the agency and  
 311 the hospital.

312 (d) Contract with any federally qualified health center, if  
 313 one exists within the agreed geopolitical boundaries, concerning  
 314 the provision of primary care services, in order to guarantee  
 315 delivery of services in a nonduplicative fashion, and to provide  
 316 for referral arrangements, privileges, and admissions, as

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317 appropriate. The hospital shall agree to provide at an onsite or  
 318 offsite facility primary care services within 24 hours to which  
 319 all Medicaid recipients and persons eligible under this paragraph  
 320 who do not require emergency room services are referred during  
 321 normal daylight hours.

322 (e) Cooperate with the agency, the county, and other  
 323 entities to ensure the provision of certain public health  
 324 services, case management, referral and acceptance of patients,  
 325 and sharing of epidemiological data, as the agency and the  
 326 hospital find mutually necessary and desirable to promote and  
 327 protect the public health within the agreed geopolitical  
 328 boundaries.

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

333 (g) Provide inpatient services to residents within the area  
 334 who are not eligible for Medicaid or Medicare, and who do not  
 335 have private health insurance, regardless of ability to pay, on  
 336 the basis of available space, except that nothing shall prevent  
 337 the hospital from establishing bill collection programs based on  
 338 ability to pay.

339 (h) Work with the Florida Healthy Kids Corporation, the  
 340 Florida Health Care Purchasing Cooperative, and business health  
 341 coalitions, as appropriate, to develop a feasibility study and  
 342 plan to provide a low-cost comprehensive health insurance plan to  
 343 persons who reside within the area and who do not have access to  
 344 such a plan.



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345 (i) Work with public health officials and other experts to  
 346 provide community health education and prevention activities  
 347 designed to promote healthy lifestyles and appropriate use of  
 348 health services.

349 (j) Work with the local health council to develop a plan  
 350 for promoting access to affordable health care services for all  
 351 persons who reside within the area, including, but not limited  
 352 to, public health services, primary care services, inpatient  
 353 services, and affordable health insurance generally.

354  
 355 Any hospital that fails to comply with any of the provisions of  
 356 this subsection, or any other contractual condition, may not  
 357 receive payments under this section until full compliance is  
 358 achieved.

359 Section 5. This act shall take effect July 1, 2007.



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# Healthcare Council

**Tuesday, March 20, 2007  
1:00 PM  
Morris Hall**

**Addendum "A" (3/20/07; 8:30 a.m.)**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **PCB HCC 07-12**

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                                    \_\_\_\_\_

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1 Council/Committee hearing bill:     Healthcare Council  
2 Representative(s)   H. Gibson     offered the following:

3  
4       **Amendment (with title amendment)**

5       Remove line(s) 222 and insert:

6       Section 3. Subsection (1) of section 409.915, Florida  
7 Statutes, is amended to read:

8       409.915 County contributions to Medicaid.--Although the  
9 state is responsible for the full portion of the state share of  
10 the matching funds required for the Medicaid program, in order  
11 to acquire a certain portion of these funds, the state shall  
12 charge the counties for certain items of care and service as  
13 provided in this section.

14       (1) Each county shall participate in the following items  
15 of care and service:

16       (a) For both health maintenance members and fee-for-  
17 service beneficiaries, payments for inpatient hospitalization in  
18 excess of 10 days, but not in excess of 45 days, with the  
19 exception of pregnant women and children whose income is in  
20 excess of the federal poverty level and who do not participate

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

21 in the Medicaid medically needy program, and for adult lung  
22 transplant services.

23 (b) For both health maintenance members and fee-for-  
24 service beneficiaries, pPayments for nursing home or  
25 intermediate facilities care in excess of \$170 per month, with  
26 the exception of skilled nursing care for children under age 21.

27 Section 4. This act shall take effect July 1, 2007.

28  
29  
30

31 ===== T I T L E A M E N D M E N T =====

32 Remove line(s) 21 and insert:  
33 amending s. 409.915, F.S.; requiring counties to participate in  
34 Medicaid payments for certain nursing home or intermediate  
35 facilities care for both health maintenance members and fee-for-  
36 service beneficiaries; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No.2 (for drafter's use only)

Bill No. **PCB-HCC-07-12**

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 bill:    Healthcare Council  
2 Representative(s) H. Gibson        offered the following:

**Amendment**

5 Remove line(s) 97 and insert:

6 approved federal waivers and this section. The agency, its  
7 contractors and providers for the program, shall not enroll any  
8 individual into the program because the individual or the person  
9 legally responsible for the individual fails to choose to enroll  
10 in the program. Enrollment in the program shall be exclusively  
11 by affirmative choice of the eligible individual or by the  
12 person legally responsible for the individual. The integrated  
13 program

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3 (for drafter's use only)

Bill No. **PCB- HCC-07-12**

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                                     \_\_\_\_\_

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1 Council/Committee hearing bill:    Healthcare Council  
2 Representative(s) H. Gibson        offered the following:

**Amendment (with title amendments)**

Remove line(s) 120 and 121 and insert:

The integrated program must ~~use a competitive procurement process~~ to select qualified managed care entities to operate

===== T I T L E   A M E N D M E N T =====

Remove line(s) 8 and insert:

certain requirements; removing requirement for competitive procurement process; requiring selection of managed care

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4 (for drafter's use only)

Bill No. **PCB-HCC-07-12**

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 bill: Healthcare Council  
2 Representative(s) H. Gibson offered the following:

3  
4 **Amendment**

5 Remove line(s) 95 and insert:  
6 areas of the state. The pilot areas shall be Area 7 and Area 11  
7 of the Agency for Health Care Administration. ~~In one of the~~  
8 ~~areas~~ Enrollment in the pilot

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