



Education Policy Council

**Friday, April 16, 2010
9:00 AM
Morris Hall (17 HOB)**

**Larry Cretul
Speaker**

**Will W. Weatherford
Chair**



The Florida House of Representatives

Education Policy Council

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Agenda

Friday, April 16, 2010

Morris Hall (17 HOB)

9:00 – 11:00 am

I. Roll Call

II. Consideration of the following bill(s):

CS/HB 31 Public Education by PreK-12 Policy Committee, Drake, Evers
HB 101 University of South Florida by McKeel
CS/HB 467 Public K-12 Education by PreK-12 Policy Committee, Jones
CS/CS/HB 623 Instructional Materials for K-12 Public Education by PreK-12
Appropriations Committee, PreK-12 Policy Committee, Burgin
CS/HB 723 Postsecondary Education Fee Waivers by State Universities & Private
Colleges Policy Committee, Sachs
CS/CS/HB 1061 Suicide Prevention by PreK-12 Appropriations Committee, PreK-12
Policy Committee, Heller
CS/HB 1085 Career and Education Planning by PreK-12 Policy Committee, Bullard
HB 1581 Florida Atlantic University by Hasner
CS/HB 1619 School Food Service Programs by PreK-12 Policy Committee, Bush

Consideration of the following proposed council bill(s):

PCB EPC 10-04 -- State University System

Consideration of the following proposed council substitute(s):

PCS for CS/CS/HB 1569 -- Charter Schools

III. Adjourn.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 31 Public Education
SPONSOR(S): Policy Council; PreK-12 Policy Committee, Drake and others
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	10 Y, 3 N, As CS	Paulson	Ahearn
2)	Civil Justice & Courts Policy Committee	10 Y, 3 N	De La Paz	De La Paz
3)	Policy Council	12 Y, 0 N, As CS	Liepshutz	Ciccione
4)	Education Policy Council		White <i>TW</i>	Lowell <i>Q</i>
5)				

SUMMARY ANALYSIS

The Council Substitute for CS/HB 31 prohibits district school boards, administrative personnel, and instructional personnel from taking affirmative action including, but not limited to, the entry into any agreement, that infringes or waives the rights or freedoms afforded to instructional personnel, school staff, or students by the First Amendment to the United States Constitution, in the absence of the express written consent of any individual whose constitutional rights would be impacted by such infringement or waiver.

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

The bill takes effect July 1, 2010.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Federal Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001, requires local educational agencies to certify to the state educational agency that no policy of the local educational agency prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary schools and secondary schools.¹ Florida requires the Department of Education to annually distribute the guidelines on "Religious Expression in Public Schools" published by the United States Department of Education to all district school board members, district school superintendents, school principals, and teachers.²

Two First Amendment clauses, the Free Exercise Clause and the Establishment Clause, protect religious freedom. Together, they permit neither bias favoring nor bias disfavoring religion.³ The Free Exercise Clause prohibits federal and state government from placing any restraint on an individual's exercise of religion.⁴ The Establishment Clause guarantees that a government may not coerce anyone to support or participate in religion or its exercise.⁵

In *Santa Fe Independent School District v. Doe*, the United States Supreme Court ruled that the school district's policy permitting student-led, student-initiated prayer authorized by student election violated the Establishment Clause. In the case, the Court ruled that the prayers did not amount to private speech and that the school district policy of allowing such prayers was impermissibly coercive.⁶

¹ 20 U.S.C. § 7904.

² Section 1002.205, F.S. These guidelines include, for example, that students may pray in a nondisruptive manner when not engaged in school activities or instruction and that schools may neither organize prayer at graduation nor organize religious baccalaureate ceremonies.

³ The pertinent clauses of the First Amendment of the United States Constitution read: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..." Although the First Amendment only restricts legislative action by Congress, these two clauses have been incorporated into the Fourteenth Amendment's guarantee of due process and are therefore applicable to state action. See *School District of Abington Township, Pennsylvania v. Schempp*, 374 U.S. 203, 215 (1968).

⁴ *Id.*, 222-223.

⁵ *Lee v. Weisman*, 505 U.S. 577, 587 (1992).

⁶ The Court ruled that because the speech was authorized by government policy and was delivered on government property at government-sponsored, school-related events, and because the student delivering the speech was elected by a majority of the student body (effectively silencing any minority views), it could not be considered private speech. The Court also ruled that schools could not force students to make the decision between attending these events and avoiding potentially offensive religious rituals. *Santa Fe Independent School District v. Doe*, 530 U.S. 290, 302-304, 311-312 (2000).

However, in *Chandler v. Siegelman*, (*Chandler II*) the United States Court of Appeals for the Eleventh Circuit ruled that students are allowed to take part in group prayers at school functions. The court reviewed a lower court's injunction against the enforcement of an Alabama statute permitting student-initiated prayer at school-related events. Finding that the injunction wrongly assumed that any religious speech in schools is attributable to the State, the appellate court held that the injunction was overbroad and found that as long as the speech was truly student-initiated and not the product of school policy which encourages it, the speech is private and protected.⁷

In *Adler v. Duval County School Board*, the United States Court of Appeals for the Eleventh Circuit upheld a lower court's ruling that the school board's policy of permitting a graduating student, elected by the graduating class, to deliver an unrestricted message at graduation ceremonies did not violate the Establishment Clause on its face. The court ruled that the primary factor in distinguishing state speech from private speech is the element of state control over the content of the message.⁸

In *Holloman ex rel. Holloman v. Harland*, the United States Court of Appeals for the Eleventh Circuit revisited its previous ruling in *Chandler II* after an Alabama public school student brought action against a teacher for soliciting prayer requests and conducting a daily "silent moment of prayer." The court reversed a lower court's decision in favor of the teacher and ruled that simply because the idea initially came from a student, this type of prayer could not be considered "student-initiated" (and therefore constitutionally protected) if the school "encouraged, facilitated, or in any way conducted the prayer."⁹

Effect of Proposed Changes

The Council Substitute for CS/HB 31 prohibits district school boards, administrative personnel,¹⁰ and instructional personnel¹¹ from taking affirmative action including, but not limited to, the entry into any agreement, that infringes or waives the rights or freedoms afforded to instructional personnel, school staff, or students by the First Amendment to the United States Constitution, in the absence of the express written consent of any individual whose constitutional rights would be impacted by such infringement or waiver.

B. SECTION DIRECTORY:

Section 1: Creates s. 1003.4505, F.S., relating to the delivery of protection of school speech.

Section 2: Provides an effective date of July 1, 2010.

⁷ *Chandler v. Siegelman*, 230 F.3d 1313, 1316-1317 (11th Cir., Ala., 2001); cert. denied 533 U.S. 916 (2001).

⁸ *Adler v. Duval County School Board*, 250 F.3d 1330, 1341 (11th Cir., Fla., 2001); cert. denied 534 U.S. 1065 (2001).

⁹ *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1287 (11th Cir., Ala., 2004).

¹⁰ s. 1012.01(3), F.S. ("Administrative personnel' includes K-12 personnel who perform management activities such as developing broad policies for the school district and executing those policies through the direction of personnel at all levels within the district. Administrative personnel are generally high-level, responsible personnel who have been assigned the responsibilities of systemwide or schoolwide functions, such as district school superintendents, assistant superintendents, deputy superintendents, school principals, assistant principals, career center directors, and others who perform management activities. Broad classifications of K-12 administrative personnel are as follows: . . . [d]istrict-based instructional administrators . . . [d]istrict-based noninstructional administrators . . . [and] [s]chool administrators . . .").

¹¹ s. 1012.01(2), F.S. ("Instructional personnel' means any K-12 staff member whose function includes the provision of direct instructional services to students. Instructional personnel also includes K-12 personnel whose functions provide direct support in the learning process of students. Included in the classification of instructional personnel are the following K-12 personnel: . . . [c]lassroom teachers . . . [s]tudent personnel services . . . [l]ibrarians/media specialists . . . [o]ther instructional staff . . . [and] [e]ducation paraprofessionals. . .").

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to media reports¹² and testimony received by the Policy Council on April 9, 2010, the impetus for filing this legislation stems from an ongoing controversy that has arisen in the Santa Rosa County public school system. In August 2008, two high school students sued the school board, the school superintendent and principal of Pace High School in the U.S. District Court for the Northern District of

¹² See, for example: <http://floridacapitalnews.com/article/20100319/CAPITOLNEWS/3190323>

Florida alleging Establishment Clause violations of their rights.¹³ The School Board admitted liability in December 2008, and in May 2009, entered into a jointly proposed consent decree¹⁴ that permanently enjoined school officials from engaging in certain religious activities outlined in the decree. In July 2009, the Christian Educators Association International (CEAI) sought to intervene in the suit claiming that the constitutional rights of its membership -- which includes public and private school teachers, administrators, and paraprofessionals -- were being violated by the consent decree.¹⁵ In February 2010, the Federal District Court denied the CEAI's motion to intervene finding that the association lacked standing because it had not "demonstrated that the consent decree results in an objectively reasonable "chill" on its members' First Amendment rights."¹⁶ The CEAI has appealed the order of the federal district court to the Eleventh Circuit Court of Appeals.¹⁷ On March 24, 2010, the Federal District Court for the Northern District Court of Florida ordered that the "parties to the [original] suit submit memoranda to the court by the close of business on April 7, 2010, advising the court on the status of the plaintiffs' continued interest in this litigation, the continued validity of the injunctive consent decree, and the basis for this court's continued enforcement jurisdiction over the consent decree." [Court's footnote omitted]¹⁸

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the PreK-12 Policy Committee adopted two amendments to the Proposed Committee Substitute for House Bill 31 (PCS) and reported the bill favorably as a Committee Substitute with two amendments. The differences between the PCS and the Committee Substitute for House Bill 31 (CS) are as follows:

- The PCS included "a prayer or an invocation" as examples of an inspirational message. The CS deletes those references.
- The PCS included a provision requiring students to select a student representative to deliver the message. The CS deletes this provision.

On April 9, 2010, the Policy Council adopted one amendment that deleted s. 1003.4505(1), as created by the bill to prohibit school officials from discouraging or inhibiting the delivery of an inspirational message at noncompulsory high school activities. The bill was reported favorably as a Council Substitute. The analysis reflects the Council Substitute to CS/HB 31.

¹³ *Minor I DOE, through parent I Doe and Minor II Doe, Through parent II DOE v. School Board for Santa Rosa County, Florida, et al.*, Case No. 3:08cv361/MCR/EMT.

¹⁴ *Id.*, document 94.

¹⁵ *Id.*, document 127

¹⁶ *Id.*, 2010 WL 582031 (N.D.Fla.) at 19

¹⁷ *Id.*, appellate case no. 1011188c (documentation received by 11th Cir. on March 17, 2010, according to writer's telephone inquiry of 11th Circuit Court Clerk's Office on 4/12/10).

¹⁸ *Supra.*, fn. 15, document 255 (court's order) at 2. The court also noted in its order that it had come to the "court's attention that the two plaintiffs may have graduated from high school and thus no longer suffer a threat of harm from the School Board's policies and practices." at 1, [court's footnote omitted]. Apparently, the court's concern regarding this issue stems from the "case and controversy" requirement of the U.S. Constitution and the possibility that the case may have become moot at some point during the litigation. See, court's fn. 2 at 2.

1 A bill to be entitled
 2 An act relating to public education; creating s.
 3 1003.4505, F.S.; prohibiting district school boards,
 4 administrative personnel, and instructional personnel from
 5 taking affirmative action that infringes or waives the
 6 rights or freedoms afforded by the First Amendment to the
 7 United States Constitution in the absence of certain
 8 consent; providing an effective date.

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

11
 12 Section 1. Section 1003.4505, Florida Statutes, is created
 13 to read:

14 1003.4505 Protection of school speech.—District school
 15 boards, administrative personnel, and instructional personnel
 16 are prohibited from taking affirmative action, including, but
 17 not limited to, the entry into any agreement, that infringes or
 18 waives the rights or freedoms afforded to instructional
 19 personnel, school staff, or students by the First Amendment to
 20 the United States Constitution, in the absence of the express
 21 written consent of any individual whose constitutional rights
 22 would be impacted by such infringement or waiver.

23 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 101 University of South Florida

SPONSOR(S): McKeel and others

TIED BILLS: IDEN./SIM. BILLS: SB 838

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Regulation Policy Committee	14 Y, 0 N	Holt	Calamas
2)	State Universities & Private Colleges Appropriations Committee	10 Y, 3 N	Smith	Trexler
3)	Education Policy Council		White <i>TW</i>	Lowell <i>Q</i>
4)				
5)				

SUMMARY ANALYSIS

The bill authorizes the establishment of a doctor of pharmacy degree (PharmD) program at the University of South Florida (USF). The USF plans to enroll the first class of 50 students in Fall 2011, 75 students in 2012, and 100 students annually thereafter until reaching full capacity at 400 students in 2016. Once students are enrolled, the program will have to become accredited in order for students to meet the licensure requirements for a pharmacist.

Funding for the PharmD program will be provided through a variety of sources that include private funds, tuition revenue, and state support. The bill does not require state funding initially, but the USF will request state support beginning in Fiscal Year 2011-2012. See FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT for additional information.

The bill takes effect upon becoming law.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Section 1004.03(3), F.S., requires the Legislature to approve the establishment of new colleges, schools, or functional equivalents of any program leading to a degree that:

- Is offered as a credential for a specific license granted; and
- Will receive support from tuition and fees or from funds appropriated by the Legislature.

Thus, a public institution wishing to establish a doctoral program for a licensed profession such as pharmacy must receive authorization from the Legislature before offering the program.

PharmD Programs

Doctor of pharmacy degree (PharmD) programs currently exist at five institutions in Florida—two public universities (University of Florida and Florida A & M University) and three independent institutions (Nova Southeastern University, Palm Beach Atlantic University, and Lake Erie College of Medicine-Bradenton Campus). According to the Board of Governors (BOG), the University of Florida and Florida A & M University awarded 635 pharmacy degrees in 2008 and 557 pharmacy degrees in 2007. [The three independent institutions graduate approximately 382 pharmacy students each year.¹]

Licensed Pharmacists

The Florida Pharmacy Act² establishes the educational requirements for a person desiring to be licensed as a pharmacist. A PharmD program graduate desiring to become licensed must apply to the Florida Department of Health (DOH) to take, and must successfully pass, the licensure examination. In order to sit for the examination, an individual must submit proof that they have:³

- Earned a degree from a school or college of pharmacy accredited by an accrediting agency recognized and approved by the United States Office of Education; or
- Earned a degree from a four-year undergraduate pharmacy program from a school or college of pharmacy located outside the United States and have completed a minimum of 500 hours in a

¹ Board of Governors, 2010 Legislative Bill Analysis of House Bill 101 (January 27, 2010).

² Chapter 465, F.S.

³ Section 465.007(1)(b), F.S.

supervised work activity program in Florida under the supervision of a pharmacist licensed by the DOH.

Projected Need for Pharmacists in Florida

According to the Agency for Workforce Innovation (AWI), the annual growth rate of pharmacists statewide is 3.10 percent.⁴ By 2017, the AWI projects that there will be 20,795 available jobs, which represents an increase of 4,128 positions (a 25 percent increase). The AWI attributes the increased demand to the higher incidence of middle-aged and elderly individuals who use more prescription drugs; to scientific advances that will make more drug products available; and to the coverage of prescription drugs by a greater number of health insurance plans and Medicare.⁵

Effect of Bill

The bill authorizes the establishment of a PharmD degree at the University of South Florida (USF)-Tampa Campus.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.387, F.S., authorizing a doctor of pharmacy degree program at the USF.
 Section 2. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

The following fiscal impact reflects the minimum amount that the USF projects will be needed to fund the direct costs related to start-up and continuing operations of the PharmD program.⁶ The charts below summarize the projected costs associated with three planning years and four implementation years to start a new PharmD program at USF.⁷ According to BOG staff, the USF is on track to enroll its first pharmacy class in Fall 2011.⁸

1. Revenues and Expenditures during Planning Years:

The USF, as reflected in the chart below, expects to receive approximately \$1.3 million and to expend approximately \$1.9 million in Fiscal Year (FY) 2010-2011 for the completion of its planning activities. According to the BOG, the USF expects to address the difference in funding and expenditures through fundraising.

Planning Years			
	Year 1 (08-09)	Year 2 (09-10)	Year 3 (10-11)
Receipts (i.e. Community donations, contracts & grants)	\$ 25,000	\$ 652,238	\$ 1,322,762
Total Revenues:	\$ 25,000	\$ 652,238	\$ 1,322,762
Expenditures			
	Year 1 (08-09)	Year 2 (09-10)	Year 3 (10-11)
Salaries/Benefits	\$ -0-	\$ 551,800	\$1,486,234
Expenses	25,000	95,938	304,158
OCO	-0-	4,500	19,500

⁴ Agency for Workforce Innovation. Occupational Profile: Pharmacists, available at: <http://www.whatpeopleareasking.com/occprofile.asp?soccode=291051> (last viewed January 29, 2010)

⁵ Agency for Workforce Innovation, Labor Market Statistics Center, Florida Jobs: Employment Outlook by Workforce Region, spreadsheet on file with the Health Care Regulation Policy Committee staff.

⁶ USF PharmD Business Plan, FBOG Table 2P, Summary of Costs for Proposed Doctor of Pharmacy (January 2009).

⁷ Board of Governors, 2010 Legislative Bill Analysis of House Bill 101 (January 27, 2010).

⁸ E-mail correspondence with BOG and USF staff (January 29, 2010).

I&R Labs, Distance Learning Equipment	-0-	-0-	87,500
Total Expenditures:	\$ 25,000	\$ 652,238	\$ 1,897,392

2. Revenues and Expenditures during Implementation Years:

The USF plans to request recurring appropriations based on a per-student rate of \$8,000.⁹ The USF anticipates the first class will start in 2011-2012 (Year 1) with an enrollment of 50 students. By 2016-2017 (Year 6), the USF anticipates reaching capacity of 400 students and projects a total recurring General Revenue (GR) need of \$3.2M. In FYs 2011-2012 and 2012-2013, the USF projects that it will need additional funds and it will request \$2,792,059 in non-recurring GR from the Legislature. According to the proposal, the largest instructional and research expenditures consist of faculty salaries and benefits followed by administrative and operational costs.

Implementation Years				
	Year 1 (2011-12)	Year 2 (2012-2013)	Year 3 (2013-2014)	Year 4 (2014-2015)
#Students/Tuition per Student	50/\$15,100	125/\$16,610	225/\$18,270	325/\$18,270
Receipts (i.e. Community donations, contracts & grants)	\$ 800,000	\$ -0-	\$ -0-	\$ -0-
Tuition	755,000	2,076,250	4,110,750	5,937,750
State Appropriations	1,409,358	2,782,701	1,800,000	2,600,000
Research Grants	- 0-	-0-	- 0-	2,250,000
Total Revenues:	\$ 2,964,358	\$ 4,858,951	\$ 5,910,750	\$ 10,787,750
	Year 1 (2011-2012)	Year 2 (2012-2013)	Year 3 (2013-2014)	Year 4 (2014-2015)
Salaries/Benefits	\$ 2,295,542	\$ 4,249,251	\$ 5,431,369	\$ 6,028,216
Expenses	412,316	499,700	584,576	1,615,504
OCO	31,500	60,000	76,500	78,795
Data Processing	-0-	-0-	-0-	40,000
Library Resources	-0-	-0-	-0-	290,000
I&R Labs, Distance Learning Equipment	225,000	50,000	-0-	500,000
Total Expenditures:	\$ 2,964,358	\$ 4,858,951	\$ 6,092,445	\$ 8,552,515

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The proposed PharmD program at the USF may provide graduates for retail outlets and other pharmacy-related industries throughout the state. The proposed PharmD program may reduce the number of enrollments at independent colleges and universities in Florida that currently offer a PharmD program (i.e. Nova Southeastern University; Palm Beach Atlantic University; and Lake Erie College of Medicine-Bradenton Campus).

D. FISCAL COMMENTS:

Lake Erie College of Medicine-Bradenton Campus (LECOM)

In recent years, the LECOM has received state funding to support health programs. In the 2009-2010 General Appropriations Act, the LECOM received \$785,106 in GR and \$332,000 in Federal Stimulus funds to support Florida residents enrolled in the Osteopathic Medicine or Pharmacy Program at the LECOM.¹⁰ According to the FY 2009-2010 spending plan submitted by the LECOM, it allocated \$334,605 to the pharmacy program to provide tuition subsidies for students.¹¹

Nova Southeastern University (Nova)

In recent years, Nova, like the LECOM, has received state funding to support health programs. In the 2009-2010 General Appropriations Act, Nova received \$3.4M in GR and \$1.6M in Federal Stimulus funds to support Florida residents enrolled in the Osteopathic Medicine, Pharmacy, or Nursing Programs at Nova.¹² According to the FY 2009-2010 spending plan submitted by Nova, it allocated \$801,012 to the pharmacy program to provide tuition subsidies of \$1,665 to 481 students.¹³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rule-making authority is required to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

¹⁰ FY 2009-10 General Appropriations Act

¹¹ Florida House of Representatives, State Universities & Private Colleges Appropriations Committee, 2010-2011 Base Budget Review, available in January 12, 2010 committee meeting packet.

¹² FY 2009-10 General Appropriations Act

¹³ Florida House of Representatives, State Universities & Private Colleges Appropriations Committee, 2010-2011 Base Budget Review, available in January 12, 2010 committee meeting packet.

HB 101

2010

1 A bill to be entitled
 2 An act relating to the University of South Florida;
 3 creating s. 1004.387, F.S.; authorizing a doctor of
 4 pharmacy degree program at the university; providing an
 5 effective date.

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

8
 9 Section 1. Section 1004.387, Florida Statutes, is created
 10 to read:

11 1004.387 Doctor of pharmacy degree program at the
 12 University of South Florida.--A doctor of pharmacy degree
 13 program is authorized at the University of South Florida.

14 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 467
SPONSOR(S): Jones and others
TIED BILLS:

Public K-12 Education

IDEN./SIM. BILLS: SB 642

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	12 Y, 0 N, As CS	Davis	Ahearn
2)	PreK-12 Appropriations Committee	(ref. removed)		
3)	Education Policy Council		White <i>TW</i>	Lowell <i>RL</i>
4)				
5)				

SUMMARY ANALYSIS

Current law requires comprehensive health education for public school students that includes instruction in community health, consumer health, personal health, prevention and control of disease, and mental and emotional health. There is no specific requirement that teen dating violence and abuse be included as part of that education.

Committee Substitute for House Bill 467 (bill) requires a teen dating violence and abuse component to be added to the comprehensive health education curriculum for students in grades 7 through 12. The new component must include the definition of dating violence and abuse, warning signs of dating violence and abusive behavior, characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse. Currently, there are courses in middle school and high school that include content related to teen dating violence and abuse. Those course curriculums would need to be expanded to include all elements of the teen dating violence and abuse component required by the bill.

The bill requires that each district school board adopt and implement a dating violence and abuse policy which must be integrated into each school district's discipline policies. Each district's policy must prohibit dating violence and abuse by any student on school property, during a school-sponsored activity, or during school-sponsored transportation; provide procedures for responding to such incidents of dating violence or abuse, including accommodations for students experiencing dating violence or abuse; and define dating violence and abuse and provide for a teen dating violence and abuse component in the health education curriculum. The Department of Education is required to develop a model policy to assist district school boards in the development of their own policies. Each school district must provide training for teachers, staff, and school administrators to implement the new dating violence and abuse policies.

The bill has an insignificant, minimal fiscal impact. See FISCAL COMMENTS section of this analysis.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Dating Violence

Current law does not specifically define "teen dating violence," but does define "dating violence" as violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such relationship is to be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past six months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.¹

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.²

The following individuals have standing in the circuit court to file a sworn petition for injunction against dating violence:

- Any person who is the victim of dating violence and has reason to believe that he or she is in immediate danger of becoming the victim of another act of dating violence.
- Any person who has reasonable cause to believe he or she is in immediate danger of becoming the victim of an act of dating violence.
- The parent or legal guardian of any minor child who is living at home and who seeks an

¹ Section 784.046(1)(d), F.S.

² *Id.*

injunction for protection against dating violence on behalf of that minor child.³

According to the 2009 Florida Youth Risk Behavior Survey, 11 percent of students were hit, slapped, or physically hurt by a boyfriend or girlfriend during the preceding 12 months. The survey also found that 6.2 percent of students indicated they had been forced to have sexual intercourse against their wishes. The data trend for both of these questions has remained steady since 2001.⁴

A 2003 Center for Disease Control (CDC) report on physical dating violence among high school students suggests that teen dating violence affects a substantial number of high school students. Approximately one in 11 high school students reported victimization, a ratio equating to nearly 1.5 million high school students nationwide.⁵ The CDC recommends the implementation of prevention programs directed at teen dating violence and associated risk behaviors.⁶ Since 2006, the U.S. Congress has designated the first week of February as “National Teen Dating Violence Awareness and Prevention Week” in an effort to bring more public awareness to this problem.⁷

Middle and High School Course Requirements

The requirements for middle grades promotion do not include a health education component.⁸ There are, however, eight health courses listed by the DOE as part of the “Basic Education” courses that may be offered by the district for grades 6 through 8.⁹

In order to graduate from high school students must complete one credit in physical education which must include health.¹⁰ There are also a number of additional health specific courses listed by the Florida Department of Education (DOE) as available to students in grades 9 through 12 if offered by the district.¹¹

Each district school board must provide all courses required for middle grade promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education adopted standards in the subject areas of reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.¹² In addition,

³ Section 784.046(2)(b), F.S.

⁴ Department of Education Analysis of HB 467 (2010), December 8, 2009.

⁵ <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5519a3.htm>

⁶ *Id.*

⁷ According to a 2006 National Teen Dating Violence Prevention Initiative, teens are at a higher risk of intimate partner abuse than any other age group. Further, when female high school students were asked who they would talk to if someone they date attempts to control them, insults them, or physically harms them, 86 percent said they would confide in a friend, while only seven percent said they would talk to police. Moreover, of 10th grade students surveyed at the 4th Annual Teen Dating Abuse Summit, 83 percent reported that they would rather turn to a friend for help with dating abuse than to a teacher, counselor, parent, or other caring adult. This initiative also found that teen dating violence has a negative impact on a teen's ability to learn. See <http://www.abanet.org/publiced/teendating.shtml>, <http://www.abanet.org/unmet/teendating/fact.pdf>, <http://www.abanet.org/publiced/teendating.shtml>, and <http://www.abanet.org/unmet/teenabuseguide.pdf>.

⁸ “Middle grades” are grades 6, 7, and 8. The requirements for middle grades promotion are three middle school or higher courses in English, three middle school or higher courses in mathematics, three middle school or higher courses in social studies (one semester of which must include the study of state and federal government and civics education), three middle school or higher courses in science, and once course in career and education planning to be completed in 7th or 8th grade. See s. 1003.4156, F.S.

⁹ The health courses listed by the Department of Education for grades 6 through 8 are M/J Health 1, M/J Health 2, M/J Health 2 & Career Planning, M/J Health 3, M/J Health 3 & Career Planning, M/J Health 4, M/J Health 5, and M/J Health 6. See <http://data.fldoe.org/crsCode/default.cfm?level=68&category=Health>.

¹⁰ There are a number of ways by which students can satisfy this credit requirement without actually completing a physical education course. A student may satisfy the requirement of one credit in physical education by participating in an interscholastic sport at the junior varsity or varsity level for two full seasons and passing a competency test on personal fitness with a score of “C” or better. The competency test on personal fitness is developed by the Florida Department of Education (DOE). Students may also satisfy one-half credit in physical education with completion of one semester with a grade of “C” or better in a marching band class, in a physical activity class that requires participation in marching band activities as an extracurricular activity, or in a dance class. Students who complete two years in a Reserve Officer Training Corps (R.O.T.C.) class satisfy the one credit requirement in physical education and the additional graduation requirement of one credit in performing arts. Section 1003.428(2)(a)6., F.S.

¹¹ The health courses listed by the Department of Education for grades 9 through 12 are Health I-Life Management Skills; Health II-Personal Health; First Aid and Safety; Personal, Social, and Family Relationships; Community and Environmental Health; Adolescent Health Problems; Advanced Health Explorations; Parenting I; Parenting II; Health for Expectant Parents; and Health for Life in the Workplace. See <http://data.fldoe.org/crsCode/default.cfm?level=912&category=Health>.

¹² Section 1003.42(1), F.S.

comprehensive health education is a required area of instruction to be taught by the instructional staff of public schools.¹³ Florida law does not require district school boards to adopt policies specifically prohibiting dating violence and abuse.

According to the 2008 Florida School Health Profiles,¹⁴ teachers indicated a desire to receive professional development in these content areas: violence prevention (70 percent middle school/79 percent high school), emotional and mental health (68 percent middle school/77 percent high school), and injury prevention and safety (67 percent middle school/69 percent high school). They also reported a desire to receive professional development on implementing health education strategies using prevention messages that are likely to be effective in reaching youth (53 percent middle school/49 percent high school).¹⁵

District School Boards and Student Safety

District school boards have duties relating to student discipline and school safety. School districts are required to provide for the control of students at school and for proper attention to health, safety, and other matters relating to the welfare of students.¹⁶ Specific consequences are identified for violence at school, school sanctioned events, and school bus stops and transportation.¹⁷ Specific information relating to punishment of students is listed in each school board's Student Code of Conduct.¹⁸

Effect of Proposed Changes

The bill requires a teen dating violence and abuse component to be added to the current comprehensive health education curriculum provided to students in grades 7 through 12.¹⁹ The dating violence and abuse component includes, but is not limited to, the definition of dating violence and abuse, the warning signs of dating violence and abusive behavior, the characteristics of healthy relationships, measures to prevent and stop dating violence and abuse, and community resources available to victims of dating violence and abuse.

The curriculum for health education courses for middle grades and for grades 9 through 12, as well as the health education integrated into physical education for grades 9 through 12, will need to be supplemented by the districts to include all the elements of the teen dating violence and abuse component; however, most of those courses already include instruction on content related to interpersonal relationships which would encompass teen dating violence.²⁰ Accordingly, it is not anticipated that major changes will be required.

The bill also requires that each district school board adopt and implement a dating violence and abuse policy which is to be integrated into each school district's discipline policies. Each district's policy must prohibit dating violence and abuse by any student on school property, during a school-sponsored activity, or during school-sponsored transportation; provide procedures for responding to such incidents of dating violence or abuse, including accommodations for students experiencing dating violence or abuse; and define dating violence and abuse and provide for a teen dating violence and abuse component in the health education curriculum, with emphasis on prevention education. Each school district must also provide training for teachers, staff, and school administrators to implement the new dating violence and abuse policies.

The Department of Education (DOE) is required to develop a model policy by January 1, 2011, to assist

¹³ This comprehensive health education addresses 10 components: community health; consumer health; environmental health; family life; mental and emotional health; injury prevention and safety; nutrition; personal health; prevention and control of disease; and substance use and abuse. See s.1003.42(2)(n), F.S.

¹⁴ "Florida School Health Profiles" is a biannual survey of middle and high school principals and lead health teachers on school health education, policy, and other related content areas.

¹⁵ Department of Education Analysis of HB 467 (2010), December 8, 2009.

¹⁶ Section 1006.07, F.S.

¹⁷ Section 1006.07(2)(g) - (j), F.S.

¹⁸ See s.1006.07(2), F.S.

¹⁹ Section 1003.42(2)(n), F.S.

²⁰

district school boards in the development of their own policies. This model policy must provide suggested language which the school boards may choose to adopt.

B. SECTION DIRECTORY:

Section 1. Amends s. 1003.42(n)(2), F.S.; adding the requirement that health education curriculum for students in grades 7 through 12 include a teen dating violence and abuse component.

Section 2. Creates s. 1006.148, F.S.; requiring each school board to adopt and implement a dating violence and abuse policy; requiring the Department of Education to adopt a model policy; and requiring district school boards to provide training for teachers, staff, and school administrators to implement these policies.

Section 3. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Department of Education will be required to develop a model policy prohibiting dating violence and abuse. That cost is indeterminate, but is projected to be minimal.

School districts will need to incorporate specific dating violence and abuse instruction into existing curricula. That cost is indeterminate, but should be minimal in that materials and information regarding dating violence and abuse are readily available. In addition, districts will need to develop and implement a policy on teen dating violence and abuse and to train teachers and staff. Specific training regarding dating violence and abuse can be incorporated into the district's and school's training programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenue in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

House Bill 467 was reported favorably by the PreK-12 Policy Committee as a Committee Substitute. There are two differences between the original filed version of the bill and the Committee Substitute:

- The Committee Substitute removes the requirement that the teen dating violence and abuse component include information pertaining to "legal remedies" available to victims of dating violence.
- The Committee Substitute sets a date certain, January 1, 2011, by which the Department of Education must develop its teen dating violence and abuse model policy and clarifies that this model policy is to provide suggested, not required, language.

1 A bill to be entitled
 2 An act relating to public K-12 education; amending s.
 3 1003.42, F.S.; providing that comprehensive health
 4 education taught in the public schools shall include a
 5 component on teen dating violence and abuse for students
 6 in grades 7 through 12; creating s. 1006.148, F.S.;
 7 requiring district school boards to adopt and implement a
 8 dating violence and abuse policy; providing policy
 9 requirements; requiring the Department of Education to
 10 develop a model policy; requiring school personnel
 11 training; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Paragraph (n) of subsection (2) of section
 16 1003.42, Florida Statutes, is amended to read:

17 1003.42 Required instruction.—

18 (2) Members of the instructional staff of the public
 19 schools, subject to the rules of the State Board of Education
 20 and the district school board, shall teach efficiently and
 21 faithfully, using the books and materials required that meet the
 22 highest standards for professionalism and historic accuracy,
 23 following the prescribed courses of study, and employing
 24 approved methods of instruction, the following:

25 (n) Comprehensive health education that addresses concepts
 26 of community health; consumer health; environmental health;
 27 family life, including an awareness of the benefits of sexual
 28 abstinence as the expected standard and the consequences of

29 teenage pregnancy; mental and emotional health; injury
 30 prevention and safety; nutrition; personal health; prevention
 31 and control of disease; and substance use and abuse. The health
 32 education curriculum for students in grades 7 through 12 shall
 33 include a teen dating violence and abuse component that
 34 includes, but is not limited to, the definition of dating
 35 violence and abuse, the warning signs of dating violence and
 36 abusive behavior, the characteristics of healthy relationships,
 37 measures to prevent and stop dating violence and abuse, and
 38 community resources available to victims of dating violence and
 39 abuse.

40
 41 The State Board of Education is encouraged to adopt standards
 42 and pursue assessment of the requirements of this subsection.

43 Section 2. Section 1006.148, Florida Statutes, is created
 44 to read:

45 1006.148 Dating violence and abuse prohibited.—

46 (1) Each district school board shall adopt and implement a
 47 dating violence and abuse policy. The policy shall:

48 (a) Prohibit dating violence and abuse by any student on
 49 school property, during a school-sponsored activity, or during
 50 school-sponsored transportation.

51 (b) Provide procedures for responding to such incidents of
 52 dating violence or abuse, including accommodations for students
 53 experiencing dating violence or abuse.

54 (c) Define dating violence and abuse and provide for a
 55 teen dating violence and abuse component in the health education

56 curriculum, according to s. 1003.42(2)(n), with emphasis on
 57 prevention education.

58 (d) Be implemented in a manner that is integrated with a
 59 school district's discipline policies.

60 (2) By January 1, 2011, the Department of Education shall
 61 develop a model policy to serve as a guide for district school
 62 boards in the development of the dating violence and abuse
 63 policy described in subsection (1).

64 (3) Each district school board shall provide training for
 65 teachers, staff, and school administrators to implement this
 66 section.

67 Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 623 Instructional Materials for K-12 Public Education
SPONSOR(S): Burgin and others
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	12 Y, 2 N, As CS	Duncan	Ahearn
2)	PreK-12 Appropriations Committee	9 Y, 0 N, As CS	Seifert	Heflin
3)	Education Policy Council		White <i>W</i>	Lowell <i>W</i>
4)				
5)				

SUMMARY ANALYSIS

State funding for instructional materials is provided annually in the General Appropriations Act through the Florida Education Finance Program (FEFP). "Instructional materials" is one of the state-funded categorical programs within the FEFP. As a categorical, these funds may only be used to purchase instructional materials.

Each district school board must use at least 50 percent of the allocated "instructional materials" funds to purchase instructional materials on the state-adopted list. The remainder of the funds may be used to purchase instructional materials not on the state-adopted list, including library and reference books and nonprint materials and for the repair and renovation of textbooks and library books. Funds available to purchase state-adopted or non state-adopted instructional materials cannot be used to purchase electronic or computer hardware even if such hardware is bundled with software or other electronic media.

The bill adds "electronic textbooks" to the list of non state-adopted instructional materials that may be purchased by district school boards. In addition, with regard to non state-adopted instructional materials, beginning with the 2012-2013 fiscal year, the bill eliminates the current prohibition against the purchase of electronic or computer hardware. Instead, the bill authorizes the purchase of electronic or computer hardware, but only if the hardware is purchased for the **sole purpose** of delivering instructional materials content in an electronic format.

A district school board has the duty to provide "adequate instructional materials" for all students. The bill amends the definition of "adequate instructional materials" to include electronic textbooks. In addition, a district school board has the duty, among other things, to provide teaching accessories and aides; the bill adds to that, the provision of "technology."

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

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

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Instructional Materials

State funding for instructional materials is provided annually in the General Appropriations Act through the Florida Education Finance Program (FEFP).¹ "Instructional materials" is one of the state-funded categorical programs within the FEFP. As a categorical, these funds may only be used to purchase instructional materials.

Each district school board must use at least 50 percent of the allocated "instructional materials" funds to purchase instructional materials on the state-adopted list.² The remainder of the funds may be used to purchase instructional materials not on the state-adopted list, including library and reference books and nonprint materials and for the repair and renovation of textbooks and library books.³ Funds available to purchase state-adopted or non state-adopted instructional materials cannot be used to purchase electronic or computer hardware even if such hardware is bundled with software or other electronic media.⁴ District school boards may purchase computer hardware with other state FEFP funds (not from the instructional materials categorical program) and with capital outlay funds.⁵

¹ The Florida Education Finance Program (FEFP) is the mechanism used by the state to fund the operating costs of Florida's school districts. *See* s. 1011.67, F.S., and s. 1011.67(1), F.S.

² For purposes of state adoption, instructional materials means items having intellectual content that, by design, serve as a major tool for assisting in the instruction of a subject or course. These items may be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. The term does not include electronic or computer hardware even if such hardware is bundled with software or other electronic media, nor does it include equipment or supplies. Section 1006.29(4), F.S.

³ Items not on the state-adopted list must be used to purchase instructional materials or other items having intellectual content which assist in the instruction of a subject or course. These items may include replacements for items which were part of previously purchased instructional materials and other commonly accepted instructional tools as prescribed by district board rule. Section 1006.40(3)(b) & (4), F.S.

⁴ Sections 1006.29(4) & 1006.40(4), F.S.

⁵ The Discretionary Capital Outlay Levy is a statutorily authorized discretionary property tax that district school boards may levy without approval of the electorate. *See* s. 1011.71(2), F.S.

The table below provides the amount of funding allocated to Florida's school districts during Fiscal Years 2007-2008 through 2009-2010.

Instructional Materials Funding ⁶	
Fiscal Year	Amount (Millions)
2007-2008	\$266.4
2008-2009	\$253.9
2009-2010	\$246.4 ⁷

Effect of Proposed Changes

The bill adds "electronic textbooks" to the list of non state-adopted instructional materials that may be purchased by school districts. In addition, with regard to non state-adopted instructional materials, beginning with the 2012-2013 fiscal year, the bill eliminates the current prohibition against the purchase of electronic or computer hardware. Instead, the bill authorizes the purchase of electronic or computer hardware, but only if the hardware is purchased for the **sole purpose** of delivering instructional materials content in an electronic format.

Current Law

District School Board Responsibilities

A district school board has the duty to provide adequate instructional materials for all students. "Adequate instructional materials" means a "sufficient number of textbooks or sets of materials that are available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature."⁸ The term does not expressly include electronic textbooks.

Furthermore, a district school board must:

- Adopt courses of study for use in schools of the district;
- Provide for the requisitioning, distribution, accounting, storage, care, and use of all instructional materials furnished by the state and furnish such other instructional materials as necessary;
- Provide other teaching accessories and aides as needed for the school district's educational program; and
- Establish and maintain a program of school library media services for all public schools in the district, including school library media centers, or school library media centers open to the

⁶ Chapters 2007-072, 2007-326, 2008-001, 2008-152, 2009-001, and 2009-081, L.O.F.

⁷ Funding for Fiscal Year 2009-2010 includes \$30.3 million for education technology from the federal American Recovery and Reinvestment Act of 2009 appropriated through the state's 2009-2010 General Appropriations Act. The Department of Education is directed to implement a technology grant program for school districts to demonstrate the use of technology in teacher professional development and student instruction in science, technology, engineering, and mathematics (STEM) content areas. The student portion should incorporate the use of classroom laptops and personal learning devices that are mobile and able to extend learning beyond the classroom day. The teacher portion should combine the use of laptops and personal learning devices and should include the development and delivery of professional development linked to the newly adopted math and science standards. Ch. 2009-081, L.O.F.

⁸ Section 1006.28(1), F.S.

public, and, in addition such traveling or circulating libraries needed for the proper operation of the district school system.⁹

Effect of Proposed Changes

A district school board has the duty to provide "adequate instructional materials" for all students. The bill amends the definition of "adequate instructional materials" to include electronic textbooks. In addition, a district school board has the duty, among other things, to provide teaching accessories and aides; the bill adds to that, the provision of "technology."

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.28, F.S., relating to duties of the district school board, district school superintendent, and school principal regarding K-12 instructional materials.

Section 2: Amends s. 1006.40, F.S., relating to use of instructional materials allocation.

Section 3: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Textbook publishing companies may be negatively affected if school districts choose to purchase electronic or computer hardware with a portion of their instructional materials allocation for non state-adopted materials.

D. FISCAL COMMENTS:

None.

⁹ Section 1006.28(1)(a)-(d), F.S.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the PreK-12 Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The difference between the House Bill and CS for HB 623 is as follows:

The bill authorizes a district school board to purchase electronic or computer hardware with the portion of the funds used to purchase materials not on the state-adopted list when bundled with software or other electronic media. CS for HB 623 modifies the provision to authorize a district school board to purchase electronic or computer hardware with funds used to purchase materials not on the state-adopted list when the hardware is provided for the sole purpose of delivering instructional materials content in an electronic format.

On March 26, 2010, the PreK-12 Appropriations Committee adopted one amendment and reported the bill favorably as a CS. The differences between CS for HB 623 and the CS/CS for HB 623 are as follows:

- CS/CS for HB 623 expands the definition of "adequate instructional materials" to include electronic textbooks and eliminates the inclusion of "hardware."
- CS for HB 623 authorizes a district school board to purchase electronic or computer hardware with funds used to purchase materials not on the state-adopted list when the hardware is provided for the sole purpose of delivering instructional materials content in an electronic format. CS/CS for HB 623 postpones that authorization until the 2012-2013 Fiscal Year.

This analysis is drafted to CS/CS for HB 623.

1 A bill to be entitled
 2 An act relating to instructional materials for K-12 public
 3 education; amending s. 1006.28, F.S.; including electronic
 4 textbooks in the definition of the term "adequate
 5 instructional materials"; requiring each district school
 6 board to provide technology as needed for its educational
 7 program; amending s. 1006.40, F.S.; authorizing the use of
 8 certain funds for the purchase of electronic textbooks by
 9 district school boards; providing for the purchase of
 10 electronic or computer hardware under certain conditions;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Subsection (1) of section 1006.28, Florida
 16 Statutes, is amended to read:

17 1006.28 Duties of district school board, district school
 18 superintendent; and school principal regarding K-12
 19 instructional materials.—

20 (1) DISTRICT SCHOOL BOARD.—The district school board has
 21 the duty to provide adequate instructional materials for all
 22 students in accordance with the requirements of this part. The
 23 term "adequate instructional materials" means a sufficient
 24 number of textbooks or sets of materials that are available in
 25 bound, unbound, kit, or package form and may consist of hard-
 26 backed, ~~or~~ soft-backed, or electronic textbooks, consumables,
 27 learning laboratories, manipulatives, electronic media, and
 28 computer courseware or software that serve as the basis for

29 instruction for each student in the core courses of mathematics,
30 language arts, social studies, science, reading, and literature,
31 except for instruction for which the school advisory council
32 approves the use of a program that does not include a textbook
33 as a major tool of instruction. The district school board has
34 the following specific duties:

35 (a) Courses of study; adoption.—Adopt courses of study for
36 use in the schools of the district.

37 (b) Textbooks.—Provide for proper requisitioning,
38 distribution, accounting, storage, care, and use of all
39 instructional materials furnished by the state and furnish such
40 other instructional materials as may be needed. The district
41 school board shall assure that instructional materials used in
42 the district are consistent with the district goals and
43 objectives and the curriculum frameworks adopted by rule of the
44 State Board of Education, as well as with the state and district
45 performance standards provided for in s. 1001.03(1).

46 (c) Other instructional materials.—Provide such other
47 technology and teaching accessories and aids as are needed for
48 the school district's educational program.

49 (d) School library media services; establishment and
50 maintenance.—Establish and maintain a program of school library
51 media services for all public schools in the district, including
52 school library media centers, or school library media centers
53 open to the public, and, in addition such traveling or
54 circulating libraries as may be needed for the proper operation
55 of the district school system.

56 Section 2. Subsection (4) of section 1006.40, Florida
 57 Statutes, is amended to read:

58 1006.40 Use of instructional materials allocation;
 59 instructional materials, library books, and reference books;
 60 repair of books.—

61 (4) The funds described in subsection (3) which district
 62 school boards may use to purchase materials not on the state-
 63 adopted list shall be used for the purchase of instructional
 64 materials or other items having intellectual content which
 65 assist in the instruction of a subject or course. These items
 66 may be available in bound, unbound, kit, or package form and may
 67 consist of hardbacked, ~~or~~ softbacked, or electronic textbooks,
 68 replacements for items which were part of previously purchased
 69 instructional materials, consumables, learning laboratories,
 70 manipulatives, electronic media, computer courseware or
 71 software, and other commonly accepted instructional tools as
 72 prescribed by district school board rule. Beginning with the
 73 2012-2013 fiscal year, the funds available to district school
 74 boards for the purchase of materials not on the state-adopted
 75 list may not be used to purchase electronic or computer hardware
 76 unless even if such hardware is provided for the sole purpose of
 77 delivering instructional materials content in an electronic
 78 format. The funds provided for instructional materials ~~bundled~~
 79 ~~with software or other electronic media, nor may not such funds~~
 80 be used to purchase equipment or supplies. However, when
 81 authorized to do so in the General Appropriations Act, a school
 82 or district school board may use a portion of the funds
 83 available to it for the purchase of materials not on the state-

CS/CS/HB 623

2010

84 | adopted list to purchase science laboratory materials and
85 | supplies.

86 | Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 723 Postsecondary Education Fee Waivers
SPONSOR(S): State Universities & Private Colleges Policy Committee; Sachs
TIED BILLS: **IDEN./SIM. BILLS:** SB 2102

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	State Universities & Private Colleges Policy Committee	11 Y, 0 N, As CS	Valenstein	Tilton
2)	State Universities & Private Colleges Appropriations Committee	13 Y, 0 N	Smith	Trexler
3)	Education Policy Council		White ^{TN}	Lowell [@]
4)				
5)				

SUMMARY ANALYSIS

Current law authorizes state universities, community colleges, and school districts to waive tuition and fees under various circumstances.

The bill authorizes a state university or community college to waive tuition and fees for full-time public school classroom teachers for six credit hours per term in undergraduate courses, as space is available. These fee waivers are only available for courses approved by the Department of Education and must relate to special education, mathematics, or science. Additionally, a public school teacher must meet any academic requirements established by the state university or community college and cannot use the fee waiver for courses scheduled during the school day.

The fiscal impact of the bill is indeterminate. (See FISCAL COMMENTS)

The bill takes effect on July 1, 2010.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Currently, school districts, community colleges, and state universities are authorized to grant fee waivers under various circumstances.¹ Section 1009.26, F.S., authorizes fee waivers for: supervisors of university student interns; full-time university employees for up to 6 credit hours per term, as space is available; state residents 60 years of age or older, as space is available; graduate students in a psychology training program for specified internships; certain nondegree-seeking students; spouses of deceased state employees; Purple Heart recipients; and for other such purposes that support the mission of a state university.² Additionally, s. 1009.26, F.S., authorizes school districts and community colleges to waive fees for any fee-nonexempt student, up to the amount established annually in the General Appropriations Act. Section 1009.265, F.S., requires state universities and community colleges to waive tuition and fees for approved state employees to take up to six credit hours per term, as space is available.³ There is no specific statutory authority to waive tuition and fees for public school classroom teachers; however, some of these individuals may be eligible for an existing fee waiver such as one granted under the general authority provided to state universities to waive tuition and out-of-state fees for any purpose that supports the mission of the university.

According to the State University System Fee Waiver Summary report for 2007-2008,⁴ there were 30,064 students enrolled using a fee waiver. This resulted in the universities forgoing approximately \$77,194,555 in revenues.⁵

According to the Department of Education Summary of Student Fee Exemptions and Waivers report for 2008-2009,⁶ there were 8,115 students enrolled using a fee waiver. This resulted in the community colleges forgoing approximately \$4,473,638 in revenues.⁷

¹ Sections 1009.26 and 1009.265, F.S.

² Section 1009.26(1)-(9), F.S.

³ Section 1009.265(1), F.S.

⁴ Fee Waiver Summary created from the Student Data Course File Edit Reports – Summer 2007, Fall 2007, and Spring 2008.

⁵ State University System of Florida, Fee Waiver Summary 2007-08, State University System of Florida Fact Book, Table 37, available at <http://www.flbog.org/resources/factbooks/factbooks.php> (last visited March 12, 2010).

⁶ Report created from data reported on an academic year basis including, Summer 2008, Fall 2008, and Spring 2009.

⁷ Department of Education, Summary of Student Fee Exemptions and Waivers, FY 2008-2009, Schedule 4.

The Education Information and Accountability Services Data Report states that there were 166,724 teachers in the fall of 2009.⁸ These teachers typically continue to take academic course work at community colleges and state universities during their careers to maintain licensure, participate in professional development, and seek additional academic credentials and degrees.⁹

Effect of Proposed Changes

The bill authorizes, but does not require, a state university or community college to waive tuition and fees for full-time public school classroom teachers for six credit hours per term in undergraduate courses, as space is available. These fee waivers are only available for courses approved by the Department of Education and must relate to special education, mathematics, or science. Additionally, a public school teacher must meet any academic requirements established by the state university or community college and cannot use the fee waiver for courses scheduled during the school day.

The bill authorizes the State Board of Education to adopt a rule that prescribes the process for the approval of courses by the Department of Education.

B. SECTION DIRECTORY:

Section 1. Amends s. 1009.26, F.S., authorizing a state university or community college to waive tuition and fees for certain public school teachers for certain undergraduate courses.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Fee waivers would benefit K-12 instructional personnel who currently pay to take academic course work during their careers for the purpose of maintaining certification, for professional development, or to seek additional credentialing.¹⁰

D. FISCAL COMMENTS:

Public school classroom teachers continue to take academic course work during their careers to maintain licensure, participate in professional development, and seek additional academic credentials

⁸ Available at <http://www.fldoe.org/eias/eiaspubs/default.asp> (Last visited March 12, 2010).

⁹ Florida Department of Education Analysis of HB 723, February 2, 2010.

¹⁰ *Id.*

and degrees. The universities and community colleges may lose revenues from existing fee paying students who will qualify for the fee waiver.¹¹ Universities are allocated a specific amount of money to use at their discretion in awarding fee waivers and financial assistance to students; it is unlikely that the institutions would offer waivers exceeding this amount.

The fiscal impact is indeterminate at this time. The impact will depend on numerous factors, including the number of institutions which grant the fee waivers, the number of eligible personnel that participate in the fee waiver program, and whether there are any administrative costs to the institutions as a result of this legislation. Specific information regarding these variables is unavailable at this time. The fiscal impact may be negligible, as the bill does not require an institution to waive fees.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The State Board of Education is granted the authority to adopt a rule that prescribes the process for the approval of courses by the Department of Education.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the State Universities and Private Colleges Policy Committee adopted one amendment to HB 723 and reported the bill favorably as a Committee Substitute (CS). The amendment limits the use of the fee waivers to full time public school classroom teachers for six credit hours per term in undergraduate courses, as space is available. The amendment clarifies that fee waivers are only available for courses approved by the Department of Education. The courses must relate to special education, mathematics, or science. Additionally, the amendment requires public school teachers to meet any academic requirements established by the state university or community college and prohibits the use of the fee waiver for courses scheduled during the school day. The amendment also grants rulemaking authority to the State Board of Education. This analysis is drafted to the CS.

¹¹ Florida Department of Education Analysis of HB 723, February 2, 2010.

1 A bill to be entitled
 2 An act relating to postsecondary education fee waivers;
 3 amending s. 1009.26, F.S.; authorizing state universities
 4 and community colleges to waive tuition and fees for
 5 certain public school classroom teachers for undergraduate
 6 courses approved by the Department of Education; requiring
 7 State Board of Education rulemaking; providing an
 8 effective date.

9

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

11

12 Section 1. Subsection (10) is added to section 1009.26,
 13 Florida Statutes, to read:

14 1009.26 Fee waivers.—

15 (10) A state university or community college may waive
 16 tuition and fees for a classroom teacher, as defined in s.
 17 1012.01(2)(a), who is employed full-time by a school district
 18 and who meets the academic requirements established by the
 19 community college or state university for up to 6 credit hours
 20 per term on a space-available basis in undergraduate courses
 21 approved by the Department of Education. Such courses shall be
 22 limited to undergraduate courses related to special education,
 23 mathematics, or science. The waiver may not be used for courses
 24 scheduled during the school district's regular school day. The
 25 State Board of Education shall adopt a rule that prescribes the
 26 process for the approval of courses by the department.

27 Section 2. This act shall take effect July 1, 2010.

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Education Policy Council
2 Representative(s) McKeel offered the following:

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

5 Between lines 26 and 27, insert:

6 Section 2. Subsection (5) is added to section 1004.26,
7 Florida Statutes, to read:

8 1004.26 University student governments.--

9 (5) There shall be no cause of action against a state
10 university for the actions or decisions of the student
11 government of that state university unless the action or
12 decision is made final by the state university and constitutes a
13 violation of state or federal law.

14
15
16
17 -----
18 **T I T L E A M E N D M E N T**

19 Remove lines 2-8 and insert:

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 723 (2010)

Amendment No. 1

20 | An act relating to postsecondary education; amending s.
21 | 1009.26, F.S.; authorizing state universities and community
22 | colleges to waive tuition and fees for certain public
23 | school classroom teachers for undergraduate courses
24 | approved by the Department of Education; requiring State
25 | Board of Education rulemaking; amending s. 1004.26, F.S.;
26 | prohibiting a cause of action against a state university
27 | for the actions or decisions of a state university student
28 | government; providing an effective date.

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Education Policy Council
2 Representative(s) Sachs offered the following:

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

5 Between lines 26 and 27, insert:

6 Section 2. Section 501.0117, Florida Statutes, is amended
7 to read:

8 501.0117 Credit cards; transactions in which seller or
9 lessor prohibited from imposing surcharge; penalty.—

10 (1) A seller or lessor in a sales or lease transaction may
11 not impose a surcharge on the buyer or lessee for electing to
12 use a credit card in lieu of payment by cash, check, or similar
13 means, if the seller or lessor accepts payment by credit card. A
14 surcharge is any additional amount imposed at the time of a sale
15 or lease transaction by the seller or lessor that increases the
16 charge to the buyer or lessee for the privilege of using a
17 credit card to make payment. Charges imposed pursuant to
18 approved state or federal tariffs are not considered to be a
19 surcharge, and charges made under such tariffs are exempt from

Amendment No. 2

20 | this section. A convenience fee imposed upon a student or family
21 | paying tuition, fees, and other student account charges by
22 | credit card to a William L. Boyd, IV, Florida Resident Access
23 | Grant eligible institution as defined in s. 1009.89 is not
24 | considered to be a surcharge and is exempt from this section
25 | provided the amount of the convenience fee does not exceed the
26 | total cost charged by the credit card company to the
27 | institution. The term "credit card" includes those cards for
28 | which unpaid balances are payable on demand. This section does
29 | not apply to the offering of a discount for the purpose of
30 | inducing payment by cash, check, or other means not involving
31 | the use of a credit card, if the discount is offered to all
32 | prospective customers.

33 | (2) A person who violates the provisions of subsection (1)
34 | is guilty of a misdemeanor of the second degree, punishable as
35 | provided in s. 775.082 or s. 775.083.

36 |
37 |
38 | -----
39 | **T I T L E A M E N D M E N T**

40 | Remove line 7 and insert:

41 | State Board of Education rulemaking; amending s. 501.0117, F.S.;
42 | providing that certain convenience fees are not considered to be
43 | a surcharge; providing a penalty; providing an

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1061 Suicide Prevention Education
SPONSOR(S): PreK-12 Appropriations Committee; PreK-12 Policy Committee; Heller and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 434

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	12 Y, 0 N, As CS	Duncan	Ahearn
2)	PreK-12 Appropriations Committee	8 Y, 0 N, As CS	Seifert	Heflin
3)	Education Policy Council		White ^{TW}	Lowell
4)				
5)				

SUMMARY ANALYSIS

The Committee Substitute for Committee Substitute for HB 1061:

- Revises the membership of the Suicide Prevention Coordinating Council by replacing the member who represents: (a) the Alzheimer’s Association with a representative of the American Foundation for Suicide Prevention; and (b) Volunteer Florida with a representative of the National Council for Suicide Prevention.
- Amends district school board duties relating to student discipline and school safety to require that each board, beginning with the 2010-2011 school year, provide access to suicide prevention educational resources to all instructional and administrative personnel as part of the board’s professional development system. District school boards must use resources approved by the Statewide Office of Suicide Prevention.

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

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

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Florida Suicide Prevention Strategy

In 2008, suicide was the third leading cause of death for Florida's youth ages 15-24.¹ One of the state's long-term goals is to decrease the incidence of teen suicide in Florida by one-third, from approximately 9.5 per 100,000 in 2001 to approximately 6.3 per 100,000 by the end of 2010.²

Florida's strategy for suicide prevention includes school interventions. Schools in partnership with families and communities are in a unique position to identify youth at risk of suicide. Prevention, education, intervention and follow-up are keys to reducing the number of young people who take their own lives.³ Schools offer both the opportunity for recognition of suicide ideation⁴ and a process for response. At school, students have the greatest exposure to potential responders such as teachers, counselors, coaches, staff, and classmates.⁵

Suicide Prevention Coordinating Council

The Suicide Prevention Coordinating Council within the Statewide Office for Suicide Prevention is responsible for developing strategies to prevent suicide.⁶ The duties of the 14 member council include:

- Advising the Statewide Office for Suicide Prevention on the development of a statewide plan for suicide prevention.
- Assembling an ad hoc advisory committee comprised of members from outside the council to provide the council with advice and assistance in carrying out its responsibilities.
- Making findings and providing recommendations regarding suicide prevention programs and activities.

¹ Florida Suicide Prevention Coalition. See http://www.floridasuicideprevention.org/the_facts.htm.

² *Florida Suicide Prevention Strategy, 2005-2010*, Office of Drug Control, Statewide Office of Suicide Prevention, Executive Office of the Governor, January 2005 at p. I. See <http://www.flgov.com/pdfs/SP-FlaSuicidePreventionStrategy.pdf>.

³ *Id.* at p. 4-11.

⁴ Suicide ideation is the process of fantasizing, planning, practicing, and motivating oneself to commit suicide. *Id.* at pp. 2-3 and 2-16.

⁵ *Florida Suicide Prevention Strategy, 2005-2010*, Office of Drug Control, Statewide Office of Suicide Prevention, Executive Office of the Governor, January 2005 at p. 4-11. See <http://www.flgov.com/pdfs/SP-FlaSuicidePreventionStrategy.pdf>.

⁶ s. 14.20195, F.S.

School Community Professional Development Act

The School Community Professional Development Act (Act) directs the Department of Education (DOE), public postsecondary educational institutions, public school districts, public schools, and professional organizations to establish a coordinated system of professional development.⁷ Each school district is required to develop a professional development system which must include inservice activities for instructional personnel focused on:

- Analysis of student achievement data.
- Ongoing formal and informal assessments of student achievement.
- Identification and use of instructional strategies that emphasize rigor, relevance, and reading in the content areas.
- Enhancement of subject content expertise.
- Integrated use of classroom technology that enhances teaching and learning.
- Classroom management, parent involvement, and school safety.⁸

The school district's professional development system must include a master plan for inservice activities for all district employees pursuant to the rules of the State Board of Education. The district school board must update and approve the plan annually to be in compliance with the Act. The district school board must submit the verification of its approval to the Commissioner of Education annually.⁹ The DOE is required to approve a school district's development system, but does not approve or recommend specific inservice programs or courses to satisfy local inservice needs. Each school district and developmental research school has staff development directors who supervise and direct district inservice activities for instructional and non-instructional personnel.¹⁰

School Safety

District school boards are required to provide for the proper accounting of students, the attendance and control of students at school, and for proper attention to health, safety, and other matters relating to the welfare of students.¹¹ District school boards are required to adopt rules for the control and discipline of students; adopt codes of student conduct for elementary, middle and high schools; implement a student crime watch program; formulate and prescribe policies and procedures for emergency drills and actual emergencies; provide educational services in detention facilities; and use safety and security best practices.¹²

Effect of Proposed Changes

The bill revises the membership of the Suicide Prevention Coordinating Council by replacing the member who represents: (a) the Alzheimer's Association with a representative of the American Foundation for Suicide Prevention; and (b) Volunteer Florida with a representative of the National Council for Suicide Prevention.

The bill amends district school board duties relating to student discipline and school safety to require each board, beginning with the 2010-2011 school year, to provide access to suicide prevention educational resources to all instructional and administrative personnel as part of the school district's professional development system. District school boards must use resources approved by the Statewide Office of Suicide Prevention.¹³

⁷ s. 1012.98(1), F.S.

⁸ s. 1012.98(4)(b)3., F.S., and Rule 6A-5.071, F.A.C.

⁹ s. 1012.98(4)(b)4., F.S., and Rule 6A-5.071, F.A.C.

¹⁰ s. 1012.98(4)(b)1., F.S. See <http://www.fldoe.org/profdev/inserv.asp>.

¹¹ s. 1006.07, F.S.

¹² s. 1006.07(1) - (6), F.S.

¹³ The Statewide Office of Suicide Prevention is located within the Executive Office of the Governor.

B. SECTION DIRECTORY:

Section 1: Revises s. 14.20195, F.S., relating to the Suicide Prevention Coordinating Council.

Section 2: Amends s. 1006.07, F.S., relating to district school board duties for student discipline and school safety.

Section 3: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2010, the PreK-12 Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The difference between the CS and the House Bill is as follows:

The CS clarifies that the suicide prevention educational resources, as approved by the Office of Suicide Prevention, will be provided to all instructional and administrative personnel *as part of the school district's professional development system.*

On March 26, 2010, the PreK-12 Appropriations Committee adopted one amendment and reported the bill favorably as a CS. The CS/CS for HB 1061 adds the amendment to s. 14.20195, F.S., which revises the membership of the Suicide Prevention Coordinating Council.

This analysis is drafted to CS/CS for HB 1061.

1 A bill to be entitled
 2 An act relating to suicide prevention; amending s.
 3 14.20195, F.S.; revising the membership of the Suicide
 4 Prevention Coordinating Council; amending s. 1006.07,
 5 F.S.; requiring that district school boards provide access
 6 to suicide prevention educational resources to all
 7 instructional and administrative personnel as part of the
 8 school district professional development system; providing
 9 an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:
 12

13 Section 1. Paragraph (a) of subsection (2) of section
 14 14.20195, Florida Statutes, is amended to read:

15 14.20195 Suicide Prevention Coordinating Council;
 16 creation; membership; duties.—There is created within the
 17 Statewide Office for Suicide Prevention a Suicide Prevention
 18 Coordinating Council. The council shall develop strategies for
 19 preventing suicide.

20 (2) MEMBERSHIP.—The Suicide Prevention Coordinating
 21 Council shall consist of 28 voting members.

22 (a) Fourteen members shall be appointed by the director of
 23 the Office of Drug Control and shall represent the following
 24 organizations:

- 25 1. The Substance Abuse and Mental Health Corporation
- 26 described in s. 394.655.
- 27 2. The Florida Association of School Psychologists.
- 28 3. The Florida Sheriffs Association.

- 29 4. The Suicide Prevention Action Network USA.
- 30 5. The Florida Initiative of Suicide Prevention.
- 31 6. The Florida Suicide Prevention Coalition.
- 32 7. The American Foundation for Suicide Prevention
- 33 ~~Alzheimer's Association.~~
- 34 8. The Florida School Board Association.
- 35 9. The National Council for Suicide Prevention ~~Volunteer~~
- 36 ~~Florida.~~
- 37 10. The state chapter of AARP.
- 38 11. The Florida Alcohol and Drug Abuse Association.
- 39 12. The Florida Council for Community Mental Health.
- 40 13. The Florida Counseling Association.
- 41 14. NAMI Florida.

42 Section 2. Subsection (7) is added to section 1006.07,
 43 Florida Statutes, to read:

44 1006.07 District school board duties relating to student
 45 discipline and school safety.—The district school board shall
 46 provide for the proper accounting for all students, for the
 47 attendance and control of students at school, and for proper
 48 attention to health, safety, and other matters relating to the
 49 welfare of students, including:

50 (7) SUICIDE PREVENTION EDUCATION.—Beginning with the 2010-
 51 2011 school year, provide access to suicide prevention
 52 educational resources, as approved by the Statewide Office of
 53 Suicide Prevention, to all instructional and administrative
 54 personnel as part of the school district professional
 55 development system under s. 1012.98.

56 Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1085 Career and Education Planning
SPONSOR(S): PreK-12 Policy Committee, Bullard
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	12 Y, 0 N, As CS	Paulson	Ahearn
2)	Education Policy Council		White ^W	Lowell ^P
3)				
4)				
5)				

SUMMARY ANALYSIS

To be promoted from a school that contains grades 6, 7, and 8, a student must successfully complete three middle school or higher courses in English, three middle school or higher courses in mathematics, three middle school or higher courses in social studies, three middle school or higher courses in science, and one course in career and education planning to be completed in grades 7 or 8.

The career and education planning course may be taught by any member of the instructional staff. The course incorporates an educational planning component that uses an online student advising system known as Florida Academic Counseling and Tracking for Students (FACTS.org). The course also includes career exploration using CHOICES or a comparable program, but current law does not require exploration of any specific career fields. Each student completes a personalized academic and career plan by the end of the course.

The Committee Substitute for House Bill 1085 specifies that the course in career and education planning must include career exploration in the fields of science, technology, engineering, mathematics, agriculture, business management and administration, retail and wholesale, construction, education, the arts, hospitality, advanced manufacturing, automotive services, biotechnology, cosmetology, aerospace, energy and power, transportation, homeland security, information technology, healthcare, and service industries.

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

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

To be promoted from a school that contains grades 6, 7, and 8, a student must successfully complete three middle school or higher courses in English, three middle school or higher courses in mathematics, three middle school or higher courses in social studies, three middle school or higher courses in science, and one course in career and education planning to be completed in grades 7 or 8.¹

The career and education planning course may be taught by any member of the instructional staff. The course incorporates an educational planning component that uses an online student advising system known as Florida Academic Counseling and Tracking for Students (FACTS.org). The course also includes career exploration using CHOICES or a comparable program, but current law does not require exploration of any specific career fields. Each student completes a personalized academic and career plan by the end of the course.²

The Department of Education (DOE) recommends using the CHOICES Explorer and Career Futures programs for the career exploration component of the course. School districts may purchase the CHOICES Explorer and Career Futures from the DOE.³

CHOICES Explorer is an online education and career exploration system that provides extensive libraries of education, career, and recreation articles. The site provides career profiles, post-secondary program descriptions, career videos, and other career exploration resources. Students can research individual academic subjects or take the Career Finder or Major Finder assessments to determine

¹ s. 1003.4156(1)(a), F.S.

² s. 1003.4156(1)(a)5., F.S.

³ Florida Department of Education, *Middle School Reform - Frequently Asked Questions*, http://www.fldoe.org/APlusPlus/FAQ_MS.asp (last visited March 11, 2010).

which academic, career, and majors interest them. Students can also combine their assessment results and career goals with the personalized education plan in FACTS.org.⁴

Career Futures is career exploration and planning software available on CD-ROM that provides students with access to information on more than 650 occupations. It is designed to develop a student's self-awareness and career exploration skills. Career Futures employs hands-on activities that demonstrate how interests, education, earnings, and skills relate to the workplace.⁵

Effect of Proposed Changes

The Committee Substitute for House Bill 1085 specifies that the course in career and education planning must include career exploration in the fields of science, technology, engineering, mathematics, agriculture, business management and administration, retail and wholesale, construction, education, the arts, hospitality, advanced manufacturing, automotive services, biotechnology, cosmetology, aerospace, energy and power, transportation, homeland security, information technology, healthcare, and service industries.

By requiring career exploration in these specific fields, the bill will provide students with broader exposure to a wide range of career possibilities.

B. SECTION DIRECTORY:

Section 1: Amends s. 1003.4156, F.S., relating to general requirements for middle grades promotion.

Section 2: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

⁴ *Id.*

⁵ *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to career and education planning; amending
 3 s. 1003.4156, F.S.; requiring career exploration in
 4 specified fields to be included in a career and education
 5 planning course required for middle grades promotion;
 6 providing an effective date.

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

9
 10 Section 1. Paragraph (a) of subsection (1) of section
 11 1003.4156, Florida Statutes, is amended to read:

12 1003.4156 General requirements for middle grades
 13 promotion.—

14 (1) Beginning with students entering grade 6 in the 2006-
 15 2007 school year, promotion from a school composed of middle
 16 grades 6, 7, and 8 requires that:

17 (a) The student must successfully complete academic
 18 courses as follows:

19 1. Three middle school or higher courses in English. These
 20 courses shall emphasize literature, composition, and technical
 21 text.

22 2. Three middle school or higher courses in mathematics.
 23 Each middle school must offer at least one high school level
 24 mathematics course for which students may earn high school
 25 credit.

26 3. Three middle school or higher courses in social
 27 studies, one semester of which must include the study of state
 28 and federal government and civics education.

29 4. Three middle school or higher courses in science.
 30 5. One course in career and education planning to be
 31 completed in 7th or 8th grade. The course may be taught by any
 32 member of the instructional staff; must include career
 33 exploration in the fields of science, technology, engineering,
 34 mathematics, agriculture, business management and
 35 administration, retail and wholesale, construction, education,
 36 the arts, hospitality, advanced manufacturing, automotive
 37 services, biotechnology, cosmetology, aerospace, energy and
 38 power, transportation, homeland security, information
 39 technology, healthcare, and service industries using CHOICES for
 40 the 21st Century or a comparable cost-effective program; must
 41 include educational planning using the online student advising
 42 system known as Florida Academic Counseling and Tracking for
 43 Students at the Internet website FACTS.org; and shall result in
 44 the completion of a personalized academic and career plan.

45
 46 Each school must hold a parent meeting either in the evening or
 47 on a weekend to inform parents about the course curriculum and
 48 activities. Each student shall complete an electronic personal
 49 education plan that must be signed by the student; the student's
 50 instructor, guidance counselor, or academic advisor; and the
 51 student's parent. By January 1, 2007, the Department of
 52 Education shall develop course frameworks and professional
 53 development materials for the career exploration and education
 54 planning course. The course may be implemented as a stand-alone
 55 course or integrated into another course or courses. The
 56 Commissioner of Education shall collect longitudinal high school

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57 | course enrollment data by student ethnicity in order to analyze
58 | course-taking patterns.

59 | Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/CS/HB 1569 Charter Schools
SPONSOR(S): Education Policy Council
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Education Policy Council		White	Lowell
1)	PreK-12 Policy Committee	12 Y, 0 N, As CS	Beagle	Ahearn
2)	PreK-12 Appropriations Committee	8 Y, 0 N, As CS	Seifert	Heflin
3)	Education Policy Council		White ^{TW}	Lowell ^Q
4)				
5)				

SUMMARY ANALYSIS

The proposed council substitute (bill) revises statutory provisions related to charter school. Specifically, the bill:

- Removes provisions requiring specified personnel to participate in charter school applicant training.
- Clarifies that eligibility for a 15-year initial or renewal charter is not limited to charter schools that need long-term financing for charter school construction.
- Creates a "high-performing charter school" designation for a charter school that has received a school grade of "A" or "B" and has met specified financial benchmarks during the previous three years. Such a school may increase student enrollment once per year up to 25 percent above the maximum specified in its charter and receive capital outlay funds in the first year it receives the designation.
- Creates a "high-performing education service provider" designation for entities that: operate at least two high-performing charter schools; have received a school grade of "A" or "B" during the previous three years for at least 75 percent of the charter schools operated by the entity; and have not received a school grade of "F" during the previous three years for any school it operates. Such a provider may apply to establish a new charter school that will replicate one or more of its high-performing charter schools. If the application is approved, the new charter school must be granted a 15-year initial charter and designated as a high-performing charter school.
- Provides that a charter school governing board may oversee multiple charter schools in multiple districts.
- Requires a governing board to submit quarterly, rather than monthly, financial statements to the sponsor.
- Clarifies that charter schools-in-the-workplace and charter schools-in-a-municipality may give an enrollment preference to certain students.
- Prohibits school districts from requiring the resignation of instructional personnel, school administrators, and educational support personnel who desire employment in a charter school.
- Provides that a nonprofit organization may operate an affiliated network of charter schools across the state and that the network may be operated by a central governing board.
- Revises the requirements for establishing a charter school-in-the-workplace and clarifies that such schools may receive charter school capital outlay funding.
- Exempts charter schools from local government exactions and prohibits local governments from imposing building or site requirements more stringent than the State Requirements for Educational Facilities.
- Revises provisions requiring certain charter schools to report student assessment data and relaxes restrictions on the employment of relatives by charter schools.
- Adds furniture, equipment, and computer hardware, software, and network systems as allowable expenditures of charter school capital outlay funding.
- Requires the Office of Program Policy Analysis and Government Accountability to conduct a study comparing the funding of charter schools with traditional public schools.

The bill does not appear to have a fiscal impact on state government, but the bill will reduce the amount of revenue local governments receive from exactions. See "Fiscal Analysis & Economic Impact Statement."

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter Schools Overview

In 1996, the Legislature enacted Florida's first charter school law.¹ A charter school is a nonsectarian, public school that operates under a performance contract, referred to as a "charter," with its sponsor. The charter frees the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods, while holding the school accountable for academic and financial results.² A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.³ Each charter school is administered by a governing board.⁴

Charter schools are subject to the same academic performance accountability requirements applicable to traditional public schools; i.e., charter school students must take the Florida Comprehensive Assessment Test (FCAT) and charter schools are graded annually.⁵

Since 1996, the number of charter schools in Florida has grown from five to 410 as of December 2010. These schools currently serve 137,073 students across the state.⁶

Application Process and Review

Present Situation

Charter school applicants must participate in training provided by the Department of Education (DOE) or, under specified circumstances, by the sponsor before filing an application. If the applicant is a management company or other nonprofit organization, the charter school principal and chief financial officer must participate in the training. The training must include instruction in accurate financial planning and good business practices.⁷

¹ Chapter 96-186, L.O.F., *initially codified* as § 228.056, F.S., *redesignated in 2002* as § 1002.33, F.S.

² Section 1002.33(1), (2), (7), (9), (16), & (17), F.S.

³ Section 1002.33(5)(a), F.S.

⁴ Section 1002.33(9)(h)-(j), F.S.

⁵ Section 1002.33(7)(a)4. & (9)(k)1., F.S.

⁶ E-mail from staff of the Florida Department of Education, Office of Independent Education and Parental Choice (March 15, 2010, 6:28 PM EST).

⁷ Section 1002.33(6)(g), F.S.

Effect of Proposed Changes

The bill removes provisions requiring a charter school's principal and chief financial officer to participate in charter school applicant training as these positions are typically not filled until after the charter school application has been filed and approved.

Long-Term Charter

Present Situation

The initial term of a charter must be four or five years; however, if approved by the district school board, a charter school may be granted an initial charter for a term of up to 15 years. Such long-term charters are subject to annual review and may be terminated during the term for reasons currently specified in statute.⁸

Current law also provides opportunities for charter schools that demonstrate strong academic performance and fiscal stability to be granted a long-term charter renewal. A sponsor:

1. **May** grant a 15-year charter renewal to a charter school: (a) that has operated for at least three years; (b) that demonstrates exemplary academic programming and fiscal management; and (c) for which none of the grounds for nonrenewal have been documented.⁹ Such a long-term charter is subject to annual review and may be terminated during its term.¹⁰
2. **Must** grant a 15-year charter renewal to a charter school that meets the requirements expressed in Number 1., receives a school grade of "A" or "B" in three out of four years, and is not in a state of financial emergency or deficit position.¹¹ If granted, a long-term charter is subject to annual review and may be terminated during the term for reasons currently specified in statute.¹²

Statutory provisions governing the granting of long-term initial charters and charter renewals suggest that the purpose of such charters is to facilitate access to long-term financial resources for charter school construction.¹³ According to the DOE, this provision has been misinterpreted by some school districts to limit the granting of long-term initial charters and charter renewals only to charter schools that need long-term financing.¹⁴

Effect of Proposed Changes

The bill deletes statutory provisions suggesting that the purpose of long-term initial charters and charter renewals is to facilitate access to long-term financial resources for charter school construction.

Charter School Governing Boards

Present Situation

Each charter school must have a governing board that is responsible for exercising continuing oversight over the school's operations. A governing board performs various functions, including annual budgeting and financial matters, monthly financial reporting, personnel matters, contracting for instructional and

⁸ Section 1002.33(7)(a)12., F.S. A charter may be terminated or not renewed for: failure to participate in the state's education accountability system or failure to meet the charter's requirements for student performance; failure to meet generally accepted standards of fiscal management; violation of law; or other good cause shown. Section 1002.33(8)(a), F.S.

⁹ Section 1002.33(7)(b)1., F.S.

¹⁰ Section 1002.33(7)(b)1., F.S.

¹¹ Section 1002.33(7)(b)2., F.S..

¹² *Id.*

¹³ Section 1002.33(7)(a)12. & (b), F.S.

¹⁴ Email from staff of the Florida Department of Education, Office of Independent Education and Parental Choice (Mar. 30, 2010, 6:20 PM EST).

administrative services, and submitting the school's annual progress report to the sponsor.¹⁵ In addition, a governing board must ensure that the charter school has retained the services of a certified public accountant or auditor for its annual financial audit and must review and approve audit reports.¹⁶ Current law is silent as to whether a governing board may oversee more than one charter school.

Effect of Proposed Changes

The bill expressly authorizes a charter school governing board to oversee more than one charter school in more than one school district. In addition, the bill authorizes a nonprofit organization to operate multiple charter schools across the state, which have been approved by a sponsor under s. 1002.33, F.S., as a network of affiliated schools that may share a common mission, identity, curricula, and best practices. A charter school network may be operated by a central governing board that governs all of the charter schools or by a central governing board and local governing boards appointed by the central governing board.

High-Performing Charter Schools

Present Situation

Florida law does not currently include a program for designating charter schools as "high-performing charter schools" based on academic performance and financial stability. However, academic performance and financial stability are factors in awarding charter school capital outlay funding and 15-year charter renewal.¹⁷ The student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.¹⁸

Effect of Proposed Changes

The bill establishes a "high-performing charter school" designation for a charter school that during each of the three previous years:

- Has received a school grade of "A" or "B";
- Has received an unqualified opinion on each financial audit required under s. 218.39; and
- Did not receive an annual financial audit that reveals a financial emergency condition.¹⁹

In order to retain the high-performing designation, the charter school must annually demonstrate in writing to its sponsor that it continues to meet these requirements.

A high-performing charter school may:

- Increase the school's enrollment once per year by up to 25 percent of the maximum enrollment specified in the charter; and
- Receive charter school capital outlay funds beginning with the first year it receives a high-performing designation.²⁰

¹⁵ Section 1002.33(9)(h),(i), and (k), (10)(g), (12)(f), & (20), F.S.

¹⁶ Section 1002.33(9)(j), F.S.

¹⁷ See text accompanying notes 9-12 and 44.

¹⁸ Section 1002.33(10)(h), F.S.

¹⁹ See *supra* note 24.

²⁰ Under current law in order to receive charter school capital outlay funding, a charter school, among other things, must have been in operation for at least three years; be governed by a governing board established in the state for three or more years which operates both charter schools and conversion charter schools; be part of an expanded feeder chain with an existing charter school in the district; or be accredited by the Southern Association of Colleges and Schools. Additionally, the charter school must demonstrate financial stability and demonstrate satisfactory student performance. Section 1013.62(1)(a)1.-3., F.S. Under the bill, a high-performing charter school is not required to satisfy these criteria because the criteria for the high-performing charter school designation establish that the charter school has a track record of successful operations, strong academic performance, and fiscal stability.

The bill also establishes a “high-performing education service provider” designation. Such a provider is a municipality or other public entity that is authorized by law to operate a charter school; a private, not-for-profit, s. 501(c)(3) status corporation; or a private, for-profit corporation that:

- Operates at least two high-performing charter schools in Florida;
- Has received a school grade of “A” or “B” during the previous three years for at least 75 percent of the charter schools operated by the provider in Florida; and
- Has not received a school grade of “F” during the previous three years for any charter school operated by the provider in Florida.

A high-performing service provider may submit an application to establish and operate a new charter school that will replicate one or more of the provider’s existing high-performing charter schools. Upon approval of the application, the newly created charter school must be designated as a high-performing charter school and issued a 15-year charter. The 15-year charter is subject to annual review and may be terminated for reasons currently specified in statute.²¹

In the first three years of operation, a charter school established by a high-performing education service provider may retain the high-performing charter school designation for as long as the provider operating the school maintains its status as a high-performing education service provider. Thereafter, the charter school must annually demonstrate in writing to its sponsor that meets the requirements applicable to other high-performing charter schools.

Financial Monitoring

Present Situation

Legislation enacted in 2009 requires each charter school to provide a monthly financial statement to its sponsor.²² Monthly financial statements enable sponsors to closely monitor the financial health of sponsored charter schools. If a monthly financial statement indicates a deteriorating financial condition²³ or financial emergency condition,²⁴ the sponsor and governing board must develop a corrective action plan.²⁵

Effect of Proposed Changes

The bill requires a charter school to provide a quarterly, instead of monthly, financial statement to the sponsor. If an annual financial audit or quarterly financial statement reveals a deteriorating financial condition or the charter school is determined to be in a state of financial emergency, such school must provide monthly financial statements.

Student Enrollment Eligibility

Present Situation

Florida law authorizes all charter schools to give an enrollment preference to the siblings of current charter school students, children of a member of the charter school governing board, or children of charter school employees.²⁶ A charter school-in-the-workplace must enroll students based on a random

²¹ See *supra* note 10.

²² Section 7, ch. 2009-214, L.O.F.; § 1002.33(10)(g), F.S.

²³ “Deteriorating financial condition” means a circumstance that significantly impairs the ability of a charter school or a charter technical career center to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1).” Section 1002.345(1)(a)3., F.S.

²⁴ A financial emergency condition includes: failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay, wages, salaries, and retirement benefits owed; a fund balance or total net assets deficit. Section 218.503(1), F.S.

²⁵ Section 1002.345(1)(a) & (c), F.S.

²⁶ Section 1002.33(10)(d), F.S.

lottery that involves all children seeking enrollment whose parents are employed by the business partner associated with the school. Similarly, a charter school-in-a-municipality must enroll students based on a random lottery that involves all children seeking enrollment whose parents are residents of the municipality that operates the school.²⁷ Current law authorizes a charter school-in-the-workplace and a charter school-in-a-municipality to limit enrollment to children of employees and children of residents, respectively.²⁸ However, the law does not expressly state that a charter school-in-the-workplace or charter school-in-a-municipality may grant an *enrollment preference* to these students.²⁹

Effect of Proposed Changes

The bill clarifies that a charter school-in-the-workplace may give an enrollment preference to children whose parents are employed by the business partner associated with the school. Likewise, the bill clarifies that a charter school-in-a-municipality may give an enrollment preference to children whose parents are residents of the municipality.

Charter School Employees

Present Situation

Under current law, a school district employee may take leave to work in a charter school if approved by the district school board. School districts are prohibited from requiring the resignation of a teacher who expresses a desire to teach in a charter school.³⁰

Effect of Proposed Changes

The bill prohibits a school district from requiring the resignation of instructional personnel, school administrators, and educational support employees who desire employment in a charter school. Currently, this prohibition applies only to teachers.

Charter Schools-in-the-Workplace

Present Situation

Charter schools-in-the-workplace are sponsored by local school districts in partnership with a company or business. In order to establish a charter school-in-the-workplace, the business partner must, among other things, provide the school facility to be used.³¹ Any portion of a facility used for a public charter school is exempt from ad valorem taxes as long as it is used as a public school.³²

Effect of Proposed Changes

The bill revises the requirement that a business partner provide the school facility for a charter school-in-the-workplace to instead allow the business partner to provide one of the following

- Access to a school facility to be used;
- Resources that materially reduce the cost of constructing a school facility;
- Land for a school facility; or
- Resources to maintain a school facility.

The bill also clarifies that a charter school-in-the workplace may receive capital outlay funding, provided that the school complies with the statutory requirements for the receipt of such funding.

²⁷ Section 1002.33(15)(b) & (c), F.S.

²⁸ Section 1002.33(10)(e)3., F.S.

²⁹ E-mail from staff of the Florida Department of Education, Office of Independent Education and Parental Choice (March 30, 2010, 6:20 PM EST). The DOE has interpreted the charter school statute to permit these charter schools to grant enrollment preferences. *Id.*

³⁰ Section 1002.33(12)(e), F.S.

³¹ Section 1002.33(15)(b), F.S.

³² Section 1002.33(15)(b), F.S. (flush-left provisions at end of paragraph).

Charter School Facilities

Present Situation

Charter schools are exempt from compliance with the State Requirements for Educational Facilities (SREF), but must comply with the Florida Building Code and Florida Fire Prevention Code. A charter school may voluntarily choose to comply with the SREF.³³

A local governing authority may not impose local building requirements or restrictions on charter school facilities that are more stringent than the Florida Building Code. For purposes of inspecting a facility and issuing of a certificate of occupancy, the agency with jurisdiction is the local municipality or, if in an unincorporated area, the county governing authority.³⁴

Impact fees and exactions are used by local governments to control development and offset its impact on local infrastructure and services. Unless superseded by constitutional or statutory provisions, local governments have broad authority to impose impact fees or exactions on development.³⁵ Charter schools are statutorily exempted from impact fees, but are not currently exempt from exactions imposed by local governments.³⁶

Effect of Proposed Changes

The bill clarifies that a charter school may choose to comply with *any or all* components of the SREF. Current law prohibits a local governing authority from imposing local building requirements or restrictions on charter schools that are more stringent than the Florida Building Code. Instead, the bill revises this provision to prohibit such authorities from imposing local building requirements or *site development* restrictions, *such as parking and site-size criteria*, that are more stringent than the SREF. The bill adds that, for the purpose of issuing a *certificate of use*, the agency with jurisdiction is the local municipality or county governing authority. The bill expressly exempts charter school facilities from exactions imposed by local governments.

Resolution of Contractual Disputes

Present Situation

Goods and services that a school district provides to a charter school pursuant to the charter must be provided at a rate no greater than the district's actual cost. The school district may charge more for goods and services provided pursuant to a contract negotiated separately from the charter. When mediation has failed to resolve contractual disputes over matters negotiated separately from the charter, an appeal may be made for a dispute resolution hearing before the Charter School Appeal Commission (CSAC).³⁷

Effect of Proposed Changes

The bill deletes provisions authorizing a charter school to request a dispute resolution hearing before the CSAC regarding contractual disputes over matters negotiated separately from the charter. This provision is deleted because the CSAC has no authority to issue a binding order to resolve such contractual disputes. Under current law, the CSAC is an advisory body that considers appeals of

³³ Section 1002.33(18)(a) & (b), F.S. A conversion charter school is an existing public school that converts to charter status. Such schools are not exempt from compliance with the SREF. Section 1002.33(3)(b) & (18)(a), F.S.

³⁴ *Id.*

³⁵ Fla. Const. art. VIII §§ 1(f)-(g) & 2(b); § 125.01(1) & (3), F.S.; § 166.021(1)-(4), F.S.; *Hollywood, Inc. v. Broward County, Florida*, 431 So. 2d 606, 609-610 (4th D.C.A.) (Holding that Florida counties have implicit authority to impose impact fees or exactions on development so long as such fee or exaction is: (1) not inconsistent with general law; and (2) rationally related to the need for additional infrastructure or services caused by the development).

³⁶ Section 1002.33(18)(d), F.S.

³⁷ Section 1002.33(20)(b), F.S.

charter school application denials and charter terminations or nonrenewals and recommends action to the State Board of Education.³⁸

Public Information on Charter Schools

Present Situation

Legislation enacted in 2009 requires the DOE to report student assessment data to charter schools that do not receive a school grade or a school improvement rating, but which serve at least 10 students who are tested on the FCAT. A charter school is then required to report such information to the parent of a student attending the charter school, the parent of a child on the charter school's waiting list, the district in which the charter school is located, and the governing board of the charter school.³⁹ Each charter school must provide such information on its internet website and also provide notice to the public at large.⁴⁰ Reporting of data must comply with federal law governing education records privacy.⁴¹

Effect of Proposed Changes

The bill removes the requirement that specified smaller charter schools, which do not receive a school grade or school improvement rating, report student assessment data to the parents of students who attend the school or who are on the school's waiting list. Such charter schools must continue to report this information to the school district in which the charter school is located and governing board of the charter school and on its Internet website.

Restriction of Employment of Relatives

Present Situation

Legislation enacted in 2009 prohibits personnel in a charter school operated by a private entity from appointing, employing, promoting, or advancing, or advocating for the appointment, employment, promotion, or advancement of a relative in the school in which the personnel works or exercises jurisdiction or control. Further, the law prohibits an individual from being appointed, employed, promoted, or advanced in or to a position in the charter school if such action has been advocated by the individual's relative who serves in or exercises jurisdiction or control over the charter school, or if such appointment, employment, promotion, or advancement is made by the governing board of which a relative of the individual is a member.⁴²

Effect of Proposed Changes

The bill relaxes the restrictions on employment of relatives by prohibiting charter school personnel from *knowingly* recommending or engaging in the employment, promotion, or assignment of an individual or employee to a work location if that action will create a situation in which one employee will be responsible for the direct supervision of, or exercise jurisdiction or control over, a relative. The bill provides that the Commissioner of Education or the sponsor may make exceptions to this provision if it would cause undue hardship on students or seriously disrupt a charter school's operations.

Charter School Capital Outlay Funding

Present Situation

To be eligible for charter school capital outlay funding, a charter school must:

- Have been in operation for at least 3 years; be governed by a governing board established in

³⁸ Section 1002.33(6)(f), F.S.

³⁹ Section 7, ch. 2009-214, L.O.F.; § 1002.33(21)(b)1. & 2., F.S.

⁴⁰ Section 1002.33(21)(b)3.b., F.S.

⁴¹ Section 1002.33(21)(b)2., F.S.; See 20 U.S.C. § 1232g.

⁴² Section 7, ch. 2009-214, L.O.F.; § 1002.33(24), F.S.

the state for three or more years which operates both charter schools and conversion charter schools; be part of an expanded feeder chain with an existing charter school in the district; or be accredited by the Southern Association of Colleges and Schools;

- Demonstrate financial stability;
- Have satisfactory student performance;
- Have received final approval from its sponsor; and
- Serve students in facilities not provided by the charter school sponsor.⁴³

Capital outlay funds may be used by a charter school for the:

- Purchase of real property.
- Construction of school facilities.
- Purchase, lease-purchase, or lease of permanent or relocatable school facilities.
- Purchase of vehicles to transport students to and from the charter school.
- Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer.
- Purchase, lease-purchase, or lease of new and replacement equipment, and enterprise resource software applications.
- Payment of the cost of premiums for property and casualty insurance necessary to insure the school facilities.
- Purchase, lease-purchase, or lease of driver's education vehicles, motor vehicles used for the maintenance or operation of plants and equipment, security vehicles, or vehicles used in storing or distributing materials and equipment.⁴⁴

Enterprise resource software applications must be "classified as capital assets in accordance with definitions of the Governmental Accounting Standards Board, have a useful life of at least 5 years, and are used to support school-wide administration or state-mandated reporting requirements."⁴⁵

Effect of Proposed Changes

The bill adds the purchase of equipment, furniture, and computer software, hardware, and network systems to the list of allowable uses of charter school capital outlay funding. Equipment is already an allowable use of these funds.

Charter School Funding Study

The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study comparing the funding of charter schools and traditional public schools. The study must:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- Determine the amount of funds that would be available to charter schools if school districts equitably distributed funds generated by millage for capital improvements.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee paid for sponsor-provided administrative and educational services covers the cost of such services.

OPPAGA must make recommendations, if warranted, for improving the accountability and equity of the charter school funding system based on the study. The results of the study must be reported to the Governor and Legislature by January 1, 2011.

⁴³ Section 1013.62(1)(a)1.-5., F.S.

⁴⁴ Section 1013.62(2), F.S.

⁴⁵ Section 1013.62(2)(f), F.S.

Technical Correction

Legislation enacted in 2009 requires governing board members of a charter school operated by a municipality or other public entity to make certain financial disclosures. The legislation cross-referenced the wrong section of law, thereby inadvertently subjecting the board members to the financial disclosure requirements for elected constitutional officers, rather than those for local officers. The bill corrects this cross-reference.

B. SECTION DIRECTORY:

Section 1: Amends s. 1002.33, F.S.; revises charter school applicant training requirements; revises provisions related to 15-year charter renewal; revises provisions related to charter school governing boards; establishes a high-performing charter school designation; revises financial reporting requirements; authorizes an enrollment preference; prohibits school districts from requiring the resignation of certain employees; revises the requirements for establishment of a charter school-in-the-workplace; authorizes charter schools to choose to comply with any or all requirements of the SREF; prohibits local governing authorities from imposing certain requirements or restrictions on charter school facilities; provides for an exemption from certain exactions; revises provisions related to the resolution of contractual disputes; revises a reporting requirement; revises restrictions on the employment of relatives, corrects a cross-reference related to financial disclosures.

Section 2: Amends s. 1013.62, F.S.; authorizes additional uses for charter school capital outlay funds.

Section 3: Amends s. 163.3180, F.S.; conforms cross-references.

Section 4: Amends s. 1002.32, F.S.; conforms cross-references.

Section 5: Amends s. 1002.34, F.S.; conforms cross-references.

Section 6: Amends s. 1002.345, F.S.; conforms to bill provisions related to financial reporting; conforms cross-references.

Section 7: Amends s. 1011.68, F.S.; conforms cross-references.

Section 8: Amends s. 1012.32, F.S.; conforms cross-references.

Section 9: Provides for an OPPAGA study.

Section 10: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments may experience a reduction in revenue resulting from the exemption of charter schools from exactions imposed by local ordinance.

2. Expenditures:

The bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments" below.

D. FISCAL COMMENTS:

The bill may have a positive fiscal impact on new charter schools established by high-performing education service providers as the bill authorizes these new schools to receive capital outlay funding during their first year of operation. Under current law, charter schools must have typically operated for three years before they are eligible for capital outlay funding.

Conversely, the bill may have a negative fiscal impact on charter schools currently receiving capital outlay funding due to the potential that the bill will increase the number of charter schools eligible for the funding. Charter school capital outlay funds are appropriated in a fixed amount annually; thus, the amount available to be disbursed to each eligible school may be reduced.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Fixed Capital Outlay: The bill authorizes charter schools to use capital outlay funding to purchase furniture; equipment; and computer software, hardware, and network systems. Expenditure of capital outlay funds on equipment is already authorized under current law. Current law specifies limited and defined purposes for use of capital outlay funds.⁴⁶

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the PreK-12 Policy Committee adopted a strike-all amendment to HB 1569 and reported the bill favorably as a committee substitute. The strike-all amendment removes provisions from the original bill:

- Authorizing private universities and public entities to sponsor charter lab schools.

⁴⁶ See *supra* text accompanying note 37.
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- Requiring a charter school sponsor to show good cause to the Commissioner of Education before terminating or not renewing a charter school's charter for cause.
- Requiring charter schools to comply with constitutional class size requirements and providing that compliance is to be measured at the school-level.
- Requiring school districts to share discretionary millage for capital improvements with charter schools.

In addition, the strike-all amendment adds provisions requiring OPPAGA to conduct a study comparing the funding of charter schools with traditional public schools. The study must:

- Identify school districts that distribute to charter schools funds generated by millage for capital improvements and the use of such funds by charter schools.
- Determine the amount of funds that would be available to charter schools if school districts equitably distributed funds generated by millage for capital improvements.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee for sponsor-provided administrative and educational services covers the cost of such services.

OPPAGA must make recommendations, if warranted, for improving the accountability and equity of the charter school funding system based on the study. The results of the study must be reported to the Governor and Legislature by January 1, 2011.

On March 26, 2010, the PreK-12 Appropriations Committee adopted four amendments and reported the bill favorably as a committee substitute. These amendments made the following changes to the bill:

- **Amendment 1:**
 - Adds provisions clarifying that a charter school may choose to comply with *any or all* components of the SREF.
 - Adds provisions prohibiting a local governing authority from imposing local building requirements or *site development* restrictions, *such as parking and site-size criteria*, that are more stringent than the SREF.
 - Deletes provisions prohibiting a school district from imposing more stringent facilities requirements than the local governing authority.
- **Amendment 2:**
 - Adds provisions requiring the State Board of Education to adopt rules defining reasons that would constitute "good cause" for nonrenewal or termination of a charter.
- **Amendment 3:**
 - Removes provisions requiring the principal and the chief financial officer of a charter school to participate in charter school applicant training.
- **Amendment 4:**
 - Revises provisions requiring a charter school to submit quarterly, rather than monthly financial statements, by adding a requirement that a charter school must revert back to monthly financial statements if an annual financial audit or quarterly financial statement reveals a deteriorating financial condition.

1 A bill to be entitled
 2 An act relating to charter schools; amending s. 1002.33,
 3 F.S.; removing a requirement that certain individuals
 4 participate in training prior to the filing of a charter
 5 school application; correcting cross-references to high
 6 school graduation requirements; revising provisions
 7 related to charter terms and charter renewals; providing
 8 definitions; providing requirements for designation as a
 9 high-performing charter school; authorizing a high-
 10 performing charter school to increase enrollment and
 11 receive capital outlay funds; authorizing a newly approved
 12 charter school operated by a high-performing education
 13 service provider to receive a 15-year initial charter and
 14 become a high-performing charter school; revising
 15 requirements for providing financial statements to a
 16 sponsor; authorizing a governing board to oversee multiple
 17 charter schools; deleting obsolete provisions; authorizing
 18 preference for enrollment in a charter school-in-the
 19 workplace and a charter school-in-a-municipality for
 20 certain students; prohibiting school districts from
 21 requiring resignations from specified school district
 22 personnel who desire employment in a charter school;
 23 authorizing nonprofit organizations to operate multiple
 24 charter schools as a network of affiliated schools to form
 25 cooperative charter school organizations; revising
 26 requirements for the establishment of a charter school-in-
 27 the-workplace; providing that a charter school-in-the-
 28 workplace is eligible for capital outlay funding if it

29 meets specified requirements; providing that charter
 30 schools shall receive certain federal funding for which
 31 they are eligible; revising provisions relating to charter
 32 school compliance with building codes and requirements;
 33 providing for an exemption from exactions; deleting
 34 provisions authorizing a charter school to appeal disputes
 35 over certain contracted services or contractual matters to
 36 the Charter School Appeal Commission; removing a reporting
 37 requirement relating to student assessment data; revising
 38 restrictions on the employment of relatives by charter
 39 school personnel; providing an exception; correcting a
 40 cross-reference relating to the disclosure of financial
 41 interests; conforming cross-references; amending s.
 42 1013.62, F.S.; authorizing additional uses for charter
 43 school capital outlay funds; conforming cross-references;
 44 amending ss. 163.3180, 1002.32, 1002.34, 1002.345,
 45 1011.68, and 1012.32, F.S.; conforming cross-references
 46 and provisions; requiring the Office of Program Policy
 47 Analysis and Government Accountability to conduct a study
 48 comparing the funding of charter schools with traditional
 49 public schools and examining certain funding and costs;
 50 requiring recommendations to the Governor and Legislature,
 51 if warranted, for improving the accountability and equity
 52 of the funding system for charter schools; providing an
 53 effective date.

54
 55 Be It Enacted by the Legislature of the State of Florida:
 56

57 Section 1. Paragraph (g) of subsection (6) and subsection
 58 (7) of section 1002.33, Florida Statutes, are amended, a new
 59 subsection (8) is added to that section, and present subsections
 60 (8) through (26) are renumbered as subsections (9) through (27),
 61 respectively, and amended, to read:

62 1002.33 Charter schools.—

63 (6) APPLICATION PROCESS AND REVIEW.—Charter school
 64 applications are subject to the following requirements:

65 (g)1. The Department of Education shall offer or arrange
 66 for training and technical assistance to charter school
 67 applicants in developing business plans and estimating costs and
 68 income. This assistance shall address estimating startup costs,
 69 projecting enrollment, and identifying the types and amounts of
 70 state and federal financial assistance the charter school may be
 71 eligible to receive. The department may provide other technical
 72 assistance to an applicant upon written request.

73 2. A charter school applicant must participate in the
 74 training provided by the Department of Education before filing
 75 an application. However, a sponsor may require the charter
 76 school applicant to attend training provided by the sponsor in
 77 lieu of the department's training if the sponsor's training
 78 standards meet or exceed the standards developed by the
 79 Department of Education. The training shall include instruction
 80 in accurate financial planning and good business practices. ~~If~~
 81 ~~the applicant is a management company or other nonprofit~~
 82 ~~organization, the charter school principal and the chief~~
 83 ~~financial officer or his or her equivalent must also participate~~
 84 ~~in the training.~~

85 (7) CHARTER.—The major issues involving the operation of a
 86 charter school shall be considered in advance and written into
 87 the charter. The charter shall be signed by the governing body
 88 of the charter school and the sponsor, following a public
 89 hearing to ensure community input.

90 (a) The charter shall address and criteria for approval of
 91 the charter shall be based on:

92 1. The school's mission, the students to be served, and
 93 the ages and grades to be included.

94 2. The focus of the curriculum, the instructional methods
 95 to be used, any distinctive instructional techniques to be
 96 employed, and identification and acquisition of appropriate
 97 technologies needed to improve educational and administrative
 98 performance which include a means for promoting safe, ethical,
 99 and appropriate uses of technology which comply with legal and
 100 professional standards. The charter shall ensure that reading is
 101 a primary focus of the curriculum and that resources are
 102 provided to identify and provide specialized instruction for
 103 students who are reading below grade level. The curriculum and
 104 instructional strategies for reading must be consistent with the
 105 Sunshine State Standards and grounded in scientifically based
 106 reading research.

107 3. The current incoming baseline standard of student
 108 academic achievement, the outcomes to be achieved, and the
 109 method of measurement that will be used. The criteria listed in
 110 this subparagraph shall include a detailed description of:

111 a. How the baseline student academic achievement levels
 112 and prior rates of academic progress will be established.

113 b. How these baseline rates will be compared to rates of
114 academic progress achieved by these same students while
115 attending the charter school.

116 c. To the extent possible, how these rates of progress
117 will be evaluated and compared with rates of progress of other
118 closely comparable student populations.

119
120 The district school board is required to provide academic
121 student performance data to charter schools for each of their
122 students coming from the district school system, as well as
123 rates of academic progress of comparable student populations in
124 the district school system.

125 4. The methods used to identify the educational strengths
126 and needs of students and how well educational goals and
127 performance standards are met by students attending the charter
128 school. The methods shall provide a means for the charter school
129 to ensure accountability to its constituents by analyzing
130 student performance data and by evaluating the effectiveness and
131 efficiency of its major educational programs. Students in
132 charter schools shall, at a minimum, participate in the
133 statewide assessment program created under s. 1008.22.

134 5. In secondary charter schools, a method for determining
135 that a student has satisfied the requirements for graduation in
136 s. 1003.428, s. 1003.429, or s. 1003.43.

137 6. A method for resolving conflicts between the governing
138 body of the charter school and the sponsor.

139 7. The admissions procedures and dismissal procedures,
140 including the school's code of student conduct.

141 8. The ways by which the school will achieve a
 142 racial/ethnic balance reflective of the community it serves or
 143 within the racial/ethnic range of other public schools in the
 144 same school district.

145 9. The financial and administrative management of the
 146 school, including a reasonable demonstration of the professional
 147 experience or competence of those individuals or organizations
 148 applying to operate the charter school or those hired or
 149 retained to perform such professional services and the
 150 description of clearly delineated responsibilities and the
 151 policies and practices needed to effectively manage the charter
 152 school. A description of internal audit procedures and
 153 establishment of controls to ensure that financial resources are
 154 properly managed must be included. Both public sector and
 155 private sector professional experience shall be equally valid in
 156 such a consideration.

157 10. The asset and liability projections required in the
 158 application which are incorporated into the charter and shall be
 159 compared with information provided in the annual report of the
 160 charter school.

161 11. A description of procedures that identify various
 162 risks and provide for a comprehensive approach to reduce the
 163 impact of losses; plans to ensure the safety and security of
 164 students and staff; plans to identify, minimize, and protect
 165 others from violent or disruptive student behavior; and the
 166 manner in which the school will be insured, including whether or
 167 not the school will be required to have liability insurance,
 168 and, if so, the terms and conditions thereof and the amounts of

169 coverage.

170 12. The term of the charter which shall provide for
 171 cancellation of the charter if insufficient progress has been
 172 made in attaining the student achievement objectives of the
 173 charter and if it is not likely that such objectives can be
 174 achieved before expiration of the charter. The initial term of a
 175 charter shall be for 4 or 5 years. ~~In order to facilitate access~~
 176 ~~to long-term financial resources for charter school~~
 177 ~~construction,~~ Charter schools that are operated by a private,
 178 not-for-profit, s. 501(c)(3) status corporation or a
 179 municipality or other public entity as provided by law are
 180 eligible for up to a 15-year charter, subject to approval by the
 181 district school board. A charter lab school is eligible for a
 182 charter for a term of up to 15 years. ~~In addition, to facilitate~~
 183 ~~access to long-term financial resources for charter school~~
 184 ~~construction, charter schools that are operated by a private,~~
 185 ~~not for profit, s. 501(c)(3) status corporation are eligible for~~
 186 ~~up to a 15-year charter, subject to approval by the district~~
 187 ~~school board.~~ Such long-term charters remain subject to annual
 188 review and may be terminated during the term of the charter, but
 189 only according to the provisions set forth in subsection (9)
 190 ~~(8).~~

191 13. The facilities to be used and their location.

192 14. The qualifications to be required of the teachers and
 193 the potential strategies used to recruit, hire, train, and
 194 retain qualified staff to achieve best value.

195 15. The governance structure of the school, including the
 196 status of the charter school as a public or private employer as

197 required in paragraph (13)~~(12)~~(i).

198 16. A timetable for implementing the charter which
199 addresses the implementation of each element thereof and the
200 date by which the charter shall be awarded in order to meet this
201 timetable.

202 17. In the case of an existing public school that is being
203 converted to charter status, alternative arrangements for
204 current students who choose not to attend the charter school and
205 for current teachers who choose not to teach in the charter
206 school after conversion in accordance with the existing
207 collective bargaining agreement or district school board rule in
208 the absence of a collective bargaining agreement. However,
209 alternative arrangements shall not be required for current
210 teachers who choose not to teach in a charter lab school, except
211 as authorized by the employment policies of the state university
212 which grants the charter to the lab school.

213 18. Full disclosure of the identity of all relatives
214 employed by the charter school who are related to the charter
215 school owner, president, chairperson of the governing board of
216 directors, superintendent, governing board member, principal,
217 assistant principal, or any other person employed by the charter
218 school who has equivalent decisionmaking authority. For the
219 purpose of this subparagraph, the term "relative" means father,
220 mother, son, daughter, brother, sister, uncle, aunt, first
221 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
222 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
223 stepfather, stepmother, stepson, stepdaughter, stepbrother,
224 stepsister, half brother, or half sister.

225 (b)1. A charter may be renewed provided that a program
 226 review demonstrates that the criteria in paragraph (a) have been
 227 successfully accomplished and that none of the grounds for
 228 nonrenewal established by paragraph (9)~~(8)~~(a) has been
 229 documented. ~~In order to facilitate long-term financing for~~
 230 ~~charter school construction,~~ Charter schools operating for a
 231 minimum of 3 years and demonstrating exemplary academic
 232 programming and fiscal management are eligible for a 15-year
 233 charter renewal. Such long-term charter is subject to annual
 234 review and may be terminated during the term of the charter
 235 pursuant to subsection (9).

236 2. The 15-year charter renewal that may be granted
 237 pursuant to subparagraph 1. shall be granted to a charter school
 238 that has received a school grade of "A" or "B" pursuant to s.
 239 1008.34 in 3 of the past 4 years and is not in a state of
 240 financial emergency or deficit position pursuant to s. 1002.345
 241 ~~as defined by this section.~~ Such long-term charter is subject to
 242 annual review and may be terminated during the term of the
 243 charter pursuant to subsection (9) ~~(8)~~.

244 (c) A charter may be modified during its initial term or
 245 any renewal term upon the recommendation of the sponsor or the
 246 charter school governing board and the approval of both parties
 247 to the agreement.

248 (8) HIGH-PERFORMING CHARTER SCHOOLS.-

249 (a) For purposes of this subsection, the term:

250 1. "Entity" means a municipality or other public entity as
 251 authorized by law to operate a charter school; a private, not-
 252 for-profit, s. 501(c)(3) status corporation; or a private, for-

253 profit corporation.

254 2. "High-performing education service provider" means an
 255 entity that:

256 a. Operates at least two high-performing charter schools
 257 in this state;

258 b. Has received a school grade of "A" or "B" during the
 259 previous 3 years for at least 75 percent of the charter schools
 260 operated by the entity in this state; and

261 c. Has not received a school grade of "F" during any of
 262 the previous 3 years for any charter school operated by the
 263 entity in this state.

264 (b) A charter school shall be designated as a high-
 265 performing charter school if during each of the previous 3 years
 266 the charter school:

267 1. Received a school grade of "A" or "B";

268 2. Received an unqualified opinion on each financial audit
 269 required under s. 218.39; and

270 3. Did not receive a financial audit that revealed one or
 271 more of the conditions set forth in s. 218.503(1).

272 (c) A high-performing charter school may:

273 1. Increase the school's student enrollment once per year
 274 by up to 25 percent more than the capacity authorized pursuant
 275 to paragraph (11)(h).

276 2. Receive charter school capital outlay funds under s.
 277 1013.62. A high-performing charter school is not required to
 278 comply with s. 1013.62(1)(a)1.-3. but must comply with all other
 279 requirements of s. 1013.62 in order to receive charter school
 280 capital outlay funds as provided in this subparagraph.

281 (d) A high-performing education service provider may
 282 submit an application pursuant to subsection (6) to establish
 283 and operate a new charter school that will replicate one or more
 284 of the provider's existing high-performing charter schools. Upon
 285 approval of the application by the sponsor, the new charter
 286 school shall be granted an initial charter for a term of 15
 287 years and designated as a high-performing charter school. The
 288 15-year charter is subject to annual review and may be
 289 terminated during its term pursuant to subsection (9).

290 (e)1. A charter school that is designated as a high-
 291 performing charter school may retain such designation pursuant
 292 to:

293 a. Paragraph (b) if the school's governing board, by July
 294 1 of each year, demonstrates in writing to the school's sponsor
 295 that the charter school continues to meet the requirements of
 296 paragraph (b).

297 b. Paragraph (d) during the school's initial 3 years of
 298 operation if the entity operating the school continues to meet
 299 the definition of a high-performing education service provider
 300 under subparagraph (a)2. After the high-performing charter
 301 school has operated for 3 years, the school must comply with
 302 sub-subparagraph a. in order to retain its designation as a
 303 high-performing charter school.

304 2. The high-performing charter school designation shall be
 305 removed if the charter school does meet the requirements of
 306 subparagraph 1.

307 (9) ~~(8)~~ CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.-

308 (a) The sponsor may choose not to renew or may terminate

309 the charter for any of the following grounds:

310 1. Failure to participate in the state's education
 311 accountability system created in s. 1008.31, as required in this
 312 section, or failure to meet the requirements for student
 313 performance stated in the charter.

314 2. Failure to meet generally accepted standards of fiscal
 315 management.

316 3. Violation of law.

317 4. Other good cause shown.

318 (b) At least 90 days prior to renewing or terminating a
 319 charter, the sponsor shall notify the governing body of the
 320 school of the proposed action in writing. The notice shall state
 321 in reasonable detail the grounds for the proposed action and
 322 stipulate that the school's governing body may, within 14
 323 calendar days after receiving the notice, request an informal
 324 hearing before the sponsor. The sponsor shall conduct the
 325 informal hearing within 30 calendar days after receiving a
 326 written request.

327 (c) If a charter is not renewed or is terminated pursuant
 328 to paragraph (b), the sponsor shall, within 10 calendar days,
 329 articulate in writing the specific reasons for its nonrenewal or
 330 termination of the charter and must provide the letter of
 331 nonrenewal or termination and documentation supporting the
 332 reasons to the charter school governing body, the charter school
 333 principal, and the Department of Education. The charter school's
 334 governing body may, within 30 calendar days after receiving the
 335 sponsor's final written decision to refuse to renew or to
 336 terminate the charter, appeal the decision pursuant to the

337 procedure established in subsection (6).

338 (d) A charter may be terminated immediately if the sponsor
 339 determines that good cause has been shown or if the health,
 340 safety, or welfare of the students is threatened. The sponsor's
 341 determination is not subject to an informal hearing under
 342 paragraph (b) or pursuant to chapter 120. The sponsor shall
 343 notify in writing the charter school's governing body, the
 344 charter school principal, and the department if a charter is
 345 immediately terminated. The sponsor shall clearly identify the
 346 specific issues that resulted in the immediate termination and
 347 provide evidence of prior notification of issues resulting in
 348 the immediate termination when appropriate. The school district
 349 in which the charter school is located shall assume operation of
 350 the school under these circumstances. The charter school's
 351 governing board may, within 30 days after receiving the
 352 sponsor's decision to terminate the charter, appeal the decision
 353 pursuant to the procedure established in subsection (6).

354 (e) When a charter is not renewed or is terminated, the
 355 school shall be dissolved under the provisions of law under
 356 which the school was organized, and any unencumbered public
 357 funds, except for capital outlay funds and federal charter
 358 school program grant funds, from the charter school shall revert
 359 to the sponsor. Capital outlay funds provided pursuant to s.
 360 1013.62 and federal charter school program grant funds that are
 361 unencumbered shall revert to the department to be redistributed
 362 among eligible charter schools. In the event a charter school is
 363 dissolved or is otherwise terminated, all district school board
 364 property and improvements, furnishings, and equipment purchased

365 with public funds shall automatically revert to full ownership
 366 by the district school board, subject to complete satisfaction
 367 of any lawful liens or encumbrances. Any unencumbered public
 368 funds from the charter school, district school board property
 369 and improvements, furnishings, and equipment purchased with
 370 public funds, or financial or other records pertaining to the
 371 charter school, in the possession of any person, entity, or
 372 holding company, other than the charter school, shall be held in
 373 trust upon the district school board's request, until any appeal
 374 status is resolved.

375 (f) If a charter is not renewed or is terminated, the
 376 charter school is responsible for all debts of the charter
 377 school. The district may not assume the debt from any contract
 378 made between the governing body of the school and a third party,
 379 except for a debt that is previously detailed and agreed upon in
 380 writing by both the district and the governing body of the
 381 school and that may not reasonably be assumed to have been
 382 satisfied by the district.

383 (g) If a charter is not renewed or is terminated, a
 384 student who attended the school may apply to, and shall be
 385 enrolled in, another public school. Normal application deadlines
 386 shall be disregarded under such circumstances.

387 (10)~~(9)~~ CHARTER SCHOOL REQUIREMENTS.—

388 (a) A charter school shall be nonsectarian in its
 389 programs, admission policies, employment practices, and
 390 operations.

391 (b) A charter school shall admit students as provided in
 392 subsection (11) ~~(10)~~.

393 (c) A charter school shall be accountable to its sponsor
 394 for performance as provided in subsection (7).

395 (d) A charter school shall not charge tuition or
 396 registration fees, except those fees normally charged by other
 397 public schools. However, a charter lab school may charge a
 398 student activity and service fee as authorized by s. 1002.32(5).

399 (e) A charter school shall meet all applicable state and
 400 local health, safety, and civil rights requirements.

401 (f) A charter school shall not violate the
 402 antidiscrimination provisions of s. 1000.05.

403 (g) In order to provide financial information that is
 404 comparable to that reported for other public schools, charter
 405 schools are to maintain all financial records that constitute
 406 their accounting system:

407 1. In accordance with the accounts and codes prescribed in
 408 the most recent issuance of the publication titled "Financial
 409 and Program Cost Accounting and Reporting for Florida Schools";
 410 or

411 2. At the discretion of the charter school governing
 412 board, a charter school may elect to follow generally accepted
 413 accounting standards for not-for-profit organizations, but must
 414 reformat this information for reporting according to this
 415 paragraph.

416
 417 Charter schools shall provide annual financial report and
 418 program cost report information in the state-required formats
 419 for inclusion in district reporting in compliance with s.
 420 1011.60(1). Charter schools that are operated by a municipality

421 or are a component unit of a parent nonprofit organization may
 422 use the accounting system of the municipality or the parent but
 423 must reformat this information for reporting according to this
 424 paragraph. A charter school shall provide a quarterly ~~monthly~~
 425 financial statement to the sponsor unless a deteriorating
 426 financial condition has been identified or the charter school is
 427 determined to be in a state of financial emergency pursuant to
 428 s. 1002.345, in which case the charter school shall provide a
 429 monthly financial statement. The ~~monthly~~ financial statement
 430 required under this paragraph shall be in a form prescribed by
 431 the Department of Education.

432 (h) The governing board of the charter school shall
 433 annually adopt and maintain an operating budget.

434 (i) The governing body of the charter school shall
 435 exercise continuing oversight over charter school operations. A
 436 governing body may oversee more than one charter school in more
 437 than one school district.

438 (j) The governing body of the charter school shall be
 439 responsible for:

440 1. Ensuring that the charter school has retained the
 441 services of a certified public accountant or auditor for the
 442 annual financial audit, pursuant to s. 1002.345(2), who shall
 443 submit the report to the governing body.

444 2. Reviewing and approving the audit report, including
 445 audit findings and recommendations for the financial recovery
 446 plan.

447 3.a. Performing the duties in s. 1002.345, including
 448 monitoring a corrective action plan.

449 b. Monitoring a financial recovery plan in order to ensure
450 compliance.

451 4. Participating in governance training approved by the
452 department which must include government in the sunshine,
453 conflicts of interest, ethics, and financial responsibility.

454 (k) The governing body of the charter school shall report
455 its progress annually to its sponsor, which shall forward the
456 report to the Commissioner of Education at the same time as
457 other annual school accountability reports. The Department of
458 Education shall develop a uniform, online annual accountability
459 report to be completed by charter schools. This report shall be
460 easy to utilize and contain demographic information, student
461 performance data, and financial accountability information. A
462 charter school shall not be required to provide information and
463 data that is duplicative and already in the possession of the
464 department. The Department of Education shall include in its
465 compilation a notation if a school failed to file its report by
466 the deadline established by the department. The report shall
467 include at least the following components:

468 1. Student achievement performance data, including the
469 information required for the annual school report and the
470 education accountability system governed by ss. 1008.31 and
471 1008.345. Charter schools are subject to the same accountability
472 requirements as other public schools, including reports of
473 student achievement information that links baseline student data
474 to the school's performance projections identified in the
475 charter. The charter school shall identify reasons for any
476 difference between projected and actual student performance.

477 2. Financial status of the charter school which must
 478 include revenues and expenditures at a level of detail that
 479 allows for analysis of the charter school's ability to meet
 480 financial obligations and timely repayment of debt.

481 3. Documentation of the facilities in current use and any
 482 planned facilities for use by the charter school for instruction
 483 of students, administrative functions, or investment purposes.

484 4. Descriptive information about the charter school's
 485 personnel, including salary and benefit levels of charter school
 486 employees, the proportion of instructional personnel who hold
 487 professional or temporary certificates, and the proportion of
 488 instructional personnel teaching in-field or out-of-field.

489 (l) A charter school shall not levy taxes or issue bonds
 490 secured by tax revenues.

491 (m) A charter school shall provide instruction for at
 492 least the number of days required by law for other public
 493 schools and may provide instruction for additional days.

494 (n) The director and a representative of the governing
 495 body of a charter school that has received a school grade of "D"
 496 under s. 1008.34(2) shall appear before the sponsor or the
 497 sponsor's staff at least once a year to present information
 498 concerning each contract component having noted deficiencies.
 499 The sponsor shall communicate at the meeting, and in writing to
 500 the director, the services provided to the school to help the
 501 school address its deficiencies.

502 (o) Upon notification that a charter school receives a
 503 school grade of "D" for 2 consecutive years or a school grade of
 504 "F" under s. 1008.34(2), the charter school sponsor or the

505 sponsor's staff shall require the director and a representative
 506 of the governing body to submit to the sponsor for approval a
 507 school improvement plan to raise student achievement and to
 508 implement the plan. The sponsor has the authority to approve a
 509 school improvement plan that the charter school will implement
 510 in the following school year. ~~The sponsor may also consider the~~
 511 ~~State Board of Education's recommended action pursuant to s.~~
 512 ~~1008.33(1) as part of the school improvement plan.~~ The
 513 Department of Education shall offer technical assistance and
 514 training to the charter school and its governing body and
 515 establish guidelines for developing, submitting, and approving
 516 such plans.

517 1. If the charter school fails to improve its student
 518 performance from the year immediately prior to the
 519 implementation of the school improvement plan, the sponsor shall
 520 place the charter school on probation and shall require the
 521 charter school governing body to take one of the following
 522 corrective actions:

- 523 a. Contract for the educational services of the charter
- 524 school;
- 525 b. Reorganize the school at the end of the school year
- 526 under a new director or principal who is authorized to hire new
- 527 staff and implement a plan that addresses the causes of
- 528 inadequate progress; or
- 529 c. Reconstitute the charter school.

530 2. A charter school that is placed on probation shall
 531 continue the corrective actions required under subparagraph 1.
 532 until the charter school improves its student performance from

533 the year prior to the implementation of the school improvement
534 plan.

535 3. Notwithstanding any provision of this paragraph, the
536 sponsor may terminate the charter at any time pursuant to
537 subsection (9) ~~(8)~~.

538 (p) The director and a representative of the governing
539 body of a graded charter school that has submitted a school
540 improvement plan or has been placed on probation under paragraph
541 (o) shall appear before the sponsor or the sponsor's staff at
542 least once a year to present information regarding the
543 corrective strategies that are being implemented by the school
544 pursuant to the school improvement plan. The sponsor shall
545 communicate at the meeting, and in writing to the director, the
546 services provided to the school to help the school address its
547 deficiencies.

548 (11) ~~(10)~~ ELIGIBLE STUDENTS.—

549 (a) A charter school shall be open to any student covered
550 in an interdistrict agreement or residing in the school district
551 in which the charter school is located; however, in the case of
552 a charter lab school, the charter lab school shall be open to
553 any student eligible to attend the lab school as provided in s.
554 1002.32 or who resides in the school district in which the
555 charter lab school is located. Any eligible student shall be
556 allowed interdistrict transfer to attend a charter school when
557 based on good cause. Good cause shall include, but is not
558 limited to, geographic proximity to a charter school in a
559 neighboring school district.

560 (b) The charter school shall enroll an eligible student

561 | who submits a timely application, unless the number of
 562 | applications exceeds the capacity of a program, class, grade
 563 | level, or building. In such case, all applicants shall have an
 564 | equal chance of being admitted through a random selection
 565 | process.

566 | (c) When a public school converts to charter status,
 567 | enrollment preference shall be given to students who would have
 568 | otherwise attended that public school. The district school board
 569 | shall consult and negotiate with the conversion charter school
 570 | every 3 years to determine whether realignment of the conversion
 571 | charter school's attendance zone is appropriate in order to
 572 | ensure that students residing closest to the charter school are
 573 | provided with an enrollment preference.

574 | (d) A charter school may give enrollment preference to the
 575 | following student populations:

576 | 1. Students who are siblings of a student enrolled in the
 577 | charter school.

578 | 2. Students who are the children of a member of the
 579 | governing board of the charter school.

580 | 3. Students who are the children of an employee of the
 581 | charter school.

582 | 4. Students who are the children of an employee of a
 583 | business or corporation that is in partnership with a charter
 584 | school-in-the-workplace or students who are the children of a
 585 | resident of a municipality that operates a charter school-in-a-
 586 | municipality pursuant to subsection (16).

587 | (e) A charter school may limit the enrollment process only
 588 | to target the following student populations:

- 589 1. Students within specific age groups or grade levels.
- 590 2. Students considered at risk of dropping out of school
- 591 or academic failure. Such students shall include exceptional
- 592 education students.
- 593 3. Students enrolling in a charter school-in-the-workplace
- 594 or charter school-in-a-municipality established pursuant to
- 595 subsection (16) ~~(15)~~.
- 596 4. Students residing within a reasonable distance of the
- 597 charter school, as described in paragraph (21) ~~(20)~~ (c). Such
- 598 students shall be subject to a random lottery and to the
- 599 racial/ethnic balance provisions described in subparagraph
- 600 (7) (a) 8. or any federal provisions that require a school to
- 601 achieve a racial/ethnic balance reflective of the community it
- 602 serves or within the racial/ethnic range of other public schools
- 603 in the same school district.
- 604 5. Students who meet reasonable academic, artistic, or
- 605 other eligibility standards established by the charter school
- 606 and included in the charter school application and charter or,
- 607 in the case of existing charter schools, standards that are
- 608 consistent with the school's mission and purpose. Such standards
- 609 shall be in accordance with current state law and practice in
- 610 public schools and may not discriminate against otherwise
- 611 qualified individuals.
- 612 6. Students articulating from one charter school to
- 613 another pursuant to an articulation agreement between the
- 614 charter schools that has been approved by the sponsor.
- 615 (f) Students with disabilities and students served in
- 616 English for Speakers of Other Languages programs shall have an

617 equal opportunity of being selected for enrollment in a charter
618 school.

619 (g) A student may withdraw from a charter school at any
620 time and enroll in another public school as determined by
621 district school board rule.

622 (h) The capacity of the charter school shall be determined
623 annually by the governing board, in conjunction with the
624 sponsor, of the charter school in consideration of the factors
625 identified in this subsection.

626 (12)~~(11)~~ PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR
627 ACTIVITIES.—A charter school student is eligible to participate
628 in an interscholastic extracurricular activity at the public
629 school to which the student would be otherwise assigned to
630 attend pursuant to s. 1006.15(3)(d).

631 (13)~~(12)~~ EMPLOYEES OF CHARTER SCHOOLS.—

632 (a) A charter school shall select its own employees. A
633 charter school may contract with its sponsor for the services of
634 personnel employed by the sponsor.

635 (b) Charter school employees shall have the option to
636 bargain collectively. Employees may collectively bargain as a
637 separate unit or as part of the existing district collective
638 bargaining unit as determined by the structure of the charter
639 school.

640 (c) The employees of a conversion charter school shall
641 remain public employees for all purposes, unless such employees
642 choose not to do so.

643 (d) The teachers at a charter school may choose to be part
644 of a professional group that subcontracts with the charter

645 school to operate the instructional program under the auspices
 646 of a partnership or cooperative that they collectively own.
 647 Under this arrangement, the teachers would not be public
 648 employees.

649 (e) Employees of a school district may take leave to
 650 accept employment in a charter school upon the approval of the
 651 district school board. While employed by the charter school and
 652 on leave that is approved by the district school board, the
 653 employee may retain seniority accrued in that school district
 654 and may continue to be covered by the benefit programs of that
 655 school district, if the charter school and the district school
 656 board agree to this arrangement and its financing. School
 657 districts shall not require resignations from instructional
 658 personnel, school administrators, or educational support
 659 employees who desire employment ~~of teachers desiring to teach~~ in
 660 a charter school. This paragraph shall not prohibit a district
 661 school board from approving alternative leave arrangements
 662 consistent with chapter 1012.

663 (f) Teachers employed by or under contract to a charter
 664 school shall be certified as required by chapter 1012. A charter
 665 school governing board may employ or contract with skilled
 666 selected noncertified personnel to provide instructional
 667 services or to assist instructional staff members as education
 668 paraprofessionals in the same manner as defined in chapter 1012,
 669 and as provided by State Board of Education rule for charter
 670 school governing boards. A charter school may not knowingly
 671 employ an individual to provide instructional services or to
 672 serve as an education paraprofessional if the individual's

673 certification or licensure as an educator is suspended or
 674 revoked by this or any other state. A charter school may not
 675 knowingly employ an individual who has resigned from a school
 676 district in lieu of disciplinary action with respect to child
 677 welfare or safety, or who has been dismissed for just cause by
 678 any school district with respect to child welfare or safety. The
 679 qualifications of teachers shall be disclosed to parents.

680 (g)1. A charter school shall employ or contract with
 681 employees who have undergone background screening as provided in
 682 s. 1012.32. Members of the governing board of the charter school
 683 shall also undergo background screening in a manner similar to
 684 that provided in s. 1012.32.

685 2. A charter school shall disqualify instructional
 686 personnel and school administrators, as defined in s. 1012.01,
 687 from employment in any position that requires direct contact
 688 with students if the personnel or administrators are ineligible
 689 for such employment under s. 1012.315.

690 3. The governing board of a charter school shall adopt
 691 policies establishing standards of ethical conduct for
 692 instructional personnel and school administrators. The policies
 693 must require all instructional personnel and school
 694 administrators, as defined in s. 1012.01, to complete training
 695 on the standards; establish the duty of instructional personnel
 696 and school administrators to report, and procedures for
 697 reporting, alleged misconduct by other instructional personnel
 698 and school administrators which affects the health, safety, or
 699 welfare of a student; and include an explanation of the
 700 liability protections provided under ss. 39.203 and 768.095. A

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701 charter school, or any of its employees, may not enter into a
702 confidentiality agreement regarding terminated or dismissed
703 instructional personnel or school administrators, or personnel
704 or administrators who resign in lieu of termination, based in
705 whole or in part on misconduct that affects the health, safety,
706 or welfare of a student, and may not provide instructional
707 personnel or school administrators with employment references or
708 discuss the personnel's or administrators' performance with
709 prospective employers in another educational setting, without
710 disclosing the personnel's or administrators' misconduct. Any
711 part of an agreement or contract that has the purpose or effect
712 of concealing misconduct by instructional personnel or school
713 administrators which affects the health, safety, or welfare of a
714 student is void, is contrary to public policy, and may not be
715 enforced.

716 4. Before employing instructional personnel or school
717 administrators in any position that requires direct contact with
718 students, a charter school shall conduct employment history
719 checks of each of the personnel's or administrators' previous
720 employers, screen the instructional personnel or school
721 administrators through use of the educator screening tools
722 described in s. 1001.10(5), and document the findings. If unable
723 to contact a previous employer, the charter school must document
724 efforts to contact the employer.

725 5. The sponsor of a charter school that knowingly fails to
726 comply with this paragraph shall terminate the charter under
727 subsection (9) ~~(8)~~.

728 (h) For the purposes of tort liability, the governing body

729 and employees of a charter school shall be governed by s.
730 768.28.

731 (i) A charter school shall organize as, or be operated by,
732 a nonprofit organization. A charter school may be operated by a
733 municipality or other public entity as provided for by law. As
734 such, the charter school may be either a private or a public
735 employer. As a public employer, a charter school may participate
736 in the Florida Retirement System upon application and approval
737 as a "covered group" under s. 121.021(34). If a charter school
738 participates in the Florida Retirement System, the charter
739 school employees shall be compulsory members of the Florida
740 Retirement System. As either a private or a public employer, a
741 charter school may contract for services with an individual or
742 group of individuals who are organized as a partnership or a
743 cooperative. Individuals or groups of individuals who contract
744 their services to the charter school are not public employees.

745 (14)-(13) CHARTER SCHOOL COOPERATIVES AND NETWORKS.-

746 (a) Charter schools may enter into cooperative agreements
747 to form charter school cooperative organizations that may
748 provide the following services: charter school planning and
749 development, direct instructional services, and contracts with
750 charter school governing boards to provide personnel
751 administrative services, payroll services, human resource
752 management, evaluation and assessment services, teacher
753 preparation, and professional development.

754 (b) A nonprofit organization may operate multiple charter
755 schools approved by a sponsor under this section across the
756 state as a network of affiliated schools that may share a common

757 mission, identity, curricula, and best practices. Such charter
 758 school networks may be operated by a central governing board
 759 that governs all of the charter schools in the network or by a
 760 central governing board that shares governance duties with local
 761 governing boards designated by the central governing board for
 762 one or more of the charter schools in the affiliated network.

763 (15)-(14) CHARTER SCHOOL FINANCIAL ARRANGEMENTS;
 764 INDEMNIFICATION OF THE STATE AND SCHOOL DISTRICT; CREDIT OR
 765 TAXING POWER NOT TO BE PLEDGED.—Any arrangement entered into to
 766 borrow or otherwise secure funds for a charter school authorized
 767 in this section from a source other than the state or a school
 768 district shall indemnify the state and the school district from
 769 any and all liability, including, but not limited to, financial
 770 responsibility for the payment of the principal or interest. Any
 771 loans, bonds, or other financial agreements are not obligations
 772 of the state or the school district but are obligations of the
 773 charter school authority and are payable solely from the sources
 774 of funds pledged by such agreement. The credit or taxing power
 775 of the state or the school district shall not be pledged and no
 776 debts shall be payable out of any moneys except those of the
 777 legal entity in possession of a valid charter approved by a
 778 district school board pursuant to this section.

779 (16)-(15) CHARTER SCHOOLS-IN-THE-WORKPLACE; CHARTER
 780 SCHOOLS-IN-A-MUNICIPALITY.—

781 (a) In order to increase business partnerships in
 782 education, to reduce school and classroom overcrowding
 783 throughout the state, and to offset the high costs for
 784 educational facilities construction, the Legislature intends to

785 encourage the formation of business partnership schools or
 786 satellite learning centers and municipal-operated schools
 787 through charter school status.

788 (b) A charter school-in-the-workplace may be established
 789 when a business partner:

790 1. Provides one of the following:

791 a. Access to a the school facility to be used;

792 b. Resources that materially reduce the cost of
 793 constructing a school facility;

794 c. Land for a school facility; or

795 d. Resources to maintain a school facility;

796 2. Enrolls students based upon a random lottery that
 797 involves all of the children of employees of that business or
 798 corporation who are seeking enrollment, as provided for in
 799 subsection (11) ~~(10)~~; and

800 3. Enrolls students according to the racial/ethnic balance
 801 provisions described in subparagraph (7)(a)8.

802
 803 A charter school-in-the-workplace is eligible for charter school
 804 capital outlay funding if it meets the requirements in s.
 805 1013.62. Any portion of a facility used for a public charter
 806 school shall be exempt from ad valorem taxes, as provided for in
 807 s. 1013.54, for the duration of its use as a public school.

808 (c) A charter school-in-a-municipality designation may be
 809 granted to a municipality that possesses a charter; enrolls
 810 students based upon a random lottery that involves all of the
 811 children of the residents of that municipality who are seeking
 812 enrollment, as provided for in subsection (11) ~~(10)~~; and enrolls

813 students according to the racial/ethnic balance provisions
 814 described in subparagraph (7)(a)8. When a municipality has
 815 submitted charter applications for the establishment of a
 816 charter school feeder pattern, consisting of elementary, middle,
 817 and senior high schools, and each individual charter application
 818 is approved by the district school board, such schools shall
 819 then be designated as one charter school for all purposes listed
 820 pursuant to this section. Any portion of the land and facility
 821 used for a public charter school shall be exempt from ad valorem
 822 taxes, as provided for in s. 1013.54, for the duration of its
 823 use as a public school.

824 (d) As used in this subsection, the terms "business
 825 partner" or "municipality" may include more than one business or
 826 municipality to form a charter school-in-the-workplace or
 827 charter school-in-a-municipality.

828 (17)~~(16)~~ EXEMPTION FROM STATUTES.-

829 (a) A charter school shall operate in accordance with its
 830 charter and shall be exempt from all statutes in chapters 1000-
 831 1013. However, a charter school shall be in compliance with the
 832 following statutes in chapters 1000-1013:

- 833 1. Those statutes specifically applying to charter
 834 schools, including this section.
- 835 2. Those statutes pertaining to the student assessment
 836 program and school grading system.
- 837 3. Those statutes pertaining to the provision of services
 838 to students with disabilities.
- 839 4. Those statutes pertaining to civil rights, including s.
 840 1000.05, relating to discrimination.

841 5. Those statutes pertaining to student health, safety,
842 and welfare.

843 (b) Additionally, a charter school shall be in compliance
844 with the following statutes:

845 1. Section 286.011, relating to public meetings and
846 records, public inspection, and criminal and civil penalties.

847 2. Chapter 119, relating to public records.

848 (18)~~(17)~~ FUNDING.—Students enrolled in a charter school,
849 regardless of the sponsorship, shall be funded as if they are in
850 a basic program or a special program, the same as students
851 enrolled in other public schools in the school district. Funding
852 for a charter lab school shall be as provided in s. 1002.32.

853 (a) Each charter school shall report its student
854 enrollment to the sponsor as required in s. 1011.62, and in
855 accordance with the definitions in s. 1011.61. The sponsor shall
856 include each charter school's enrollment in the district's
857 report of student enrollment. All charter schools submitting
858 student record information required by the Department of
859 Education shall comply with the Department of Education's
860 guidelines for electronic data formats for such data, and all
861 districts shall accept electronic data that complies with the
862 Department of Education's electronic format.

863 (b) The basis for the agreement for funding students
864 enrolled in a charter school shall be the sum of the school
865 district's operating funds from the Florida Education Finance
866 Program as provided in s. 1011.62 and the General Appropriations
867 Act, including gross state and local funds, discretionary
868 lottery funds, and funds from the school district's current

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869 operating discretionary millage levy; divided by total funded
870 weighted full-time equivalent students in the school district;
871 multiplied by the weighted full-time equivalent students for the
872 charter school. Charter schools whose students or programs meet
873 the eligibility criteria in law shall be entitled to their
874 proportionate share of categorical program funds included in the
875 total funds available in the Florida Education Finance Program
876 by the Legislature, including transportation. Total funding for
877 each charter school shall be recalculated during the year to
878 reflect the revised calculations under the Florida Education
879 Finance Program by the state and the actual weighted full-time
880 equivalent students reported by the charter school during the
881 full-time equivalent student survey periods designated by the
882 Commissioner of Education.

883 (c) If the district school board is providing programs or
884 services to students funded by federal funds, any eligible
885 students enrolled in charter schools in the school district
886 shall be provided federal funds for the same level of service
887 provided students in the schools operated by the district school
888 board. Pursuant to provisions of 20 U.S.C. 8061 s. 10306, all
889 charter schools shall receive all federal funding for which the
890 school is otherwise eligible, including Title I and IDEA
891 funding, not later than 5 months after the charter school first
892 opens and within 5 months after any subsequent expansion of
893 enrollment.

894 (d) Charter schools shall be included by the Department of
895 Education and the district school board in requests for federal
896 stimulus funds in the same manner as district school board-

897 operated public schools, including Title I and IDEA funds and
 898 shall be entitled to receive such funds. Charter schools are
 899 eligible to participate in federal competitive grants that are
 900 available as part of the federal stimulus funds.

901 (e) District school boards shall make timely and efficient
 902 payment and reimbursement to charter schools, including
 903 processing paperwork required to access special state and
 904 federal funding for which they may be eligible. The district
 905 school board may distribute funds to a charter school for up to
 906 3 months based on the projected full-time equivalent student
 907 membership of the charter school. Thereafter, the results of
 908 full-time equivalent student membership surveys shall be used in
 909 adjusting the amount of funds distributed monthly to the charter
 910 school for the remainder of the fiscal year. The payment shall
 911 be issued no later than 10 working days after the district
 912 school board receives a distribution of state or federal funds.
 913 If a warrant for payment is not issued within 10 working days
 914 after receipt of funding by the district school board, the
 915 school district shall pay to the charter school, in addition to
 916 the amount of the scheduled disbursement, interest at a rate of
 917 1 percent per month calculated on a daily basis on the unpaid
 918 balance from the expiration of the 10 working days until such
 919 time as the warrant is issued.

920 (19)~~(18)~~ FACILITIES.—

921 (a) A startup charter school shall utilize facilities
 922 which comply with the Florida Building Code pursuant to chapter
 923 553 except for the State Requirements for Educational
 924 Facilities. Conversion charter schools shall utilize facilities

925 that comply with the State Requirements for Educational
 926 Facilities provided that the school district and the charter
 927 school have entered into a mutual management plan for the
 928 reasonable maintenance of such facilities. The mutual management
 929 plan shall contain a provision by which the district school
 930 board agrees to maintain charter school facilities in the same
 931 manner as its other public schools within the district. Charter
 932 schools, with the exception of conversion charter schools, are
 933 not required to comply, but may choose to comply, with any or
 934 all components of the State Requirements for Educational
 935 Facilities of the Florida Building Code adopted pursuant to s.
 936 1013.37. The local governing authority shall not adopt or impose
 937 local building requirements or site development restrictions,
 938 such as parking and site-size criteria, that are more stringent
 939 than those found in the State Requirements for Educational
 940 Facilities of the Florida Building Code. The agency having
 941 jurisdiction for inspection of a facility and issuance of a
 942 certificate of occupancy or use shall be the local municipality
 943 or, if in an unincorporated area, the county governing
 944 authority.

945 (b) A charter school shall utilize facilities that comply
 946 with the Florida Fire Prevention Code, pursuant to s. 633.025,
 947 as adopted by the authority in whose jurisdiction the facility
 948 is located as provided in paragraph (a).

949 (c) Any facility, or portion thereof, used to house a
 950 charter school whose charter has been approved by the sponsor
 951 and the governing board, pursuant to subsection (7), shall be
 952 exempt from ad valorem taxes pursuant to s. 196.1983. Library,

953 community service, museum, performing arts, theatre, cinema,
 954 church, community college, college, and university facilities
 955 may provide space to charter schools within their facilities
 956 under their preexisting zoning and land use designations.

957 (d) Charter school facilities are exempt from assessments
 958 of fees for building permits, except as provided in s. 553.80;~~;~~
 959 fees for building and occupational licenses;~~;~~ impact fees or
 960 exactions;~~;~~ service availability fees;~~;~~ and assessments for
 961 special benefits.

962 (e) If a district school board facility or property is
 963 available because it is surplus, marked for disposal, or
 964 otherwise unused, it shall be provided for a charter school's
 965 use on the same basis as it is made available to other public
 966 schools in the district. A charter school receiving property
 967 from the school district may not sell or dispose of such
 968 property without written permission of the school district.
 969 Similarly, for an existing public school converting to charter
 970 status, no rental or leasing fee for the existing facility or
 971 for the property normally inventoried to the conversion school
 972 may be charged by the district school board to the parents and
 973 teachers organizing the charter school. The charter school shall
 974 agree to reasonable maintenance provisions in order to maintain
 975 the facility in a manner similar to district school board
 976 standards. The Public Education Capital Outlay maintenance funds
 977 or any other maintenance funds generated by the facility
 978 operated as a conversion school shall remain with the conversion
 979 school.

980 (f) To the extent that charter school facilities are

981 specifically created to mitigate the educational impact created
 982 by the development of new residential dwelling units, pursuant
 983 to subparagraph (2)(c)4., some of or all of the educational
 984 impact fees required to be paid in connection with the new
 985 residential dwelling units may be designated instead for the
 986 construction of the charter school facilities that will mitigate
 987 the student station impact. Such facilities shall be built to
 988 the State Requirements for Educational Facilities and shall be
 989 owned by a public or nonprofit entity. The local school district
 990 retains the right to monitor and inspect such facilities to
 991 ensure compliance with the State Requirements for Educational
 992 Facilities. If a facility ceases to be used for public
 993 educational purposes, either the facility shall revert to the
 994 school district subject to any debt owed on the facility, or the
 995 owner of the facility shall have the option to refund all
 996 educational impact fees utilized for the facility to the school
 997 district. The district and the owner of the facility may
 998 contractually agree to another arrangement for the facilities if
 999 the facilities cease to be used for educational purposes. The
 1000 owner of property planned or approved for new residential
 1001 dwelling units and the entity levying educational impact fees
 1002 shall enter into an agreement that designates the educational
 1003 impact fees that will be allocated for the charter school
 1004 student stations and that ensures the timely construction of the
 1005 charter school student stations concurrent with the expected
 1006 occupancy of the residential units. The application for use of
 1007 educational impact fees shall include an approved charter school
 1008 application. To assist the school district in forecasting

1009 student station needs, the entity levying the impact fees shall
 1010 notify the affected district of any agreements it has approved
 1011 for the purpose of mitigating student station impact from the
 1012 new residential dwelling units.

1013 (g) Each school district shall annually provide to the
 1014 Department of Education as part of its 5-year work plan the
 1015 number of existing vacant classrooms in each school that the
 1016 district does not intend to use or does not project will be
 1017 needed for educational purposes for the following school year.
 1018 The department may recommend that a district make such space
 1019 available to an appropriate charter school.

1020 (20)~~(19)~~ CAPITAL OUTLAY FUNDING.—Charter schools are
 1021 eligible for capital outlay funds pursuant to s. 1013.62.

1022 (21)~~(20)~~ SERVICES.—

1023 (a) A sponsor shall provide certain administrative and
 1024 educational services to charter schools. These services shall
 1025 include contract management services; full-time equivalent and
 1026 data reporting services; exceptional student education
 1027 administration services; services related to eligibility and
 1028 reporting duties required to ensure that school lunch services
 1029 under the federal lunch program, consistent with the needs of
 1030 the charter school, are provided by the school district at the
 1031 request of the charter school, that any funds due to the charter
 1032 school under the federal lunch program be paid to the charter
 1033 school as soon as the charter school begins serving food under
 1034 the federal lunch program, and that the charter school is paid
 1035 at the same time and in the same manner under the federal lunch
 1036 program as other public schools serviced by the sponsor or the

1037 school district; test administration services, including payment
 1038 of the costs of state-required or district-required student
 1039 assessments; processing of teacher certificate data services;
 1040 and information services, including equal access to student
 1041 information systems that are used by public schools in the
 1042 district in which the charter school is located. Student
 1043 performance data for each student in a charter school,
 1044 including, but not limited to, FCAT scores, standardized test
 1045 scores, previous public school student report cards, and student
 1046 performance measures, shall be provided by the sponsor to a
 1047 charter school in the same manner provided to other public
 1048 schools in the district. A total administrative fee for the
 1049 provision of such services shall be calculated based upon up to
 1050 5 percent of the available funds defined in paragraph
 1051 (18)~~(17)~~(b) for all students. However, a sponsor may only
 1052 withhold up to a 5-percent administrative fee for enrollment for
 1053 up to and including 500 students. For charter schools with a
 1054 population of 501 or more students, the difference between the
 1055 total administrative fee calculation and the amount of the
 1056 administrative fee withheld may only be used for capital outlay
 1057 purposes specified in s. 1013.62(2). Each charter school shall
 1058 receive 100 percent of the funds awarded to that school pursuant
 1059 to s. 1012.225. Sponsors shall not charge charter schools any
 1060 additional fees or surcharges for administrative and educational
 1061 services in addition to the maximum 5-percent administrative fee
 1062 withheld pursuant to this paragraph.

1063 (b) If goods and services are made available to the
 1064 charter school through the contract with the school district,

1065 they shall be provided to the charter school at a rate no
 1066 greater than the district's actual cost unless mutually agreed
 1067 upon by the charter school and the sponsor in a contract
 1068 negotiated separately from the charter. ~~When mediation has~~
 1069 ~~failed to resolve disputes over contracted services or~~
 1070 ~~contractual matters not included in the charter, an appeal may~~
 1071 ~~be made for a dispute resolution hearing before the Charter~~
 1072 ~~School Appeal Commission.~~ To maximize the use of state funds,
 1073 school districts shall allow charter schools to participate in
 1074 the sponsor's bulk purchasing program if applicable.

1075 (c) Transportation of charter school students shall be
 1076 provided by the charter school consistent with the requirements
 1077 of subpart I.E. of chapter 1006 and s. 1012.45. The governing
 1078 body of the charter school may provide transportation through an
 1079 agreement or contract with the district school board, a private
 1080 provider, or parents. The charter school and the sponsor shall
 1081 cooperate in making arrangements that ensure that transportation
 1082 is not a barrier to equal access for all students residing
 1083 within a reasonable distance of the charter school as determined
 1084 in its charter.

1085 (22) ~~(21)~~ PUBLIC INFORMATION ON CHARTER SCHOOLS.—

1086 (a) The Department of Education shall provide information
 1087 to the public, directly and through sponsors, on how to form and
 1088 operate a charter school and how to enroll in a charter school
 1089 once it is created. This information shall include a standard
 1090 application format, charter format, evaluation instrument, and
 1091 charter renewal format, which shall include the information
 1092 specified in subsection (7) and shall be developed by consulting

1093 and negotiating with both school districts and charter schools
 1094 before implementation. The charter and charter renewal formats
 1095 shall be used by charter school sponsors.

1096 (b)1. The Department of Education shall report student
 1097 assessment data pursuant to s. 1008.34(3)(c) which is reported
 1098 to schools that receive a school grade or student assessment
 1099 data pursuant to s. 1008.341(3) which is reported to alternative
 1100 schools that receive a school improvement rating to each charter
 1101 school that:

1102 a. Does not receive a school grade pursuant to s. 1008.34
 1103 or a school improvement rating pursuant to s. 1008.341; and

1104 b. Serves at least 10 students who are tested on the
 1105 statewide assessment test pursuant to s. 1008.22.

1106 2. The charter school shall report the information in
 1107 subparagraph 1. to ~~each parent of a student at the charter~~
 1108 ~~school, the parent of a child on a waiting list for the charter~~
 1109 ~~school,~~ the district in which the charter school is located, and
 1110 the governing board of the charter school. This paragraph does
 1111 not abrogate the provisions of s. 1002.22, relating to student
 1112 records, or the requirements of 20 U.S.C. s. 1232g, the Family
 1113 Educational Rights and Privacy Act.

1114 3.a. Pursuant to this paragraph, the Department of
 1115 Education shall compare the charter school student performance
 1116 data for each charter school in subparagraph 1. with the student
 1117 performance data in traditional public schools in the district
 1118 in which the charter school is located and other charter schools
 1119 in the state. For alternative charter schools, the department
 1120 shall compare the student performance data described in this

1121 paragraph with all alternative schools in the state. The
 1122 comparative data shall be provided by the following grade
 1123 groupings:

- 1124 (I) Grades 3 through 5;
- 1125 (II) Grades 6 through 8; and
- 1126 (III) Grades 9 through 11.

1127 b. Each charter school shall provide the information
 1128 specified in this paragraph on its Internet website and also
 1129 provide notice to the public at large in a manner provided by
 1130 the rules of the State Board of Education. The State Board of
 1131 Education shall adopt rules to administer the notice
 1132 requirements of this subparagraph pursuant to ss. 120.536(1) and
 1133 120.54. The website shall include, through links or actual
 1134 content, other information related to school performance.

1135 (23)~~(22)~~ CHARTER SCHOOL REVIEW PANEL AND LEGISLATIVE
 1136 REVIEW.—

1137 (a) The Department of Education shall staff and regularly
 1138 convene a Charter School Review Panel in order to review issues,
 1139 practices, and policies regarding charter schools. The
 1140 composition of the review panel shall include individuals with
 1141 experience in finance, administration, law, education, and
 1142 school governance, and individuals familiar with charter school
 1143 construction and operation. The panel shall include two
 1144 appointees each from the Commissioner of Education, the
 1145 President of the Senate, and the Speaker of the House of
 1146 Representatives. The Governor shall appoint three members of the
 1147 panel and shall designate the chair. Each member of the panel
 1148 shall serve a 1-year term, unless renewed by the office making

1149 the appointment. The panel shall make recommendations to the
 1150 Legislature, to the Department of Education, to charter schools,
 1151 and to school districts for improving charter school operations
 1152 and oversight and for ensuring best business practices at and
 1153 fair business relationships with charter schools.

1154 (b) The Legislature shall review the operation of charter
 1155 schools during the 2010 Regular Session of the Legislature.

1156 (24)~~(23)~~ ANALYSIS OF CHARTER SCHOOL PERFORMANCE.—Upon
 1157 receipt of the annual report required by paragraph (10)~~(9)~~(k),
 1158 the Department of Education shall provide to the State Board of
 1159 Education, the Commissioner of Education, the Governor, the
 1160 President of the Senate, and the Speaker of the House of
 1161 Representatives an analysis and comparison of the overall
 1162 performance of charter school students, to include all students
 1163 whose scores are counted as part of the statewide assessment
 1164 program, versus comparable public school students in the
 1165 district as determined by the statewide assessment program
 1166 currently administered in the school district, and other
 1167 assessments administered pursuant to s. 1008.22(3).

1168 (25)~~(24)~~ RESTRICTION ON EMPLOYMENT OF RELATIVES.—

1169 (a) This subsection applies to charter school personnel in
 1170 a charter school operated by a private entity. As used in this
 1171 subsection, the term:

- 1172 1. "Charter school personnel" means a charter school
 1173 owner, president, chairperson of the governing board of
 1174 directors, superintendent, governing board member, principal,
 1175 assistant principal, or any other person employed by the charter
 1176 school who has equivalent decisionmaking authority and in whom

1177 is vested the authority, or to whom the authority has been
 1178 delegated, to appoint, employ, promote, or advance individuals
 1179 or to recommend individuals for appointment, employment,
 1180 promotion, or advancement in connection with employment in a
 1181 charter school, including the authority as a member of a
 1182 governing body of a charter school to vote on the appointment,
 1183 employment, promotion, or advancement of individuals.

1184 2. "Relative" means father, mother, son, daughter,
 1185 brother, sister, uncle, aunt, first cousin, nephew, niece,
 1186 husband, wife, father-in-law, mother-in-law, son-in-law,
 1187 daughter-in-law, brother-in-law, sister-in-law, stepfather,
 1188 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
 1189 brother, or half sister.

1190 (b) Charter school personnel may not knowingly recommend
 1191 or engage in the appoint, employ, promote, or advance, or
 1192 advocate for appointment, employment, promotion, or assignment
 1193 of an individual or employee to a work location if that action
 1194 will create a situation in which one employee will be
 1195 responsible for the direct supervision of, or exercise
 1196 advancement, in or to a position in the charter school in which
 1197 the personnel are serving or over which the personnel exercises
 1198 jurisdiction or control over, another employee any individual
 1199 who is a relative. The Commissioner of Education or the sponsor
 1200 may make exceptions to this paragraph if such personnel actions
 1201 would cause undue hardship on students or seriously disrupt a
 1202 charter school's operations. An individual may not be appointed,
 1203 employed, promoted, or advanced in or to a position in a charter
 1204 school if such appointment, employment, promotion, or

1205 ~~advancement has been advocated by charter school personnel who~~
 1206 ~~serve in or exercise jurisdiction or control over the charter~~
 1207 ~~school and who is a relative of the individual or if such~~
 1208 ~~appointment, employment, promotion, or advancement is made by~~
 1209 ~~the governing board of which a relative of the individual is a~~
 1210 ~~member.~~

1211 (c) The approval of budgets does not constitute
 1212 "jurisdiction or control" for the purposes of this subsection.
 1213

1214 Charter school personnel in schools operated by a municipality
 1215 or other public entity are subject to s. 112.3135.

1216 (26)~~(25)~~ STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

1217 (a) A member of a governing board of a charter school,
 1218 including a charter school operated by a private entity, is
 1219 subject to ss. 112.313(2), (3), (7), and (12) and 112.3143(3).

1220 (b) A member of a governing board of a charter school
 1221 operated by a municipality or other public entity is subject to
 1222 s. 112.3145 ~~112.3144~~, which relates to the disclosure of
 1223 financial interests.

1224 (27)~~(26)~~ RULEMAKING.—The Department of Education, after
 1225 consultation with school districts and charter school directors,
 1226 shall recommend that the State Board of Education adopt rules to
 1227 implement specific subsections of this section. Such rules shall
 1228 require minimum paperwork and shall not limit charter school
 1229 flexibility authorized by statute. The State Board of Education
 1230 shall adopt rules, pursuant to ss. 120.536(1) and 120.54, to
 1231 implement a charter model application form, evaluation
 1232 instrument, and charter and charter renewal formats in

1233 accordance with this section.

1234 Section 2. Paragraph (e) of subsection (1) and subsections
 1235 (2) and (3) of section 1013.62, Florida Statutes, are amended to
 1236 read:

1237 1013.62 Charter schools capital outlay funding.—

1238 (1) In each year in which funds are appropriated for
 1239 charter school capital outlay purposes, the Commissioner of
 1240 Education shall allocate the funds among eligible charter
 1241 schools.

1242 (e) Unless otherwise provided in the General
 1243 Appropriations Act, the funding allocation for each eligible
 1244 charter school is determined by multiplying the school's
 1245 projected student enrollment by one-fifteenth of the cost-per-
 1246 student station specified in s. 1013.64(6)(b) for an elementary,
 1247 middle, or high school, as appropriate. If the funds
 1248 appropriated are not sufficient, the commissioner shall prorate
 1249 the available funds among eligible charter schools. However, a
 1250 charter school or charter lab school may not receive state
 1251 charter school capital outlay funds greater than the one-
 1252 fifteenth cost per student station formula if the charter
 1253 school's combination of state charter school capital outlay
 1254 funds, capital outlay funds calculated through the reduction in
 1255 the administrative fee provided in s. 1002.33~~(21)~~(20), and
 1256 capital outlay funds allowed in s. 1002.32(9)(e) and (h) exceeds
 1257 the one-fifteenth cost per student station formula.

1258 (2) A charter school's governing body may use charter
 1259 school capital outlay funds for the following purposes:

1260 (a) Purchase of real property.

- 1261 (b) Construction of school facilities.
- 1262 (c) Purchase, lease-purchase, or lease of permanent or
1263 relocatable school facilities.
- 1264 (d) Purchase of vehicles to transport students to and from
1265 the charter school.
- 1266 (e) Renovation, repair, and maintenance of school
1267 facilities that the charter school owns or is purchasing through
1268 a lease-purchase or long-term lease of 5 years or longer.
- 1269 (f) Effective July 1, 2008, purchase, lease-purchase, or
1270 lease of new and replacement equipment, and enterprise resource
1271 software applications that are classified as capital assets in
1272 accordance with definitions of the Governmental Accounting
1273 Standards Board, have a useful life of at least 5 years, and are
1274 used to support schoolwide administration or state-mandated
1275 reporting requirements.
- 1276 (g) Payment of the cost of premiums for property and
1277 casualty insurance necessary to insure the school facilities.
- 1278 (h) Purchase, lease-purchase, or lease of driver's
1279 education vehicles; motor vehicles used for the maintenance or
1280 operation of plants and equipment; security vehicles; or
1281 vehicles used in storing or distributing materials and
1282 equipment.
- 1283 (i) Purchase of computer software, hardware, and network
1284 systems.
- 1285 (j) Purchase of furniture and equipment.
1286
- 1287 Conversion charter schools may use capital outlay funds received
1288 through the reduction in the administrative fee provided in s.

1289 1002.33(21)~~(20)~~ for renovation, repair, and maintenance of
 1290 school facilities that are owned by the sponsor.

1291 (3) When a charter school is nonrenewed or terminated, any
 1292 unencumbered funds and all equipment and property purchased with
 1293 district public funds shall revert to the ownership of the
 1294 district school board, as provided for in s. 1002.33(9)~~(8)~~(e)
 1295 and (f). In the case of a charter lab school, any unencumbered
 1296 funds and all equipment and property purchased with university
 1297 public funds shall revert to the ownership of the state
 1298 university that issued the charter. The reversion of such
 1299 equipment, property, and furnishings shall focus on recoverable
 1300 assets, but not on intangible or irrecoverable costs such as
 1301 rental or leasing fees, normal maintenance, and limited
 1302 renovations. The reversion of all property secured with public
 1303 funds is subject to the complete satisfaction of all lawful
 1304 liens or encumbrances. If there are additional local issues such
 1305 as the shared use of facilities or partial ownership of
 1306 facilities or property, these issues shall be agreed to in the
 1307 charter contract prior to the expenditure of funds.

1308 Section 3. Paragraph (e) of subsection (13) of section
 1309 163.3180, Florida Statutes, is amended to read:

1310 163.3180 Concurrency.—

1311 (13) School concurrency shall be established on a
 1312 districtwide basis and shall include all public schools in the
 1313 district and all portions of the district, whether located in a
 1314 municipality or an unincorporated area unless exempt from the
 1315 public school facilities element pursuant to s. 163.3177(12).
 1316 The application of school concurrency to development shall be

1317 based upon the adopted comprehensive plan, as amended. All local
 1318 governments within a county, except as provided in paragraph
 1319 (f), shall adopt and transmit to the state land planning agency
 1320 the necessary plan amendments, along with the interlocal
 1321 agreement, for a compliance review pursuant to s. 163.3184(7)
 1322 and (8). The minimum requirements for school concurrency are the
 1323 following:

1324 (e) Availability standard.—Consistent with the public
 1325 welfare, a local government may not deny an application for site
 1326 plan, final subdivision approval, or the functional equivalent
 1327 for a development or phase of a development authorizing
 1328 residential development for failure to achieve and maintain the
 1329 level-of-service standard for public school capacity in a local
 1330 school concurrency management system where adequate school
 1331 facilities will be in place or under actual construction within
 1332 3 years after the issuance of final subdivision or site plan
 1333 approval, or the functional equivalent. School concurrency is
 1334 satisfied if the developer executes a legally binding commitment
 1335 to provide mitigation proportionate to the demand for public
 1336 school facilities to be created by actual development of the
 1337 property, including, but not limited to, the options described
 1338 in subparagraph 1. Options for proportionate-share mitigation of
 1339 impacts on public school facilities must be established in the
 1340 public school facilities element and the interlocal agreement
 1341 pursuant to s. 163.31777.

1342 1. Appropriate mitigation options include the contribution
 1343 of land; the construction, expansion, or payment for land
 1344 acquisition or construction of a public school facility; the

1345 construction of a charter school that complies with the
 1346 requirements of s. 1002.33(19)~~(18)~~; or the creation of
 1347 mitigation banking based on the construction of a public school
 1348 facility in exchange for the right to sell capacity credits.
 1349 Such options must include execution by the applicant and the
 1350 local government of a development agreement that constitutes a
 1351 legally binding commitment to pay proportionate-share mitigation
 1352 for the additional residential units approved by the local
 1353 government in a development order and actually developed on the
 1354 property, taking into account residential density allowed on the
 1355 property prior to the plan amendment that increased the overall
 1356 residential density. The district school board must be a party
 1357 to such an agreement. As a condition of its entry into such a
 1358 development agreement, the local government may require the
 1359 landowner to agree to continuing renewal of the agreement upon
 1360 its expiration.

1361 2. If the education facilities plan and the public
 1362 educational facilities element authorize a contribution of land;
 1363 the construction, expansion, or payment for land acquisition;
 1364 the construction or expansion of a public school facility, or a
 1365 portion thereof; or the construction of a charter school that
 1366 complies with the requirements of s. 1002.33(19)~~(18)~~, as
 1367 proportionate-share mitigation, the local government shall
 1368 credit such a contribution, construction, expansion, or payment
 1369 toward any other impact fee or exaction imposed by local
 1370 ordinance for the same need, on a dollar-for-dollar basis at
 1371 fair market value.

1372 3. Any proportionate-share mitigation must be directed by

1373 the school board toward a school capacity improvement identified
 1374 in a financially feasible 5-year district work plan that
 1375 satisfies the demands created by the development in accordance
 1376 with a binding developer's agreement.

1377 4. If a development is precluded from commencing because
 1378 there is inadequate classroom capacity to mitigate the impacts
 1379 of the development, the development may nevertheless commence if
 1380 there are accelerated facilities in an approved capital
 1381 improvement element scheduled for construction in year four or
 1382 later of such plan which, when built, will mitigate the proposed
 1383 development, or if such accelerated facilities will be in the
 1384 next annual update of the capital facilities element, the
 1385 developer enters into a binding, financially guaranteed
 1386 agreement with the school district to construct an accelerated
 1387 facility within the first 3 years of an approved capital
 1388 improvement plan, and the cost of the school facility is equal
 1389 to or greater than the development's proportionate share. When
 1390 the completed school facility is conveyed to the school
 1391 district, the developer shall receive impact fee credits usable
 1392 within the zone where the facility is constructed or any
 1393 attendance zone contiguous with or adjacent to the zone where
 1394 the facility is constructed.

1395 5. This paragraph does not limit the authority of a local
 1396 government to deny a development permit or its functional
 1397 equivalent pursuant to its home rule regulatory powers, except
 1398 as provided in this part.

1399 Section 4. Paragraph (c) of subsection (9) of section
 1400 1002.32, Florida Statutes, is amended to read:

1401 1002.32 Developmental research (laboratory) schools.—
 1402 (9) FUNDING.—Funding for a lab school, including a charter
 1403 lab school, shall be provided as follows:

1404 (c) All operating funds provided under this section shall
 1405 be deposited in a Lab School Trust Fund and shall be expended
 1406 for the purposes of this section. The university assigned a lab
 1407 school shall be the fiscal agent for these funds, and all rules
 1408 of the university governing the budgeting and expenditure of
 1409 state funds shall apply to these funds unless otherwise provided
 1410 by law or rule of the State Board of Education. The university
 1411 board of trustees shall be the public employer of lab school
 1412 personnel for collective bargaining purposes for lab schools in
 1413 operation prior to the 2002-2003 fiscal year. Employees of
 1414 charter lab schools authorized prior to June 1, 2003, but not in
 1415 operation prior to the 2002-2003 fiscal year shall be employees
 1416 of the entity holding the charter and must comply with the
 1417 provisions of s. 1002.33 (13) ~~(12)~~.

1418 Section 5. Paragraph (c) of subsection (10) and subsection
 1419 (13) of section 1002.34, Florida Statutes, are amended to read:

1420 1002.34 Charter technical career centers.—

1421 (10) EXEMPTION FROM STATUTES.—

1422 (c) A center must comply with the antidiscrimination
 1423 provisions in s. 1000.05 and the provisions in s.
 1424 1002.33 (25) ~~(24)~~ which relate to the employment of relatives.

1425 (13) BOARD OF DIRECTORS AUTHORITY.—The board of directors
 1426 of a center may decide matters relating to the operation of the
 1427 school, including budgeting, curriculum, and operating
 1428 procedures, subject to the center's charter. The board of

1429 | directors is responsible for performing the duties provided in
 1430 | s. 1002.345, including monitoring the corrective action plan.
 1431 | The board of directors must comply with s. 1002.33 (26) ~~(25)~~.

1432 | Section 6. Paragraphs (a) and (d) of subsection (1),
 1433 | paragraph (b) of subsection (2), and subsection (6) of section
 1434 | 1002.345, Florida Statutes, are amended to read:

1435 | 1002.345 Determination of deteriorating financial
 1436 | conditions and financial emergencies for charter schools and
 1437 | charter technical career centers.—This section applies to
 1438 | charter schools operating pursuant to s. 1002.33 and to charter
 1439 | technical career centers operating pursuant to s. 1002.34.

1440 | (1) EXPEDITED REVIEW; REQUIREMENTS.—

1441 | (a) A charter school or a charter technical career center
 1442 | is subject to an expedited review by the sponsor if one of the
 1443 | following occurs:

1444 | 1. Failure to provide for an audit required by s. 218.39.

1445 | 2. Failure to comply with reporting requirements pursuant
 1446 | to s. 1002.33 (10) ~~(9)~~ or s. 1002.34(11)(f) or (14).

1447 | 3. A deteriorating financial condition identified through
 1448 | an annual audit pursuant to s. 218.39(5) or a ~~monthly~~ financial
 1449 | statement pursuant to s. 1002.33 (10) ~~(9)~~ (g) or s. 1002.34(11)(f).

1450 | "Deteriorating financial condition" means a circumstance that
 1451 | significantly impairs the ability of a charter school or a
 1452 | charter technical career center to generate enough revenues to
 1453 | meet its expenditures without causing the occurrence of a
 1454 | condition described in s. 218.503(1).

1455 | 4. Notification pursuant to s. 218.503(2) that one or more
 1456 | of the conditions specified in s. 218.503(1) have occurred or

1457 will occur if action is not taken to assist the charter school
 1458 or charter technical career center.

1459 (d) The governing board shall include the corrective
 1460 action plan and the status of its implementation in the annual
 1461 progress report to the sponsor which is required pursuant to s.
 1462 1002.33(10)~~(9)~~(k) or s. 1002.34(14).

1463 (2) FINANCIAL EMERGENCY; REQUIREMENTS.—

1464 (b) The governing board shall include the financial
 1465 recovery plan and the status of its implementation in the annual
 1466 progress report to the sponsor which is required under s.
 1467 1002.33(10)~~(9)~~(k) or s. 1002.34(14).

1468 (6) FAILURE TO CORRECT DEFICIENCIES.—The sponsor may
 1469 decide not to renew or may terminate a charter if the charter
 1470 school or charter technical career center fails to correct the
 1471 deficiencies noted in the corrective action plan within 1 year
 1472 after being notified of the deficiencies or exhibits one or more
 1473 financial emergency conditions specified in s. 218.503 for 2
 1474 consecutive years. This subsection does not affect a sponsor's
 1475 authority to terminate or not renew a charter pursuant to s.
 1476 1002.33(9)~~(8)~~.

1477 Section 7. Section 1011.68, Florida Statutes, is amended
 1478 to read:

1479 1011.68 Funds for student transportation.—The annual
 1480 allocation to each district for transportation to public school
 1481 programs, including charter schools as provided in s.
 1482 1002.33(18)~~(17)~~(b), of students in membership in kindergarten
 1483 through grade 12 and in migrant and exceptional student programs
 1484 below kindergarten shall be determined as follows:

1485 (1) Subject to the rules of the State Board of Education,
 1486 each district shall determine the membership of students who are
 1487 transported:

1488 (a) By reason of living 2 miles or more from school.

1489 (b) By reason of being students with disabilities or
 1490 enrolled in a teenage parent program, regardless of distance to
 1491 school.

1492 (c) By reason of being in a state prekindergarten program,
 1493 regardless of distance from school.

1494 (d) By reason of being career, dual enrollment, or
 1495 students with disabilities transported from one school center to
 1496 another to participate in an instructional program or service;
 1497 or students with disabilities, transported from one designation
 1498 to another in the state, provided one designation is a school
 1499 center and provided the student's individual educational plan
 1500 (IEP) identifies the need for the instructional program or
 1501 service and transportation to be provided by the school
 1502 district. A "school center" is defined as a public school
 1503 center, community college, state university, or other facility
 1504 rented, leased, or owned and operated by the school district or
 1505 another public agency. A "dual enrollment student" is defined as
 1506 a public school student in membership in both a public secondary
 1507 school program and a community college or a state university
 1508 program under a written agreement to partially fulfill ss.
 1509 1003.435 and 1007.23 and earning full-time equivalent membership
 1510 under s. 1011.62(1)(i).

1511 (e) With respect to elementary school students whose grade
 1512 level does not exceed grade 6, by reason of being subjected to

1513 hazardous walking conditions en route to or from school as
 1514 provided in s. 1006.23. Such rules shall, when appropriate,
 1515 provide for the determination of membership under this paragraph
 1516 for less than 1 year to accommodate the needs of students who
 1517 require transportation only until such hazardous conditions are
 1518 corrected.

1519 (f) By reason of being a pregnant student or student
 1520 parent, and the child of a student parent as provided in s.
 1521 1003.54, regardless of distance from school.

1522 (2) The allocation for each district shall be calculated
 1523 annually in accordance with the following formula:

1524 $T = B + EX$. The elements of this formula are defined as follows:

1525 T is the total dollar allocation for transportation. B is the
 1526 base transportation dollar allocation prorated by an adjusted
 1527 student membership count. The adjusted membership count shall be
 1528 derived from a multiplicative index function in which the base
 1529 student membership is adjusted by multiplying it by index
 1530 numbers that individually account for the impact of the price
 1531 level index, average bus occupancy, and the extent of rural
 1532 population in the district. EX is the base transportation dollar
 1533 allocation for disabled students prorated by an adjusted
 1534 disabled student membership count. The base transportation
 1535 dollar allocation for disabled students is the total state base
 1536 disabled student membership count weighted for increased costs
 1537 associated with transporting disabled students and multiplying
 1538 it by the prior year's average per student cost for
 1539 transportation. The adjusted disabled student membership count
 1540 shall be derived from a multiplicative index function in which

1541 the weighted base disabled student membership is adjusted by
 1542 multiplying it by index numbers that individually account for
 1543 the impact of the price level index, average bus occupancy, and
 1544 the extent of rural population in the district. Each adjustment
 1545 factor shall be designed to affect the base allocation by no
 1546 more or less than 10 percent.

1547 (3) The total allocation to each district for
 1548 transportation of students shall be the sum of the amounts
 1549 determined in subsection (2). If the funds appropriated for the
 1550 purpose of implementing this section are not sufficient to pay
 1551 the base transportation allocation and the base transportation
 1552 allocation for disabled students, the Department of Education
 1553 shall prorate the available funds on a percentage basis. If the
 1554 funds appropriated for the purpose of implementing this section
 1555 exceed the sum of the base transportation allocation and the
 1556 base transportation allocation for disabled students, the base
 1557 transportation allocation for disabled students shall be limited
 1558 to the amount calculated in subsection (2), and the remaining
 1559 balance shall be added to the base transportation allocation.

1560 (4) No district shall use funds to purchase transportation
 1561 equipment and supplies at prices which exceed those determined
 1562 by the department to be the lowest which can be obtained, as
 1563 prescribed in s. 1006.27(1).

1564 (5) Funds allocated or apportioned for the payment of
 1565 student transportation services may be used to pay for
 1566 transportation of students to and from school on local general
 1567 purpose transportation systems. Student transportation funds may
 1568 also be used to pay for transportation of students to and from

1569 school in private passenger cars and boats when the
 1570 transportation is for isolated students, or students with
 1571 disabilities as defined by rule. Subject to the rules of the
 1572 State Board of Education, each school district shall determine
 1573 and report the number of assigned students using general purpose
 1574 transportation private passenger cars and boats. The allocation
 1575 per student must be equal to the allocation per student riding a
 1576 school bus.

1577 (6) Notwithstanding other provisions of this section, in
 1578 no case shall any student or students be counted for
 1579 transportation funding more than once per day. This provision
 1580 includes counting students for funding pursuant to trips in
 1581 school buses, passenger cars, or boats or general purpose
 1582 transportation.

1583 Section 8. Paragraph (b) of subsection (2) of section
 1584 1012.32, Florida Statutes, is amended to read:

1585 1012.32 Qualifications of personnel.—

1586 (2)

1587 (b) Instructional and noninstructional personnel who are
 1588 hired or contracted to fill positions in any charter school and
 1589 members of the governing board of any charter school, in
 1590 compliance with s. 1002.33 (13) ~~(12)~~ (g), must, upon employment,
 1591 engagement of services, or appointment, undergo background
 1592 screening as required under s. 1012.465 or s. 1012.56, whichever
 1593 is applicable, by filing with the district school board for the
 1594 school district in which the charter school is located a
 1595 complete set of fingerprints taken by an authorized law
 1596 enforcement agency or an employee of the school or school

1597 district who is trained to take fingerprints.

1598

1599 Fingerprints shall be submitted to the Department of Law
 1600 Enforcement for statewide criminal and juvenile records checks
 1601 and to the Federal Bureau of Investigation for federal criminal
 1602 records checks. A person subject to this subsection who is found
 1603 ineligible for employment under s. 1012.315, or otherwise found
 1604 through background screening to have been convicted of any crime
 1605 involving moral turpitude as defined by rule of the State Board
 1606 of Education, shall not be employed, engaged to provide
 1607 services, or serve in any position that requires direct contact
 1608 with students. Probationary persons subject to this subsection
 1609 terminated because of their criminal record have the right to
 1610 appeal such decisions. The cost of the background screening may
 1611 be borne by the district school board, the charter school, the
 1612 employee, the contractor, or a person subject to this
 1613 subsection.

1614 Section 9. (1) The Office of Program Policy Analysis and
 1615 Government Accountability (OPPAGA) shall conduct a study
 1616 comparing the funding of charter schools with traditional public
 1617 schools and shall:

1618 (a) Identify the school districts that distribute funds
 1619 generated by the capital improvement millage authorized pursuant
 1620 to s. 1011.71(2), Florida Statutes, to charter schools and the
 1621 use of such funds by the charter schools.

1622 (b) Determine the amount of funds that would be available
 1623 to charter schools if school districts equitably distribute to
 1624 district schools, including charter schools, funds generated by

1625 the capital improvement millage authorized pursuant to s.
 1626 1011.71(2), Florida Statutes.

1627 (c) Examine the costs associated with supervising charter
 1628 schools and determine if the 5-percent administrative fee for
 1629 administrative and educational services for charter schools
 1630 covers the costs associated with the provision of the services.

1631 (2) OPPAGA shall make recommendations, if warranted, for
 1632 improving the accountability and equity of the funding system
 1633 for charter schools based on the findings of the study. The
 1634 results of the study shall be provided to the Governor, the
 1635 President of the Senate, and the Speaker of the House of
 1636 Representatives no later than January 1, 2011.

1637 Section 10. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS


BILL #: HB 1581

Florida Atlantic University

SPONSOR(S): Hasner

TIED BILLS:

IDEN./SIM. BILLS: SB 2460

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	State Universities & Private Colleges Policy Committee	12 Y, 0 N	Valenstein	Tilton
2)	State Universities & Private Colleges Appropriations Committee	13 Y, 0 N	Howell	Trexler
3)	Education Policy Council		White ^W	Lowell 
4)				
5)				

SUMMARY ANALYSIS

HB 1581 authorizes a doctor of medicine degree program (M.D. program) at Florida Atlantic University (FAU), subject to the approval of the Board of Governors.

The fiscal impact of the bill is insignificant as FAU will commit to operate the program with no additional state general revenue appropriations. (See FISCAL COMMENTS)

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

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida has significantly expanded enrollment in public medical schools over the last decade;¹ however, the demand for access to public medical education in Florida remains strong. In 2008, there were 22 applicants competing for every available medical school seat.² Additionally, multiple studies of the United States physician workforce have predicted that the United States will face a physician shortage of between 124,000 and 159,000 physicians by 2025 unless the production of new physicians increases sharply.³

In 2006, the Board of Governors (BOG) approved the establishment of two new medical schools, one at the University of Central Florida (UCF) and the other at Florida International University (FIU), bringing the total number of public medical schools in Florida to five.⁴ Both UCF and FIU admitted their inaugural classes in the fall of 2009 with 41 and 43 students, respectively.

In 2002, the State Board of Education approved a request to establish a University of Miami (UM) regional medical campus at Florida Atlantic University (FAU). The regional medical education program (UM-FAU program) underwent a comprehensive review by the Liaison Committee on Medical Education (LCME) during the February 2009 accreditation review of the UM School of Medicine. In the LCME accreditation team site visitors' report released in October 2009, the LCME found the UM-FAU program campus to be "well-conceived and implemented" and cited the UM-FAU program as one of the five strengths of the UM medical school.⁵

The UM-FAU program is located in the Schmidt Biomedical Science Center, a facility built with private donations and state matching funds specifically for the program and related biomedical science education and research infrastructure. The UM-FAU program has 128 students in years 1-3 and 45 full-time faculty members, including 20 FAU basic science professors, 11 FAU clinical professors, and

¹ Chapter 1004 Part II B, Florida Statutes.

² Florida Atlantic University's Request to Establish a New Medical School, p. 11, Florida Board of Governors.

³ Michael Dill & Edward Salsberg, *The Complexities of Physician Supply and Demand: Projections Through 2025*, Center for Workforce Studies, Association of American Medical Colleges, p. 6 (November 2008).

⁴ *See Recent Studies and Reports on Physician Shortages in the U.S.*, Center for Workforce Studies, Association of American Medical Colleges, p. 4 (November 2009).

⁵ Board of Governors State University System of Florida New Professional Degree Proposal Staff Analysis, p. 7 (February 1, 2010).

14 UM clinical professors. The UM-FAU program has affiliation agreements with JFK Medical Center, Boca Raton Community Hospital, and Bethesda Memorial Hospital to provide third year clerkships.⁶

FAU believes that it is in the best interests of the University and prospective Florida medical students for the program to seek independent status. At the January 2010, board meeting, the FAU Board of Trustees elected not to reaffirm the UM-FAU affiliation which will expire on June 30, 2010. Instead, the FAU Board of Trustees decided to pursue approval from the Board of Governors for an independent medical education program. In February 2010, the FAU Board of Trustees formally approved the proposal.⁷

FAU hired Dr. Michael Whitcomb, the former Senior Vice President for Medical Education, Association of American Medical Colleges, and a national expert on US regional medical campuses, to evaluate the feasibility of transitioning the UM-FAU regional campus program into an independent FAU medical education program.⁸ Dr. Whitcomb concluded that FAU is following the typical pattern for four year regional medical campuses in the United States, which naturally evolve into independent medical education programs as regional medical campuses develop their own curricula, governance structures, and research initiatives that progressively create a unique identity for the regional campus that is distinct from the parent medical school. Dr. Whitcomb also concluded an independent FAU medical education program will have a far greater positive impact on the evolution of FAU as a comprehensive, research-intensive university than will the continued existence of the current UM-FAU regional medical campus relationship.⁹

On April 7, 2010, the BOG unanimously approved FAU's proposal to establish a new medical school.

The Scripps Research Institute

The Scripps Research Institute, located in La Jolla, California, is the world's largest private, non-profit biomedical research facility. Scripps Florida is a division of The Scripps Research Institute. It is a state-of-the-art biomedical research facility located next to the FAU campus in Jupiter, Florida. Scripps Florida employs nearly 300 faculty members and scientific, technical and administrative staff. It comprises six departments: Cancer Biology, Chemistry, Infectology, Metabolism and Aging, Neurosciences, and Molecular Therapeutics. Scripps Florida also includes the Translational Research Institute which includes the Advanced Technologies and Drug Discovery divisions.

The Scripps Florida graduate program is part of Scripps Research's Kellogg School of Science and Technology. The graduate program offers a doctoral program with an emphasis on chemistry, chemical biology, biophysics and the biological sciences. The graduate program was established in 1989 and is conducted at Scripps Research's facilities in La Jolla, California, and Jupiter, Florida. There have been four Ph.D. graduates from the Scripps Florida campus, which has been in operation for four years. There are currently 18 students enrolled in the graduate program which generally takes from five to six years to complete.¹⁰

⁶ FAU Board of Trustees Meeting Packet, p. 4 (January 20, 2010).

⁷ Board of Governors Analysis of HB 1581, March 8, 2010.

⁸ Board of Governors State University System of Florida New Professional Degree Proposal Staff Analysis, p. 7 (February 1, 2010).

⁹ *Id.* See also Michael E. Whitcomb, M.D., *Regional Academic Medical Center Agreement among Boca Raton Community Hospital, Inc., Florida Atlantic University, University of Miami*, Status Report, p. 12, (June 12, 2008).

¹⁰ Available at <http://www.scripps.edu/florida/intro/facts.html> (last visited March 19, 2010).

Residency Programs

Prior to the expansion of the UM-FAU program to a full four-year medical education program, there were no allopathic residency training opportunities in any county north of Miami-Dade through the Treasure Coast area and across the state to the Southwest Coast. FAU committed to use the regional program as a catalyst for creating allopathic residency programs in the FAU service area and adjoining counties. FAU has focused on the core medical primary care specialties of general internal medicine, general surgery, pediatrics and obstetrics/gynecology.¹¹

The first allopathic residency program in the FAU service area began a year after enrolling the charter class in the four-year UM-FAU program. The goal is to create a total of approximately 250-300 residency and fellowship positions in the region that are affiliated with FAU.¹²

Effect of Proposed Changes

HB 1581 authorizes a Florida Atlantic University Doctor of Medicine Degree Program (M.D. program), subject to the approval of the Board of Governors.

The M.D. program proposed by FAU will be limited to 64 students per class and will include an option for a dual M.D./biomedical sciences Ph.D. offered through a partnership with The Scripps Institute Kellogg School of Science and Technology.

FAU and UM will ensure that all students currently attending the UM-FAU regional medical education program will have an orderly transition into the UM Miami campus program or, if necessary, will be able to continue studies at the UM-FAU program through the 2010-2011 academic year. A committee comprised of equal numbers of UM and FAU representatives will be created to oversee the transition period to minimize disruption to current students.¹³

FAU will commit to operate the program with no additional state general revenue appropriations above the current appropriation for the UM-FAU program. (See FISCAL COMMENTS.)

FAU plans to build on the strengths of the existing UM-FAU program curriculum and plans to partner with The Scripps Research Institute (TSRI) to create the FAU-Scripps Institute for Biomedical Science and Technology. Together, FAU and TSRI will offer an accelerated program integrating M.D. and Ph.D. curricula allowing students to complete the combined degree one year earlier than traditional M.D./Ph.D. programs. FAU will confer the M.D. and TSRI will confer the Ph.D. The joint degree program is anticipated to help Florida meet the critical shortage of physician-scientists required to grow the state's biomedical science research, business and industrial sectors and assure an adequate number of physician-scientist faculty for Florida's medical schools.

The proposed M.D. program would begin in 2011 with 64 students, the program's established capacity. The proposed M.D. program will include: a smaller, more interactive learning environment; interdisciplinary and community collaboration; patient-centered, self-directed learning; learning communities of eight students each; continuity of care, patient safety, and comprehensive, chronic disease management; early introduction of clinical training in multiple community-based hospital and outpatient settings; and a state-of-the-art Medical Simulation Center.¹⁴

In the university's commitment to increase the number of allopathic residency programs in the service area, FAU is currently planning to begin residency programs in internal medicine, surgery, pediatrics and obstetrics/gynecology in the immediate future at Boca Raton Community Hospital, Holy Cross Hospital and Tenet system hospitals in the region. FAU has signed Memoranda of Understanding with these facilities indicating the facilities' intent to offer residency programs sponsored by FAU.¹⁵

¹¹ Florida Atlantic University's Request to Establish a New Medical School, p. 8, Florida Board of Governors.

¹² *Id.*

¹³ Florida Atlantic University's Request to Establish a New Medical School, p. 6, Florida Board of Governors; *See also* FAU Board of Trustees Meeting Packet, p. 18 (January 20, 2010).

¹⁴ Board of Governors Analysis of HB 1581, March 8, 2010.

¹⁵ *Id.* at 8.

B. SECTION DIRECTORY:

Section 1. Authorizes the Florida Atlantic University Doctor of Medicine Degree Program subject to the approval of the Board of Governors.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Like other medical education programs, FAU will be granted a certain amount of tuition authority by the Legislature. It is anticipated that FAU will charge approximately \$24,000 in tuition for in-state students, well below the tuition that was charged by UM for the UM-FAU program, which was \$29,668¹⁶ for the 2009-2010 academic year.¹⁷

D. FISCAL COMMENTS:

The Board of Governors notes the Legislature has already fully funded the UM-FAU regional medical education program with \$12 million. FAU leadership indicates that no increase in current general revenue funding will be required or sought to operate the independent FAU medical education program. The proposal by FAU shows the state appropriation remaining level at \$12 million, while tuition collected grows from an initial \$1.5 million to \$6 million by year four, after which it will stabilize. The program's state cost per M.D. student is consistent with the recommendation contained in the BOG's 2010 Medical Education Funding Report.¹⁸

FAU will commit to operate the program with no additional state general revenue appropriations.¹⁹

¹⁶ Tuition and Mandatory Fees Academic Year 2009-2010, Department of Medical Education Office of Financial Assistance, Miller School of Medicine, University of Miami, available at <http://www.mededu.miami.edu/OSFA/Tuition.htm> (last visited March 19, 2010).

¹⁷ Board of Governors Analysis of HB 1581, March 8, 2010.

¹⁸ Board of Governors State University System of Florida New Professional Degree Proposal Staff Analysis, p. 5 (February 1, 2010).

¹⁹ FAU Board of Trustees Meeting Packet, p. 24 (January 10, 2010).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

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

This bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

HB 1581

2010

1 A bill to be entitled
2 An act relating to Florida Atlantic University;
3 authorizing a doctor of medicine degree program at Florida
4 Atlantic University; providing an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. Florida Atlantic University Doctor of Medicine
9 Degree Program.-A doctor of medicine degree program, subject to
10 the approval of the Board of Governors, is authorized at Florida
11 Atlantic University.

12 Section 2. This act shall take effect July 1, 2010.

1 A bill to be entitled
 2 An act relating to school food service programs; amending
 3 s. 1006.06, F.S.; creating the Florida Farm Fresh Schools
 4 Program within the Department of Education; requiring the
 5 program to comply with regulations of the National School
 6 Lunch Program and meet specified requirements; requiring
 7 the department to work with the Department of Agriculture
 8 and Consumer Services to develop policies that encourage
 9 school districts to buy fresh and local food and select
 10 foods with maximum nutritional content; requiring the
 11 department, in collaboration with the Department of
 12 Agriculture and Consumer Services, to provide outreach
 13 services regarding the benefits of fresh food products
 14 from this state; providing an effective date.

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

17
 18 Section 1. Subsection (6) is added to section 1006.06,
 19 Florida Statutes, to read:

20 1006.06 School food service programs.—

21 (6) The Legislature, recognizing that school children need
 22 nutritious food not only for healthy physical and intellectual
 23 development but also to combat diseases related to poor
 24 nutrition and obesity, establishes the Florida Farm Fresh
 25 Schools Program within the Department of Education as the lead
 26 agency for the program. The program shall comply with the
 27 regulations of the National School Lunch Program and require:

28 (a) The Department of Education to work with the

CS/HB 1619

2010

29 Department of Agriculture and Consumer Services to develop
 30 policies pertaining to school food services which encourage:
 31 1. School districts to buy fresh and high-quality foods
 32 grown in this state when feasible.
 33 2. Farmers in this state to sell their products to school
 34 districts and schools.
 35 3. School districts and schools to demonstrate a
 36 preference for competitively priced organic food products.
 37 (b) School districts and schools to make reasonable
 38 efforts to select foods based on a preference for those that
 39 have maximum nutritional content.
 40 (c) The Department of Education, in collaboration with the
 41 Department of Agriculture and Consumer Services, to provide
 42 outreach, guidance, and training to school districts, schools,
 43 school food service directors, parent and teacher organizations,
 44 and students about the benefits of fresh food products from
 45 farms in this state.

46 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1619 School Food Service Programs
SPONSOR(S): PreK-12 Policy Committee; Bush
TIED BILLS: **IDEN./SIM. BILLS:** SB 140

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	PreK-12 Policy Committee	11 Y, 0 N, As CS	Duncan	Ahearn
2)	Agriculture & Natural Resources Policy Committee	(ref. removed)		
3)	Education Policy Council		White <i>W</i>	Lowell <i>l</i>
4)				
5)				

SUMMARY ANALYSIS

The Committee Substitute for House Bill 1619 (bill) creates the Florida Farm Fresh Schools Program within the Department of Education (DOE). The DOE is directed to work with the Department of Agriculture and Consumer Services (DOACS) to develop policies pertaining to school food services which:

- Encourage school districts to buy fresh and high-quality foods grown in the state, when feasible;
- Encourage Florida farmers to sell their products directly to school districts and schools; and
- Encourage school districts and schools to demonstrate a preference for competitively priced organic food products.

School districts and schools are required to make reasonable efforts to select foods based on a preference for those that have maximum nutritional content. The bill directs the DOE to work collaboratively with the DOACS to provide outreach, guidance, and training to school districts, school food service directors, parent and teacher organizations, and students about the benefits of fresh food products from Florida farms. The Florida Farm Fresh Schools Program must maintain compliance with the regulations of the National School Lunch Program.

This bill does not appear to have a fiscal impact on state or local government revenues or expenditures.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

The Food, Conservation, and Energy Act of 2008¹ requires the U.S. Department of Agriculture to encourage institutions, such as schools, that receive funds from child nutrition programs to purchase unprocessed locally-grown and locally-raised agricultural products. This act authorized the Fresh Fruit and Vegetable Program (FFVP) nationwide to make fruits and vegetables available in elementary schools.² In order to participate in the program, elementary schools must participate in the National School Lunch Program³ and at least 50 percent or more of the students must be eligible for free or reduced-price meals. Schools are required to submit an application that includes an implementation plan and priority is given to schools with the highest proportion of children eligible for free or reduced-price meals.⁴ Participating schools must offer fresh fruits and vegetables as a snack to students during the school day.

In 2009, Florida received \$2.8 million in federal funding for the FFVP, which is administered by the Department of Education (DOE).⁵ A total of 74 schools in 17 school districts met the eligibility criteria and are participating in the 2009-2010 program.⁶ The program provides all children in participating schools with a variety of free fresh fruits and vegetables, served between meals as a snack. The FFVP's goal is to increase children's fruit and vegetable consumption, expand the variety of fruits and vegetables children experience, create healthier school environments, and make a difference in children's diets to influence their present and future health.⁷

¹ Food, Conservation, and Energy Act of 2008, Pub.L. 110-246, 122 Stat 1889.

² *Id.*

³ The National School Lunch Program and School Breakfast Program are federally funded programs that assist schools and other agencies in providing nutritious meals to children at reasonable prices. In addition to financial assistance, the School Lunch Program provides donated commodity foods to help reduce lunch program costs. The United States Department of Agriculture is responsible for overseeing the program nationally. In Florida, the Florida Department of Education, Food and Nutrition Management Division, administers the programs. In Florida, the National School Breakfast Program is required to be offered in all elementary public and charter schools. <http://www.fldoe.org/FNM/natlschoollunch/descriptions.asp>.

⁴ 42 U.S.C. § 1769a.

⁵ Department of Education, Analysis of SB 140 (Similar to HB 1619), November 10, 2009.

⁶ *Id.* The school districts currently participating in the Fresh Fruit and Vegetable program are Brevard, Broward, Collier, Dade, Flagler, Franklin, Highlands, Hillsborough, Indian River, Lee, Manatee, Marion, Martin, Okaloosa, Orange, Pinellas, and Sarasota.

⁷ Department of Education, Fresh Fruit and Vegetable Program. <http://www.fldoe.org/FNM/ffvp/>.

The Department of Agriculture and Consumer Services (DOACS) operates the Florida Farm to School Program, an initiative seeking to bring nutritious, fresh food from local farms to schools including K-12 schools and colleges and universities.⁸ The Farm to School program supports Florida farmers by promoting opportunities for schools and growers to work together to increase the volume of locally grown product that is served in school cafeterias and dining halls.⁹

The DOACS works with schools and growers to ensure that they are aware of mutual business opportunities available through this program and maintains a website to provide information about the availability of fresh Florida produce, the fruit and vegetable needs of individual schools and school districts, and contact information for the schools and growers. All contracting is conducted between the school and grower/producer and is required to comply with federal and state regulations.¹⁰

Effect of Proposed Changes

The bill creates the Florida Farm Fresh Schools Program within DOE. The DOE is directed to work with DOACS to develop policies pertaining to school food services which:

- Encourage school districts to buy fresh and high-quality foods grown in the state, when feasible;
- Encourage Florida farmers to sell their products directly to school districts and schools; and
- Encourage school districts and schools to demonstrate a preference for competitively priced organic food products.

School districts and schools are required to make reasonable efforts to select foods based on a preference for those that have maximum nutritional content. The bill directs the DOE to work collaboratively with the DOACS to provide outreach, guidance, and training to school districts, school food service directors, parent and teacher organizations, and students about the benefits of fresh food products from Florida farms. The Florida Farm Fresh Schools Program must maintain compliance with the regulations of the National School Lunch Program.

B. SECTION DIRECTORY:

Section 1: Amends s. 1006.06, F.S., relating to school food service programs.

Section 2: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government expenditures.

⁸ Department of Agriculture and Consumer Services, Marketing Florida Agriculture, <http://www.florida-agriculture.com/farmtoschool/>.

⁹ *Id.*

¹⁰ *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Revenues may increase for local farmers and producers who sell fruits and vegetables to schools.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require a city or county to expend funds or take any action requiring the expenditure of funds. The bill does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the PreK-12 Policy Committee adopted one amendment and reported the bill favorably as a Committee Substitute (CS). The differences between the House Bill and CS are as follows:

- HB 1619 directed the DOE to work with the DOACS to recommend policies and rules to the State Board of Education regarding school food services. The CS directs the DOE to work with the DOACS to *develop policies* pertaining to school food services.
- HB 1619 encouraged, "the patronization of products from Florida farmers by requiring school districts and schools to buy fresh and high-quality foods grown in the state, when feasible." The CS eliminates superfluous language and simply "encourages school districts to buy fresh and high-quality foods grown in the state, when feasible."

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EPC 10-04 State University System
SPONSOR(S): Education Policy Council
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Education Policy Council		Valenstein <i>JBV</i>	Lowell <i>P</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

On March 24, 2010, the Chair of the Board of Governors (BOG), the Chancellor of the State University System, legislative leaders and the Governor signed an agreement acknowledging their shared constitutional authority for the state universities as set forth in the Constitution of the State of Florida. As a result of the agreement, the BOG filed a notice of dismissal, with prejudice, of their claims in the 2007 lawsuit filed against the Legislature. The presiding officers agreed to file legislation in accordance with the framework set forth in the governance agreement and to exercise their best efforts to accomplish the final passage of the legislation.

PCB EPC 10-04 implements the provisions of the governance agreement by amending statutes relating to the operation of the State University System as follows:

- Creates the Higher Education Coordinating Council to act as an advisory board to the Legislature, the State Board of Education and the BOG.
- Eliminates the requirement of legislative approval for certain programs that lead to licensure and repeals the specific statutory authority for certain programs.
- Repeals s. 1001.74, F.S., relating to the powers and duties of the university boards of trustees in recognition of the BOG's exclusive authority to delegate power and duties to the university boards of trustees.
- Acknowledges the BOG is responsible for the personnel programs for university employees, requires the BOG to confirm the presidential selection by a university board of trustees, and states the Department of Management Services will continue to control the state group insurance and retirement plans.
- Exempts state universities from certain requirements regarding communications and data processing.
- Allows a university to participate in the SUNCOM Network at the university's discretion.
- Acknowledges the BOG's authority to adopt regulations when acting pursuant to its constitutional duties and responsibilities.
- Requires the BOG to comply with the Administrative Procedure Act when acting pursuant to statutory authority, unless specifically authorized or required to adopt regulations.
- Authorizes the Department of State to remove certain rules from the Florida Administrative Code.
- Authorizes the BOG to approve: certain flexible tuition policies; requests to establish a fee not specifically authorized in law; and requests to increase certain existing fees.
- Requires the BOG to consider certain factors when reviewing fee proposals and flexible tuition policies.

The fiscal impact of the bill is indeterminate. (See FISCAL COMMENTS)

The effective date provided is July 1, 2010.

HOUSE PRINCIPLES

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

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Board of Governors of the State University System and the University Boards of Trustees

In 2002, Florida voters approved the ballot initiative, *Local Trustees and Statewide Governing Board to Manage Florida's University System*,¹ which established both the Board of Governors (BOG) and the university boards of trustees in the State Constitution. Section 7 of Article IX of the State Constitution provides:

- A local board of trustees of 13 members to administer each state university;
- A statewide governing board of 17 members to be responsible for the coordinated and accountable operation of the entire university system; and
- A system structured in such a way as to avoid wasteful duplication of facilities or programs.

Membership of the BOG consists of 14 citizen-appointments by the Governor. Three additional members, specifically identified, are the Commissioner of Education, the chair of the advisory council of faculty senates, or the equivalent, and the Florida student association president. Appointments are subject to Florida Senate confirmation. The Constitution provides for members to serve staggered terms of seven years, as provided by law.

The 2005 Legislature² codified the powers and duties of the BOG and the 2007 Legislature³ extensively revised the statutes clarifying the powers and duties of the BOG and the university boards of trustees.

Board of Governors Lawsuit

In 2007, a lawsuit was filed by Bob Graham, Lou Frey, Jr., Talbot "Sandy" D'Alemberte, Joan Ruffier, Bruce Hauptle, James Jones, Howard Rock, Eric Shaw, Manoj Chopra and Frederick Strobel against Ken Pruitt, President of the Florida Senate and Marco Rubio, Speaker of the Florida House of Representatives, on behalf of the Florida Legislature. An amended complaint added the Board of Governors to the list of plaintiffs.

¹ Ballot Initiative Number 01-07, Passed November 5, 2002.

² ch. 2005-285, L.O.F.

³ ch. 2007-217, L.O.F.

The plaintiffs seek a declaration of rights concerning the validity of various statutes relating to the governance of the state university system, alleging that these statutes are contrary to fundamental and basic constitutional principles and are, therefore, unconstitutional. The plaintiffs seek to clarify the scope of the BOG's constitutional authority and identify the entity with authority to set tuition and fees for the State University System of Florida.

On March 24, 2010, the Chair of the BOG, the Chancellor of the State University System, legislative leaders and the Governor signed an agreement acknowledging their shared constitutional authority for the state universities as set forth in the Constitution of the State of Florida.⁴

As a result of the agreement, the BOG filed a notice of dismissal, with prejudice, of their claims⁵ in the lawsuit and the presiding officers agreed to file legislation in accordance with the framework set forth in the governance agreement and to exercise their best efforts to accomplish the final passage of the legislation.

State University System Governance Agreement

The governance agreement provides a framework for the collaborative exercise of joint authority by the BOG and the Legislature for Florida's public higher education in accordance with their respective state constitutional responsibilities provided in Article IX of the Florida Constitution.

The components of the governance agreement include master planning and coordination of Florida's higher education systems; strategic planning; university governance; financial aid; the Administrative Procedures Act and BOG regulations; tuition; and fees.

Master Planning & Coordinating Florida's Higher Education Systems

A Higher Education Coordinating Council (council) will be established to identify unmet needs and to facilitate solutions to disputes regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers. The council will consist of the following members: the Chancellor of the State University System of Florida; the Chancellor of the Florida College System; the Commissioner of Education; the Executive Director of the Independent Colleges and Universities of Florida; the Executive Director of the Commission for Independent Education; and two members representing the business community, one appointed by the President of the Senate and one by the Speaker of the House of Representatives.

The council will make recommendations to the Legislature, the State Board of Education and the BOG. Recommendations will be consistent with the following guiding principles:

- To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students;
- To promote consistent education policy across all educational delivery systems, focusing on students;
- To promote substantially improved articulation across all educational delivery systems;
- To promote a system that maximizes educational access and allows the opportunity for a high quality education for all Floridians;
- To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the education delivery systems.

The BOG will provide staff to support the work of the council.

State University System Strategic Planning Meeting

The Chancellor of the State University System, the BOG Chair, and the Legislature's presiding officers will hold higher education strategic planning meetings once each year to discuss: budgets, budget requests, and accountability; strategic planning, including mission alignment, enrollment growth, anticipated university requests for major academic program expansion, and other significant policy and fiscal matters to promote collaboration and communication between the BOG and the Legislature; and

⁴ State University System Governance Agreement, March 24, 2010.

⁵ The lawsuit is ongoing, as the other plaintiffs remain parties to the case.

issues regarding entities that have both statewide responsibility and state university system responsibility, such as the Florida Solar Energy Center.

University Governance

The BOG and the Legislature agreed the BOG has exclusive authority for delegating powers and duties to the university boards of trustees. The BOG and the Legislature also agreed the BOG has exclusive authority for the personnel programs of the state universities; and the BOG must confirm the presidential selection of a university board of trustees as a means to acknowledging that system cooperation is expected; and that the Department of Management Services will maintain control over state university employees for state group insurance and state retirement programs.

The BOG and the Legislature agreed the BOG will maintain its current authority for regulation of data and technology, and that state universities will be exempt from the requirements of ch. 282, F.S., regarding communication and data processing.

The BOG and the Legislature agreed that the BOG will continue to report on and account for the expenditure of funds as required by the Legislature and will provide data to the Legislature as required by general law and by the Legislature. The BOG and the Legislature support the BOG's accountability initiative, university work plans, and consolidated annual reporting. The BOG will engage in continuous collaboration with Legislative leadership on the accountability measures, the use of data, and BOG recommendations derived from such data.

Financial Aid Programs

The BOG and the Legislature agreed the BOG may establish financial aid programs that may be funded with state funds provided by the Legislature, funds from donors, or a combination of funding sources. The BOG will report and account to the Legislature on all such financial aid programs.

Administrative Procedures Act & BOG Regulations

The BOG and each university will adopt regulations and policies establishing due process procedures to be accorded to any party whose substantial interests are adversely affected by any final action of the BOG or its constituent universities in the performance of its constitutional duties or responsibilities. The due process procedures adopted by the BOG must be prominently published on the BOG and universities' web sites.

The BOG will follow the Administrative Procedure Act⁶ when adopting rules as may be required to implement legislatively delegated authority that arises from the Legislature's general police power to provide for public health, safety, and welfare or the Legislature's powers of eminent domain and sovereign immunity, and when the Legislature delegates to the BOG authority for subjects outside the scope of the BOG's constitutional authority.

The BOG and the universities may also adopt regulations to implement legislative authority in the areas of tuition and fees, management and oversight of state lands, public buildings, and public construction.

Tuition

The Legislature will establish base tuition and the BOG will establish the tuition differential pursuant to law.⁷ Within the tuition authority granted by the Legislature to the BOG, the Legislature delegates to the BOG the flexibility to consider and approve flexible tuition policies, including block tuition and the charging of market-rate tuition for non-credit, online, and continuing education courses, provided the tuition policies do not increase the state's fiscal liabilities or obligations.

Fees, Fines, Deposits & Surcharges

The Legislature delegates to the BOG the authority to establish the fees included in s. 1009.24 (13)(a)-(r), (14), and (15), F.S.⁸ Additionally, the BOG may further delegate to the university boards of trustees

⁶ Ch. 120, F.S.

⁷ S. 1009.24(16), F.S.

⁸ The existing fees the governance agreement delegates to the BOG include: an application fee, an orientation fee, a fee for security, access or identification cards, certain registration fees, a fee for late-payment of tuition, a fee for certain health-related charge, a fee for

the authority to establish fees that are charged to recover the cost of services, fines, and fees set at market rates.

The BOG may review and approve a fee proposal submitted by a university board of trustees to establish a new fee. The governance agreement provides guidelines for the BOG to consider when approving a request for a new fee, including: the purpose to be served or accomplished; whether there is a demonstrable student-based need for the fee that is not being met by existing services, operations or another fee; whether alternative resources are available to meet the need; whether the financial impact on students is warranted in light of other charges assessed to students; and whether restrictions, limitations, or conditions should be placed on the use of the fee.

The BOG may also review and approve a fee proposal submitted by a university board of trustees to increase an existing fee included in s. 1009.24(13)(a)-(r), (14), and (15), F.S., that has an established cap. The governance agreement provides guidelines for the BOG to consider when approving a request to increase the current cap for an existing fee, including: the services or operations currently being funded by the fee; whether those services can be performed more efficiently to alleviate the need for any increase; the additional or enhanced services or operations to be funded by the fee increase; whether alternative resources are available to meet the need; and whether the financial impact on students is warranted in light of other charges assessed to students for tuition and associated fees.

Effect of Proposed Changes

PCB EPC 10-04 amends statutes relating to the operation of the State University System to implement the provisions of the governance agreement. PCB EPC 10-04 addresses the following areas:

Master Planning & Coordinating Florida's Higher Education Systems

PCB EPC 10-04 creates the Higher Education Coordinating Council (council) to identify unmet needs and to facilitate solutions to disputes regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers. The council is comprised of the following members: the Commissioner of Education; the Chancellor of the State University System of Florida; the Chancellor of the Florida College System; the executive director of the Commission for Independent Education; the president of the Independent Colleges and Universities of Florida; and two members representing the business community, one appointed by the President of the Senate and one by the Speaker of the House of Representatives.

PCB EPC 10-04 requires the council to act as an advisory board to the Legislature, the State Board of Education and the BOG. Recommendations of the council must be consistent with the following guiding principles:

- To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students;
- To promote consistent education policy across all educational delivery systems, focusing on students;
- To promote substantially improved articulation across all educational delivery systems;
- To promote a system that maximizes educational access and allows the opportunity for a high-quality education for all Floridians;
- To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the educational delivery systems.

PCB EPC 10-04 requires the BOG to provide administrative support for the council.

State University System Strategic Planning Meeting

PCB EPC 10-04 expresses legislative intent that the BOG align the missions of each university with certain factors relating to students, faculty, research, and statutorily required strategic and

materials and supplies, housing rental rates, charges for collection efforts, charge for loan service, fee for certain off-campus course offerings, library fees and fines, duplicating and copying fees, fees for the late return of rental equipment, returned check fee, traffic and parking fines, transportation access fees, child care fees, fee for replacing transcripts and diplomas, admissions deposits, and a service charge for paying tuition in installments.

accountability plans. PCB EPC 10-04 also revises provisions relating to the criteria established by the BOG for the review and approval of new programs to reflect constitutional responsibilities of the BOG. The BOG must ensure well-planned development, coordination, and operation of the State University System and the BOG must avoid wasteful duplication of facilities and programs. Additionally, the BOG must submit an annual report with information regarding the programs the BOG reviewed and the outcome of the review.

PCB EPC 10-04 eliminates the requirement of legislative approval for certain programs that lead to licensure. As legislative approval is no longer necessary, PCB EPC 10-04 repeals the specific statutory authority for the following programs:

- o Masters in science degree in speech-language pathology at Florida International University;
- o Bachelor of science in nursing at University of West Florida;
- o Masters in science degree in nursing at University of West Florida;
- o Master's in social work at Florida Atlantic University;
- o Chiropractic medicine degree program at Florida State University;
- o Bachelor of science degree in long-term care administration at Florida Gulf Coast University;
- o The School of Engineering and bachelor of science degree programs in bioengineering, environmental and civil engineering management at Florida Gulf Coast University.

*The repeal of these sections of law does not terminate the programs.

University Governance

As agreed to in the governance agreement, the BOG has exclusive authority to delegate power and duties to the university boards of trustees. In recognition of the BOG's exclusive authority, PCB EPC 10-04 repeals s. 1001.74, F.S., relating to the powers and duties of the university boards of trustees.

PCB EPC 10-04 also exempts state universities from the requirements of ch. 282, F.S., regarding communications and data processing. PCB EPC 10-04 allows a state university to participate in the state-maintained SUNCOM communications system at the university's discretion and clarifies that state universities are not required to use the SUNCOM communications system.

PCB EPC 10-04 provides that the BOG is responsible for establishing the personnel program for all employees of state universities. The BOG must confirm the presidential selection by a university board of trustees as a means of acknowledging that system cooperation is expected. Additionally, the Department of Management Services will continue to control the state group insurance and retirement plans for State University System personnel.

Administrative Procedures Act & BOG Regulations

PCB EPC 10-04 acknowledges that the BOG and the university boards of trustees may implement their constitutional duties and responsibilities through regulations.

PCB EPC 10-04 requires the BOG to comply with the Administrative Procedure Act when it is acting pursuant to statutory authority derived from the Legislature; however, the BOG may adopt regulations instead of rules when the BOG is expressly authorized or required by law.

PCB EPC 10-04 authorizes the BOG to delegate its statutory power or duty to a university board of trustees, but requires the university board of trustees to be subject to the requirements of the Administrative Procedure Act to the same extent as the BOG. Additionally, PCB EPC 10-04 provides that the authority to adopt rules or regulations is included in the delegation.

PCB EPC 10-04 requires that the BOG's regulation development procedure for regulations authorized or required by law provide for: notice to the public; an opportunity for public comment; a process for challenging a statement of general applicability that has not been properly adopted as a regulation; a process for challenging an unlawful regulation; a process for challenging an emergency regulation; and publication of the regulation development procedure on the BOG's and the universities' websites. PCB EPC 10-04 also provides that judicial review must be sought in the appellate district where the university is located or where the BOG maintains its headquarters.

PCB EPC 10-04 authorizes the Department of State to remove rules from the Florida Administrative Code that have been superseded by BOG and university boards of trustees' regulations adopted pursuant to their constitutional or specific statutory authority.

Tuition, Fees, Fines, Deposits & Surcharges

PCB EPC 10-04 authorizes the BOG to approve a proposal from a university board of trustees to implement flexible policies for tuition as long as the policies are in alignment with the university's mission and the policies do not increase the state's liability or obligations, including but not limited to the Bright Futures Scholarship program and the Florida Prepaid Tuition Program. Flexible tuition policies include: block tuition; block tuition differential; market rate tuition for graduate level online courses; and market rate tuition for graduate level continuing education courses.

When reviewing a proposal to implement a flexible tuition policy, PCB EPC 10-04 requires the BOG to consider: whether the proposed tuition flexibility policy is aligned with the mission of the university; whether the proposed tuition flexibility policy increases the state's fiscal liabilities or obligations and, if so, requires the BOG to deny the proposal; whether any restrictions, limitations, or conditions should be placed on the policy; and how the proposed tuition flexibility policy will be implemented to honor the advance payment contracts of students who are beneficiaries of prepaid tuition contracts under s. 1009.98, F.S.

PCB EPC 10-04 authorizes the BOG to approve a university board of trustees' proposal to establish a fee that is not specifically authorized by law. PCB EPC 10-04 provides guidelines the BOG must consider when approving the proposal. The BOG must consider: whether there is a demonstrable student-based need for the fee that is not currently being met through existing university services, operations, or another fee; whether the financial impact on students is warranted in light of other charges assessed to students; whether restrictions, limitations, or conditions should be placed on the use of the fee; and whether there are outcome measures to indicate if the purpose for which the fee was established is accomplished.

If the BOG approves a proposal to establish a new fee, PCB EPC 10-04 requires a university to establish a fee committee to recommend to the university president and the university board of trustees how the fee will be spent and to address any subsequent changes to the fee.

PCB EPC 10-04 limits the aggregate sum of fees established pursuant to the new authority to no more than 10 percent of tuition. PCB EPC 10-04 also prohibits any such fee from being included in an award under the Bright Futures Scholarship Program. Additionally, PCB EPC 10-04 prohibits the transfer of any revenues from a fee established pursuant to the new authority to an auxiliary enterprise or a direct support organization.

PCB EPC 10-04 authorizes the BOG to approve a university board of trustees' proposal to increase the current cap for certain existing fees, including:

- An application fee;
- An orientation fee;
- A fee for security, access, or identification cards;
- A fee assessed for special types of registration;
- A fee assessed for late payment of tuition and fees;
- A fee for the replacement of transcripts and diplomas; and
- A nonrefundable admissions deposit.

When reviewing a proposal to increase the current cap for an existing fee, PCB EPC 10-04 requires the BOG to consider: the services or operations currently being funded by the fee; whether those services or operations can be performed more efficiently to reduce the need for an increase; the additional or enhanced services to be funded by the fee increase; whether alternative resources are available to meet the need; and whether the financial impact on students is warranted in light of other charges assessed to students.

PCB EPC 10-04 requires the BOG to submit an annual report to the President of the Senate, the Speaker of the House of Representatives, and the Governor summarizing the tuition and fee proposals received by the BOG during the preceding year and the actions taken by the BOG in response to such proposals.

PCB EPC 10-04 requires fees for services to be based on reasonable costs of services.

PCB EPC 10-04 limits an increase to an existing fee or a new fee established to a maximum of once each fiscal year and requires the fee increase to be implemented beginning with the fall term.

B. SECTION DIRECTORY:

- Section 1. Amends s. 110.181, F.S., conforming a cross-reference to changes made by the act.
- Section 2. Amends s. 112.19, F.S., requiring the Board of Governors to adopt regulations rather than rules to implement certain educational benefits.
- Section 3. Amends s. 112.191, F.S., requiring the Board of Governors to adopt regulations rather than rules to implement certain educational benefits.
- Section 4. Amends s. 120.81, F.S., providing that state universities are not required to file certain documents with the Administrative Procedures Committee.
- Section 5. Amends s. 282.0041, F.S., revising definitions regarding information technology services to conform to changes made by the act.
- Section 6. Amends s. 282.703, F.S., revising provisions regarding the participation of state universities in the SUNCOM Network.
- Section 7. Amends s. 282.706, F.S., revising provisions regarding the use of the SUNCOM Network by state university libraries.
- Section 8. Amends s. 287.064, F.S., conforming a cross-reference to changes made by the act.
- Section 9. Amends s. 1000.05, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding discrimination.
- Section 10. Amends s. 1001.705, F.S., revising provisions relating to responsibility for the State University System under the State Constitution; deleting legislative findings and intent; providing the constitutional duties of the Board of Governors; providing the constitutional duties of the Legislature; deleting a duty relating to the participation of state universities in the SUNCOM Network.
- Section 11. Amends s. 1001.706, F.S., revising powers and duties of the Board of Governors; providing that the Board of Governors has the authority to regulate the State University System and may adopt a regulation development procedure for the board and university boards of trustees to use in implementing their constitutional duties and responsibilities; authorizing the Board of Governors or its designee to adopt regulations; providing requirements for the regulation development procedure; providing requirements for judicial review of certain challenges; revising the Board of Governors' powers and duties relating to accountability and personnel; providing legislative intent that the Board of

Governors align the missions of universities with certain factors; providing requirements for a mission alignment and strategic plan; affording opportunities to certain universities.

- Section 12. Amends s. 1001.72, F.S. providing that the board of trustees is the university's contracting agent.
- Section 13. Creates s. 1004.015, F.S., creating the Higher Education Coordinating Council; providing for membership; providing guiding principles for council recommendations to the Legislature, State Board of Education, and Board of Governors.
- Section 14. Amends s. 1004.03, F.S., revising provisions regarding review and approval of new programs at state universities by the Board of Governors; requiring an annual report of the review of proposed new programs; eliminating the requirement that certain programs be approved by the Legislature.
- Section 15. Amends s. 1004.07, F.S., requiring the Board of Governors to adopt regulations rather than rules relating to student withdrawal from courses due to military service.
- Section 16. Amends s. 1006.54, F.S., requiring university boards of trustees to adopt regulations rather than rules regarding documents distributed to libraries.
- Section 17. Amends s. 1006.60, F.S., revising provisions regarding state university codes of conduct to authorize the adoption of regulations rather than rules.
- Section 18. Amends s. 1006.65, F.S. requiring the Board of Governors to adopt regulations rather than rules regarding safety issues in courses offered by state universities.
- Section 19. Amends s. 1007.264, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding admission requirements for students with disabilities.
- Section 20. Amends s. 1007.265, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding graduation requirements for students with disabilities.
- Section 21. Amends s. 1009.24, F.S., reorganizing certain provisions of law regarding state university student fees; authorizing the Board of Governors to approve flexible tuition policies requested by a university board of trustees; providing that certain fees be based on reasonable costs of services and used for certain purposes; authorizing the Board of Governors to approve a proposal from a university board of trustees to establish a new student fee, increase the cap for an existing fee, or implement flexible tuition policies; providing guidelines for review of proposals; requiring an annual report; prohibiting certain fees from exceeding a specified amount, being included in certain scholarship awards, and being used for certain purposes; requiring a fee committee to make recommendations regarding a new fee; providing restrictions on fee increases; requiring the Board of Governors to adopt regulations.
- Section 22. Amends s. 1009.26, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding fee waivers.
- Section 23. Amends s. 1010.04, F.S., providing that the Board of Governors shall adopt regulations rather than rules for purchases and leases.

- Section 24. Amends s. 1010.62, F.S., defining the term "auxiliary enterprise" for purposes of revenue bonds and debt.
- Section 25. Amends s. 1011.43, F.S., requiring university boards of trustees to adopt regulations rather than rules for administration of certain scholarships and loans.
- Section 26. Amends s. 1011.90, F.S., revising provisions regarding management information maintained by the Board of Governors.
- Section 27. Amends s. 1013.02, F.S., requiring the Board of Governors to adopt regulations rather than rules to implement provisions of law regarding educational facilities.
- Section 28. Amends s. 1013.10, F.S., authorizing regulations for the use of educational buildings and grounds.
- Section 29. Amends s. 1013.12, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding firesafety inspections.
- Section 30. Amends s. 1013.28, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding disposal of real property.
- Section 31. Amends s. 1013.30, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding university campus master plans.
- Section 32. Amends s. 1013.31, F.S., requiring the Board of Governors to adopt regulations rather than rules for determining facility space needs.
- Section 33. Amends s. 1013.47, F.S., requiring the Board of Governors to adopt regulations rather than rules regarding building standards.
- Section 34. Amends s. 1013.74, F.S. authorizing the Board of Governors to adopt regulations rather than rules regarding authorization for fixed capital outlay projects.
- Section 35. Repeals ss. 1001.74, 1004.21, 1004.38, 1004.381, 1004.3811, 1004.382, 1004.383, 1004.386, and 1004.64 and subsection (13) of section 1004.22, F.S. and providing legislative intent for the repeal of certain sections.
- Section 36. Requiring each state university to identify and submit to the Board of Governors a list of certain rules that have been superseded by regulations; providing for submission of such rules and certain rules of the Board of Governors to the Department of State; authorizing the Department of State to remove certain rules from the Florida Administrative Code.
- Section 37. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

Master Planning & Coordinating Florida's Higher Education System

PCB EPC 10-04 creates a Higher Education Coordinating Council to identify unmet needs and facilitate solutions to disputes regarding the creation of new postsecondary educational programs. To the extent the recommendations of the Council reduce or eliminate duplication of programs, the state may avoid additional costs for duplicative services. To the extent articulation and access are improved, costs for students may decrease. The Board of Governors is required to provide administrative support for the council, which may result in additional costs to their administrative budget. The exact costs are indeterminate, but likely insignificant.

Administrative Procedures Act & BOG Regulations

There is anticipated cost savings for the state universities due to PCB EPC 10-04 directing the Department of State to remove all rules identified by the BOG and state universities that have been superseded by regulations adopted by the BOG or the universities. Without this direction, the BOG and state universities would have to spend thousands of dollars on legal notices to repeal most of their rules.⁹

University Governance

Currently, state universities are required to use the SUNCOM Network for communications services unless provided a specific exemption. PCB EPC 10-04 removes this requirement, but it allows the universities and their libraries to use the SUNCOM Network. In the 2009-10 fiscal year, 10 state universities are using the SUNCOM Network for a portion of their communication services; projected billings are \$3.2 million. It is unknown how many of the universities would continue to use the SUNCOM Network once they are no longer required to do so. To the extent the universities discontinue the current level of services provided by SUNCOM, other SUNCOM customers may see an increase in the cost for communications services. The exact amount is indeterminate at this time.

Tuition, Fees, Fines, Deposits & Surcharges

PCB EPC 10-04 authorizes the Board of Governors to consider and approve flexible tuition policies as requested by a university. Such policies may not increase the state's fiscal liability or obligations including, but not limited to, any fiscal liability or obligation related to the Florida Prepaid College Program and the Bright Futures Scholarship Program. To the extent flexible policies are approved, the cost may increase for students to attend a state university; however, the exact amount is indeterminate. These policies may increase revenues available to the universities. There is no fiscal impact on the state.

⁹ Email correspondence from the Joint Administrative Procedures Committee, April 2, 2010.

PCB EPC 10-04 authorizes the Board of Governors to consider and approve university proposals to increase the current caps for the following existing fees:

- Application fee – capped at \$30;
- Orientation fee – capped at \$35;
- Security/access/ID card fee – capped at \$10 per card or \$15 for a replacement card;
- Registration fee for audit and zero-hours – no cap;
- Service charge for tuition and fee payment plans – capped at \$15;
- Late registration fee – capped at \$100;
- Late payment fee – capped at \$100;
- Transcript or additional diploma fee – capped at \$10 per item; and
- Admissions deposit – capped at \$200.

PCB EPC 10-04 also authorizes the Board of Governors to consider and approve university proposals to implement a new fee. The aggregate sum of any fees established pursuant to this authority that a student must pay to register for a course cannot exceed 10 percent of tuition. Any such fee cannot be included in Bright Futures Scholarship award. Fee revenue cannot be transferred to a direct-support organization or an auxiliary enterprise and cannot be used to secure debt.

In reviewing university proposals to increase an existing fee or to establish a fee not specifically authorized by law, the Board of Governors is required to consider whether the financial impact on students is warranted in light of other charges assessed to students for tuition and associated fees. To the extent such proposals are approved, costs for students to attend a university and the revenues generated by the university may increase by an indeterminate amount. There is no fiscal impact on the state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

PCB EPC 10-04 does not appear to require a city or county to expend funds or to take any action requiring the expenditure of funds.

PCB EPC 10-04 does not appear to reduce the authority that municipalities or counties have to raise revenues in the aggregate.

PCB EPC 10-04 does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

PCB EPC 10-04 requires the BOG to adopt rules when acting pursuant to its statutory authority derived from the Legislature, unless expressly authorized or required by law to adopt regulations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to postsecondary education; amending s.
 3 110.181, F.S.; conforming a cross-reference to changes
 4 made by the act; amending ss. 112.19 and 112.191, F.S.;
 5 requiring the Board of Governors of the State University
 6 System to adopt regulations rather than rules to implement
 7 certain educational benefits; amending s. 120.81, F.S.;
 8 providing that state universities are not required to file
 9 certain documents with the Administrative Procedures
 10 Committee; amending s. 282.0041, F.S.; revising
 11 definitions relating to information technology services to
 12 conform to changes made by the act; amending s. 282.703,
 13 F.S.; revising provisions relating to the participation of
 14 state universities in the SUNCOM Network; amending s.
 15 282.706, F.S.; revising provisions relating to the use of
 16 the SUNCOM Network by state university libraries; amending
 17 s. 287.064, F.S.; conforming a cross-reference to changes
 18 made by the act; amending s. 1000.05, F.S.; requiring the
 19 Board of Governors to adopt regulations rather than rules
 20 relating to discrimination; amending s. 1001.705, F.S.;
 21 revising provisions relating to responsibility for the
 22 State University System under the State Constitution;
 23 deleting legislative findings and intent; providing the
 24 constitutional duties of the Board of Governors; providing
 25 the constitutional duties of the Legislature; deleting a
 26 duty relating to the participation of state universities
 27 in the SUNCOM Network; amending s. 1001.706, F.S.;
 28 revising powers and duties of the Board of Governors;

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29 providing that the Board of Governors has the authority to
30 regulate the State University System and may adopt a
31 regulation development procedure for the board and
32 university boards of trustees to use in implementing their
33 constitutional duties and responsibilities; authorizing
34 the Board of Governors or its designee to adopt
35 regulations; providing requirements for the regulation
36 development procedure; providing requirements for judicial
37 review of certain challenges; revising the Board of
38 Governors' powers and duties relating to accountability
39 and personnel; providing legislative intent that the Board
40 of Governors align the missions of universities with
41 certain factors; providing requirements for a mission
42 alignment and strategic plan; affording opportunities to
43 certain universities; amending s. 1001.72, F.S.; providing
44 that the board of trustees is the university's contracting
45 agent; creating s. 1004.015, F.S.; creating the Higher
46 Education Coordinating Council; providing for membership;
47 providing guiding principles for council recommendations
48 to the Legislature, State Board of Education, and Board of
49 Governors; amending s. 1004.03, F.S.; revising provisions
50 relating to review and approval of new programs at state
51 universities by the Board of Governors; requiring an
52 annual report of the review of proposed new programs;
53 eliminating the requirement that certain programs be
54 approved by the Legislature; amending s. 1004.07, F.S.;
55 requiring the Board of Governors to adopt regulations
56 rather than rules relating to student withdrawal from

57 | courses due to military service; amending s. 1006.54,
 58 | F.S.; requiring university boards of trustees to adopt
 59 | regulations rather than rules relating to documents
 60 | distributed to libraries; amending s. 1006.60, F.S.;
 61 | revising provisions relating to state university codes of
 62 | conduct to authorize the adoption of regulations rather
 63 | than rules; amending s. 1006.65, F.S.; requiring the Board
 64 | of Governors to adopt regulations rather than rules
 65 | relating to safety issues in courses offered by state
 66 | universities; amending ss. 1007.264 and 1007.265, F.S.;
 67 | requiring the Board of Governors to adopt regulations
 68 | rather than rules relating to admission and graduation
 69 | requirements for students with disabilities; amending s.
 70 | 1009.24, F.S.; reorganizing certain provisions of law
 71 | relating to state university student fees; authorizing the
 72 | Board of Governors to approve flexible tuition policies
 73 | requested by a university board of trustees; providing
 74 | that certain fees be based on reasonable costs of services
 75 | and used for certain purposes; authorizing the Board of
 76 | Governors to approve a proposal from a university board of
 77 | trustees to establish a new student fee, increase the cap
 78 | for an existing fee, or implement flexible tuition
 79 | policies; providing guidelines for review of proposals;
 80 | requiring an annual report; prohibiting certain fees from
 81 | exceeding a specified amount, being included in certain
 82 | scholarship awards, and being used for certain purposes;
 83 | requiring a fee committee to make recommendations relating
 84 | to a new fee; providing restrictions on fee increases;

85 requiring the Board of Governors to adopt regulations;
 86 amending s. 1009.26, F.S.; requiring the Board of
 87 Governors to adopt regulations rather than rules relating
 88 to fee waivers; amending s. 1010.04, F.S.; providing that
 89 the Board of Governors shall adopt regulations rather than
 90 rules for purchases and leases; amending s. 1010.62, F.S.;
 91 defining the term "auxiliary enterprise" for purposes of
 92 revenue bonds and debt; amending s. 1011.43, F.S.;
 93 requiring university boards of trustees to adopt
 94 regulations rather than rules for administration of
 95 certain scholarships and loans; amending s. 1011.90, F.S.;
 96 revising provisions relating to management information
 97 maintained by the Board of Governors; amending s. 1013.02,
 98 F.S.; requiring the Board of Governors to adopt
 99 regulations rather than rules to implement provisions of
 100 law relating to educational facilities; amending s.
 101 1013.10, F.S.; authorizing regulations for the use of
 102 educational buildings and grounds; amending ss. 1013.12
 103 and 1013.28, F.S.; requiring the Board of Governors to
 104 adopt regulations rather than rules relating to firesafety
 105 inspections and disposal of real property; amending s.
 106 1013.30, F.S.; requiring the Board of Governors to adopt
 107 regulations rather than rules relating to university
 108 campus master plans; amending s. 1013.31, F.S.; requiring
 109 the Board of Governors to adopt regulations rather than
 110 rules for determining facility space needs; amending s.
 111 1013.47, F.S.; requiring the Board of Governors to adopt
 112 regulations rather than rules relating to building

113 standards; amending s. 1013.74, F.S.; authorizing the
 114 Board of Governors to adopt regulations rather than rules
 115 relating to authorization for fixed capital outlay
 116 projects; repealing s. 1001.74, F.S., relating to powers
 117 and duties of university boards of trustees; repealing s.
 118 1004.21, F.S., relating to general provisions for state
 119 universities; repealing s. 1004.22(13), F.S., relating to
 120 rulemaking by a university board of trustees with respect
 121 to divisions of sponsored research; repealing s. 1004.38,
 122 F.S., relating to the master of science program in speech-
 123 language pathology at Florida International University;
 124 repealing s. 1004.381, F.S., relating to the bachelor of
 125 science nursing degree program at the University of West
 126 Florida; repealing s. 1004.3811, F.S., relating to the
 127 master of science degree programs in nursing and social
 128 work at the University of West Florida; repealing s.
 129 1004.382, F.S., relating to the master's in social work
 130 program at Florida Atlantic University; repealing s.
 131 1004.383, F.S., relating to a chiropractic medicine degree
 132 program at Florida State University; repealing s.
 133 1004.386, F.S., relating to a bachelor of science degree
 134 program in long-term care administration at Florida Gulf
 135 Coast University; repealing s. 1004.64, F.S., relating to
 136 the School of Engineering at Florida Gulf Coast University
 137 and specified bachelor's degrees; providing legislative
 138 intent for the repeal of certain sections; requiring each
 139 state university to identify and submit to the Board of
 140 Governors a list of certain rules that have been

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141 superseded by regulations; providing for submission of
 142 such rules and certain rules of the Board of Governors to
 143 the Department of State; authorizing the Department of
 144 State to remove rules from the Florida Administrative
 145 Code; providing an effective date.

146
 147 Be It Enacted by the Legislature of the State of Florida:
 148

149 Section 1. Subsection (5) of section 110.181, Florida
 150 Statutes, is amended to read:

151 110.181 Florida State Employees' Charitable Campaign.—

152 (5) PARTICIPATION OF STATE UNIVERSITIES.—Each university
 153 may elect to participate in the Florida State Employees'
 154 Charitable Campaign, upon timely notice to the department. Each
 155 university may also conduct annual charitable fundraising drives
 156 for employees under the authority granted in s. ss. 1001.706 ~~and~~
 157 ~~1001.74.~~

158 Section 2. Subsection (5) of section 112.19, Florida
 159 Statutes, is amended to read:

160 112.19 Law enforcement, correctional, and correctional
 161 probation officers; death benefits.—

162 (5) The State Board of Education ~~or the Board of~~
 163 ~~Governors, as appropriate,~~ shall adopt rules and procedures, and
 164 the Board of Governors shall adopt regulations and procedures,
 165 as are appropriate and necessary to implement the educational
 166 benefits provisions of this section.

167 Section 3. Subsection (5) of section 112.191, Florida
 168 Statutes, is amended to read:

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169 112.191 Firefighters; death benefits.-

170 (5) The State Board of Education ~~or the Board of~~
 171 ~~Governors, as appropriate,~~ shall adopt rules and procedures, and
 172 the Board of Governors shall adopt regulations and procedures,
 173 as are appropriate and necessary to implement the educational
 174 benefits provisions of this section.

175 Section 4. Paragraph (e) of subsection (1) of section
 176 120.81, Florida Statutes, is amended to read:

177 120.81 Exceptions and special requirements; general
 178 areas.-

179 (1) EDUCATIONAL UNITS.-

180 (e) Educational units, other than ~~the state universities~~
 181 ~~and~~ the Florida School for the Deaf and the Blind, shall not be
 182 required to make filings with the committee of the documents
 183 required to be filed by s. 120.54 or s. 120.55(1)(a)4.

184 Section 5. Subsections (1) and (26) of section 282.0041,
 185 Florida Statutes, are amended to read:

186 282.0041 Definitions.-As used in this chapter, the term:

187 (1) "Agency" has the same meaning as in s. 216.011(1)(qq),
 188 except that for purposes of this chapter, "agency" does not
 189 include university boards of trustees or state universities.

190 (26) "Total cost" means all costs associated with
 191 information technology projects or initiatives, including, but
 192 not limited to, value of hardware, software, service,
 193 maintenance, incremental personnel, and facilities. Total cost
 194 of a loan or gift of information technology resources to an
 195 agency includes the fair market value of the resources; ~~however,~~
 196 ~~the total cost of loans or gifts of information technology to~~

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197 ~~state universities to be used in instruction or research does~~
198 ~~not include fair market value.~~

199 Section 6. Subsections (1) and (3) of section 282.703,
200 Florida Statutes, are amended, and subsection (4) is added to
201 that section, to read:

202 282.703 SUNCOM Network; exemptions from the required use.-

203 (1) There is created within the department the SUNCOM
204 Network, which shall be developed to serve as the state
205 communications system for providing local and long-distance
206 communications services to state agencies, political
207 subdivisions of the state, municipalities, ~~state universities,~~
208 and nonprofit corporations pursuant to this part. The SUNCOM
209 Network shall be developed to transmit all types of
210 communications signals, including, but not limited to, voice,
211 data, video, image, and radio. State agencies shall cooperate
212 and assist in the development and joint use of communications
213 systems and services.

214 (3) All state agencies ~~and state universities~~ shall use
215 the SUNCOM Network for agency ~~and state university~~
216 communications services as the services become available;
217 however, no agency ~~or university~~ is relieved of responsibility
218 for maintaining communications services necessary for effective
219 management of its programs and functions. The department may
220 provide such communications services to a state university if
221 requested by the university. If a SUNCOM Network service does
222 not meet the communications requirements of an agency ~~or~~
223 ~~university,~~ the agency ~~or university~~ shall notify the department
224 in writing and detail the requirements for that communications

225 service. If the department is unable to meet an agency's ~~or~~
 226 ~~university's~~ requirements by enhancing SUNCOM Network service,
 227 the department may grant the agency ~~or university~~ an exemption
 228 from the required use of specified SUNCOM Network services.

229 (4) This section may not be construed to require a state
 230 university to use SUNCOM Network communication services.

231 Section 7. Section 282.706, Florida Statutes, is amended
 232 to read:

233 282.706 Use of SUNCOM Network by libraries.—The department
 234 may provide SUNCOM Network services to any library in the state,
 235 including libraries in public schools, community colleges, state
 236 universities, and nonprofit private postsecondary educational
 237 institutions, and libraries owned and operated by municipalities
 238 and political subdivisions. This section may not be construed to
 239 require a state university library to use SUNCOM Network
 240 services.

241 Section 8. Subsection (1) of section 287.064, Florida
 242 Statutes, is amended to read:

243 287.064 Consolidated financing of deferred-payment
 244 purchases.—

245 (1) The Division of Bond Finance of the State Board of
 246 Administration and the Chief Financial Officer shall plan and
 247 coordinate deferred-payment purchases made by or on behalf of
 248 the state or its agencies or by or on behalf of state
 249 universities or state community colleges participating under
 250 this section pursuant to s. 1001.706(7) ~~s. 1001.74(6)~~ or s.
 251 1001.64(26), respectively. The Division of Bond Finance shall
 252 negotiate and the Chief Financial Officer shall execute

253 | agreements and contracts to establish master equipment financing
 254 | agreements for consolidated financing of deferred-payment,
 255 | installment sale, or lease purchases with a financial
 256 | institution or a consortium of financial institutions. As used
 257 | in this act, the term "deferred-payment" includes installment
 258 | sale and lease-purchase.

259 | (a) The period during which equipment may be acquired
 260 | under any one master equipment financing agreement shall be
 261 | limited to not more than 3 years.

262 | (b) Repayment of the whole or a part of the funds drawn
 263 | pursuant to the master equipment financing agreement may
 264 | continue beyond the period established pursuant to paragraph
 265 | (a).

266 | (c) The interest rate component of any master equipment
 267 | financing agreement shall be deemed to comply with the interest
 268 | rate limitation imposed in s. 287.063 so long as the interest
 269 | rate component of every interagency, state university, or
 270 | community college agreement entered into under such master
 271 | equipment financing agreement complies with the interest rate
 272 | limitation imposed in s. 287.063. Such interest rate limitation
 273 | does not apply when the payment obligation under the master
 274 | equipment financing agreement is rated by a nationally
 275 | recognized rating service in any one of the three highest
 276 | classifications, which rating services and classifications are
 277 | determined pursuant to rules adopted by the Chief Financial
 278 | Officer.

279 | Section 9. Paragraph (b) of subsection (5) of section
 280 | 1000.05, Florida Statutes, is amended to read:

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281 1000.05 Discrimination against students and employees in
 282 the Florida K-20 public education system prohibited; equality of
 283 access required.—

284 (5)

285 (b) The Board of Governors shall adopt regulations ~~rules~~
 286 to implement this section as it relates to state universities.

287 Section 10. Section 1001.705, Florida Statutes, is amended
 288 to read:

289 1001.705 Responsibility for the State University System
 290 under s. 7, Art. IX of the State Constitution; ~~legislative~~
 291 ~~finding and intent.~~—

292 ~~(1) LEGISLATIVE FINDINGS.—~~

293 (1)(a) DEFINITIONS.—For purposes of this act, the term:

294 (a)1. "Board of Governors" as it relates to the State
 295 University System and as used in s. 7, Art. IX of the State
 296 Constitution and Title XLVIII and other sections of the Florida
 297 Statutes is the Board of Governors of the State University
 298 System which belongs to and is part of the executive branch of
 299 state government.

300 (b)2. "Institutions of higher learning" as used in the
 301 State Constitution and the Florida Statutes includes publicly
 302 funded state universities.

303 (c)3. "Public officer" as used in the Florida Statutes
 304 includes members of the Board of Governors.

305 (d)4. "State university" or "state universities" as used
 306 in the State Constitution and the Florida Statutes are agencies
 307 of the state which belong to and are part of the executive
 308 branch of state government. This definition of state

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309 universities as state agencies is only for the purposes of the
310 delineation of constitutional lines of authority. Statutory
311 exemptions for state universities from statutory provisions
312 relating to state agencies that are in effect on the effective
313 date of this act remain in effect and are not repealed by virtue
314 of this definition of state universities.

315 (2)~~(b)~~ CONSTITUTIONAL DUTIES OF THE BOARD OF GOVERNORS OF
316 THE STATE UNIVERSITY SYSTEM.—In accordance with s. 7, Art. IX of
317 the State Constitution, the Board of Governors of the State
318 University System has the duty to operate, regulate, control,
319 and be fully responsible for the management of the whole
320 publicly funded State University System and the board, or the
321 board's designee, has responsibility for:

322 (a)~~1~~ Defining the distinctive mission of each constituent
323 university.

324 (b)~~2~~ Defining the articulation of each constituent
325 university in conjunction with the Legislature's authority over
326 the public schools and community colleges.

327 (c)~~3~~ Ensuring the well-planned coordination and operation
328 of the State University System.

329 (d)~~4~~ Avoiding wasteful duplication of facilities or
330 programs within the State University System.

331 (e)~~5~~ Accounting for expenditure of funds appropriated by
332 the Legislature for the State University System as provided by
333 law.

334 (f)~~6~~ Submitting a budget request for legislative
335 appropriations for the institutions under the supervision of the
336 board as provided by law.

337 (g)~~7.~~ Adopting strategic plans for the State University
 338 System and each constituent university.

339 (h)~~8.~~ Approving, reviewing, and terminating degree
 340 programs of the State University System.

341 (i)~~9.~~ Governing admissions to the state universities.

342 (j)~~10.~~ Serving as the public employer to all public
 343 employees of state universities for collective bargaining
 344 purposes.

345 (k)~~11.~~ Establishing a personnel system for all state
 346 university employees; however, the Department of Management
 347 Services shall retain authority over state university employees
 348 for programs established in ss. 110.123, 110.1232, 110.1234,
 349 110.1238, and 110.161, and in chapters 121, 122, and 238.

350 (l)~~12.~~ Complying with, and enforcing for institutions
 351 under the board's jurisdiction, all applicable local, state, and
 352 federal laws.

353 (3)~~(e)~~ CONSTITUTIONAL DUTIES OF THE LEGISLATURE.—In
 354 accordance with s. 3, Art. II of the State Constitution, which
 355 establishes the separation of powers of three branches of
 356 government; s. 1, Art. III of the State Constitution, which
 357 vests the legislative power of the state in the Legislature; s.
 358 8, Art. III of the State Constitution, which provides the
 359 exclusive executive veto power of the Governor and the exclusive
 360 veto override power of the Legislature; s. 19, Art. III of the
 361 State Constitution, which requires the Legislature to enact
 362 state planning and budget processes and requirements for budget
 363 requests by general law; s. 1, Art. VII of the State
 364 Constitution, which requires that the authority to expend state

365 funds be by general law enacted by the Legislature; and s. 1,
 366 Art. IX of the State Constitution, which requires the
 367 Legislature to make adequate provision by law for the
 368 "establishment, maintenance, and operation of institutions of
 369 higher learning," the Legislature has the following
 370 responsibilities:

371 (a)1. Making provision by law for the establishment,
 372 maintenance, and operation of institutions of higher learning
 373 and other public education programs that the needs of the people
 374 may require.

375 (b)2. Appropriating all state funds through the General
 376 Appropriations Act or other law.

377 (c)3. Establishing tuition and fees.

378 (d)4. Establishing policies relating to merit and need-
 379 based student financial aid.

380 (e)5. Establishing policies relating to expenditure of,
 381 accountability for, and management of funds appropriated by the
 382 Legislature or revenues authorized by the Legislature. This
 383 includes, but is not limited to, policies relating to:
 384 budgeting; deposit of funds; investments; accounting;
 385 purchasing, procurement, and contracting; insurance; audits;
 386 maintenance and construction of facilities; property; bond
 387 financing; leasing; and information reporting.

388 (f)6. Maintaining the actuarial and fiscal soundness of
 389 centrally administered state systems by requiring state
 390 universities to continue to participate in programs such as the
 391 Florida Retirement System, the state group health insurance
 392 programs, ~~the state telecommunications and data network~~

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393 ~~(SUNCOM)~~, and the state casualty insurance program.

394 (g)7. Establishing and regulating the use of state powers
395 and protections, including, but not limited to, eminent domain,
396 certified law enforcement, and sovereign immunity.

397 (h)8. Establishing policies relating to the health,
398 safety, and welfare of students, employees, and the public while
399 present on the campuses of institutions of higher learning.

400 ~~(2) LEGISLATIVE INTENT. It is the intent of the~~
401 ~~Legislature to reenact laws relating to the Board of Governors~~
402 ~~of the State University System, the university boards of~~
403 ~~trustees, the State Board of Education, and the postsecondary~~
404 ~~education system in accordance with the findings of this act.~~

405 Section 11. Section 1001.706, Florida Statutes, is amended
406 to read:

407 1001.706 Powers and duties of the Board of Governors.—

408 (1) GENERAL PROVISIONS.—

409 ~~(a)~~ For each constituent university, the Board of
410 Governors, or the board's designee, shall be responsible for
411 cost-effective policy decisions appropriate to the university's
412 mission, the implementation and maintenance of high-quality
413 education programs within law, the measurement of performance,
414 the reporting of information, and the provision of input
415 regarding state policy, budgeting, and education standards.

416 (2) REGULATORY AUTHORITY.—

417 (a) Pursuant to s. 7, Art. IX of the State Constitution,
418 the Board of Governors has the authority to regulate the State
419 University System and may adopt a regulation development
420 procedure for the Board of Governors and the university boards

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421 of trustees to use in implementing their constitutional duties
422 and responsibilities.

423 (b) The Board of Governors shall be subject to the
424 provisions of ~~adopt rules pursuant to~~ chapter 120 when acting
425 pursuant to statutory authority derived from the Legislature,
426 except that, the Board of Governors may adopt regulations if
427 expressly authorized or required by law ~~rules pursuant to~~
428 ~~chapter 120 when exercising the powers, duties, and authority~~
429 ~~granted by s. 7, Art. IX of the State Constitution.~~ Such
430 regulations must be adopted pursuant to a development procedure
431 that complies with paragraph (c). If the Board of Governors
432 delegates a power or duty to a university board of trustees as
433 the designee, the authority to adopt rules or regulations is
434 included in the delegation. If the Board of Governors delegates
435 a statutory power or duty to a university board of trustees, the
436 university board of trustees shall be subject to the provisions
437 of chapter 120 but may adopt regulations to the same extent as
438 the Board of Governors under this subsection.

439 (c) The development procedure for regulations authorized
440 or required by law must provide for notice to the public of, and
441 an opportunity for public comment on, the proposed adoption,
442 amendment, or repeal of a regulation; a process for a
443 substantially affected person to challenge a statement of
444 general applicability that has not been properly adopted as a
445 regulation; a process for a substantially affected person to
446 challenge an unlawful regulation; and a process for the adoption
447 of and challenges to emergency regulations that are necessary to
448 protect the public interest in the emergency. Judicial review

449 shall be sought in the appellate district in which the
 450 headquarters of the Board of Governors is located or in which
 451 the main campus of the state university is located, as
 452 applicable. The regulation development procedure shall be
 453 published prominently on the websites of the Board of Governors
 454 and the state universities.

455 (3)~~(2)~~ POWERS AND DUTIES RELATING TO ORGANIZATION AND
 456 OPERATION OF STATE UNIVERSITIES.—

457 (a) The Board of Governors, or the board's designee, shall
 458 develop guidelines and procedures related to data and
 459 technology, including information systems, communications
 460 systems, computer hardware and software, and networks.

461 (b) The Board of Governors shall develop guidelines
 462 relating to divisions of sponsored research, pursuant to the
 463 provisions of s. 1004.22, to serve the function of
 464 administration and promotion of the programs of research.

465 (c) The Board of Governors shall prescribe conditions for
 466 direct-support organizations and university health services
 467 support organizations to be certified and to use university
 468 property and services. Conditions relating to certification must
 469 provide for audit review and oversight by the Board of
 470 Governors.

471 (d) The Board of Governors shall develop guidelines for
 472 supervising faculty practice plans for the academic health
 473 science centers.

474 (e) The Board of Governors shall ensure that students at
 475 state universities have access to general education courses as
 476 provided in the statewide articulation agreement, pursuant to s.

477 1007.23.

478 (f) The Board of Governors shall approve baccalaureate
 479 degree programs that require more than 120 semester credit hours
 480 of coursework prior to such programs being offered by a state
 481 university. At least half of the required coursework for any
 482 baccalaureate degree must be offered at the lower-division
 483 level, except in program areas approved by the Board of
 484 Governors.

485 (g) The Board of Governors, or the board's designee, shall
 486 adopt a written antihazing policy, appropriate penalties for
 487 violations of such policy, and a program for enforcing such
 488 policy.

489 (h) The Board of Governors, or the board's designee, may
 490 establish a uniform code of conduct and appropriate penalties
 491 for violations of its regulations ~~rules~~ by students and student
 492 organizations, including regulations ~~rules~~ governing student
 493 academic honesty. Such penalties, unless otherwise provided by
 494 law, may include reasonable fines, the withholding of diplomas
 495 or transcripts pending compliance with regulations ~~rules~~ or
 496 payment of fines, and the imposition of probation, suspension,
 497 or dismissal.

498 (4) ~~(3)~~ POWERS AND DUTIES RELATING TO FINANCE.—

499 (a) The Board of Governors, or the board's designee, shall
 500 account for expenditures of all state, local, federal, and other
 501 funds. Such accounting systems shall have appropriate audit and
 502 internal controls in place that will enable the constituent
 503 universities to satisfactorily and timely perform all accounting
 504 and reporting functions required by state and federal law and

505 rules.

506 (b) The Board of Governors shall prepare the legislative
 507 budget requests for the State University System, including a
 508 request for fixed capital outlay, and submit them to the State
 509 Board of Education for inclusion in the K-20 legislative budget
 510 request. The Board of Governors shall provide the state
 511 universities with fiscal policy guidelines, formats, and
 512 instruction for the development of individual university budget
 513 requests.

514 (c) The Board of Governors, or the board's designee, shall
 515 establish tuition and fees pursuant to ss. 1009.24 and 1009.26.

516 (d) The Board of Governors, or the board's designee, is
 517 authorized to secure comprehensive general liability insurance
 518 pursuant to s. 1004.24.

519 ~~(5)(4)~~ POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

520 (a) The Legislature intends that the Board of Governors
 521 shall align the missions of each constituent university with the
 522 academic success of its students; the national reputation of its
 523 faculty and its academic and research programs; the quantity of
 524 externally generated research, patents, and licenses; and the
 525 strategic and accountability plans required in paragraphs (b)
 526 and (c). The mission alignment and strategic plan shall consider
 527 peer institutions at the constituent universities. The mission
 528 alignment and strategic plan shall acknowledge that universities
 529 that have a national and international impact have the greatest
 530 capacity to promote the state's economic development through:
 531 new discoveries, patents, licenses, and technologies that
 532 generate state businesses of global importance; research

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533 achievements through external grants and contracts that are
 534 comparable to nationally recognized and ranked universities; the
 535 creation of a resource rich academic environment that attracts
 536 high-technology business and venture capital to the state; and
 537 this generation's finest minds focusing on solving the state's
 538 economic, social, environmental, and legal problems in the areas
 539 of life sciences, water, sustainability, energy, and health
 540 care. A nationally recognized and ranked university that has a
 541 global perspective and impact shall be afforded the opportunity
 542 to enable and protect the university's competitiveness on the
 543 global stage in fair competition with other institutions of
 544 other states in the highest Carnegie Classification.

545 (b) ~~(a)~~ The Board of Governors shall develop a strategic
 546 plan specifying goals and objectives for the State University
 547 System and each constituent university.

548 (c) ~~(b)~~ The Board of Governors shall develop an
 549 accountability plan for the State University System and each
 550 constituent university.

551 (d) ~~(e)~~ The Board of Governors shall maintain an effective
 552 information system to provide accurate, timely, and cost-
 553 effective information about each university. The board shall
 554 continue to collect and maintain, at a minimum, ~~the~~ management
 555 information ~~databases~~ as such information ~~databases~~ existed on
 556 June 30, 2002.

557 (e) ~~(d)~~ If the Board of Governors of the State University
 558 System determines that a state university board of trustees is
 559 unwilling or unable to address substantiated allegations made by
 560 any person relating to waste, fraud, or financial mismanagement

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561 within the state university, the Office of the Inspector General
562 shall investigate the allegations.

563 (6)~~(5)~~ POWERS AND DUTIES RELATING TO PERSONNEL.—

564 (a) The Board of Governors, or the board's designee, shall
565 establish the personnel program for all employees of a state
566 university. The Board of Governors shall confirm the
567 presidential selection by a university board of trustees as a
568 means of acknowledging that system cooperation is expected
569 except the president.

570 (b) The Department of Management Services shall retain
571 authority over state university employees for programs
572 established in ss. 110.123, 110.1232, 110.1234, 110.1238, and
573 110.161 and in chapters 121, 122, and 238. Unless specifically
574 authorized by law, neither the Board of Governors nor a state
575 university may offer group insurance programs for employees as a
576 substitute for or as an alternative to the health insurance
577 programs offered pursuant to chapter 110.

578 (c) Except as otherwise provided by law, university
579 employees are public employees for purposes of chapter 112 and
580 any payment for travel and per diem expenses shall not exceed
581 the level specified in s. 112.061.

582 (d) The Board of Governors, or the board's designee, may
583 not enter into an employment contract that requires it ~~the board~~
584 to pay an employee an amount from state funds in excess of 1
585 year of the employee's annual salary for termination, buyout, or
586 any other type of contract settlement. This paragraph does not
587 prohibit the payment of leave and benefits accrued by the
588 employee in accordance with the board's or designee's leave and

589 benefits policies before the contract terminates.

590 (7)~~(6)~~ POWERS AND DUTIES RELATING TO PROPERTY.—

591 (a) The Board of Governors shall develop guidelines for
 592 university boards of trustees relating to the acquisition of
 593 real and personal property and the sale and disposal thereof and
 594 the approval and execution of contracts for the purchase, sale,
 595 lease, license, or acquisition of commodities, goods, equipment,
 596 contractual services, leases of real and personal property, and
 597 construction. The acquisition may include purchase by
 598 installment or lease-purchase. Such contracts may provide for
 599 payment of interest on the unpaid portion of the purchase price.
 600 Title to all real property acquired prior to January 7, 2003,
 601 and to all real property acquired with funds appropriated by the
 602 Legislature shall be vested in the Board of Trustees of the
 603 Internal Improvement Trust Fund and shall be transferred and
 604 conveyed by it. Notwithstanding any other provisions of this
 605 subsection, each board of trustees shall comply with the
 606 provisions of s. 287.055 for the procurement of professional
 607 services as defined therein. Any acquisition pursuant to this
 608 paragraph is subject to the provisions of s. 1010.62.

609 (b) The Board of Governors shall develop guidelines for
 610 university boards of trustees relating to the use, maintenance,
 611 protection, and control of university-owned or university-
 612 controlled buildings and grounds, property and equipment, name,
 613 trademarks and other proprietary marks, and the financial and
 614 other resources of the university. Such authority may include
 615 placing restrictions on activities and on access to facilities,
 616 firearms, food, tobacco, alcoholic beverages, distribution of

617 printed materials, commercial solicitation, animals, and sound.
 618 The authority provided the board of trustees in this subsection
 619 includes the prioritization of the use of space, property,
 620 equipment, and resources and the imposition of charges for those
 621 items.

622 (c) The Board of Governors, or the board's designee, shall
 623 administer a program for the maintenance and construction of
 624 facilities pursuant to chapter 1013.

625 (d) The Board of Governors, or the board's designee, shall
 626 ensure compliance with the provisions of s. 287.09451 for all
 627 procurement and ss. 255.101 and 255.102 for construction
 628 contracts, and rules adopted pursuant thereto, relating to the
 629 utilization of minority business enterprises, except that
 630 procurements costing less than the amount provided for in
 631 CATEGORY FIVE as provided in s. 287.017 shall not be subject to
 632 s. 287.09451.

633 (e) Notwithstanding the provisions of s. 253.025 but
 634 subject to the provisions of s. 1010.62, the Board of Governors,
 635 or the board's designee, may, with the consent of the Board of
 636 Trustees of the Internal Improvement Trust Fund, sell, convey,
 637 transfer, exchange, trade, or purchase real property and related
 638 improvements necessary and desirable to serve the needs and
 639 purposes of the university.

640 1. The Board of Governors, or the board's designee, may
 641 secure appraisals and surveys. The Board of Governors, or the
 642 board's designee, shall comply with the rules of the Board of
 643 Trustees of the Internal Improvement Trust Fund in securing
 644 appraisals. Whenever the Board of Governors, or the board's

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645 | designee, finds it necessary for timely property acquisition, it
646 | may contract, without the need for competitive selection, with
647 | one or more appraisers whose names are contained on the list of
648 | approved appraisers maintained by the Division of State Lands in
649 | the Department of Environmental Protection.

650 | 2. The Board of Governors, or the board's designee, may
651 | negotiate and enter into an option contract before an appraisal
652 | is obtained. The option contract must state that the final
653 | purchase price may not exceed the maximum value allowed by law.
654 | The consideration for such an option contract may not exceed 10
655 | percent of the estimate obtained by the Board of Governors, or
656 | the board's designee, or 10 percent of the value of the parcel,
657 | whichever is greater, unless otherwise authorized by the Board
658 | of Governors or the board's designee.

659 | 3. This paragraph is not intended to abrogate in any
660 | manner the authority delegated to the Board of Trustees of the
661 | Internal Improvement Trust Fund or the Division of State Lands
662 | to approve a contract for purchase of state lands or to require
663 | policies and procedures to obtain clear legal title to parcels
664 | purchased for state purposes. Title to property acquired by a
665 | university board of trustees prior to January 7, 2003, and to
666 | property acquired with funds appropriated by the Legislature
667 | shall vest in the Board of Trustees of the Internal Improvement
668 | Trust Fund.

669 | (f) The Board of Governors, or the board's designee, shall
670 | prepare and adopt a campus master plan pursuant to s. 1013.30.

671 | (g) The Board of Governors, or the board's designee, shall
672 | prepare, adopt, and execute a campus development agreement

673 pursuant to s. 1013.30.

674 (h) Notwithstanding the provisions of s. 216.351, the
 675 Board of Governors, or the board's designee, may authorize the
 676 rent or lease of parking facilities provided that such
 677 facilities are funded through parking fees or parking fines
 678 imposed by a university. The Board of Governors, or the board's
 679 designee, may authorize a university board of trustees to charge
 680 fees for parking at such rented or leased parking facilities.

681 (8)~~(7)~~ COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND
 682 REQUIREMENTS.—The Board of Governors has responsibility for
 683 compliance with state and federal laws, rules, regulations, and
 684 requirements.

685 (9)~~(8)~~ COOPERATION WITH OTHER BOARDS.—The Board of
 686 Governors shall implement a plan for working on a regular basis
 687 with the State Board of Education, the Commission for
 688 Independent Education, the university boards of trustees,
 689 representatives of the community college boards of trustees,
 690 representatives of the private colleges and universities, and
 691 representatives of the district school boards to achieve a
 692 seamless education system.

693 (10)~~(9)~~ The Board of Governors is prohibited from
 694 assessing any fee on state universities, unless specifically
 695 authorized by law.

696 Section 12. Subsection (3) is added to section 1001.72,
 697 Florida Statutes, to read:

698 1001.72 University boards of trustees; boards to
 699 constitute a corporation.—

700 (3) Each board of trustees constitutes the contracting

701 agent of the university.

702 Section 13. Section 1004.015, Florida Statutes, is created
703 to read:

704 1004.015 Higher Education Coordinating Council.—

705 (1) The Higher Education Coordinating Council is created
706 for the purposes of identifying unmet needs and facilitating
707 solutions to disputes regarding the creation of new degree
708 programs and the establishment of new institutes, campuses, or
709 centers.

710 (2) Members of the council shall include:

711 (a) The Commissioner of Education.

712 (b) The Chancellor of the State University System.

713 (c) The Chancellor of the Florida College System.

714 (d) The executive director of the Commission for
715 Independent Education.

716 (e) The president of the Independent Colleges and
717 Universities of Florida.

718 (f) Two representatives of the business community, one
719 appointed by the President of the Senate and one appointed by
720 the Speaker of the House of Representatives, who are committed
721 to developing and enhancing world class workforce infrastructure
722 necessary for Florida's citizens to compete and prosper in the
723 ever-changing economy of the 21st century.

724 (3) The council shall serve as an advisory board to the
725 Legislature, the State Board of Education, and the Board of
726 Governors. Recommendations of the council shall be consistent
727 with the following guiding principles:

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728 (a) To achieve within existing resources a seamless
729 academic educational system that fosters an integrated continuum
730 of kindergarten through graduate school education for Florida's
731 students.

732 (b) To promote consistent education policy across all
733 educational delivery systems, focusing on students.

734 (c) To promote substantially improved articulation across
735 all educational delivery systems.

736 (d) To promote a system that maximizes educational access
737 and allows the opportunity for a high-quality education for all
738 Floridians.

739 (e) To promote a system of coordinated and consistent
740 transfer of credit and data collection for improved
741 accountability purposes between the educational delivery
742 systems.

743 (4) The Board of Governors shall provide administrative
744 support for the council.

745 Section 14. Subsections (1) and (3) of section 1004.03,
746 Florida Statutes, are amended to read:

747 1004.03 Program approval.—

748 (1) The Board of Governors shall establish criteria for
749 the review and approval of proposed new programs at state
750 universities to ensure the well-planned development,
751 coordination, and operation of the State University System and
752 to avoid wasteful duplication of facilities or programs. The
753 Board of Governors shall submit an annual report to the
754 President of the Senate, the Speaker of the House of
755 Representatives, and the Governor listing the reviews conducted

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756 and the results of each review. ~~that will receive any support~~
757 ~~from tuition and fees assessed pursuant to s. 1009.24 or from~~
758 ~~funds appropriated by the Legislature through the General~~
759 ~~Appropriations Act or other law. These criteria include, but are~~
760 ~~not limited to, the following:~~

761 ~~(a) New programs may not be approved unless the same~~
762 ~~objectives cannot be met through use of educational technology.~~

763 ~~(b) Unnecessary duplication of programs offered by public~~
764 ~~and independent institutions shall be avoided.~~

765 ~~(c) Cooperative programs, particularly within regions,~~
766 ~~should be encouraged.~~

767 ~~(d) New programs shall be approved only if they are~~
768 ~~consistent with the strategic plan adopted by the Board of~~
769 ~~Governors.~~

770 ~~(e) A new graduate-level program or professional-level~~
771 ~~program may be approved if:~~

772 ~~1. The university has taken into account the offerings of~~
773 ~~its counterparts, including institutions in other sectors,~~
774 ~~particularly at the regional level.~~

775 ~~2. The addition of the program will not alter the emphasis~~
776 ~~on undergraduate education.~~

777 ~~3. The regional need and demand for the program was~~
778 ~~addressed and the community needs are obvious.~~

779 ~~(3) New colleges, schools, or functional equivalents of~~
780 ~~any program that leads to a degree that is offered as a~~
781 ~~credential for a specific license granted under the Florida~~
782 ~~Statutes or the State Constitution and that will receive any~~
783 ~~support from tuition and fees or from funds appropriated by the~~

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784 ~~Legislature through the General Appropriations Act or other law~~
 785 ~~shall not be established without the specific approval of the~~
 786 ~~Legislature.~~

787 Section 15. Subsection (4) of section 1004.07, Florida
 788 Statutes, is amended to read:

789 1004.07 Student withdrawal from courses due to military
 790 service; effect.—

791 (4) Policies of state university boards of trustees shall
 792 be established by regulation ~~rule~~ and pursuant to guidelines of
 793 the Board of Governors.

794 Section 16. Section 1006.54, Florida Statutes, is amended
 795 to read:

796 1006.54 Universities; public documents distributed to
 797 libraries.—The general library of each state university may
 798 receive copies of reports of state officials, departments, and
 799 institutions and all other state documents published by the
 800 state. Each officer of the state empowered by law to distribute
 801 such public documents may transmit without charge, except for
 802 payment of shipping costs, the number of copies of each public
 803 document desired upon requisition from the librarian. It is the
 804 duty of the library to keep public documents in a convenient
 805 form accessible to the public. The library, under regulations
 806 ~~rules~~ formulated by the university board of trustees, is
 807 authorized to exchange documents for those of other states,
 808 territories, and countries.

809 Section 17. Section 1006.60, Florida Statutes, is amended
 810 to read:

811 1006.60 Codes of conduct; disciplinary measures;

812 ~~rulemaking~~ authority to adopt rules or regulations.-

813 (1) Each community college ~~and state university~~ may adopt,
 814 by rule, and each state university may adopt, by regulation,
 815 codes of conduct and appropriate penalties for violations of
 816 rules or regulations by students, to be administered by the
 817 institution. Such penalties, unless otherwise provided by law,
 818 may include: reprimand; restitution; fines; withholding of
 819 diplomas or transcripts pending compliance with rules or
 820 regulations, completion of any student judicial process or
 821 sanction, or payment of fines; restrictions on the use of or
 822 removal from campus facilities; community service; educational
 823 requirements; and the imposition of probation, suspension,
 824 dismissal, or expulsion.

825 (2) Each community college ~~and state university~~ may adopt,
 826 by rule, and each state university may adopt, by regulation, a
 827 code of conduct and appropriate penalties for violations of
 828 rules or regulations by student organizations, to be
 829 administered by the institution. Such penalties, unless
 830 otherwise provided by law, may include: reprimand; restitution;
 831 suspension, cancellation, or revocation of the registration or
 832 official recognition of a student organization; and restrictions
 833 on the use of, or removal from, campus facilities.

834 (3) Sanctions authorized by such codes of conduct may be
 835 imposed only for acts or omissions in violation of rules or
 836 regulations adopted by the institution, including rules or
 837 regulations adopted under this section, rules of the State Board
 838 of Education, rules or regulations of ~~of~~ the Board of Governors
 839 regarding the State University System, county and municipal

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840 ordinances, and the laws of this state, the United States, or
841 any other state.

842 (4) Each community college ~~and state university~~ may
843 establish and adopt, by rule, and each state university may
844 establish and adopt, by regulation, codes of appropriate
845 penalties for violations of rules or regulations governing
846 student academic honesty. Such penalties, unless otherwise
847 provided by law, may include: reprimand; reduction of grade;
848 denial of academic credit; invalidation of university credit or
849 of the degree based upon such credit; probation; suspension;
850 dismissal; or expulsion. In addition to any other penalties that
851 may be imposed, an individual may be denied admission or further
852 registration, and the institution may invalidate academic credit
853 for work done by a student and may invalidate or revoke the
854 degree based upon such credit if it is determined that the
855 student has made false, fraudulent, or incomplete statements in
856 the application, residence affidavit, or accompanying documents
857 or statements in connection with, or supplemental to, the
858 application for admission to or graduation from the institution.

859 (5) Each community college ~~and state university~~ shall
860 adopt rules and each state university shall adopt regulations
861 for the lawful discipline of any student who intentionally acts
862 to impair, interfere with, or obstruct the orderly conduct,
863 processes, and functions of the institution. Said rules or
864 regulations may apply to acts conducted on or off campus when
865 relevant to such orderly conduct, processes, and functions.

866 Section 18. Subsection (2) of section 1006.65, Florida
867 Statutes, is amended to read:

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868 1006.65 Safety issues in courses offered by public
 869 postsecondary educational institutions.-

870 (2) The Board of Governors shall adopt regulations ~~rules~~
 871 to ensure that policies and procedures are in place to protect
 872 the health and safety of students, instructional personnel, and
 873 visitors who participate in courses offered by a state
 874 university.

875 Section 19. Subsection (3) of section 1007.264, Florida
 876 Statutes, is amended to read:

877 1007.264 Persons with disabilities; admission to
 878 postsecondary educational institutions; substitute requirements;
 879 rules and regulations.-

880 (3) The Board of Governors, in consultation with the State
 881 Board of Education, shall adopt regulations ~~rules~~ to implement
 882 this section for state universities and shall develop substitute
 883 admission requirements where appropriate.

884 Section 20. Subsection (3) of section 1007.265, Florida
 885 Statutes, is amended to read:

886 1007.265 Persons with disabilities; graduation, study
 887 program admission, and upper-division entry; substitute
 888 requirements; rules and regulations.-

889 (3) The Board of Governors, in consultation with the State
 890 Board of Education, shall adopt regulations ~~rules~~ to implement
 891 this section for state universities and shall develop substitute
 892 requirements where appropriate.

893 Section 21. Section 1009.24, Florida Statutes, is amended
 894 to read:

895 1009.24 State university student fees.-

896 (1) This section applies to students enrolled in college
 897 credit programs at state universities.

898 (2) All students shall be charged fees except students who
 899 are exempt from fees or students whose fees are waived.

900 (3) All moneys from tuition and fees shall be deposited
 901 pursuant to s. 1011.42.

902 (4)(a) Effective January 1, 2008, the resident
 903 undergraduate tuition for lower-level and upper-level coursework
 904 shall be \$77.39 per credit hour.

905 (b) Beginning with the 2008-2009 fiscal year and each year
 906 thereafter, the resident undergraduate tuition per credit hour
 907 shall increase at the beginning of each fall semester at a rate
 908 equal to inflation, unless otherwise provided in the General
 909 Appropriations Act. The Office of Economic and Demographic
 910 Research shall report the rate of inflation to the President of
 911 the Senate, the Speaker of the House of Representatives, the
 912 Governor, and the Board of Governors each year prior to March 1.
 913 For purposes of this paragraph, the rate of inflation shall be
 914 defined as the rate of the 12-month percentage change in the
 915 Consumer Price Index for All Urban Consumers, U.S. City Average,
 916 All Items, or successor reports as reported by the United States
 917 Department of Labor, Bureau of Labor Statistics, or its
 918 successor for December of the previous year. In the event the
 919 percentage change is negative, the resident undergraduate
 920 tuition shall remain at the same level as the prior fiscal year.

921 (c) The Board of Governors, or the board's designee, may
 922 establish tuition for graduate and professional programs, and
 923 out-of-state fees for all programs. Except as otherwise provided

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924 in this section, the sum of tuition and out-of-state fees
925 assessed to nonresident students must be sufficient to offset
926 the full instructional cost of serving such students. However,
927 adjustments to out-of-state fees or tuition for graduate
928 programs and professional programs may not exceed 15 percent in
929 any year.

930 (d) The Board of Governors may consider and approve
931 flexible tuition policies as requested by a university board of
932 trustees in accordance with the provisions of subsection (15)
933 only to the extent such policies are in alignment with the
934 mission of the university and do not increase the state's fiscal
935 liability or obligations, including, but not limited to, any
936 fiscal liability or obligation for programs authorized under ss.
937 1009.53-1009.538 and ss. 1009.97-1009.984.

938 (e)~~(d)~~ The sum of the activity and service, health, and
939 athletic fees a student is required to pay to register for a
940 course shall not exceed 40 percent of the tuition established in
941 law or in the General Appropriations Act. No university shall be
942 required to lower any fee in effect on the effective date of
943 this act in order to comply with this subsection. Within the 40
944 percent cap, universities may not increase the aggregate sum of
945 activity and service, health, and athletic fees more than 5
946 percent per year unless specifically authorized in law or in the
947 General Appropriations Act. A university may increase its
948 athletic fee to defray the costs associated with changing
949 National Collegiate Athletic Association divisions. Any such
950 increase in the athletic fee may exceed both the 40 percent cap
951 and the 5 percent cap imposed by this subsection. Any such

952 increase must be approved by the athletic fee committee in the
 953 process outlined in subsection (12) and cannot exceed \$2 per
 954 credit hour. Notwithstanding the provisions of ss. 1009.534,
 955 1009.535, and 1009.536, that portion of any increase in an
 956 athletic fee pursuant to this subsection that causes the sum of
 957 the activity and service, health, and athletic fees to exceed
 958 the 40 percent cap or the annual increase in such fees to exceed
 959 the 5 percent cap shall not be included in calculating the
 960 amount a student receives for a Florida Academic Scholars award,
 961 a Florida Medallion Scholars award, or a Florida Gold Seal
 962 Vocational Scholars award.

963 ~~(f)(e)~~ This subsection does not prohibit a university from
 964 increasing or assessing optional fees related to specific
 965 activities if payment of such fees is not required as a part of
 966 registration for courses.

967 (5) A university may implement a differential out-of-state
 968 fee in accordance with regulations developed by the Board of
 969 Governors for the following:

970 (a) A student from another state that borders the service
 971 area of the university.

972 (b) A graduate student who has been determined to be a
 973 nonresident for tuition purposes pursuant to s. 1009.21 and has
 974 a .25 full-time equivalent appointment or greater as a graduate
 975 assistant, graduate research assistant, graduate teaching
 976 assistant, graduate research associate, or graduate teaching
 977 associate.

978 (c) A graduate student who has been determined to be a
 979 nonresident for tuition purposes pursuant to s. 1009.21 and is

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980 receiving a full fellowship.

981 (6) Students who are enrolled in Programs in Medical
982 Sciences are considered graduate students for the purpose of
983 enrollment and student fees.

984 (7) A university board of trustees is authorized to
985 collect for financial aid purposes an amount not to exceed 5
986 percent of the tuition and out-of-state fee. The revenues from
987 fees are to remain at each campus and replace existing financial
988 aid fees. Such funds shall be disbursed to students as quickly
989 as possible. A minimum of 75 percent of funds from the student
990 financial aid fee shall be used to provide financial aid based
991 on absolute need. The Board of Governors shall develop criteria
992 for making financial aid awards. Each university shall report
993 annually to the Board of Governors and the Department of
994 Education on the revenue collected pursuant to this subsection,
995 the amount carried forward, the criteria used to make awards,
996 the amount and number of awards for each criterion, and a
997 delineation of the distribution of such awards. The report shall
998 include an assessment by category of the financial need of every
999 student who receives an award, regardless of the purpose for
1000 which the award is received. Awards which are based on financial
1001 need shall be distributed in accordance with a nationally
1002 recognized system of need analysis approved by the Board of
1003 Governors. An award for academic merit shall require a minimum
1004 overall grade point average of 3.0 on a 4.0 scale or the
1005 equivalent for both initial receipt of the award and renewal of
1006 the award.

1007 (8) The Capital Improvement Trust Fund fee is established

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1008 as \$2.44 per credit hour per semester. The building fee is
 1009 established as \$2.32 per credit hour per semester.

1010 (9) Each university board of trustees is authorized to
 1011 establish separate activity and service, health, and athletic
 1012 fees. When duly established, the fees shall be collected as
 1013 component parts of tuition and fees and shall be retained by the
 1014 university and paid into the separate activity and service,
 1015 health, and athletic funds. Notwithstanding any other provision
 1016 of law to the contrary, a university may transfer revenues
 1017 derived from the fees authorized pursuant to this subsection to
 1018 a university direct-support organization of the university to be
 1019 used only for the purpose of paying and securing debt on
 1020 projects approved pursuant to s. 1010.62 and pursuant to a
 1021 written agreement approved by the Board of Governors. The amount
 1022 transferred may not exceed the amount authorized for annual debt
 1023 service pursuant to s. 1010.62.

1024 (10)(a) Each university board of trustees shall establish
 1025 a student activity and service fee on the main campus of the
 1026 university. The university board may also establish a student
 1027 activity and service fee on any branch campus or center. Any
 1028 subsequent increase in the activity and service fee must be
 1029 recommended by an activity and service fee committee, at least
 1030 one-half of whom are students appointed by the student body
 1031 president. The remainder of the committee shall be appointed by
 1032 the university president. A chairperson, appointed jointly by
 1033 the university president and the student body president, shall
 1034 vote only in the case of a tie. The recommendations of the
 1035 committee shall take effect only after approval by the

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1036 university president, after consultation with the student body
1037 president, with final approval by the university board of
1038 trustees. An increase in the activity and service fee may occur
1039 only once each fiscal year and must be implemented beginning
1040 with the fall term. The Board of Governors is responsible for
1041 adopting the regulations ~~rules~~ and timetables necessary to
1042 implement this fee.

1043 (b) The student activity and service fees shall be
1044 expended for lawful purposes to benefit the student body in
1045 general. This shall include, but shall not be limited to,
1046 student publications and grants to duly recognized student
1047 organizations, the membership of which is open to all students
1048 at the university without regard to race, sex, or religion. The
1049 fund may not benefit activities for which an admission fee is
1050 charged to students, except for student-government-association-
1051 sponsored concerts. The allocation and expenditure of the fund
1052 shall be determined by the student government association of the
1053 university, except that the president of the university may veto
1054 any line item or portion thereof within the budget when
1055 submitted by the student government association legislative
1056 body. The university president shall have 15 school days from
1057 the date of presentation of the budget to act on the allocation
1058 and expenditure recommendations, which shall be deemed approved
1059 if no action is taken within the 15 school days. If any line
1060 item or portion thereof within the budget is vetoed, the student
1061 government association legislative body shall within 15 school
1062 days make new budget recommendations for expenditure of the
1063 vetoed portion of the fund. If the university president vetoes

1064 any line item or portion thereof within the new budget
 1065 revisions, the university president may reallocate by line item
 1066 that vetoed portion to bond obligations guaranteed by activity
 1067 and service fees. Unexpended funds and undisbursed funds
 1068 remaining at the end of a fiscal year shall be carried over and
 1069 remain in the student activity and service fund and be available
 1070 for allocation and expenditure during the next fiscal year.

1071 (11) Each university board of trustees shall establish a
 1072 student health fee on the main campus of the university. The
 1073 university board of trustees may also establish a student health
 1074 fee on any branch campus or center. Any subsequent increase in
 1075 the health fee must be recommended by a health committee, at
 1076 least one-half of whom are students appointed by the student
 1077 body president. The remainder of the committee shall be
 1078 appointed by the university president. A chairperson, appointed
 1079 jointly by the university president and the student body
 1080 president, shall vote only in the case of a tie. The
 1081 recommendations of the committee shall take effect only after
 1082 approval by the university president, after consultation with
 1083 the student body president, with final approval by the
 1084 university board of trustees. An increase in the health fee may
 1085 occur only once each fiscal year and must be implemented
 1086 beginning with the fall term. The Board of Governors is
 1087 responsible for adopting the regulations ~~rules~~ and timetables
 1088 necessary to implement this fee.

1089 (12) Each university board of trustees shall establish a
 1090 separate athletic fee on the main campus of the university. The
 1091 university board may also establish a separate athletic fee on

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1092 any branch campus or center. Any subsequent increase in the
1093 athletic fee must be recommended by an athletic fee committee,
1094 at least one-half of whom are students appointed by the student
1095 body president. The remainder of the committee shall be
1096 appointed by the university president. A chairperson, appointed
1097 jointly by the university president and the student body
1098 president, shall vote only in the case of a tie. The
1099 recommendations of the committee shall take effect only after
1100 approval by the university president, after consultation with
1101 the student body president, with final approval by the
1102 university board of trustees. An increase in the athletic fee
1103 may occur only once each fiscal year and must be implemented
1104 beginning with the fall term. The Board of Governors is
1105 responsible for adopting the regulations ~~rules~~ and timetables
1106 necessary to implement this fee.

1107 (13) Each university board of trustees may establish a
1108 technology fee of up to 5 percent of the tuition per credit
1109 hour. The revenue from this fee shall be used to enhance
1110 instructional technology resources for students and faculty. The
1111 technology fee may not be included in any award under the
1112 Florida Bright Futures Scholarship Program established pursuant
1113 to ss. 1009.53-1009.538.

1114 (14)-(13) Except as otherwise provided in subsection (15),
1115 each university board of trustees is authorized to establish the
1116 following fees:

1117 (a) A nonrefundable application fee in an amount not to
1118 exceed \$30.

1119 (b) An orientation fee in an amount not to exceed \$35.

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1120 (c) A fee for security, access, or identification cards.
 1121 The annual fee for such a card may not exceed \$10 per card. The
 1122 maximum amount charged for a replacement card may not exceed
 1123 \$15.

1124 (d) Registration fees for audit and zero-hours
 1125 registration; a service charge, which may not exceed \$15, for
 1126 the payment of tuition and fees in installments; and a late-
 1127 registration fee in an amount not less than \$50 nor more than
 1128 \$100 to be imposed on students who fail to initiate registration
 1129 during the regular registration period.

1130 (e) A late-payment fee in an amount not less than \$50 nor
 1131 more than \$100 to be imposed on students who fail to pay or fail
 1132 to make appropriate arrangements to pay (by means of installment
 1133 payment, deferment, or third-party billing) tuition by the
 1134 deadline set by each university. Each university may adopt
 1135 specific procedures or policies for waiving the late-payment fee
 1136 for minor underpayments.

1137 ~~(f)~~ Fees for transcripts and diploma replacement, not
 1138 to exceed \$10 per item.

1139 (g) A nonrefundable admissions deposit for undergraduate,
 1140 graduate, and professional degree programs in an amount not to
 1141 exceed \$200. The admissions deposit shall be imposed at the time
 1142 of an applicant's acceptance to the university and shall be
 1143 applied toward tuition upon enrollment. If the applicant does
 1144 not enroll in the university, the admissions deposit shall be
 1145 deposited in an auxiliary account of the university and used to
 1146 expand financial assistance, scholarships, and student academic
 1147 and career counseling services at the university. The Board of

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1148 Governors shall adopt a policy that provides for the waiver of
1149 such admissions deposit on the basis of financial hardship.

1150 (h)~~(f)~~ A fee for miscellaneous health-related charges for
1151 services provided at cost by the university health center which
1152 are not covered by the health fee set under subsection (11).

1153 (i)~~(g)~~ Materials and supplies fees to offset the cost of
1154 materials or supplies that are consumed in the course of the
1155 student's instructional activities, excluding the cost of
1156 equipment replacement, repairs, and maintenance.

1157 (j)~~(h)~~ Housing rental rates and miscellaneous housing
1158 charges for services provided by the university at the request
1159 of the student.

1160 (k)~~(i)~~ A charge representing the reasonable cost of
1161 efforts to collect payment of overdue accounts.

1162 (l)~~(j)~~ A service charge on university loans in lieu of
1163 interest and administrative handling charges.

1164 (m)~~(k)~~ A fee for off-campus course offerings when the
1165 location results in specific, identifiable increased costs to
1166 the university.

1167 (n)~~(l)~~ Library fees and fines, including charges for
1168 damaged and lost library materials, overdue reserve library
1169 books, interlibrary loans, and literature searches.

1170 (o)~~(m)~~ Fees relating to duplicating, photocopying,
1171 binding, and microfilming; copyright services; and standardized
1172 testing. These fees may be charged only to those who receive the
1173 services.

1174 (p)~~(n)~~ Fees and fines relating to the use, late return,
1175 and loss and damage of facilities and equipment.

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1176 ~~(g)(e)~~ A returned-check fee as authorized by s. 832.07(1)
 1177 for unpaid checks returned to the university.

1178 ~~(r)(p)~~ Traffic and parking fines, charges for parking
 1179 decals, and transportation access fees.

1180 ~~(s)(q)~~ An Educational Research Center for Child
 1181 Development fee for child care and services offered by the
 1182 center.

1183 ~~(s)~~ A technology fee of up to 5 percent of the tuition per
 1184 credit hour, beginning with the fall term of the 2009-2010
 1185 academic year. The revenue from this fee shall be used to
 1186 enhance instructional technology resources for students and
 1187 faculty. The technology fee shall not be included in any award
 1188 under the Florida Bright Futures Scholarship Program.

1189
 1190 With the exception of housing rental rates and except as
 1191 otherwise provided, fees assessed pursuant to paragraphs (h)-(s)
 1192 shall be based on reasonable costs of services. The Board of
 1193 Governors shall adopt regulations and timetables necessary to
 1194 implement the fees and fines authorized under this subsection.
 1195 The fees assessed under this subsection may be used for debt
 1196 only as authorized under s. 1010.62.

1197 ~~(14)~~ Each university board of trustees is authorized to
 1198 establish a nonrefundable admissions deposit for undergraduate,
 1199 graduate, and professional degree programs in an amount not to
 1200 exceed \$200. The admissions deposit shall be imposed at the time
 1201 of an applicant's acceptance to the university and shall be
 1202 applied toward tuition upon enrollment. In the event the
 1203 applicant does not enroll in the university, the admissions

1204 ~~deposit shall be deposited in an auxiliary account of the~~
 1205 ~~university and used to expand financial assistance,~~
 1206 ~~scholarships, and student academic and career counseling~~
 1207 ~~services at the university. A university board of trustees that~~
 1208 ~~establishes an admissions deposit pursuant to this subsection~~
 1209 ~~must also adopt policies that provide for the waiver of such~~
 1210 ~~deposit on the basis of financial hardship.~~

1211 (15) (a) The Board of Governors may approve:

1212 1. A proposal from a university board of trustees to
 1213 establish a new student fee that is not specifically authorized
 1214 by this section.

1215 2. A proposal from a university board of trustees to
 1216 increase the current cap for an existing fee authorized pursuant
 1217 to paragraphs (14) (a)-(g).

1218 3. A proposal from a university board of trustees to
 1219 implement flexible tuition policies, such as block tuition,
 1220 block tuition differential, or market tuition rates for
 1221 graduate-level online courses or graduate-level courses offered
 1222 through a university's continuing education program. A block
 1223 tuition policy for resident undergraduate students or
 1224 undergraduate-level courses shall be based on the per-credit-
 1225 hour undergraduate tuition established under subsection (4). A
 1226 block tuition policy for nonresident undergraduate students
 1227 shall be based on the per-credit-hour undergraduate tuition and
 1228 out-of-state fee established under subsection (4). Flexible
 1229 tuition policies, including block tuition, may not increase the
 1230 state's fiscal liability or obligation.

1231 (b) A proposal developed pursuant to paragraph (a) shall

1232 be submitted in accordance with guidelines established by the
 1233 Board of Governors. Approval by the Board of Governors of such
 1234 proposal must be made in accordance with the provisions of this
 1235 subsection.

1236 (c) In reviewing a proposal to establish a new fee under
 1237 subparagraph (a)1., the Board of Governors shall consider:

1238 1. The purpose to be served or accomplished by the new
 1239 fee.

1240 2. Whether there is a demonstrable student-based need for
 1241 the new fee that is not currently being met through existing
 1242 university services, operations, or another fee.

1243 3. Whether the financial impact on students is warranted
 1244 in light of other charges assessed to students for tuition and
 1245 associated fees.

1246 4. Whether any restrictions, limitations, or conditions
 1247 should be placed on the use of the fee.

1248 5. Whether there are outcome measures to indicate if the
 1249 purpose for which the fee was established is accomplished.

1250 (d) In reviewing a proposal to increase or exceed the
 1251 current cap for an existing fee under subparagraph (a)2., the
 1252 Board of Governors shall consider:

1253 1. The services or operations currently being funded by
 1254 the fee.

1255 2. Whether those services or operations can be performed
 1256 more efficiently to alleviate the need for any increase.

1257 3. The additional or enhanced services or operations to be
 1258 funded by the increase.

1259 4. Whether any alternative resources are available to meet

1260 the need.

1261 5. Whether the financial impact on students is warranted
 1262 in light of other charges assessed to students for tuition and
 1263 associated fees.

1264 (e) In reviewing a proposal to implement a flexible
 1265 tuition policy under subparagraph (a)3., the Board of Governors
 1266 shall consider:

1267 1. Whether the proposed tuition flexibility policy is
 1268 aligned with the mission of the university.

1269 2. Whether the proposed tuition flexibility policy
 1270 increases the state's fiscal liabilities or obligations and, if
 1271 so, the proposal shall be denied.

1272 3. Whether any restrictions, limitations, or conditions
 1273 should be placed on the policy.

1274 4. How the proposed tuition flexibility policy will be
 1275 implemented to honor the advance payment contracts of students
 1276 who are beneficiaries of prepaid tuition contracts under s.
 1277 1009.98.

1278 (f) The Board of Governors shall submit an annual report
 1279 to the President of the Senate, the Speaker of the House of
 1280 Representatives, and the Governor summarizing the proposals
 1281 received by the board during the preceding year and actions
 1282 taken by the board in response to such proposals. The Board of
 1283 Governors shall also include in the annual report the following
 1284 information for each fee established pursuant to subparagraph
 1285 (a)1.:

1286 1. The amount of the fee.

1287 2. The total revenues generated by the fee.

1288 3. Detailed expenditures of the revenues generated by the
 1289 fee.

1290 (g) The aggregate sum of any fees established pursuant to
 1291 subparagraph (a)1. that a student is required to pay to register
 1292 for a course shall not exceed 10 percent of tuition.

1293 (h) Any fee established pursuant to subparagraph (a)1.
 1294 shall not be included in any award under the Florida Bright
 1295 Futures Scholarship Program established pursuant to ss. 1009.53-
 1296 1009.538.

1297 (i) The revenues generated by a fee established pursuant
 1298 to subparagraph (a)1. may not be transferred to an auxiliary
 1299 enterprise or a direct-support organization and may not be used
 1300 for the purpose of paying or securing debt.

1301 (j) If the Board of Governors approves a university
 1302 proposal to establish a fee pursuant to subparagraph (a)1., a
 1303 fee committee shall be established at the university to make
 1304 recommendations to the university president and the university
 1305 board of trustees regarding how the revenue from the fee is to
 1306 be spent and any subsequent changes to the fee. At least one-
 1307 half of the committee must be students appointed by the student
 1308 body president. The remainder of the committee shall be
 1309 appointed by the university president. A chair, appointed
 1310 jointly by the university president and the student body
 1311 president, shall vote only in the case of a tie.

1312 (k) An increase to an existing fee or a fee established
 1313 pursuant to subparagraph (a)1. may occur no more than once each
 1314 fiscal year and must be implemented beginning with the fall term
 1315 ~~Each university may assess a service charge for the payment of~~

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1316 ~~tuition and fees in installments. Such service charge must be~~
 1317 ~~approved by the university board of trustees.~~

1318 (16) Each university board of trustees may establish a
 1319 tuition differential for undergraduate courses upon receipt of
 1320 approval from the Board of Governors. The tuition differential
 1321 shall promote improvements in the quality of undergraduate
 1322 education and shall provide financial aid to undergraduate
 1323 students who exhibit financial need.

1324 (a) Seventy percent of the revenues from the tuition
 1325 differential shall be expended for purposes of undergraduate
 1326 education. Such expenditures may include, but are not limited
 1327 to, increasing course offerings, improving graduation rates,
 1328 increasing the percentage of undergraduate students who are
 1329 taught by faculty, decreasing student-faculty ratios, providing
 1330 salary increases for faculty who have a history of excellent
 1331 teaching in undergraduate courses, improving the efficiency of
 1332 the delivery of undergraduate education through academic
 1333 advisement and counseling, and reducing the percentage of
 1334 students who graduate with excess hours. This expenditure for
 1335 undergraduate education may not be used to pay the salaries of
 1336 graduate teaching assistants. The remaining 30 percent of the
 1337 revenues from the tuition differential, or the equivalent amount
 1338 of revenue from private sources, shall be expended to provide
 1339 financial aid to undergraduate students who exhibit financial
 1340 need to meet the cost of university attendance. This expenditure
 1341 for need-based financial aid shall not supplant the amount of
 1342 need-based aid provided to undergraduate students in the
 1343 preceding fiscal year from financial aid fee revenues, the

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1344 direct appropriation for financial assistance provided to state
 1345 universities in the General Appropriations Act, or from private
 1346 sources.

1347 (b) Each tuition differential is subject to the following
 1348 conditions:

1349 1. The tuition differential may be assessed on one or more
 1350 undergraduate courses or on all undergraduate courses at a state
 1351 university.

1352 2. The tuition differential may vary by course or courses,
 1353 campus or center location, and by institution. Each university
 1354 board of trustees shall strive to maintain and increase
 1355 enrollment in degree programs related to math, science, high
 1356 technology, and other state or regional high-need fields when
 1357 establishing tuition differentials by course.

1358 3. For each state university that has total research and
 1359 development expenditures for all fields of at least \$100 million
 1360 per year as reported annually to the National Science
 1361 Foundation, the aggregate sum of tuition and the tuition
 1362 differential may not be increased by more than 15 percent of the
 1363 total charged for the aggregate sum of these fees in the
 1364 preceding fiscal year. For each state university that has total
 1365 research and development expenditures for all fields of less
 1366 than \$100 million per year as reported annually to the National
 1367 Science Foundation, the aggregate sum of tuition and the tuition
 1368 differential may not be increased by more than 15 percent of the
 1369 total charged for the aggregate sum of these fees in the
 1370 preceding fiscal year.

1371 4. The aggregate sum of undergraduate tuition and fees per

1372 credit hour, including the tuition differential, may not exceed
 1373 the national average of undergraduate tuition and fees at 4-year
 1374 degree-granting public postsecondary educational institutions.

1375 5. The tuition differential shall not be included in any
 1376 award under the Florida Bright Futures Scholarship Program
 1377 established pursuant to ~~may not be calculated as a part of the~~
 1378 ~~scholarship programs established in~~ ss. 1009.53-1009.538.

1379 6. Beneficiaries having prepaid tuition contracts pursuant
 1380 to s. 1009.98(2)(b) which were in effect on July 1, 2007, and
 1381 which remain in effect, are exempt from the payment of the
 1382 tuition differential.

1383 7. The tuition differential may not be charged to any
 1384 student who was in attendance at the university before July 1,
 1385 2007, and who maintains continuous enrollment.

1386 8. The tuition differential may be waived by the
 1387 university for students who meet the eligibility requirements
 1388 for the Florida public student assistance grant established in
 1389 s. 1009.50.

1390 9. Subject to approval by the Board of Governors, the
 1391 tuition differential authorized pursuant to this subsection may
 1392 take effect with the 2009 fall term.

1393 (c) A university board of trustees may submit a proposal
 1394 to the Board of Governors to implement a tuition differential
 1395 for one or more undergraduate courses. At a minimum, the
 1396 proposal shall:

1397 1. Identify the course or courses for which the tuition
 1398 differential will be assessed.

1399 2. Indicate the amount that will be assessed for each

1400 tuition differential proposed.

1401 3. Indicate the purpose of the tuition differential.

1402 4. Indicate how the revenues from the tuition differential

1403 will be used.

1404 5. Indicate how the university will monitor the success of

1405 the tuition differential in achieving the purpose for which the

1406 tuition differential is being assessed.

1407 (d) The Board of Governors shall review each proposal and

1408 advise the university board of trustees of approval of the

1409 proposal, the need for additional information or revision to the

1410 proposal, or denial of the proposal. The Board of Governors

1411 shall establish a process for any university to revise a

1412 proposal or appeal a decision of the board.

1413 (e) The Board of Governors shall submit a report to the

1414 President of the Senate, the Speaker of the House of

1415 Representatives, and the Governor describing the implementation

1416 of the provisions of this subsection no later than January 1,

1417 2010, and no later than January 1 each year thereafter. The

1418 report shall summarize proposals received by the board during

1419 the preceding fiscal year and actions taken by the board in

1420 response to such proposals. In addition, the report shall

1421 provide the following information for each university that has

1422 been approved by the board to assess a tuition differential:

1423 1. The course or courses for which the tuition

1424 differential was assessed and the amount assessed.

1425 2. The total revenues generated by the tuition

1426 differential.

1427 3. With respect to waivers authorized under subparagraph

1428 (b)8., the number of students eligible for a waiver, the number
 1429 of students receiving a waiver, and the value of waivers
 1430 provided.

1431 4. Detailed expenditures of the revenues generated by the
 1432 tuition differential.

1433 5. Changes in retention rates, graduation rates, the
 1434 percentage of students graduating with more than 110 percent of
 1435 the hours required for graduation, pass rates on licensure
 1436 examinations, the number of undergraduate course offerings, the
 1437 percentage of undergraduate students who are taught by faculty,
 1438 student-faculty ratios, and the average salaries of faculty who
 1439 teach undergraduate courses.

1440 (f) No state university shall be required to lower any
 1441 tuition differential that was approved by the Board of Governors
 1442 and in effect prior to January 1, 2009, in order to comply with
 1443 the provisions of this subsection.

1444 (17)(a) A state university may assess a student who
 1445 enrolls in a course listed in the Florida Higher Education
 1446 Distance Learning Catalog, established pursuant to s. 1004.09, a
 1447 per-credit-hour distance learning course fee. For purposes of
 1448 assessing this fee, a distance learning course is a course in
 1449 which at least 80 percent of the direct instruction of the
 1450 course is delivered using some form of technology when the
 1451 student and instructor are separated by time or space, or both.

1452 (b) The amount of the distance learning course fee may not
 1453 exceed the additional costs of the services provided which are
 1454 attributable to the development and delivery of the distance
 1455 learning course. If the distance learning course fee is assessed

1456 by a state university, the institution may not assess
 1457 duplicative fees to cover the additional costs.

1458 (c) The link for the catalog must be prominently displayed
 1459 within the advising and distance learning sections of the
 1460 institution's website, using a graphic and description provided
 1461 by the Florida Distance Learning Consortium, informing students
 1462 of the catalog.

1463 (18) A state university may not charge any fee except as
 1464 specifically authorized by law.

1465 (19) The Board of Governors shall adopt regulations to
 1466 implement the provisions of this section.

1467 Section 22. Subsection (9) of section 1009.26, Florida
 1468 Statutes, is amended to read:

1469 1009.26 Fee waivers.—

1470 (9) Each university board of trustees is authorized to
 1471 waive tuition and out-of-state fees for purposes that support
 1472 and enhance the mission of the university. All fees waived must
 1473 be based on policies that are adopted by university boards of
 1474 trustees pursuant to regulations ~~rules~~ adopted by the Board of
 1475 Governors. Each university shall report the purpose, number, and
 1476 value of all fee waivers granted annually in a format prescribed
 1477 by the Board of Governors.

1478 Section 23. Paragraph (b) of subsection (1) and paragraph
 1479 (b) of subsection (4) of section 1010.04, Florida Statutes, are
 1480 amended to read:

1481 1010.04 Purchasing.—

1482 (1)

1483 (b) Purchases and leases by state universities shall

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1484 | comply with the requirements of law and regulations ~~rules~~ of the
 1485 | Board of Governors.

1486 | (4)

1487 | (b) The Board of Governors may, by regulation ~~rule~~,
 1488 | provide for alternative procedures for state universities for
 1489 | bidding or purchasing in cases in which the character of the
 1490 | item requested renders competitive bidding impractical.

1491 | Section 24. Subsection (1) of section 1010.62, Florida
 1492 | Statutes, is amended to read:

1493 | 1010.62 Revenue bonds and debt.—

1494 | (1) As used in this section, the term:

1495 | (a) "Auxiliary enterprise" means any activity defined in
 1496 | s. 1011.47(1) and performed by a university or a direct-support
 1497 | organization.

1498 | (b) ~~(a)~~ "Capital outlay project" means:

1499 | 1. Any project to acquire, construct, improve, or change
 1500 | the functional use of land, buildings, and other facilities,
 1501 | including furniture and equipment necessary to operate a new or
 1502 | improved building or facility.

1503 | 2. Any other acquisition of equipment or software.

1504 | (c) ~~(b)~~ "Debt" means bonds, except revenue bonds as defined
 1505 | in paragraph (e) ~~(d)~~, loans, promissory notes, lease-purchase
 1506 | agreements, certificates of participation, installment sales,
 1507 | leases, or any other financing mechanism or financial
 1508 | arrangement, whether or not a debt for legal purposes, for
 1509 | financing or refinancing for or on behalf of a state university
 1510 | or a direct-support organization or for the acquisition,
 1511 | construction, improvement, or purchase of capital outlay

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1512 projects.

1513 (d)~~(e)~~ "Direct-support organization" means an organization
 1514 created pursuant to s. 1004.28 or any entity specifically
 1515 established to incur debt.

1516 (e)~~(d)~~ "Revenue bonds" means any obligation that
 1517 constitutes a revenue bond pursuant to s. 11(d), Art. VII of the
 1518 State Constitution.

1519 Section 25. Section 1011.43, Florida Statutes, is amended
 1520 to read:

1521 1011.43 Investment of university agency and activity
 1522 funds; earnings used for scholarships.—Each university is
 1523 authorized to invest available agency and activity funds and to
 1524 use the earnings from such investments for student scholarships
 1525 and loans. The university board of trustees shall provide
 1526 procedures for the administration of these scholarships and
 1527 loans by regulations ~~rules~~.

1528 Section 26. Subsection (4) of section 1011.90, Florida
 1529 Statutes, is amended to read:

1530 1011.90 State university funding.—

1531 (4) The Board of Governors shall establish and validate a
 1532 cost-estimating system consistent with the requirements of
 1533 subsection (1) and shall report as part of its legislative
 1534 budget request the actual expenditures for the fiscal year
 1535 ending the previous June 30. Expenditure analysis, operating
 1536 budgets, and annual financial statements of each university must
 1537 be prepared using the standard financial reporting procedures
 1538 and formats prescribed by the Board of Governors. These formats
 1539 shall be the same as used for the 2000-2001 fiscal year reports.

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1540 Any revisions to these financial and reporting procedures and
1541 formats must be approved by the Executive Office of the Governor
1542 and the appropriations committees of the Legislature jointly
1543 under the provisions of s. 216.023(3). The Board of Governors
1544 shall continue to collect and maintain at a minimum ~~the~~
1545 management information ~~databases~~ existing on June 30, 2002. The
1546 expenditure analysis report shall include total expenditures
1547 from all sources for the general operation of the university and
1548 shall be in such detail as needed to support the legislative
1549 budget request.

1550 Section 27. Paragraph (b) of subsection (2) of section
1551 1013.02, Florida Statutes, is amended to read:

1552 1013.02 Purpose; rules and regulations.—

1553 (2)

1554 (b) The Board of Governors shall adopt regulations
1555 pursuant to its regulation development procedure ~~rules pursuant~~
1556 ~~to ss. 120.536(1) and 120.54~~ to implement the provisions of this
1557 chapter for state universities.

1558 Section 28. Section 1013.10, Florida Statutes, is amended
1559 to read:

1560 1013.10 Use of buildings and grounds.—The board may permit
1561 the use of educational facilities and grounds for any legal
1562 assembly or for community use centers or may permit the same to
1563 be used as voting places in any primary, regular, or special
1564 election. The board shall adopt rules, regulations, or policies
1565 and procedures necessary to protect educational facilities and
1566 grounds when used for such purposes.

1567 Section 29. Paragraph (b) of subsection (5) of section

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1568 1013.12, Florida Statutes, is amended to read:

1569 1013.12 Casualty, safety, sanitation, and firesafety
1570 standards and inspection of property.—

1571 (5) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION
1572 FACILITIES.—

1573 (b) Firesafety inspections of state universities shall
1574 comply with regulations ~~rules~~ of the Board of Governors.

1575 Section 30. Paragraph (b) of subsection (1) of section
1576 1013.28, Florida Statutes, is amended to read:

1577 1013.28 Disposal of property.—

1578 (1) REAL PROPERTY.—

1579 (b) Subject to regulations ~~rules~~ of the Board of
1580 Governors, a state university board of trustees may dispose of
1581 any land or real property to which it holds valid title which
1582 is, by resolution of the state university board of trustees,
1583 determined to be unnecessary for educational purposes as
1584 recommended in an educational plant survey. A state university
1585 board of trustees shall take diligent measures to dispose of
1586 educational property only in the best interests of the public.
1587 However, appraisals may be obtained by the state university
1588 board of trustees prior to or simultaneously with the receipt of
1589 bids.

1590 Section 31. Subsection (22) of section 1013.30, Florida
1591 Statutes, is amended to read:

1592 1013.30 University campus master plans and campus
1593 development agreements.—

1594 (22) In consultation with the state land planning agency,
1595 the Board of Governors shall adopt a single, uniform set of

1596 regulations ~~rules~~ to administer subsections (3)-(6). The
 1597 regulations ~~rules~~ must set specific schedules and procedures for
 1598 the development and adoption of campus master plans. Before
 1599 adopting the regulations ~~rules~~, the Board of Governors must
 1600 obtain written verification from the state land planning agency
 1601 that the regulations ~~rules~~ satisfy the minimum statutory
 1602 criteria required by subsections (3)-(6). The state land
 1603 planning agency shall provide the verification within 45 days
 1604 after receiving a copy of the regulations ~~rules~~.

1605 Section 32. Paragraph (b) of subsection (1) of section
 1606 1013.31, Florida Statutes, is amended to read:

1607 1013.31 Educational plant survey; localized need
 1608 assessment; PECO project funding.—

1609 (1) At least every 5 years, each board shall arrange for
 1610 an educational plant survey, to aid in formulating plans for
 1611 housing the educational program and student population, faculty,
 1612 administrators, staff, and auxiliary and ancillary services of
 1613 the district or campus, including consideration of the local
 1614 comprehensive plan. The Department of Education shall document
 1615 the need for additional career and adult education programs and
 1616 the continuation of existing programs before facility
 1617 construction or renovation related to career or adult education
 1618 may be included in the educational plant survey of a school
 1619 district or community college that delivers career or adult
 1620 education programs. Information used by the Department of
 1621 Education to establish facility needs must include, but need not
 1622 be limited to, labor market data, needs analysis, and
 1623 information submitted by the school district or community

1624 college.

1625 (b) Required need assessment criteria for district,
 1626 community college, state university, and Florida School for the
 1627 Deaf and the Blind plant surveys.—Educational plant surveys must
 1628 use uniform data sources and criteria specified in this
 1629 paragraph. Each revised educational plant survey and each new
 1630 educational plant survey supersedes previous surveys.

1631 1. The school district's survey must be submitted as a
 1632 part of the district educational facilities plan defined in s.
 1633 1013.35. To ensure that the data reported to the Department of
 1634 Education as required by this section is correct, the department
 1635 shall annually conduct an onsite review of 5 percent of the
 1636 facilities reported for each school district completing a new
 1637 survey that year. If the department's review finds the data
 1638 reported by a district is less than 95 percent accurate, within
 1639 1 year from the time of notification by the department the
 1640 district must submit revised reports correcting its data. If a
 1641 district fails to correct its reports, the commissioner may
 1642 direct that future fixed capital outlay funds be withheld until
 1643 such time as the district has corrected its reports so that they
 1644 are not less than 95 percent accurate.

1645 2. Each survey of a special facility, joint-use facility,
 1646 or cooperative career education facility must be based on
 1647 capital outlay full-time equivalent student enrollment data
 1648 prepared by the department for school districts and community
 1649 colleges and by the Chancellor of the State University System
 1650 for universities. A survey of space needs of a joint-use
 1651 facility shall be based upon the respective space needs of the

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1652 school districts, community colleges, and universities, as
1653 appropriate. Projections of a school district's facility space
1654 needs may not exceed the norm space and occupant design criteria
1655 established by the State Requirements for Educational
1656 Facilities.

1657 3. Each community college's survey must reflect the
1658 capacity of existing facilities as specified in the inventory
1659 maintained by the Department of Education. Projections of
1660 facility space needs must comply with standards for determining
1661 space needs as specified by rule of the State Board of
1662 Education. The 5-year projection of capital outlay student
1663 enrollment must be consistent with the annual report of capital
1664 outlay full-time student enrollment prepared by the Department
1665 of Education.

1666 4. Each state university's survey must reflect the
1667 capacity of existing facilities as specified in the inventory
1668 maintained and validated by the Chancellor of the State
1669 University System. Projections of facility space needs must be
1670 consistent with standards for determining space needs as
1671 specified by regulation ~~rule~~ of the Board of Governors. The
1672 projected capital outlay full-time equivalent student enrollment
1673 must be consistent with the 5-year planned enrollment cycle for
1674 the State University System approved by the Board of Governors.

1675 5. The district educational facilities plan of a school
1676 district and the educational plant survey of a community
1677 college, state university, or the Florida School for the Deaf
1678 and the Blind may include space needs that deviate from approved
1679 standards for determining space needs if the deviation is

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1680 justified by the district or institution and approved by the
 1681 department or the Board of Governors, as appropriate, as
 1682 necessary for the delivery of an approved educational program.

1683 Section 33. Section 1013.47, Florida Statutes, is amended
 1684 to read:

1685 1013.47 Substance of contract; contractors to give bond;
 1686 penalties.—Each board shall develop contracts consistent with
 1687 this chapter and statutes governing public facilities. Such a
 1688 contract must contain the drawings and specifications of the
 1689 work to be done and the material to be furnished, the time limit
 1690 in which the construction is to be completed, the time and
 1691 method by which payments are to be made upon the contract, and
 1692 the penalty to be paid by the contractor for any failure to
 1693 comply with the terms of the contract. The board may require the
 1694 contractor to pay a penalty for any failure to comply with the
 1695 terms of the contract and may provide an incentive for early
 1696 completion. Upon accepting a satisfactory bid, the board shall
 1697 enter into a contract with the party or parties whose bid has
 1698 been accepted. The contractor shall furnish the board with a
 1699 performance and payment bond as set forth in s. 255.05. A board
 1700 or other public entity may not require a contractor to secure a
 1701 surety bond under s. 255.05 from a specific agent or bonding
 1702 company. Notwithstanding any other provision of this section, if
 1703 25 percent or more of the costs of any construction project is
 1704 paid out of a trust fund established pursuant to 31 U.S.C. s.
 1705 1243(a)(1), laborers and mechanics employed by contractors or
 1706 subcontractors on such construction will be paid wages not less
 1707 than those prevailing on similar construction projects in the

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1708 locality, as determined by the Secretary of Labor in accordance
1709 with the Davis-Bacon Act, as amended. A person, firm, or
1710 corporation that constructs any part of any educational plant,
1711 or addition thereto, on the basis of any unapproved plans or in
1712 violation of any plans approved in accordance with the
1713 provisions of this chapter and rules of the State Board of
1714 Education or regulations of the Board of Governors relating to
1715 building standards or specifications is subject to forfeiture of
1716 bond and unpaid compensation in an amount sufficient to
1717 reimburse the board for any costs that will need to be incurred
1718 in making any changes necessary to assure that all requirements
1719 are met and is also guilty of a misdemeanor of the second
1720 degree, punishable as provided in s. 775.082 or s. 775.083, for
1721 each separate violation.

1722 Section 34. Subsection (3) of section 1013.74, Florida
1723 Statutes, is amended to read:

1724 1013.74 University authorization for fixed capital outlay
1725 projects.—

1726 (3) Other than those projects currently authorized, no
1727 project proposed by a university which is to be funded from
1728 Capital Improvement Trust Fund fees or building fees shall be
1729 submitted to the Board of Governors for approval without prior
1730 consultation with the student government association of that
1731 university. The Board of Governors may adopt regulations ~~rules~~
1732 which are consistent with this requirement.

1733 Section 35. (1) Sections 1001.74, 1004.21, 1004.38,
1734 1004.381, 1004.3811, 1004.382, 1004.383, 1004.386, and 1004.64,

1735 Florida Statutes, and subsection (13) of section 1004.22,
 1736 Florida Statutes, are repealed.

1737 (2) It is the intent of the Legislature that the repeal of
 1738 sections 1004.38, 1004.381, 1004.3811, 1004.382, 1004.383,
 1739 1004.386, and 1004.64, Florida Statutes, by this act is to
 1740 remove existing statutory authority that is no longer necessary
 1741 for the degree programs and entities that were authorized under
 1742 those provisions and does not affect the authority of a state
 1743 university or the Board of Governors of the State University
 1744 System to continue such programs and entities.

1745 Section 36. Each state university shall identify and
 1746 submit to the Board of Governors a list of rules published in
 1747 Titles 6C1, 6C2, 6C3, 6C4, 6C5, 6C6, 6C7, 6C8, 6C9, 6C10, and
 1748 6C11, Florida Administrative Code, that have been superseded by
 1749 regulations adopted by the Board of Governors or the university
 1750 board of trustees pursuant to authority under s. 7, Art. IX of
 1751 the State Constitution or for which specific statutory authority
 1752 to adopt such regulations has been provided under this act. The
 1753 Board of Governors shall confirm that the information provided
 1754 complies with the provisions of this section and forward the
 1755 information to the Department of State along with any rules of
 1756 the Board of Governors published in Title 6C that meet the same
 1757 criteria. The Department of State may remove from the Florida
 1758 Administrative Code on or before June 30, 2011, any rule of a
 1759 state university or the Board of Governors that derives purely
 1760 from constitutional authority or for which statutory authority
 1761 to adopt regulations instead of rules has been provided. If the
 1762 Department of State removes a rule from the Florida

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1763 | Administrative Code pursuant to this section, it shall place a
1764 | history note at the rule number indicating the action taken and
1765 | referencing this section.

1766 | Section 37. This act shall take effect July 1, 2010.