



Schools & Learning Council Meeting Packet

March 13, 2007

212 Knott

1:00 – 4:00 pm

**Marco Rubio
Speaker**

**Joe H. Pickens
Council Chair**



The Florida House of Representatives

Schools & Learning Council

Marco Rubio
Speaker

Joe H. Pickens
Chair

Meeting Agenda
Tuesday, March 13, 2007
212 Knott
1:00 – 4:00 PM

I. Roll Call

II. Consideration of the following Proposed Council bills:

PCB SLC 07-01 -- Performance-based Pay Bonuses
PCB SLC 07-10 -- State University System Concurrency Trust Fund
PCB SLC 07-11 -- Terminating Specified Trust Funds within BOG
PCB SLC 07-12 -- Terminating Specified Trust Funds within DOE
PCB SLC 07-13 -- Creating the Administrative Trust Fund
PCB SLC 07-14 -- Creating the Operating Trust Fund

Workshop on the following:
Budget Workshop

III. Closing Comments / Meeting Adjourned

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SLC 07-01 Performance-based Pay Bonuses
SPONSOR(S): Schools & Learning Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Schools & Learning Council		Kooi <i>mk</i>	Cobb <i>ccc</i>
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill establishes the Performance-based pay plan program for instructional personnel and school-based administrators and sets forth findings and intent. District participation in the program is voluntary, but districts will only receive their appropriation if they choose to adopt a plan under this section. The funds for districts that do not choose to participate are redistributed to participating districts.

District performance-based pay plans must require that each employee must first meet the criteria set forth by the district for its principal/superintendent appraisal. Those employees that meet this criteria, will then qualify for a performance-based bonus based upon objectively measured, significantly improved student performance of assigned students. Improved student performance is to be measured by statewide standardized tests and, for grades and courses not covered the statewide assessment program, by locally determined testing instruments that meet certain criteria. District measurement of improved student performance may not allow an unfair advantage to employees based upon the achievement level of their students at the time the students are assigned to the employee.

The plans are subject to collective bargaining under Ch. 447, F.S., and the Auditor General is responsible for compliance monitoring of district performance-based pay plans with assistance from the Department of Education (DOE).

The Florida School Recognition Program is incorporated into the performance-based pay bonuses program and the funds are required to be used for bonuses to all faculty and staff at the qualifying school during the year it qualified. The amounts of these bonuses are subject to negotiation through collective bargaining.

STAR proviso language from the 2006 General Appropriations Act (GAA) is codified, but will expire June 30, 2007. STAR implementation deadlines are pushed back to May 1, 2007 for revisions, and June 30, 2007 for approval.

The former personnel assessment system requirement in s. 1012.34, F.S. is revised and a new personnel appraisal system requirement is established that includes instructional personnel as well as administrative and supervisory personnel. District personnel appraisal systems are approved by districts and reviewed by DOE and are required to use the Florida Educator Accomplished Practices as an evaluation tool.

Funding for this program is subject to the legislative appropriation in the 2007-08 GAA, see FISCAL ANALYSIS section below.

The bill also provides that, except as otherwise provided, this act shall take effect upon becoming law.

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

STORAGE NAME: pcb01.SLC.doc
DATE: 3/9/2007

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - The bill increases the State Board of Education's rulemaking authority. It also increases the responsibilities of the Auditor General by requiring the monitoring the compliance of district performance-based pay plans. The Department of Education is also required to provide technical assistance and assist the Auditor General in monitoring compliance.

B. EFFECT OF PROPOSED CHANGES:

Background

The Florida Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to examine school district performance pay plans. In January 2007, OPPAGA published Report No. 07-01, *Restrictive District Requirements Limited Participation in Performance Pay Systems*. This report found that, historically, most Florida district school boards have paid teachers using salary schedules that have been based on input factors such as highest degree earned, and years of experience.

The 1997 Legislature instructed districts to base a portion of instructional personnel compensation on performance. The 1999 Legislature required districts to implement, by June 30, 2002, performance pay plans that would award 5% bonuses to school administrators and instructional personnel who demonstrated outstanding performance. Districts were to create a reserve fund within their existing budgets to fully fund the additional 5% bonuses.¹

In implementing performance pay plans, districts are to evaluate instructional personnel primarily on the performance of students assigned to their classrooms or schools, as appropriate. Where applicable, districts must measure student performance by using the Florida Comprehensive Assessment Test (FCAT), the designated state assessment test. In subjects and grade levels that are not covered by the FCAT, districts may use local assessments of student performance.²

Districts have the flexibility in assessing the performance of instructional personnel; however, current law sets forth the specific skill-based criteria that districts must include in their evaluation of instructional personnel for performance pay.³ These criteria are the ability to maintain appropriate discipline; knowledge of subject matter; ability to plan and deliver instruction; the use of technology in the classroom; ability to evaluate instructional needs; and ability to establish and maintain a positive relationship with students' families.⁴

The 2006 Legislature established the Special Teachers Are Rewarded (STAR) program for elementary, middle, and high school instructional personnel and appropriated \$147.5 million to the program in the 2006-2007 General Appropriations Act.⁵ In order to receive those funds, districts were required to remove all barriers to eligibility and award 5% performance bonuses to the top performing 25% of their instructional personnel.⁶

¹ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

² Id.

³ s. 1012.34(3)(a), F.S.

⁴ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

⁵ 2006-2007 General Appropriation Act, Specific Appropriation 91

⁶ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

Districts may choose whether to participate in STAR but all districts must implement approved performance pay plans⁷ for their instructional personnel. Districts participating in STAR may use any remaining funds to award to provide performance rewards to award additional instructional or school-based administrative personnel. Districts electing not to participate in STAR still must implement approved performance pay plans⁸ for their instructional personnel and are required to pay for performance pay out of other funds.⁹

Effects of Proposed Changes

The bill establishes the Performance-based pay plan program for instructional personnel and school-based administrators and sets forth findings and intent. District participation in the program is voluntary. However, districts will only receive their appropriation for performance pay bonuses if they choose to adopt a plan under this section. Districts that choose not to participate must still negotiate a performance pay plan pursuant to s. 1012.22(1)(c), F.S.

In order to be eligible for funding under this program, district plans must reward eligible employees based upon objectively measured, significantly improved student performance of assigned students as well as principal or superintendent evaluations. All instructional personnel¹⁰ and school-based administrators¹¹ are eligible for performance pay bonuses without having to apply. Substitute teachers are not included.

Individual performance-based pay bonuses are subject to collective bargaining under Ch. 447. An exception is provided relating to the requirements of s. 447.403, F.S., which allows the district and the union to move past the appointment of a mediator or special magistrate and on to resolution of the impasse where one of the parties does not wish to seek such an appointment.

Charter schools are also eligible for both individual and school recognition bonuses. If a charter school follows a district's salary schedule the charter school should be included within the district's plan. However, if a charter school does not follow the district's salary schedule or the district chooses not to adopt a plan, the charter school may adopt their own performance-based pay plan pursuant to the requirements of the statute.

The funds for districts that choose not to participate in the program are redistributed to participating districts. Each participating district will receive a pro rata share of any such remaining funds. All funds appropriated for the performance-based pay plan program must be disbursed to the qualifying employees by September 1 of the following school year.

The bonuses may not exceed \$10,000 per individual recipient and must be an equal amount provided to each employee that qualifies. The employee must also remain employed at a Florida public school in order to receive the bonus. If all qualifying employees receive a \$10,000 bonus and there is still funds remaining from the district allocation, such funds shall be rolled over to the following year for bonuses to qualifying employees.

Performance-based pay bonuses may not adversely affect the opportunity of the recipient to receive any other compensation made available to other teachers and principals within the district. Additionally, these bonuses are not available for contribution to the Florida Retirement System.

District performance-based pay plans must require that each employee must first meet the criteria set forth by the district for its principal/superintendent appraisal. The district determined factors must include, but are not limited to:

⁷ s. 1012.22(1)(c), F.S.

⁸ s. 1012.22(1)(c), F.S.

⁹ OPPAGA: *Restrictive District Requirements Limited Participation in Performance Pay Systems*. Report No. 07-01. January 2007.

¹⁰ s. 1012.01(2), F.S., provides for the definition of instructional personnel.

¹¹ s. 1012.01(3), F.S., provides for the definition of administrative personnel.

1. ability to maintain discipline,
2. outstanding knowledge of subject matter and ability to deliver high quality instruction,
3. outstanding principal management skills, including teacher recruitment and retention,
4. ability to evaluate student instructional needs,
5. ability of teachers and principals to work well with parents and families of students, and
6. the Florida Educator Accomplished Practices for instructional personnel and the Florida Principal Leadership Standards for school-based administrators.

Those employees that meet the criteria set forth by the district regarding the principal/superintendent appraisal are then evaluated based on the objectively measured significantly improved student performance of the students assigned to the employee. "Significantly improved student performance" is defined as a three-fourths standard deviation¹² above the prior year district average of improved student performance for the employee's grade and/or subject area grouping. The mean should be determined based upon a point system or other methodology that evaluates employees based upon the level of learning gains of each of the employee's students.

The DOE is required to make available a model methodology to assist districts in determining how to measure the value of improved student performance in a fair and equitable manner. District measurement of improved student performance may not allow an unfair advantage to employees based upon the achievement level of their students at the time the students are assigned to the employee.

If the teacher or principal deals with students school-wide, he or she will be evaluated according to the learning gains of the entire student body. Improved student performance is to be measured by statewide standardized tests and, for grades and courses not covered by the statewide assessment program, by locally determined testing instruments that meet certain criteria.

Districts are required to annually review their plans for compliance and issue a report that must be sent to the Commissioner of Education and the Auditor General. Compliance monitoring of district performance-based pay plans are to be performed by the Auditor General with assistance from DOE. DOE is also required to provide technical assistance for the purposes of aiding the development, revision, improvement and monitoring of such plans and must collect and disseminate best practices for locally-determined testing instruments.

The Florida School Recognition Program is incorporated into the performance-based pay plan program and the funds are required to be used for bonuses to all faculty and staff at the qualifying school during the year such bonuses were earned. School recognition bonuses for faculty and staff at qualifying schools will be subject to collective bargaining pursuant to Ch. 447, F.S., and the amounts of the bonuses are also subject to negotiation.

In addition to being provided to schools with a grade of "A" and schools that improve by at least one letter grade, school recognition funds are also to be awarded to schools with a substantial improvement within a school grade designation or schools that maintain the same school grade the year after raising the school grade by two letter grades.

The STAR proviso language from the 2006-07 GAA is codified, but will sunset at the end of the 2006-2007 school year. The STAR deadlines for submission and approval of district plans are pushed back to May 1, 2007 for revisions, and June 30, 2007 for approval. Any district that is able to adopt and have a plan

¹² The standard deviation is a statistic that tells you how tightly all the various examples are clustered around the mean in a set of data. When the examples (in this case teachers' scores based on improved student achievement) are pretty tightly bunched together and the bell-shaped curve is steep, the standard deviation is small. When the examples are spread apart and the bell curve is relatively flat, that tells you you have a relatively large standard deviation. The same concept holds for three-fourths of a standard deviation. It's simply a fraction of the standard deviation.

Therefore, the standard deviation is basically a function of how widely teacher scores will vary.

See <http://www.robertniles.com/stats/stdev.shtml>.

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approved by June 30, 2007 will receive its appropriation. Any funds that would have been available to districts that choose not to participate will be redistributed to participating districts.

The former personnel assessment system requirement in s. 1012.34, F.S. is revised and a new personnel appraisal system requirement is established that includes instructional personnel as well as administrative and supervisory personnel. The new personnel appraisal requirements also include use of the Florida Educator Accomplished Practices and the Florida Principal Leadership Standards, and provide that assessments selected for personnel appraisal must allow for the comparison of the relative effectiveness of similarly assigned personnel.

Personnel appraisal systems are approved by districts and reviewed by DOE and require a personnel appraisal on an annual basis.

Funding for this program is subject to the legislative appropriation in the 2007-08 GAA, see FISCAL ANALYSIS section below.

The bill also provides that, except as otherwise provided, this act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1. Creates s. 1012.225, F.S., providing findings and legislative intent, establishing a voluntary program for performance-based pay bonuses to be awarded to high performing schools and individual teachers and principals.

Section 2. Codifies the proviso language for the STAR program in the 2006-2007 General Appropriations Act. It revises certain deadlines for submission and approval of district performance pay plans for the 2006-2007 school year and clarifies that appropriated funds are considered encumbered upon approval and adoption of a plan by June 30, 2007.

Section 3. Amends to conform language in s. 1008.34(4), F.S. relating to eligibility for school recognition bonuses.

Section 4. Amends to conform language in s. 1008.34(2)(c), F.S. relating to eligibility for school recognition bonuses.

Section 5. Amends s. 1008.345(7)(b), F.S. to provide deregulated status to school that meet certain requirements.

Section 6. Amends s. 1012.22(1)(c)4., F.S. by removing references to Commissioner of Education authority to withhold lottery funds.

Section 7. Amends s. 1012.28(3), F.S. to conform to changes made to s. 1012.34, F.S.

Section 8. Amends s. 1012.34 removing State Board of Education authority to approve district personnel appraisal systems and adding new requirements and new employees to be covered by such systems.

Section 9. Provides that except as otherwise provided, act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The fiscal impact will be determined in the General Appropriations Act.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

District school boards are free to provide whatever additional funding they may choose to add to provide bonuses to more eligible employees. There may also be some district costs to administer the program.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The 2006 Legislature appropriated \$147.5 million in the 2006-207 General Appropriations Act, Specific Appropriation 91. The funding for this program is subject to the 2007 Legislative appropriation in the 2007-2008 General Appropriations Act.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

The bill does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the State Board of Education for the administration of the program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to performance-based pay bonuses for
 3 district school board employees; creating s. 1012.225,
 4 F.S.; providing legislative findings and intent; providing
 5 for performance-based pay plan program participation;
 6 providing requirements for funding of bonuses; requiring
 7 performance-based pay plans to be subject to negotiation;
 8 providing criteria for disbursement of bonuses; providing
 9 criteria for assessment of performance, including a
 10 professional practices component and an improved student
 11 performance component; providing duties of district school
 12 boards and the Department of Education; providing for
 13 review of performance-based pay plans by district school
 14 boards and the Auditor General; authorizing the State
 15 Board of Education to take action for substantial
 16 noncompliance; transferring s. 1008.36, F.S., relating to
 17 the Florida School Recognition Program, to s. 1012.225,
 18 F.S.; providing for performance bonuses for all faculty
 19 and staff of schools awarded under the program;
 20 authorizing rulemaking; revising requirements for
 21 submission and approval of a Special Teachers Are Rewarded
 22 performance pay plan (STAR Plan) under proviso language in
 23 Specific Appropriation 91 of chapter 2006-25, Laws of
 24 Florida, and s. 3 of chapter 2006-26, Laws of Florida;
 25 providing for encumbered funds; amending ss. 1008.34,
 26 1008.341, and 1008.345, F.S.; revising provisions relating
 27 to the Florida School Recognition Program and the school
 28 improvement system; conforming cross-references; amending
 29 s. 1012.22, F.S.; deleting provisions relating to

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30 Commissioner of Education duties with respect to district
 31 compliance with performance-pay policies; amending s.
 32 1012.28, F.S.; conforming provisions; amending s. 1012.34,
 33 F.S.; revising provisions relating to the school district
 34 personnel assessment system; requiring a school district
 35 personnel appraisal system; specifying conditions and
 36 procedures; requiring school district development of and
 37 ability to administer certain examinations; requiring
 38 funding for a study to determine viability and cost of
 39 making bonuses part of the Florida Retirement System;
 40 providing effective dates.

41
 42 Be It Enacted by the Legislature of the State of Florida:

43
 44 Section 1. Effective July 1, 2007, section 1012.225,
 45 Florida Statutes, is created, and section 1008.36, Florida
 46 Statutes, is renumbered as subsection (7) of section 1012.225,
 47 Florida Statutes, and amended, to read:

48 1012.225 Performance-based pay plan program for
 49 instructional personnel and school-based administrators; school
 50 recognition bonuses for all faculty and staff of high-performing
 51 schools.--

52 (1) FINDINGS.--The Legislature finds that:

53 (a) All school personnel play essential roles in attaining
 54 the primary goal of public education, the improvement in academic
 55 achievement of all students.

56 (b) Performance-based pay bonuses are commonplace in the
 57 private sector and should be infused into the public sector as a
 58 reward for effective performance.

59 (c) Research has consistently shown that the level of
 60 effectiveness of the instructional personnel and administrators
 61 in the school is the most important factor in realizing the goal
 62 of improved academic achievement for each student, classroom by
 63 classroom and school by school. Based upon this, the retention
 64 specifically of our most effective instructional personnel and
 65 administrators should be a priority of all school districts, and
 66 an appropriate performance-based pay plan must provide for
 67 significant recognition of the most effective instructional
 68 personnel and school-based administrators as a component of the
 69 district's personnel retention and student achievement policies.

70 (d) In addition to individual instructional personnel and
 71 school-based administrators, all faculty and staff of high-
 72 performing schools make an important contribution to the school's
 73 successful performance.

74 (2) INTENT.--

75 (a) It is the intent of the Legislature to establish a
 76 performance-based pay plan to provide bonuses in recognition of
 77 the successes achieved by individual instructional and school-
 78 based administrative personnel on behalf of their students.

79 (b) It is the intent of the Legislature to provide bonuses
 80 for all faculty and each staff member of high-performing schools,
 81 in full recognition of the teamwork required at every level of
 82 operation to attain a Florida School Recognition Program award.

83 (3) PROGRAM PARTICIPATION.--

84 (a) District participation in the performance-based pay
 85 plan program under this section is voluntary. Participating
 86 districts may opt to use their performance-based pay plans under
 87 this section in lieu of or in addition to the performance-pay

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88 | policy under s. 1012.22(1)(c)4. In order to be eligible for
89 | funding pursuant to this section, a district school board must
90 | adopt a performance-based pay plan that provides for an
91 | assessment and a performance-based pay bonus for each qualifying
92 | employee based on a professional practices component combined
93 | with objectively measured, significantly improved performance of
94 | students assigned to his or her classroom, team, or school, in
95 | accordance with subsection (4).

96 | (b)1. For performance-based pay bonuses, all instructional
97 | personnel except substitute teachers and all school-based
98 | administrators shall be eligible and shall not be required to
99 | apply or make any presentation in order to be assessed for or to
100 | receive a performance-based pay bonus.

101 | 2. For school recognition bonuses, all faculty and each
102 | staff member of the team for a school during the school year for
103 | which the school received its award for high performance shall be
104 | automatically eligible.

105 | (c) Any charter school that does not follow the district's
106 | salary schedule may adopt its own performance-based pay plan
107 | pursuant to the requirements of this section. Charter school
108 | proposals shall be included with the district plan or may be
109 | adopted independently if the district does not adopt a plan.

110 | (d) The performance-based pay plan adopted pursuant to this
111 | section shall be subject to negotiation as provided in chapter
112 | 447 except that, if an impasse occurs pursuant to s. 447.403, a
113 | mediator or special magistrate shall be appointed only if both
114 | parties agree to seek such appointment. If a party does not agree
115 | to such appointment, the appointment shall be considered waived
116 | and the parties shall proceed directly to resolution of the

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117 impasse by the district school board pursuant to s.

118 447.403(4)(d).

119 (e) That portion of the funds appropriated for each
 120 district that chooses not to adopt a performance-based pay plan
 121 pursuant to this section shall be redistributed among the
 122 participating districts.

123 (f) Performance-based pay plans shall provide for the
 124 annual disbursement of performance-based pay bonuses for high-
 125 performing instructional personnel and school-based
 126 administrators as follows:

127 1.a. The district school board performance-based pay plan
 128 shall require that in order to be eligible for a performance-
 129 based pay bonus, each employee shall first meet the assessment
 130 criteria adopted by the district school board pursuant to the
 131 professional practices component set forth in paragraph (4)(a).

132 b. Those employees that meet the criteria under sub-sub
 133 paragraph a. shall qualify for a performance-based pay bonus
 134 based upon objectively measured, significantly improved
 135 performance of the students assigned to the employee pursuant to
 136 the improved student performance component set forth in paragraph
 137 (4)(b). Significantly improved student performance shall mean a
 138 three-fourths standard deviation above the prior year district
 139 average of improved student performance for that employee's grade
 140 and/or subject area grouping.

141 c. The district school board shall pay each qualifying
 142 employee who remains employed by a Florida public school, by
 143 September 1 of the following school year, an equal bonus amount
 144 up to \$10,000 per individual bonus. The bonuses shall be funded
 145 from funds annually appropriated.

146 d. All performance-based pay funds appropriated to the
 147 district shall be fully disbursed annually by the district school
 148 board pursuant to sub-subparagraph c. Funds in excess of the
 149 \$10,000 cap on individual bonuses shall be retained by the
 150 district school board for the following year's bonuses pursuant
 151 to this section.

152 2. Performance-based pay bonuses shall be in addition to
 153 any general increase or other adjustments to salaries made by a
 154 district. Earning or receiving a performance-based pay bonus
 155 shall not adversely affect the opportunity of that high-
 156 performing personnel to qualify for or to receive any other
 157 compensation made generally available to other similarly situated
 158 district school board employees, including, but not limited to,
 159 school recognition bonuses.

160 (g) Bonuses awarded to instructional personnel, school-
 161 based administrators, and all faculty and staff under this
 162 section are not available for contribution to the Florida
 163 Retirement System.

164 (4) ASSESSMENT.--

165 (a) Using assessment criteria adopted by the district
 166 school board, a professional practices component for the
 167 assessment of instructional personnel must be based on the
 168 principal's or principal's designee's assessment of that
 169 personnel and the assessment of school-based administrators must
 170 be based on the district superintendent's or superintendent's
 171 designee's assessment of that personnel. Performance-related
 172 assessment criteria adopted by the district school board for
 173 personnel assessments by principals and district superintendents
 174 shall include, but are not limited to:

175 1. The ability of instructional personnel and school-based
 176 administrators to maintain appropriate discipline.

177 2. The outstanding knowledge of subject matter of
 178 instructional personnel, with the ability to plan and deliver
 179 high-quality instruction in the classroom.

180 3. The outstanding school-based management skills of
 181 principals and other school-based administrators, including
 182 recruitment and retention of excellent teachers.

183 4. The ability of instructional personnel and school-based
 184 administrators to evaluate instructional needs of all students.

185 5. The ability of instructional personnel and school-based
 186 administrators to establish and maintain a positive collaborative
 187 relationship with students' families for the purpose of
 188 increasing student achievement.

189 6. The Florida Educator Accomplished Practices for
 190 instructional personnel and the Florida Principal Leadership
 191 Standards for school-based administrators.

192 (b)1. An improved student performance component for the
 193 assessment of instructional personnel and school-based
 194 administrators must be based on the objectively measured,
 195 significant improved performance of students assigned to their
 196 classrooms, teams, or schools.

197 2. For purposes of this section, improved student
 198 performance shall be measured by statewide standardized tests or,
 199 for subjects and grades not measured by the statewide assessment
 200 program, by national, state, or locally determined testing
 201 instruments that measure the Sunshine State Standards, curriculum
 202 frameworks, or course descriptions for the content area assigned
 203 and grade level taught. Locally determined testing instruments

204 may include districtwide course examinations, industry
 205 certification examinations, or skill/performance-based
 206 examinations or adjudications.

207 3. The department shall make available a model methodology
 208 to assist district school boards' measurement of improved student
 209 performance in an equitable manner and shall provide technical
 210 assistance upon request. Methods adopted by district school
 211 boards to measure improved student performance shall not permit
 212 an unfair advantage to or an adverse effect upon employees due to
 213 the achievement level of their students at the time those
 214 students were assigned to the employee.

215 (5) DUTIES.--

216 (a) District school boards shall inform all employees of
 217 the criteria and procedures associated with a district's
 218 performance-based pay plan upon its final adoption by the
 219 district school board.

220 (b) The department shall provide technical assistance to
 221 districts for the purpose of aiding the development, revision,
 222 improvement, and monitoring of performance-based pay plans. The
 223 technical assistance, model methodology, and best practices
 224 offered by the department pursuant to this section shall not be
 225 subject to the requirements of chapter 120.

226 (6) REVIEW OF PERFORMANCE-BASED PAY PLANS.--

227 (a) Each participating district school board shall
 228 establish a procedure to annually review both the assessment and
 229 compensation components of its performance-based pay plan to
 230 determine compliance with this section. After this review and by
 231 October 1 annually, the district school board shall submit a
 232 report to the Commissioner of Education and the Auditor General

233 with supporting documentation that will enable verification of
 234 its compliance with this section in the prior school year.

235 (b) Compliance reviews shall be performed by the Auditor
 236 General and shall take place within 60 days after October 1
 237 annually to allow districts to make any revisions that may be
 238 necessary for compliance in the following school year. The
 239 Department of Education shall provide assistance to the Auditor
 240 General as necessary for purposes of verifying compliance. The
 241 Auditor General shall report substantial noncompliance to the
 242 State Board of Education which may take appropriate action in
 243 accordance with law or state board rule.

244 (7) 1008.36 FLORIDA SCHOOL RECOGNITION PROGRAM.--

245 ~~(1) The Legislature finds that there is a need for a~~
 246 ~~performance incentive program for outstanding faculty and staff~~
 247 ~~in highly productive schools. The Legislature further finds that~~
 248 ~~performance-based incentives are commonplace in the private~~
 249 ~~sector and should be infused into the public sector as a reward~~
 250 ~~for productivity.~~

251 (a)(2) The Florida School Recognition Program is
 252 established ~~created~~ to provide financial awards to all faculty
 253 and staff of public schools that:

254 1. ~~(a)~~ Sustain high performance by receiving a school grade
 255 of "A," making excellent progress; ~~or~~

256 2. ~~(b)~~ Demonstrate exemplary improvement due to innovation
 257 and effort by improving a letter grade; ~~or~~

258 3. Demonstrate exemplary improvement, as established by the
 259 State Board of Education, due to outstanding student learning
 260 gains within a letter grade by moving up substantially within
 261 that letter grade.

262
 263 For the faculty and staff of a school that demonstrates exemplary
 264 improvement by moving up two or more grades in one year and
 265 maintaining that grade the following year, the bonuses shall be
 266 awarded again for that year in recognition of their outstanding
 267 maintenance of teamwork.

268 ~~(b)(3)~~ All public schools, including charter schools, that
 269 receive a school grade pursuant to s. 1008.34 are eligible to
 270 participate in the program.

271 ~~(c)(4)~~ All selected schools shall receive financial awards
 272 depending on the availability of funds appropriated and the
 273 number and size of schools selected to receive an award. Funds
 274 must be distributed to the school's fiscal agent and placed in
 275 the school's account and must be used for bonuses for all the
 276 faculty and staff of the school during the school year for which
 277 the school received its award for high performance in recognition
 278 of the important role played by every single member of the school
 279 team purposes listed in subsection (5) as determined jointly by
 280 the school's staff and school advisory council. If school staff
 281 and the school advisory council cannot reach agreement by
 282 November 1, the awards must be equally distributed to all
 283 classroom teachers currently teaching in the school.

284 ~~(5)~~ School recognition awards must be used for the
 285 following:

286 ~~(a) Nonrecurring bonuses to the faculty and staff;~~

287 ~~(b) Nonrecurring expenditures for educational equipment or~~
 288 ~~materials to assist in maintaining and improving student~~
 289 ~~performance; or~~

290 ~~(c) Temporary personnel for the school to assist in~~
 291 ~~maintaining and improving student performance.~~

292
 293 ~~Notwithstanding statutory provisions to the contrary, incentive~~
 294 ~~awards are not subject to collective bargaining.~~

295 (8) RULEMAKING.--The State Board of Education may adopt
 296 rules pursuant to ss. 120.536(1) and 120.54 to administer this
 297 section.

298 Section 2. In accordance with the proviso language in
 299 Specific Appropriation 91 of the 2006-2007 General Appropriations
 300 Act, chapter 2006-25, Laws of Florida, and section 3 of chapter
 301 2006-26, Laws of Florida, school districts that did not submit a
 302 Special Teachers Are Rewarded performance pay plan (STAR Plan) by
 303 December 31, 2006, and receive State Board of Education approval
 304 or a request for plan revisions are not eligible to receive STAR
 305 Plan funds for the 2006-2007 fiscal year. If requesting
 306 revisions, the state board must identify the specific areas of
 307 the proposed plan needing revision. Notwithstanding the proviso
 308 language in Specific Appropriation 91 of the 2006-2007 General
 309 Appropriations Act, chapter 2006-25, Laws of Florida, and section
 310 3 of chapter 2006-26, Laws of Florida, a district must submit its
 311 revised plan by May 1, 2007. The state board shall review the
 312 revised plan and may either approve the revised plan or deny the
 313 district eligibility to receive STAR Plan funds for the 2006-2007
 314 fiscal year. STAR Plan funds shall be considered encumbered upon
 315 the approval and adoption of a plan by June 30, 2007. STAR Plan
 316 funds allocated for districts that fail to adopt approved STAR
 317 Plans by June 30, 2007, shall be redistributed to those districts
 318 that have approved plans in place by that date. The

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319 redistribution calculation shall be verified by the Florida
 320 Education Finance Program Appropriation Allocation Conference.

321 Section 3. Effective July 1, 2007, subsection (4) of
 322 section 1008.34, Florida Statutes, is amended to read:

323 1008.34 School grading system; school report cards;
 324 district grade.--

325 (4) SCHOOL IMPROVEMENT RATINGS.--The annual report shall
 326 identify each school's performance as having improved, remained
 327 the same, or declined. This school improvement rating shall be
 328 based on a comparison of the current year's and previous year's
 329 student and school performance data. Schools ~~that improve at~~
 330 ~~least one grade level~~ are eligible for school recognition awards
 331 pursuant to s. 1012.225(7), and the faculty and each staff member
 332 of the awarded school's team shall receive bonuses ~~1008.36~~.

333 Section 4. Effective July 1, 2007, subsection (2) of
 334 section 1008.341, Florida Statutes, is amended to read:

335 1008.341 School improvement rating for alternative
 336 schools.--

337 (2) SCHOOL IMPROVEMENT RATING.--Alternative schools that
 338 provide dropout prevention and academic intervention services
 339 pursuant to s. 1003.53 shall receive a school improvement rating
 340 pursuant to this section. The school improvement rating shall
 341 identify schools as having one of the following ratings defined
 342 according to rules of the State Board of Education:

343 (a) "Improving" means schools with students making more
 344 academic progress than when the students were served in their
 345 home schools.

346 (b) "Maintaining" means schools with students making
 347 progress equivalent to the progress made when the students were

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348 served in their home schools.

349 (c) "Declining" means schools with students making less
 350 academic progress than when the students were served in their
 351 home schools.

352
 353 The school improvement rating shall be based on a comparison of
 354 student performance data for the current year and previous year.
 355 Schools that improve at least one level or maintain an
 356 "improving" rating pursuant to this section are eligible for
 357 school recognition awards pursuant to s. 1012.225(7) ~~1008.36~~.

358 Section 5. Effective July 1, 2007, paragraph (b) of
 359 subsection (7) of section 1008.345, Florida Statutes, is amended
 360 to read:

361 1008.345 Implementation of state system of school
 362 improvement and education accountability.--

363 (7)

364 (b) Schools that have improved at least two grades, that
 365 have maintained a grade of "A" for 2 consecutive years, or that
 366 have moved from a grade of "B" to a grade of "A" and maintained
 367 the grade of "A" for the following year and that meet the
 368 criteria of the Florida School Recognition Program pursuant to s.
 369 1012.225(7) ~~1008.36~~ may be given deregulated status as specified
 370 in s. 1003.63(5), (7), (8), (9), and (10), in recognition of the
 371 outstanding teamwork of each faculty and staff member of the
 372 school.

373 Section 6. Effective July 1, 2007, paragraph (c) of
 374 subsection (1) of section 1012.22, Florida Statutes, is amended
 375 to read:

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376 1012.22 Public school personnel; powers and duties of the
 377 district school board.--The district school board shall:

378 (1) Designate positions to be filled, prescribe
 379 qualifications for those positions, and provide for the
 380 appointment, compensation, promotion, suspension, and dismissal
 381 of employees as follows, subject to the requirements of this
 382 chapter:

383 (c) Compensation and salary schedules.--

384 1. The district school board shall adopt a salary schedule
 385 or salary schedules designed to furnish incentives for
 386 improvement in training and for continued efficient service to be
 387 used as a basis for paying all school employees and fix and
 388 authorize the compensation of school employees on the basis
 389 thereof.

390 2. A district school board, in determining the salary
 391 schedule for instructional personnel, must base a portion of each
 392 employee's compensation on performance demonstrated under s.
 393 1012.34, must consider the prior teaching experience of a person
 394 who has been designated state teacher of the year by any state in
 395 the United States, and must consider prior professional
 396 experience in the field of education gained in positions in
 397 addition to district level instructional and administrative
 398 positions.

399 3. In developing the salary schedule, the district school
 400 board shall seek input from parents, teachers, and
 401 representatives of the business community.

402 4. Beginning with the 2002-2003 fiscal year, each district
 403 school board must adopt a performance-pay policy for school
 404 administrators and instructional personnel. The district's

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405 performance-pay policy is subject to negotiation as provided in
 406 chapter 447; however, the adopted salary schedule must allow
 407 school administrators and instructional personnel who demonstrate
 408 outstanding performance, as measured under s. 1012.34, to earn a
 409 5-percent supplement in addition to their individual, negotiated
 410 salary. The supplements shall be funded from the performance-pay
 411 reserve funds adopted in the salary schedule. ~~The Commissioner of~~
 412 ~~Education shall determine whether the district school board's~~
 413 ~~adopted policy and salary schedule complies with the requirement~~
 414 ~~for performance-based pay. If the district school board fails to~~
 415 ~~comply with this section, the commissioner may withhold~~
 416 ~~disbursements from the Educational Enhancement Trust Fund to the~~
 417 ~~district and take any other measure provided by law necessary to~~
 418 ~~ensure compliance until compliance is verified.~~

419 5. Beginning with the 2007-2008 academic year, each
 420 district school board shall adopt a salary schedule with
 421 differentiated pay for both instructional personnel and school-
 422 based administrators. The salary schedule is subject to
 423 negotiation as provided in chapter 447 and must allow
 424 differentiated pay based on district-determined factors,
 425 including, but not limited to, additional responsibilities,
 426 school demographics, critical shortage areas, and level of job
 427 performance difficulties.

428 Section 7. Effective July 1, 2007, subsection (3) of
 429 section 1012.28, Florida Statutes, is amended to read:

430 1012.28 Public school personnel; duties of school
 431 principals.--

432 (3) Each school principal is responsible for the
 433 performance of all personnel employed by the district school

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434 board and assigned to the school to which the principal is
 435 assigned. The school principal shall faithfully and effectively
 436 apply the personnel appraisal ~~assessment~~ system approved by the
 437 district school board pursuant to s. 1012.34.

438 Section 8. Effective July 1, 2007, subsections (1), (2),
 439 (5), (7), and (8) and paragraphs (a), (b), and (c) of subsection
 440 (3) of section 1012.34, Florida Statutes, are amended to read:

441 1012.34 Personnel appraisal system; ~~Assessment~~ procedures
 442 and criteria.--

443 (1) For the purpose of improving the quality of
 444 instructional, administrative, and supervisory services in the
 445 public schools of the state, the district school superintendent
 446 shall establish procedures for evaluating ~~assessing~~ the
 447 performance of duties and responsibilities of all instructional,
 448 administrative, and supervisory personnel employed by the school
 449 district. The district school board must approve the personnel
 450 appraisal system. The State Board ~~Department~~ of Education must
 451 review ~~approve~~ each district's ~~instructional~~ personnel appraisal
 452 ~~assessment~~ system.

453 (2) The following conditions must be considered in the
 454 design of the district's ~~instructional~~ personnel appraisal
 455 ~~assessment~~ system:

456 (a) The system must be designed to support district and
 457 school level improvement plans.

458 (b) The system must provide appropriate instruments,
 459 procedures, and criteria for continuous quality improvement of
 460 the professional skills of instructional, administrative, and
 461 supervisory personnel.

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462 (c) The system must include a mechanism to give parents an
 463 opportunity to provide input into employee performance appraisals
 464 ~~assessments~~ when appropriate.

465 (d) The system must include the Florida Educator
 466 Accomplished Practices, and ~~In addition to addressing generic~~
 467 ~~teaching competencies,~~ districts must determine those teaching
 468 fields for which special procedures and criteria will be
 469 developed.

470 (e) Each district school board may establish a peer
 471 assistance process. The plan may provide a mechanism for
 472 assistance of persons who are placed on performance probation as
 473 well as offer assistance to other employees who request it.

474 (f) The district school board shall provide training
 475 programs that are based upon guidelines provided by the
 476 Department of Education to ensure that all individuals with
 477 evaluation responsibilities understand the proper use of the
 478 personnel appraisal system ~~assessment~~ criteria and procedures.

479 (g) An appraisal must be conducted for each instructional,
 480 administrative, and supervisory personnel at least once a year.

481 (3) The annual appraisal ~~assessment~~ ~~procedure~~ for
 482 instructional personnel and school administrators must be
 483 substantially ~~primarily~~ based on the demonstrated performance of
 484 students assigned to their classrooms, teams, or schools, as
 485 appropriate. Pursuant to this section, a school district's
 486 performance appraisal ~~assessment~~ is not limited to basing
 487 unsatisfactory performance of instructional personnel and school
 488 administrators upon student performance, but may include other
 489 criteria approved to evaluate ~~assess~~ instructional personnel and
 490 school administrators' performance, or any combination of student

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491 performance and other approved criteria. The procedures must
 492 comply with, but are not limited to, the following requirements:

493 (a) ~~An assessment must be conducted for each employee at~~
 494 ~~least once a year.~~ The appraisal assessment must be based upon
 495 sound educational principles and contemporary research in
 496 effective educational practices. The appraisal assessment must
 497 ~~primarily~~ use data and indicators of improvement in student
 498 performance assessed annually ~~as specified in s. 1008.22~~ and may
 499 consider results of peer reviews in evaluating the employee's
 500 performance. Student performance must be measured by state
 501 assessments for subjects and grade levels measured by the state
 502 assessment program required under s. 1008.22 and by national,
 503 state, or local assessments for subjects and grade levels not
 504 measured by the state assessment program. The assessments
 505 selected for the personnel appraisal system must allow for the
 506 relative effectiveness of similarly assigned personnel to be
 507 evaluated. The personnel appraisal assessment criteria must
 508 include, but are not limited to, indicators that relate to the
 509 following:

510 1. The Florida Educator Accomplished Practices for
 511 instructional personnel and the Florida Principal Leadership
 512 Standards for administrative and supervisory personnel.
 513 ~~Performance of students.~~

514 2. Ability to maintain appropriate discipline.

515 3. Knowledge of subject matter. ~~The district school board~~
 516 ~~shall make special provisions for evaluating teachers who are~~
 517 ~~assigned to teach out of field.~~

518 4. Ability to plan and deliver instruction and the use of
 519 technology in the classroom for instructional personnel and

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520 school-based management skills for administrative and supervisory
 521 personnel.

522 5. Ability to evaluate instructional needs.

523 6. Ability to establish and maintain a positive
 524 collaborative relationship with students' families to increase
 525 student achievement.

526 7. Other professional competencies, responsibilities, and
 527 requirements as established by ~~rules of the State Board of~~
 528 ~~Education and~~ policies of the district school board.

529 (b) All personnel must be fully informed of the criteria
 530 and procedures associated with the appraisal ~~assessment~~ process
 531 before the appraisal ~~assessment~~ takes place.

532 (c) The individual responsible for supervising the employee
 533 must evaluate ~~assess~~ the employee's performance. The evaluator
 534 must submit a written report of the appraisal ~~assessment~~ to the
 535 district school superintendent for the purpose of reviewing the
 536 employee's contract. The evaluator must submit the written report
 537 to the employee no later than 10 days after the appraisal
 538 ~~assessment~~ takes place. The evaluator must discuss the written
 539 report of appraisal ~~assessment~~ with the employee. The employee
 540 shall have the right to initiate a written response to the
 541 appraisal ~~assessment~~, and the response shall become a permanent
 542 attachment to his or her personnel file.

543 (5) The district school superintendent shall develop a
 544 mechanism for evaluating the effective use of appraisal
 545 ~~assessment~~ criteria and evaluation procedures by administrators
 546 who are assigned responsibility for evaluating the performance of
 547 instructional personnel. The use of the appraisal ~~assessment~~ and
 548 evaluation procedures shall be considered as part of the annual

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549 appraisal ~~assessment~~ of the administrator's performance. The
 550 system must include a mechanism to give parents and teachers an
 551 opportunity to provide input into the administrator's performance
 552 appraisal ~~assessment~~, when appropriate.

553 (7) The district school board shall establish a procedure
 554 annually reviewing the instructional personnel appraisal system
 555 ~~assessment systems~~ to determine compliance with this section. All
 556 substantial revisions to an approved system must be reviewed and
 557 approved by the district school board before being used to
 558 evaluate ~~assess~~ instructional personnel. Upon request by a school
 559 district, the department shall provide assistance in developing,
 560 improving, or reviewing an appraisal ~~assessment~~ system.

561 (8) The State Board of Education may ~~shall~~ adopt rules
 562 pursuant to ss. 120.536(1) and 120.54, that establish uniform
 563 guidelines for the submission, review, and approval of district
 564 procedures for the annual appraisal ~~assessment~~ of instructional,
 565 administrative, and supervisory personnel and that include
 566 criteria for evaluating professional performance.

567 Section 9. By May 1, 2008, all school districts must have
 568 developed and be able to administer end-of-course examinations in
 569 all grade groupings and subject areas.

570 Section 10. The Legislature shall appropriate the necessary
 571 funding for an actuarial study to determine the viability and
 572 cost of making bonuses a part of the Florida Retirement System.

573 Section 11. Except as otherwise expressly provided in this
 574 act, this act shall take effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Section 1013.63, F.S., creates the University Concurrency Trust Fund, the purpose of which is to fund state university offsite improvements required to meet concurrency standards adopted under Part II of Chapter 163, F.S. Moneys in the trust fund may also be used to defray costs incurred in updating campus master plans pursuant to s. 1013.30, F.S.

Prior to July 1, 2006, the major source of revenue for the trust fund was the general revenue service charge deducted pursuant to s. 215.20, F.S., on revenues raised by any local option motor fuel tax levied pursuant to s. 336.025(1)(b), F.S. Section 215.211(3)(b), F.S., eliminates the service charge on proceeds of the local option fuel tax, effective July 1, 2006.

As a result, the current major source of revenue for the trust fund is the interest earnings on the fund balance. The earnings from July 1, 2006, to March 7, 2007, are \$2.3 million. As of March 7, 2007, there is a cash balance of approximately \$64.7 million in the trust fund. The Department of Education Legislative Budget Request includes a request for an appropriation of \$58.3 million from the trust fund to pay for concurrency requirements in FY 2007-08.

B. EFFECT OF PROPOSED CHANGES:

The bill re-creates the trust fund without modification.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to trust funds; re-creating the University
Concurrency Trust Fund within the Department of Education
without modification; carrying forward current balances
and continuing current sources and uses thereof; repealing
s. 1013.63(4), F.S.; abrogating provisions relating to the
termination of the trust fund, to conform; providing an
effective date.

WHEREAS, the Legislature wishes to extend the life of the
University Concurrency Trust Fund within the Department of
Education, which is otherwise scheduled to be terminated pursuant
to constitutional mandate, and

WHEREAS, the Legislature has reviewed the trust fund before
its scheduled termination date and has found that it continues to
meet an important public purpose, and

WHEREAS, the Legislature has found that existing public
policy concerning the trust fund sets adequate parameters for its
use, NOW, THEREFORE,

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

Section 1. (1) The University Concurrency Trust Fund
within the Department of Education, FLAIR number 48-2-682, which
is to be terminated pursuant to Section 19(f), Article III of the
State Constitution on July 1, 2007, is re-created.

(2) All current balances of the trust fund are carried
forward, and all current sources and uses of the trust fund are

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30 | continued.

31 | Section 2. Subsection (4) of section 1013.63, Florida
32 | Statutes, is repealed.

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

PCB SLC 07-11
Terminating Specified Trust
Funds within BOG

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the Florida Constitution, a schedule for review of the trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. The trust funds in the Department of Education are scheduled for review this year. An analysis of the state university trust funds resulted in the below findings.

Trust Funds to be Terminated

There are 14 state university trust funds that are no longer necessary as a result of the state universities' transition off the state accounting system (FLAIR), as authorized in s. 1011.4105, F.S. Section 1011.4106, F.S., appropriates local revenues to each university's local accounts; such revenues were previously deposited in state trust funds. As a result, these trust funds are no longer used and should be terminated.

The bill terminates the following trust funds:

1. Contracts, Grants, and Donations Trust Fund – previously used for the deposit and disbursement of public and private funding for university research and training grants. Currently, there is no cash balance in the fund.
2. Engineering Industrial Experiment Station Trust Fund – previously used for the receipt and deposit of federal, local, and private funds for research activities. Currently, there is no cash balance in the fund.
3. Experiment Station Federal Grant Trust Fund – previously used for the deposit of federal funds received for Agricultural Research Centers. Currently, there is no cash balance in the fund.
4. Experiment Station Incidental Trust Fund – previously used for the deposit of revenue generated through the sales of goods such as livestock, dairy, and other agronomic products at Research and Education Centers throughout the state. Currently, there is no cash balance in the fund.
5. Extension Service Federal Grant Trust Fund – previously used for the deposit of federal funds received for Agricultural Extension Centers. Currently, there is no cash balance in the fund.
6. Extension Service Incidental Trust Fund – previously used for the deposit of revenue generated through sales of goods and instructional training services such as publications and seminars. Currently, there is no cash balance in the fund.
7. Auxiliary Trust Fund – previously used for the deposit of revenue from self-supporting activities such as university bookstores, food service operations, and data center operations. Currently, there is no cash balance in the fund.
8. University of Florida Health Sciences Center Incidental Trust Fund – previously used for the deposit of revenue from Shands Hospital, UF Dental Clinics, and other internal entities. Currently, there is no cash balance in the fund.

9. University of Florida Health Sciences Center Operations and Maintenance Trust Fund – previously used for the deposit of revenues generated through sales of goods and services to the public and state agencies. Currently, there is no cash balance in the fund.
10. Sponsored Research Trust Fund – previously used for the receipt and disbursement of federal, local, and private funds to support research activities. Currently, there is no cash balance in the fund.
11. Institute of Food and Agricultural Sciences Relocation and Reconstruction Trust Fund (FLAIR number 48-2-395) – previously used for the sale and acquisition of fixed assets such as land and buildings to facilitate the relocation and consolidation of IFAS Research and Education Centers. Currently, there is no cash balance in the fund.
12. Institute of Food and Agricultural Sciences Relocation and Reconstruction Trust Fund (FLAIR number 49-2-395) – previously used for the sale and acquisition of fixed assets such as land and buildings to facilitate the relocation and consolidation of IFAS Research and Education Centers. Currently, there is no cash balance in the fund.
13. State University System Construction Trust Fund – previously used to deposit Public Education Capital Outlay (PECO) funds. Currently, a cash balance of \$4.6 million remains in the fund. The bill provides that all current cash balances remaining in, and all revenues of, the fund shall be transferred to the PECO Trust Fund.
14. Developmental Research School Trust Fund – previously used to deposit Florida Education Finance Program (FEFP) and PECO funds to operate the Developmental Research Schools. Currently, there is no cash balance in the fund.

There are three trust funds that currently have duplicate department codes (i.e., “48” and “49”) in the FLAIR system. To simplify the coding structure in FLAIR, the “49” coded funds should be terminated. The bill terminates the below listed “49” coded funds; however, the trust funds are retained in FLAIR accounts in the “48” code series.

1. Capital Improvement Fee Trust Fund – used to account for the collection of the Capital Improvement Fee assessment of \$2.44 per credit hour per semester paid by students, as well as the interest earnings on investments and bond proceeds.
2. State University System Concurrency Trust Fund – used to provide funding for university offsite improvements required to meet concurrency standards. The current source of revenue is interest earnings.
3. Educational Enhancement Trust Fund – used for the deposit of lottery proceeds for appropriation to education entities.

The final trust fund that should be terminated is the Trust Fund for University Major Gifts, which historically has been used for the receipt and disbursement of General Revenue and Lottery transfers designated as state matching funds for university private donations. The private donations are held in local university accounts pursuant to s. 1011.94(5)(a), F.S. State funds are no longer transferred to the trust fund as a result of the elimination of “double budgeting.”¹ Currently, the fund is not used, and there is no cash balance. The bill terminates the fund and re-designates the “Trust Fund for University Major Gifts” as the “University Major Gifts Program.” The program itself is unchanged.

¹ See Section 11 of Chapter 2005-06, L.O.F

The bill also makes conforming changes to sections 267.173, 1004.45, and 1009.74, F.S., which reference the "Trust Fund for University Major Gifts."

Trust Funds to be Modified

There are nine trust funds that have a department code of "49" in FLAIR. Historically, the "49" code series was used to classify state university trust funds under the management of the Board of Regents, which was abolished July 1, 2001. All other education trust funds have a department code of "48." Currently, the Department of Education administers trust funds for the state universities; therefore, the trust funds should be renumbered to the "48" code series for simplification and consistency among all education trust funds.

The bill renumbers the following trust funds:

1. Uniform Payroll Trust Fund – from FLAIR number 49-2-766 to 48-2-766.
2. Ancillary Facilities Construction Trust Fund – from FLAIR number 49-2-026 to 48-2-026.
3. Law Enforcement Trust Fund – from FLAIR number 49-2-434 to 48-2-434.
4. Phosphate Research Trust Fund – from FLAIR number 49-2-530 to 48-2-530.
5. Replacement Trust Fund – from FLAIR number 49-2-580 to 48-2-580.
6. Capital Facilities Matching Trust Fund – from FLAIR number 49-2-070 to 48-2-070.
7. Student and Other Fees Trust Fund – from FLAIR number 49-2-164 to 48-2-164.
8. Operations and Maintenance Trust Fund – from FLAIR number 49-2-516 to 48-2-516.
9. Building Fee Trust Fund – from FLAIR number 49-2-064 to 48-2-064.

C. SECTION DIRECTORY:

Section 1: Terminates 14 trust funds that are obsolete.

Section 2: Revises s. 1011.94, F.S., to re-designate the "Trust Fund for University Major Gifts" as the "University Major Gifts Program" and to remove references to the trust fund.

Section 3: Revises subsection (8) of s. 267.173, F.S., to replace a reference to "Trust Fund for University Major Gifts" with "University Major Gifts Program."

Section 4: Revises paragraph (j) of subsection (2) of s. 1004.45, F.S., to replace a reference to "Trust Fund for University Major Gifts" with "University Major Gifts Program."

Section 5: Revises subsections (1) and (2) of s. 1009.74, F.S., to replace references to the "Trust Fund for University Major Gifts" with "University Major Gifts Program."

Section 6: Modifies nine trust funds to renumber department codes "49" to "48" in FLAIR.

Section 7: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The termination or renumbering of the specific trust funds in the bill will not affect state operations and should increase management efficiency and accounting compliance. Upon termination of the State University Construction Trust Fund, the bill transfers an estimated \$4.6 million to the PECO Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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PBC SLC 07-11

PCB draft for approval

2007

1 A bill to be entitled
 2 An act relating to trust funds; terminating specified
 3 trust funds within the Board of Governors of the State
 4 University System; providing for the disposition of
 5 balances in and revenues of such trust funds; prescribing
 6 procedures for the termination of such trust funds;
 7 amending s. 1011.94, F.S.; redesignating the Trust Fund
 8 for University Major Gifts as the "University Major Gifts
 9 Program"; providing the purpose of the program; providing
 10 for the use of funds; amending ss. 267.173, 1004.45, and
 11 1009.74, F.S.; making conforming changes; modifying
 12 specified trust funds within the Board of Governors of the
 13 State University System; providing an effective date.

14
 15

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

17

18 Section 1. (1) The following trust funds within the Board
 19 of Governors of the State University System are terminated:

20 (a) Grants and Donations Trust Fund, FLAIR number 49-2-153.

21 (b) Engineering Industrial Experiment Station Trust Fund,
 22 FLAIR number 49-2-186.

23 (c) Experiment Station Federal Grant Trust Fund, FLAIR
 24 number 49-2-207.

25 (d) Experiment Station Incidental Trust Fund, FLAIR number
 26 49-2-210.

27 (e) Extension Service Federal Grant Trust Fund, FLAIR
 28 number 49-2-216.

29 (f) Extension Service Incidental Trust Fund, FLAIR number

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- 30 49-2-219.
- 31 (g) Auxiliary Trust Fund, FLAIR number 49-2-330.
- 32 (h) University of Florida Health Sciences Center Incidental
- 33 Trust Fund, FLAIR number 49-2-381.
- 34 (i) University of Florida Health Sciences Center Operations
- 35 and Maintenance Trust Fund, FLAIR number 49-2-424.
- 36 (j) Sponsored Research Trust Fund, FLAIR number 49-2-655.
- 37 (k) Institute of Food and Agricultural Sciences Relocation
- 38 and Reconstruction Trust Fund, FLAIR number 48-2-395.
- 39 (l) Institute of Food and Agricultural Sciences Relocation
- 40 and Reconstruction Trust Fund, FLAIR number 49-2-395.
- 41 (m) Capital Improvement Fee Trust Fund, FLAIR number 49-2-
- 42 071.
- 43 (n) State University System Concurrency Trust Fund, FLAIR
- 44 number 49-2-682.
- 45 (o) Major Gifts Trust Fund, FLAIR number 49-2-483.
- 46 (p) State University System Construction Trust Fund, FLAIR
- 47 number 49-2-137. All current cash balances remaining in, and all
- 48 revenues of, the fund shall be transferred to the Public
- 49 Education Capital Outlay and Debt Service Trust Fund, FLAIR
- 50 number 48-2-555.
- 51 (q) Educational Enhancement Trust Fund, FLAIR number 49-2-
- 52 178.
- 53 (r) Developmental Research School Trust Fund, FLAIR number
- 54 49-2-999.
- 55 (2) Unless otherwise provided, all current balances
- 56 remaining in, and all revenues of, the trust funds terminated by
- 57 this act shall be transferred to the General Revenue Fund.
- 58 (3) For each trust fund terminated by this act, the agency

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59 that administers the trust fund shall pay any outstanding debts
 60 and obligations of the terminated fund as soon as practicable,
 61 and the Chief Financial Officer shall close out and remove the
 62 terminated fund from the various state accounting systems using
 63 generally accepted accounting principles concerning warrants
 64 outstanding, assets, and liabilities.

65 Section 2. Section 1011.94, Florida Statutes, is amended to
 66 read:

67 1011.94 ~~Trust Fund for~~ University Major Gifts Program.--

68 (1) There is established a ~~Trust Fund for~~ University Major
 69 Gifts Program. The purpose of the program ~~trust fund~~ is to enable
 70 each university and New College to provide donors with an
 71 incentive in the form of matching grants for donations for the
 72 establishment of permanent endowments and sales tax exemption
 73 matching funds received pursuant to s. 212.08(5)(j), which must
 74 be invested, with the proceed of the investment used to support
 75 libraries and instruction and research programs, as defined by
 76 the State Board of Education. ~~All funds appropriated for the~~
 77 ~~challenge grants, new donors, major gifts, sales tax exemption~~
 78 ~~matching funds pursuant to s. 212.08(5)(j), or eminent scholars~~
 79 ~~program may be deposited into the trust fund and invested~~
 80 ~~pursuant to s. 17.61 until the State Board of Education allocates~~
 81 ~~the funds to universities to match private donations.~~

82 ~~Notwithstanding s. 216.301 and pursuant to s. 216.351, any~~
 83 ~~undisbursed balance remaining in the trust fund and interest~~
 84 ~~income accruing to the portion of the trust fund which is not~~
 85 ~~matched and distributed to universities must remain in the trust~~
 86 ~~fund and be used to increase the total funds available for~~
 87 ~~challenge grants. Funds deposited in the trust fund for the sales~~

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88 | ~~tax exemption matching program authorized in s. 212.08(5)(j), and~~
 89 | ~~interest earnings thereon, shall be maintained in a separate~~
 90 | ~~account within the Trust Fund for University Major Gifts, and may~~
 91 | ~~be used only to match qualified sales tax exemptions that a~~
 92 | ~~certified business designates for use by state universities and~~
 93 | ~~community colleges to support research and development projects~~
 94 | ~~requested by the certified business. The State Board of Education~~
 95 | ~~may authorize any university to encumber the state matching~~
 96 | ~~portion of a challenge grant from funds available under s.~~
 97 | ~~1011.45.~~

98 | (2) The State Board of Education shall specify the process
 99 | for submission, documentation, and approval of requests for
 100 | matching funds, accountability for endowments and proceeds of
 101 | endowments, allocations to universities, restrictions on the use
 102 | of the proceeds from endowments, and criteria used in determining
 103 | the value of donations.

104 | (3)(a) The State Board of Education shall allocate the
 105 | amount appropriated to ~~the trust fund~~ to each university and New
 106 | College based on the amount of the donation and the restrictions
 107 | applied to the donation.

108 | (b) Donations for a specific purpose must be matched in the
 109 | following manner:

110 | 1. Each university that raises at least \$100,000 but no
 111 | more than \$599,999 from a private source must receive a matching
 112 | grant equal to 50 percent of the private contribution.

113 | 2. Each university that raises a contribution of at least
 114 | \$600,000 but no more than \$1 million from a private source must
 115 | receive a matching grant equal to 70 percent of the private
 116 | contribution.

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117 3. Each university that raises a contribution in excess of
 118 \$1 million but no more than \$1.5 million from a private source
 119 must receive a matching grant equal to 75 percent of the private
 120 contribution.

121 4. Each university that raises a contribution in excess of
 122 \$1.5 million but no more than \$2 million from a private source
 123 must receive a matching grant equal to 80 percent of the private
 124 contribution.

125 5. Each university that raises a contribution in excess of
 126 \$2 million from a private source must receive a matching grant
 127 equal to 100 percent of the private contribution.

128 (c) The State Board of Education shall encumber state
 129 matching funds for any pledged contributions, pro rata, based on
 130 the requirements for state matching funds as specified for the
 131 particular challenge grant and the amount of the private
 132 donations actually received by the university for the respective
 133 challenge grant.

134 (4) Matching funds may be provided for contributions
 135 encumbered or pledged under the Eminent Scholars Act prior to
 136 July 1, 1994, and for donations or pledges of any amount equal to
 137 or in excess of the prescribed minimums which are pledged for the
 138 purpose of this section.

139 (5)(a) Each university foundation and New College
 140 Foundation shall establish a challenge grant account for each
 141 challenge grant as a depository for private contributions and
 142 state matching funds to be administered on behalf of the State
 143 Board of Education, the university, or New College. State
 144 matching funds must be transferred to a university foundation or
 145 New College Foundation upon notification that the university or

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146 New College has received and deposited the amount specified in
 147 this section in a foundation challenge grant account.

148 (b) The foundation serving a university and New College
 149 Foundation each has the responsibility for the maintenance and
 150 investment of its challenge grant account and for the
 151 administration of the program on behalf of the university or New
 152 College, pursuant to procedures specified by the State Board of
 153 Education. Each foundation shall include in its annual report to
 154 the State Board of Education information concerning collection
 155 and investment of matching gifts and donations and investment of
 156 the account.

157 (c) A donation of at least \$600,000 and associated state
 158 matching funds may be used to designate an Eminent Scholar
 159 Endowed Chair pursuant to procedures specified by the State Board
 160 of Education.

161 (6) The donations, state matching funds, or proceeds from
 162 endowments established under this section may not be expended for
 163 the construction, renovation, or maintenance of facilities or for
 164 the support of intercollegiate athletics.

165 Section 3. Subsection (8) of section 267.173, Florida
 166 Statutes, is amended to read:

167 267.173 Historic preservation in West Florida; goals;
 168 contracts for historic preservation; powers and duties.--

169 (8) Notwithstanding any other provision of law, the
 170 University of West Florida and its direct-support organization
 171 are eligible to match state funds in the ~~Trust Fund for~~
 172 University Major Gifts Program established pursuant to s.
 173 1011.94.

174 Section 4. Paragraph (j) of subsection (2) of section

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175 | 1004.45, Florida Statutes, is amended to read:

176 | 1004.45 Ringling Center for Cultural Arts.--

177 | (j) Notwithstanding any other provision of law, the John
178 | and Mable Ringling Museum of Art direct-support organization is
179 | eligible to match state funds in the ~~Trust Fund for~~ University
180 | Major Gifts Program established pursuant to s. 1011.94 as
181 | follows:

182 | 1. For the first \$1,353,750, matching shall be on the
183 | basis of 75 cents in state matching for each dollar of private
184 | funds.

185 | 2. For additional funds, matching shall be provided on
186 | the same basis as is authorized in s. 1011.94.

187 | Section 5. Subsections (1) and (2) of section 1009.74,
188 | Florida Statutes, are amended to read:

189 | 1009.74 The Theodore R. and Vivian M. Johnson Scholarship
190 | Program.--

191 | (1) There is established the Theodore R. and Vivian M.
192 | Johnson Scholarship Program to be administered by the Department
193 | of Education. The program shall provide scholarships to students
194 | attending a state university. The program shall be funded by
195 | contributions from the Theodore R. and Vivian M. Johnson
196 | Scholarship Foundation and from state matching funds to be
197 | allocated from the ~~Trust Fund for~~ University Major Gifts Program.

198 | (2) The amount to be allocated to the program shall be on
199 | the basis of a 50-percent match of funds from the ~~Trust Fund for~~
200 | University Major Gifts Program for each contribution received
201 | from the Theodore R. and Vivian M. Johnson Scholarship
202 | Foundation. The funds allocated to the program, including the
203 | corpus and interest income, shall be expended for scholarships to

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204 benefit disabled students attending a state university.

205 Section 6. The following trust funds within the Board of
 206 Governors of the State University System are modified:

207 (1) Uniform Payroll Trust Fund, from FLAIR number 49-2-766
 208 to 48-2-766.

209 (2) Ancillary Facilities Construction Trust Fund, from
 210 FLAIR number 49-2-026 to 48-2-026.

211 (3) Law Enforcement Trust Fund, from FLAIR number 49-2-434
 212 to 48-2-434.

213 (4) Phosphate Research Trust Fund, from FLAIR number 49-2-
 214 530 to 48-2-530.

215 (5) Replacement Trust Fund, from FLAIR number 49-2-580 to
 216 48-2-580.

217 (6) Capital Facilities Matching Trust Fund, from FLAIR
 218 number 49-2-070 to 48-2-070.

219 (7) Student and Other Fees Trust Fund, from FLAIR number
 220 49-2-164 to 48-2-164.

221 (8) Operations and Maintenance Trust Fund, from FLAIR
 222 number 49-2-516 to 48-2-516.

223 (9) Building Fee Trust Fund, from FLAIR number 49-2-064 to
 224 48-2-064.

225 Section 7. This act shall take effect July 1, 2007.

226

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the Florida Constitution, a schedule for review of the trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. Additionally, the 2004 Legislature amended language in s. 215.32(2)(b), F.S. to define the purposes and uses of various trust funds used in day-to-day operations (Ch. 2004-234). In addition to other trust funds created by law, to the extent possible, each agency must adjust its internal accounting to use existing trust funds consistent with the requirements of this subparagraph. If an agency does not have trust funds listed in this subparagraph and one is required, the agency must recommend the creation of the necessary trust fund(s) to the Legislature no later than the next scheduled review of the agency's trust funds pursuant to s. 215.3208, F.S. The trust funds in the Department of Education are scheduled for review this year.

Chapter 99-27, Laws of Florida, re-creates the Educational Aids Trust Fund within the Department of Education to administer receipts and disbursements for federal grants. Current revenue sources for the Educational Aids Trust Fund include federal grants, indirect cost earnings and overhead assessments against federal funds pursuant to indirect cost rates negotiated by the department and approved by the federal government. This fund meets the requirements of s. 215.32(2)(c), F.S., establishing the Administrative Trust Fund as the designated fund agencies are required to use for indirect cost earnings assessed on federal funds.

Section 1010.78, F.S., creates the Projects, Contracts and Grants (P, C & G) Trust Fund within the Department of Education to administer contracts and grants for specific projects and to fund time-limited employment for personnel working on those projects. Current revenue sources for the P, C & G Trust Fund include private donations from the Milken Foundation, fee revenue generated from the administration of General Educational Development (GED) testing, and monies generated from the leasing of available transponder time from the state's satellite transponder resources.

Section 1010.72, F.S., creates the Dale Hickam Excellent Teaching (Excellent Teaching) Trust Fund within the Department of Education to be used to provide monetary incentives and bonuses for Florida teachers to obtain national board certification through the national Board of Professional Teaching Standards (NBPTS). Since the legislature has discontinued double budgeting this trust fund does not have a revenue source.

Effect of Proposed Change

The bill terminates the Projects, Contracts and Grants Trust Fund and the Dale Hickam Excellent Teaching Trust Fund within the Department of Education. The bill also renames the Educational Aids Trust Fund as the Federal Grants Trust Fund pursuant to s. 215.32, F.S.

The Department of Education recommended termination of the P, C & G Trust Fund in the scheduled trust fund review as part of the legislative budget request. All cash will be transferred to individual components of this fund. Donations from the Milken Foundation will be transferred to the Grants and Donations Trust Fund within the Department of Education. Monies generated from the leasing of available transponder time from the state's satellite transponder resources will be transferred to a new

Operating Trust Fund, pursuant to s. 215.32, F.S. If the agency's legislative budget request issue number 3001370 for Fiscal Year 2007-08 is not approved by the legislature, fees for GED testing will also be transferred to the new Operating Trust Fund.

The Department also recommended termination of the Dale Hickam Excellent Teaching Trust Fund. The fund is in the process of being closed since the legislature discontinued double-budgeting which provided general revenue as the revenue source for the fund. The department estimates that the available cash remaining in this fund will be used in conjunction with state funds in Fiscal Year 2006-07 for the Excellent Teaching Program. Any funds remaining in the trust fund on June 30, 2007 will be deposited in the General Revenue Fund.

The Educational Aids Trust Fund is renamed as the Federal Grants Trust Fund pursuant to s. 215.32 (2)(g), F.S. All funding sources are maintained. However, HB 1332 creates the Administrative Trust Fund within the Department of Education into which the indirect cost earnings on federal funds will be transferred from the Educational Aids Trust Fund.

C. SECTION DIRECTORY:

Section 1: Terminates the Projects, Contracts and Grants Trust Fund within the Department of Education, effective July 1, 2008.

Section 2: Renames the Educational Aids Trust Fund as the Federal Grants Trust Fund.

Section 3: Conforms statute.

Section 4: Repeals sections 1010.72 and 1010.76, F.S.

Section 5: Repeals section 1010.78, F.S., effective July 1, 2008.

Section 6: Repeals subsection (5) of section 1012.72, F.S.

Section 7: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. This is simply a change in operating procedures to align agency accounts with the requirements of section 215.32, Florida Statutes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None.
2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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PBC SLC 07-12

PCB draft for approval

2007

1 A bill to be entitled
 2 An act relating to trust funds; terminating specified
 3 trust funds within the Department of Education; providing
 4 for disposition of balances in and revenues of such trust
 5 funds; prescribing procedures for the termination of such
 6 trust funds; renaming the Educational Aids Trust Fund
 7 within the department; amending s. 1002.335, F.S.,
 8 relating to the Florida Schools of Excellence Commission;
 9 conforming a reference; repealing ss. 1010.72, 1010.76,
 10 1010.78, and 1012.72(5), F.S., relating to the Dale Hickam
 11 Excellent Teaching Program Trust Fund, the Educational
 12 Aids Trust Fund, and the Projects, Contracts, and Grants
 13 Trust Fund within the department; providing effective
 14 dates.

15
 16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. (1) The following trust funds within the
 20 Department of Education are terminated:

21 (a) Effective July 1, 2008, the Projects Contracts and
 22 Grants Trust Fund, FLAIR number 48-2-552. Current balances from
 23 General Education Development (GED) testing and the leasing of
 24 available transponder time from the state's satellite transponder
 25 resources in the Projects, Contracts, and Grants Trust Fund, and
 26 all revenues from GED testing and the leasing of available
 27 transponder time from the state's satellite transponder resources
 28 shall be transferred to the Operating Trust Fund within the
 29 Department of Education, FLAIR number 48-2-510. Current balances

30 from donations remaining in the Projects, Contracts, and Grants
 31 Trust Fund and all revenues from donations shall be transferred
 32 to the Grants and Donations Trust Fund within the Department of
 33 Education, FLAIR number 48-2-339.

34 (b) The Dale Hickam Excellent Teaching Program Trust Fund,
 35 FLAIR number 48-2-206. All current balances remaining in the Dale
 36 Hickam Excellent Teaching Program Trust Fund and all revenues of
 37 the fund shall be transferred to the General Revenue Fund.

38 (2) The Department of Education shall pay any outstanding
 39 debts and obligations of the terminated funds as soon as
 40 practicable, and the Chief Financial Officer shall close out and
 41 remove the terminated funds from various state accounting systems
 42 using generally accepted accounting principles concerning
 43 warrants outstanding, assets, and liabilities.

44 Section 2. The Educational Aids Trust Fund, FLAIR number
 45 48-2-180, within the Department of Education is renamed the
 46 Federal Grants Trust Fund, FLAIR number 48-2-261.

47 Section 3. Paragraph (a) of subsection (3) of section
 48 1002.335, Florida Statutes, is amended to read:

49 1002.335 Florida Schools of Excellence Commission.--

50 (3) FLORIDA SCHOOLS OF EXCELLENCE COMMISSION.--

51 (a) The Florida Schools of Excellence Commission is
 52 established as an independent, state-level charter school
 53 authorizing entity working in collaboration with the Department
 54 of Education and under the supervision of the State Board of
 55 Education. Startup funds necessary to establish and operate the
 56 commission may be received through private contributions and
 57 federal and other institutional grants through the Grants and
 58 Donations Trust Fund and the ~~Federal Grants Educational Aids~~

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59 Trust Fund housed within the department in addition to funds
60 provided in the General Appropriations Act. The department shall
61 assist in securing federal and other institutional grant funds to
62 establish the commission.

63 Section 4. Sections 1010.72 and 1010.76, Florida Statutes,
64 are repealed.

65 Section 5. Effective July 1, 2008, Section 1010.78, Florida
66 Statutes, is repealed.

67 Section 6. Subsection (5) of section 1012.72, Florida
68 Statutes, is repealed.

69 Section 7. Except as otherwise expressly provided in this
70 act, this act shall take effect July 1, 2007.

71

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 19(f), Art. III of the Florida Constitution requires that the creation of a trust fund pass with a three-fifths vote of the membership in each house and be contained in a separate bill for the sole purpose of creating that trust fund.

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the Florida Constitution, a schedule for review of the trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. Additionally, the 2004 Legislature amended language in s. 215.32(2)(b), F.S., to define the purposes and uses of various trust funds used in day-to-day operations (Ch. 2004-234). In addition to other trust funds created by law, to the extent possible, each agency must adjust its internal accounting to use existing trust funds consistent with the requirements of this subparagraph. If an agency does not have trust funds listed in this subparagraph and one is required, the agency must recommend the creation of the necessary trust fund(s) to the Legislature no later than the next scheduled review of the agency's trust funds pursuant to s. 215.3208, F.S. The trust funds in the Department of Education are scheduled for review this year.

Currently, revenues generated by indirect cost earnings against federal funds are accounted for in the funds in which the federal grants are accounted for and the indirect costs are assessed, including the Educational Aids Trust Fund, which contains the majority of the department's federal funds, the Federal Rehabilitation Trust Fund, the Food and Nutrition Services Trust Fund, and the Student Loan Operating Trust Fund.

Effect of Proposed Change

The bill creates the Administrative Trust Fund within the Department of Education effective July 1, 2008. The fund is established for use as a depository for funds to be used for management activities that are departmental in nature and funded by indirect cost earnings and assessments against federal grant funds.

Receipts credited to the trust fund will consist of indirect cost earnings and overhead assessments against federal funds budgeted for administrative purposes within the department's operating budget pursuant to indirect cost rates negotiated by the department and approved by the federal government. Funds will be expended pursuant to legislative appropriation or an approved amendment to the Department of Education's operating budget pursuant to the provisions of chapter 216, F.S. Estimated receipts for the fund for Fiscal Year 2007-08 are:

Revenue Sources

Estimated Receipts

Indirect costs assessed on the Federal Rehabilitation TF in the Division of Vocational Rehabilitation	\$3,703,358
Indirect costs assessed on the Federal Rehabilitation TF in the Division of Blind Services	\$1,148,335
Indirect costs assessed on the Food and Nutrition Services TF	\$689,614
Indirect costs assessed on the Educational Aids TF	\$6,192,669
Indirect costs assessed on the Student Loan Operating TF	\$2,423,848
Interest	\$115,000
TOTAL	\$14,272,824

The Administrative Trust Fund shall, unless terminated sooner, terminate on July 1, 2012. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), F.S.

C. SECTION DIRECTORY:

Section 1: Creates s. 1001.282, F.S. Creating the Administrative Trust Fund within the Department of Education, establishing purposes and sources of funds, and providing for annual carryforward of funds and for future review and termination or re-creation of the trust fund.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None.
- 2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues: None.
- 2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. These are not new dollars. This is simply a change in operating procedures to align agency accounts with the requirements of section 215.32, Florida Statutes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: None.

2. Other:

Section 19(f), Art. III of the Florida Constitution requires that the creation of a trust fund pass with a three-fifths vote of the membership in each house and be contained in a separate bill for the sole purpose of creating that trust fund.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

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PBC SLC 07-13

PCB draft for approval

2007

1 A bill to be entitled
 2 An act relating to trust funds; creating s. 1001.282,
 3 F.S.; creating the Administrative Trust Fund within the
 4 Department of Education; providing for sources of funds
 5 and purposes; providing for annual carryforward of funds;
 6 providing for future review and termination or re-creation
 7 of the trust fund; providing an effective date.

8
 9

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

11

12 Section 1. Section 1001.282, Florida Statutes, is created
 13 to read:

14 1001.282 Administrative Trust Fund.--

15 (1) The Administrative Trust Fund, FLAIR number 48-2-021,
 16 is created within the Department of Education.

17 (2) The fund is established for use as a depository for
 18 funds to be used for management activities that are department-
 19 wide in nature and funded by indirect cost earnings or
 20 assessments against trust funds. Moneys to be credited to the
 21 trust fund include indirect cost reimbursements from grantors,
 22 administrative assessments against trust funds, interest
 23 earnings, and other appropriate administrative fees.

24 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 25 any balance in the trust fund at the end of any fiscal year shall
 26 remain in the trust fund at the end of the year and shall be
 27 available for carrying out the purpose of the trust fund.

28 (4) In accordance with s. 19(f)(2), Art. III of the State
 29 Constitution, the Administrative Trust Fund shall, unless

V

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30 | terminated sooner, be terminated on July 1, 2012. Before its
31 | scheduled termination, the trust fund shall be reviewed as
32 | provided in s. 215.3206(1) and (2).

33 | Section 2. This act shall take effect July 1, 2008.

34 |

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 19(f), Art. III of the Florida Constitution requires that the creation of a trust fund pass with a three-fifths vote of the membership in each house and be contained in a separate bill for the sole purpose of creating that trust fund.

Section 215.3208(1), F.S., provides that, in order to implement s. 19(f), Art. III of the Florida Constitution, a schedule for review of the trust funds be included in the legislative budget instructions developed pursuant to s. 216.023, F.S. Additionally, the 2004 Legislature amended language in s. 215.32(2)(b), F.S., to define the purposes and uses of various trust funds used in day-to-day operations (Ch. 2004-234). In addition to other trust funds created by law, to the extent possible, each agency must adjust its internal accounting to use existing trust funds consistent with the requirements of this subparagraph. If an agency does not have trust funds listed in this subparagraph and one is required, the agency must recommend the creation of the necessary trust fund(s) to the Legislature no later than the next scheduled review of the agency's trust funds pursuant to s. 215.3208, F.S. The trust funds in the Department of Education are scheduled for review this year.

Currently, revenues received by the Department of Education from the leasing of satellite transponder time and fees for GED test administration are accounted for in the Projects, Contracts and Grants Trust Fund which is used by the department primarily for salaries and benefits and program operations associated with departmental activities related to the satellite transponder time and GED programs.

Effect of Proposed Change

The bill creates the Operating Trust Fund within the Department of Education effective July 1, 2008. The fund is established for use as a depository for funds to be used for program operations funded by program revenues. Receipts credited to the trust fund will consist of monies generated from the leasing of transponder time and GED test administration, which will continue to fund positions and programs within the Department of Education. Funds will be expended pursuant to legislative appropriation or an approved amendment to the Department of Education's operating budget pursuant to the provisions of chapter 216, F.S.

The Operating Trust Fund shall, unless terminated sooner, terminate on July 1, 2012. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), F.S.

Projected Receipts

The current year appropriation for the Projects, Contracts and Grants Trust Fund, which currently contains the revenues to be transferred to the new fund, is \$1,665,446. Projected receipts for the new fund are:

Revenue Sources

Estimated Receipts

Transfer of beginning balance from Projects, Contracts and Grants Trust Fund	\$313,529
Leasing of Transponder Time	\$84,161
Great Florida Teach-In	\$14,860
Interest-Investment	\$10,178
GED Fees	\$1,070,655
TOTAL	\$1,493,383

C. SECTION DIRECTORY:

Section1: Creates s. 1001.281, F.S. Creating the Operating Trust Fund within the Department of Education, establishing purposes and sources of funds, and providing for annual carryforward of funds and for future review and termination or re-creation of the trust fund.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues: None.
- 2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues: None.
- 2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. These are not new dollars. This is simply a change in operating procedures to align agency accounts with the requirements of section 215.32, Florida Statutes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

- 1. Applicability of Municipality/County Mandates Provision: None.
- 2. Other:

Section 19(f), Art. III of the Florida Constitution requires that the creation of a trust fund pass with a three-fifths vote of the membership in each house and be contained in a separate bill for the sole purpose of creating that trust fund.

B. RULE-MAKING AUTHORITY: None.

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 trust funds; creating s. 1001.281,
 3 F.S.; creating the Operating Trust Fund within the
 4 Department of Education; providing for sources of funds
 5 and purposes; providing for annual carryforward of funds;
 6 providing for future review and termination or re-creation
 7 of the trust fund; providing an effective date.

8
 9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 1001.281, Florida Statutes, is created
 13 to read:

14 1001.281 Operating Trust Fund.--

15 (1) The Operating Trust Fund, FLAIR number 48-2-510, is
 16 created within the Department of Education.

17 (2) The fund is established for use as a depository for
 18 funds to be used for program operations funded by program
 19 revenues. Moneys to be credited to the trust fund include, but
 20 are not limited to, revenues received from the leasing of
 21 available transponder time for the state's satellite transponder
 22 resources.

23 (3) Notwithstanding s. 216.301 and pursuant to s. 216.351,
 24 any balance in the trust fund at the end of any fiscal year shall
 25 remain in the trust fund at the end of the year and shall be
 26 available for carrying out the purpose of the trust fund.

27 (4) In accordance with s. 19(f)(2), Art. III of the State
 28 Constitution, the Operating Trust Fund shall, unless terminated
 29 sooner, be terminated on July 1, 2012. Before its scheduled

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30 termination, the trust fund shall be reviewed as provided in s.
31 215.3206(1) and (2).

32 Section 2. This act shall take effect July 1, 2008.

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