



Appropriations Committee

Wednesday, March 30, 2011
10:00 AM – 8:00 PM
212 Knott Building

Meeting Packet

VOLUME III

Dean Cannon
Speaker

Denise Grimsley
Chair



The Florida House of Representatives

Appropriations Committee

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Agenda

Wednesday, March 30, 2011
212 Knott Building
10:00 AM – 8:00 PM

- I. Call to order/Roll Call
- II. Opening Remarks by Chair Grimsley
- III. Consideration of the following bills:

Consideration of the following proposed committee bill(s):

PCB APC 11-01 -- Appropriations

PCB APC 11-02 -- Implementing the 2011-2012 General Appropriations Act

Consideration of the following bill(s):

CS/CS/HB 1405 Retirement by State Affairs Committee, Government Operations Subcommittee, Workman

CS/HB 5005 Deregulation of Professions and Occupations by Economic Affairs Committee, Business & Consumer Affairs Subcommittee, Hukill

CS/HB 5007 Reducing and Streamlining Regulations by Economic Affairs Committee, Business & Consumer Affairs Subcommittee, Hukill

HB 5101 Prekindergarten through Grade 12 Education Funding by PreK-12 Appropriations Subcommittee, Coley

HB 5201 Postsecondary Education Funding by Higher Education Appropriations Subcommittee, O'Toole

HB 5301 Agency for Persons with Disabilities by Health Care Appropriations Subcommittee, Hudson

HB 5303 Biomedical Research by Health Care Appropriations Subcommittee, Hudson

HB 5305 Correctional Medical Authority by Health Care Appropriations Subcommittee, Hudson

HB 5307 Department of Children and Family Services by Health Care Appropriations Subcommittee, Hudson

HB 5309 Domestic Violence by Health Care Appropriations Subcommittee, Hudson

HB 5311 Medicaid Services by Health Care Appropriations Subcommittee, Hudson

HB 5401 Cybercrime Office by Justice Appropriations Subcommittee, Glorioso

HB 5403 Department of Corrections by Justice Appropriations Subcommittee, Glorioso

HB 5405 Trust Funds of the State Courts System by Justice Appropriations Subcommittee, Glorioso

HB 5407 Juvenile Commitment by Justice Appropriations Subcommittee, Glorioso

HB 5409 Clerks of Court by Justice Appropriations Subcommittee, Glorioso

HB 5501 Department of Highway Safety and Motor Vehicles by Transportation & Economic Development Appropriations Subcommittee, Horner

HB 5601 Public Employees Relations Commission by Government Operations Appropriations Subcommittee, Hooper

HB 5603 Department of Management Services by Government Operations Appropriations Subcommittee, Hooper



HB 5605 Department of Financial Services by Government Operations Appropriations Subcommittee, Hooper

HB 5701 Management of Funds for Water Pollution Control Loans and Grants by Agriculture & Natural Resources Appropriations Subcommittee, Williams, T.

- IV. Consideration of the following proposed committee bill(s):
PCB APC 11-03 -- Auditor General
PCB APC 11-04 -- Commission on Capital Cases
PCB APC 11-05 -- State Employees
PCB APC 11-06 -- Office of Drug Control
PCB APC 11-07 -- Agency for Enterprise Information Technology
- V. Closing Remarks and Adjournment

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5101 **PCB PKAS 11-03** Prekindergarten through Grade 12 Education Funding
SPONSOR(S): PreK-12 Appropriations Subcommittee, Coley
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: PreK-12 Appropriations Subcommittee	8 Y, 3 N	Seifert	Heflin
1) Appropriations Committee		Seifert 	Leznoff 

SUMMARY ANALYSIS

The bill amends statutory provisions necessary to conform the statutes to appropriations made in the General Appropriations Act for the 2011-2012 fiscal year.

The bill amends statutes relating to:

- Aligning Charter School Capital Outlay statutes with changes made during the 2010 legislative session;
- Requiring school districts to report to the DOE the amount spent per FTE for contracts for virtual instruction;
- Requiring the difference in the amount spent and the amount earned through the FEFP for students in school district virtual instruction programs to be used to purchase technology in the school district;
- Modifying student teacher ratio requirements in the Voluntary Prekindergarten Program to maximize VPK funds and provide flexibility for VPK providers;
- Modifying the administrative rate for the early learning coalitions from 4.5% to 4% to maximize VPK funds and provide flexibility for VPK providers;
- Clarifying the definition of core courses to be counted for class size compliance;
- Allowing students enrolling in classes after the October student membership survey to be placed in existing classrooms provided that the district prepares a plan that describes how the district will be in compliance the following year;
- Allowing compliant districts flexibility in use of their class size reduction operation categorical funds;
- Identifying variable bonus weights, to be used in the FEFP industry certification bonus add-on, based on the difficulty of obtaining the industry certification and the value of having the industry certification in terms of employment and wage earning capability;
- Codifying and changing the name of learning management system to local instructional improvement system to align with the minimum standards of Race to the Top;
- Replacing the word "textbook" with "instructional material" to allow for multiple delivery options of instructional materials;
- Restructuring the instructional materials adoption process to require reviewers to only evaluate electronic format of materials; defining electronic and digital formats; and providing dates to incorporate digital materials in the classroom;
- Aligning terminology with the restructuring of the instructional materials adoption process and modifying bid specifications;
- Requiring school districts to use 50% of the instruction materials categorical for the purchase of electronic or digital materials by the 2012-2013 school year and providing flexibility in the materials purchased with the remaining 50% of funding; and
- Repealing school districts authority to levy additional discretionary millage; allowing the 16 school boards that received voter approval of the referendum on the 2010 general election to levy, by supermajority vote, the 0.250 mill for the 2011-2012 and 2012-2013 fiscal years; and clarifying that revenues from the 0.250 mill will not be included in the FEFP.

The bill aligns priority to funding for the core mission of classroom instruction.

Except as otherwise specifically provided, the bill takes effect July 1, 2010.

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

STORAGE NAME: h5101.APC.DOCX

DATE: 3/27/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Charter School Capital Outlay

A charter school is not eligible for a capital outlay funding allocation if it was created by the conversion of a public school and operates in facilities provided by the charter school's sponsor for a nominal fee, or at no charge, or it is directly or indirectly operated by the school district. Section 1002.33(15), F.S., provides that in order to reduce the school and classroom overcrowding and to offset the high cost of educational facilities, the formation of business partnership schools or satellite learning centers and municipal-operated schools through charter school status is encouraged. A charter school-in-the-workplace may be established when a business provides the school facility to be used; enrolls students based upon a random lottery that involves all of the children of employees of that business or corporation who are seeking enrollment and enrolls students according to racial/ethnic balances. Any portion of a facility used for a public charter school shall be exempt from ad valorem taxes, for the duration of its use as a public school. The bill aligns capital outlay funds authorized in s.1013.62, F.S., which have been shared with a charter school-in-the-workplace prior to July 1, 2010, to be considered to have met the authorized expenditure requirements for such funds. This change was made during the 2010 legislative session but the reference to s. 1013.62, F.S. was inadvertently omitted.

Voluntary Prekindergarten student ratios

Current law states that each public and private prekindergarten class for the school year Voluntary Prekindergarten (VPK) program must be composed of at least four students but may not exceed 18 students. The bill changes the maximum number of students allowed in a voluntary prekindergarten class for the school year program from 18 to 20 students.

In order to protect the health and safety of students, each prekindergarten provider must provide appropriate adult supervision for students at all times. For each prekindergarten class composed of 11 or more students the classroom must have a prekindergarten instructor who has a child development associate (CDA) credential and at least one adult prekindergarten instructor who is of good moral character and has been screened using the level two background screening required in s. 435.04, F.S.¹ The bill also requires classes composed of 12 or more students, rather than 11 or more students, to have instructors meeting these qualifications.

For the 2010-2011 fiscal year, each early learning coalition may retain and expend not more than 4.5 percent of the funds paid by the coalition to private kindergarten providers and public schools. The bill reduces the coalition administrative percentage from 4.5 percent to 4 percent.

School District Virtual Instruction Programs

Beginning with the 2009-2010 school year, each school district has provided eligible students within its boundaries the option of participating in a virtual instruction program. A 'virtual instruction program' (VIP) is a program that takes place in an interactive learning environment created through technology in which the student and teacher are separated from each other by time, space, or both. The law further specifies that Florida-certified teachers are primarily responsible for instructing the students. The purpose of this program is to make instruction available to district students using online and distance education technology in a nontraditional classroom, i.e., primarily outside of public school buildings. In practice, most students access the online instruction from their homes. This program provides an additional school choice option for parents and a tool districts can use to meet class size requirements.

Districts may:

¹ s. 1002.55(3)(c), F.S.

- Contract with Florida Virtual School
- Establish a franchise of Florida Virtual School
- Contract with a provider approved by the Department of Education
- Enter into an agreement with another school district
- Enter into an agreement with a Florida community college

Contracts may include multidistrict agreements executed by a regional consortium for its member districts.

Districts may contract or enter agreements with more than one of the above entities to provide a school district VIP for their students. In addition, districts may operate their own program and may contract with these or other entities to provide segments of their program, such as the curriculum and/or learning management system. As with other educational options, the programs vary from district to district. However, students in all districts and at all grade levels have the option to participate in a fully-online educational program offered as a school choice option by their school districts.

The school district continues to generate Florida Education Finance Program (FEFP) funding from these students. The school district and provider determine in their contract how much of the funding per student the provider will receive.

The bill requires each school district to annually provide a copy of the contract and amounts paid per student to the Department of Education. The bill also requires the difference in funds received by the school district from the FEFP and the amount negotiated with the provider to be used for the district's local instructional improvement system or other technological tools that are required to access electronic and digital instructional materials.

Class Size Reduction

In November 2002, the Florida Constitution was amended to require the Legislature, beginning with the 2003-2004 fiscal year, to provide sufficient funds to reduce the average number of students per classroom by at least two students per year until the number of students per classroom does not exceed the maximums. By the beginning of the 2010 school year, the maximum number of students who may be assigned to each teacher who is teaching in a public school classroom may not exceed the following:

- 18 for prekindergarten through grade 3;
- 22 for grades 4 through 8; and
- 25 for grades 9 through 12.²

The implementation schedule for reducing the number students per classroom by at least two students per year is as follows:³

- 2003-2004 through 2005-2006⁴ at the district level;
- 2006-2007 through 2009-2010⁵ at the school level; and
- 2010-2011 and thereafter, at the classroom level.

Since adoption of the class size reduction amendment, average class sizes have been reduced as follows:

² s. 1(a), Art. IX of the State Constitution.

³ s. 1003.03(2), F.S.

⁴ Chapter 2003-391, L.O.F. established district level compliance for Fiscal Years 2003-2004 through 2005-2006. Chapter 2006-27, L.O.F. extended district level compliance to Fiscal Year 2006-2007.

⁵ Chapter 2003-391, L.O.F. established school level compliance for Fiscal Years 2006-2007 through 2007-2008. Chapter 2008-142, L.O.F. extended school level compliance to 2008-2009. Chapter 2009-59, L.O.F. extended school level compliance to 2009-2010.

District Average Class Size⁶

	<u>Grades PK-3</u>	<u>Grades 4-8</u>	<u>Grades 9-12</u>
2002-03	23.07	24.16	24.10
2003-04	20.54	22.43	24.06
2004-05	18.98	21.32	23.73
2005-06	18.16	20.48	22.96
2006-07	17.01	19.45	22.22
2007-08	16.28	18.76	21.39
2008-09	15.95	18.60	21.49
2009-10	16.39	18.91	21.94
2010-11	15.49	17.87	20.47

Beginning with the 2003-2004 General Appropriations Act, the Legislature has appropriated and allocated funds annually to school districts and charter schools to be used to reduce the average number of students per classroom by two students.

Class Size Reduction Funding History

Fiscal Year	Operating Appropriations	Fixed Capital Outlay Appropriations	Total Appropriations
2003-2004	\$468,198,634	\$600,000,000	\$1,068,198,634
2004-2005	\$972,191,216	\$100,000,000	\$1,072,191,216
2005-2006	\$1,507,199,696	\$83,400,000	\$1,590,599,696
2006-2007	\$2,108,529,344	\$1,100,000,000	\$3,208,529,344
2007-2008	\$2,640,719,730	\$650,000,000	\$3,290,719,730
2008-2009	\$2,729,491,033	\$0	\$2,729,491,033
2009-2010	\$2,845,578,849	\$0	\$2,845,578,849
2010-2011	\$2,913,825,383	\$0	\$2,913,825,383
Total Year to Date Appropriations	\$16,185,733,885	\$2,533,400,000	\$18,719,133,885

Florida law provides the statutory framework for making adjustments to appropriations for school districts that fail to meet required class size reductions. From 2003-2004 to 2005-2006, compliance was measured at the district level. For fiscal years 2006-2007 through 2009-2010 compliance has been measured at the school level. For fiscal year 2010-2011 compliance has been measured at the classroom level for traditional schools⁷ and at the school level for charter schools⁸. The adjustment is calculated by the Department of Education and verified by the Florida Education Finance Program Allocation Conference. The amount of funds adjusted is to be the lesser of the amount calculated or the undistributed balance of the district's class size reduction operating categorical. The Commissioner of Education may make a recommendation to the Legislative Budget Commission for an alternate amount of funds for the compliance calculation⁹, if the Commissioner of Education has evidence that a district was unable to meet the class size requirement despite appropriate efforts to do so.

For the initial calculation completed on December 29, 2010, 44,556 traditional public school classrooms in 35 school districts and 3 lab schools were not in compliance with class size requirements, for a potential total compliance adjustment amount from the class size operating categorical of \$40,795,637. Forty-four charter schools were not in compliance with school level class size requirements, for a

⁶ Florida Department of Education, 2011 Legislative Information Request, January 2011

⁷ s. 1003.03(1), F.S.

⁸ s. 1002.33(16)(b)3., F.S.

⁹ s. 1003.03(4)(c), F.S.

potential total compliance adjustment amount from the class size operating categorical of \$2,292,191. The Commissioner reviewed evidence presented by school districts and charter schools, and determined data reporting errors and unexpected student growth were factors to be considered. On a date yet to be determined, the Commissioner of Education will recommend that the Legislative Budget Commission approve the alternate compliance calculation amounts of \$31,305,124 for traditional public schools and \$355,539 for charter schools.

Following approval of the alternate compliance calculation amounts by the Legislative Budget Commission, the Commissioner will reallocate a portion of the compliance calculation amounts to districts and charter schools that have fully met class size requirements.¹⁰ This reallocation may be up to 5 percent of the base student allocation multiplied by the total district FTE students, but cannot exceed 25 percent of the total funds reduced, resulting in a reallocation of \$7,826,281 for traditional schools and \$88,885 for charter schools. The funds remaining after the reallocation will be returned to districts and charter schools that were not in compliance with class size requirements, that submitted a plan by February 15, 2011 describing the specifications that will be taken to fully comply with class size requirements by October of the 2011-12 school year¹¹. For this year, all districts and charter schools not in compliance submitted a plan by the deadline, so that the remaining funds, or 75%, will be returned.

The bill redefines the terms “core-curricula” courses. Under current law, the DOE defines the courses as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional, self-contained elementary school classrooms.¹² Under the bill, these courses are specified by grade levels, subjects measured by state assessments, required high school graduation requirements, and subgroups of students. Pursuant to the bill, the following are “core –curricula courses”:

- Language arts/reading, mathematics, and science courses in prekindergarten through grade 3;
- Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level;
- Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level;
- Courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessments, excluding any extracurricular courses;
- Exceptional student education courses; and English for Speakers of Other Languages courses.

For a core-curricula high school course in which a student in grades 4 through 8 is enrolled for high school graduation credit, the maximum number of students for compliance purposes will be 25. Finally, the term “extracurricular courses” would also be expanded to include courses that may result in college credit. Current law specifies that these courses include physical education, fine arts, performing fine arts, and career education.

Florida high school students are currently required to complete 24 credits in order to earn a high school diploma. Students must also earn passing scores on the Florida Comprehensive Assessment Test (FCAT) or attain a passing score on the SAT or ACT. Beginning in the 2010-2011 school year, high school graduation requirements increase to include more rigorous courses. Students will be required to pass statewide, standardized end-of-course (EOC) assessments in specific courses beginning with the 2011-2012 school year. Beginning with students entering grade 9 in the following school years, courses include Geometry (2010-2011), Biology I (2011-2012), Algebra II (2012-2013), Chemistry or physics (2013-2014), and an additional equally rigorous science course (2013-2014).¹³

¹⁰ s. 1003.03(4)(d), F.S.

¹¹ s. 1003.03(4)(e), F.S.

¹² Courses offered under ss. 1002.37 (the Florida Virtual School), 1002.415 (the K-8 Virtual School Program), and 1002.45 (the school district virtual instruction (VIP) programs), F.S., are excluded.

¹³ See ch. 2010-22, L.O.F., codified in ss. 1003.428 and 1003.429, F.S.

The DOE notes that in 2010-2011, there were 849 core courses. Under the current bill, there would be 288 core courses.¹⁴ The decrease would primarily be based on foreign languages, courses that may generate college credit, (for example, Advanced Placement and Dual Enrollment courses,) courses without state assessments, and courses that are not required for graduation at the middle and high school level.

Under the bill, a timeframe is specified for satisfying and maintaining class size maximums, with specific exceptions for an extreme emergency beyond the district's control and when a new student enrolls after the October student membership survey period. Based on a school district's determination that not assigning the student would be impractical, educationally unsound, or disruptive to student learning, a student could be assigned to an existing class that temporarily exceeds the class size maximums. However, the maximum number of students who can be assigned to a teacher may not exceed the following:

- Prekindergarten through 3rd grade, the number of students may not exceed 21;
- 4th grade through 8th grade, the number of students may not exceed 27; and
- 9th grade through 12th grade, the number of students may not exceed 30.

This temporary exception is also contingent upon a district school board's plan for providing that a school will be in full compliance with the maximum class size requirements by the following year's October survey.

Finally, the bill provides that only a school district that meets the maximum class size requirements may use the class size reduction operational categorical funds for any lawful operating expenditure.

Instructional Materials

Florida law currently requires the district school board to provide adequate instructional materials for all students. The term "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, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software.¹⁵

State funding for instructional materials is provided annually in the General Appropriations Act in proviso as part of the calculation of the Florida Education Finance Program (FEFP).¹⁶ In the 2010-2011 fiscal year, \$216,918,478 was appropriated for instructional materials.¹⁷ Once the funds are distributed to the district school boards, each board must use at least 50 percent of the funds allocated to purchase instructional materials on the state-adopted list.¹⁸ A district school board may use the remaining 50 percent of the annual allocation to purchase materials, including library and reference books and nonprint materials, not included on the state-adopted list and for the repair and renovation of textbooks and library books.¹⁹ Under current law, state-adopted instructional materials and non state-

¹⁴ March 15, 2011 email from DOE.

¹⁵ s. 1006.28(1), F.S.

¹⁶ 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.

¹⁷ Specific Appropriation 78, § 2, ch. 2010-152, L.O.F.

¹⁸ 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, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software. A publisher or manufacturer providing instructional materials as a single bundle shall also make the instructional materials available as separate and unbundled items, each priced individually. Any instructional materials adopted after 2012-2013 for students in grades 9 through 12 shall also be provided in an electronic format. 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. s. 1006.29(4), F.S., and s. 1006.40(3)(a), F.S.

¹⁹ 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 be available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, replacements for items which were part of previously purchased

adopted instructional materials have similar meanings. However, both definitions explicitly exclude the purchase of electronic or computer hardware even if such hardware is bundled with software or other electronic media, and exclude equipment and supplies.²⁰

Currently, school districts purchase computer equipment with state FEFP and capital outlay funds.²¹ Additionally, federal funding for fiscal year 2009-2010 included \$30.3 million for education technology from the American Recovery and Reinvestment Act of 2009 appropriated through the state's 2009-2010 GAA.²² The DOE was 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 was to be used to 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 was to be used to combine the use of laptops and personal learning devices and must include the development and delivery of professional development linked to the newly adopted math and science standards.

In addition, federal entitlement funds are provided through the No Child Left Behind Title IID – Enhancing Education Through Technology program to school districts based on their Title I allocation.²³ School districts also have flexibility in the expenditure of categorical funding provided for specific purposes within the Florida Education Finance Program, including funding provided for instructional materials, but only after March 1, 2011,²⁴ and hardware is explicitly prohibited from being purchased with this source of funding.

On August 24, 2010, Florida was named a winner of \$700 million in phase 2 of the federal Race to the Top²⁵ education reform competition.²⁶ As funded, fifty percent of the state's total award will be distributed to participating school districts according to the federal Title I allocation formula, and the remaining 50 percent will fund state-level projects designed to benefit all school districts statewide.²⁷ A requirement of the Memorandum of Understanding between the DOE and participating school districts is to ensure that each school possesses the technology, including hardware, connectivity, and other necessary infrastructure to provide teachers and students sufficient access to strategic tools for improved classroom instruction and computer-based assessment.²⁸

The bill amends section 1006.28, F.S., replacing the term textbook with instructional material to provide districts flexibility by allowing for multiple delivery options of instructional materials.

The bill amends section 1006.281, F.S., changing the name of learning management system to local instructional improvement system to align with the minimum standards of Race to the Top. The section provides guidelines and instructions for implementation of electronic local instructional improvement

instructional materials, consumables, learning laboratories, manipulatives, electronic media, computer courseware or software, and other commonly accepted instructional tools as prescribed by district school board rule. s. 1006.40(4), F.S., and s. 1006.40(3)(b), F.S.²⁰ s. 1006.29(4), F.S.

²¹ The Discretionary Capital Outlay Levy is a statutorily authorized discretionary property tax that district school boards may levy without approval of the electorate. School districts are authorized to purchase equipment (including computers for classrooms) with this fund source. See s. 1011.71(2), F.S.

²² Specific Appropriation 100, § 2, ch. 2009-81, L.O.F.

²³ Department of Education website http://www.fldoe.org/bii/Instruct_Tech/EETT/

²⁴ s. 1011.62(6), F.S.

²⁵ Through the federal Race to the Top competitive grant program, the U.S. Department of Education encourages and rewards states to propose education reforms focused on helping struggling schools, elevating the effectiveness of teaching professionals and education leaders, building internationally recognized education standards and assessments, and improving state education data systems. American Recovery and Reinvestment Act of 2009, Section 14006(c), Public Law 111-5. See <http://www2.ed.gov/programs/racetothetop/eligibility.html>.

²⁶ Press Release issued August 24, 2010, *Nine States and the District of Columbia Win Second Round Race to the Top Grants*, U.S. Department of Education. See <http://www.ed.gov/news/press-releases/nine-states-and-district-columbia-win-second-round-race-top-grants>.

²⁷ American Recovery and Reinvestment Act of 2009, Public Law 111-5. See <http://www2.ed.gov/programs/racetothetop/eligibility.html>.

²⁸ Florida Department of Education, *Florida's Race to the Top Application – Participating Local Education Agency Memorandum of Understanding*, p.8, December 9, 2009. See <http://www.fldoe.org/ARRA/Racetothetop.asp>.

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systems that provide teachers, staff, students and parents the ability to organize and access electronic instructional materials and other teaching and learning tools as determined to be appropriate by the school district.

The bill amends section 1006.29, F.S., restructuring the state instructional materials adoption process by replacing the Instructional Materials Committees with 3 expert reviewers appointed by the Commissioner of Education and a teacher or supervisor nominated by each school district superintendent. The reviewers will only evaluate electronic format of materials thereby eliminating the need to travel to meet as a group as was the process for hardback books. The statutory amendment also defines electronic and digital formats so the two may be distinguished for the adoption process. Also included is a timeline to phase-in, by grade group, digital instructional materials in the classroom.

The bill amends section 1006.33, F.S., to align terminology with the restructuring of the instructional materials adoption process and provide digital specifications that do not require Florida specific references at the point of student use for the instructional materials publisher bid process.

The bill amends section 1006.40, F.S., in order to continue to require school districts to use at least 50% of the funds allocated to purchase instructional materials on the state-adopted list. By the 2013-2014 fiscal year, the allocation can be used to purchase instructional materials on the state-adopted list in digital or electronic format. A district school board may continue to use the remaining 50 percent of the annual allocation to purchase materials, including library and reference books and nonprint materials, not included on the state-adopted list and for the repair and renovation of textbooks and library books.

The bill repeals section 1006.43, F.S., which eliminates duplicative and nonessential language pertaining to the instructional materials process.

The bill amends sections 1001.01, 1006.28, 1006.281, 1006.29, 1006.30, 1006.31, 1006.32, 1006.34, 1006.35, 1006.36, 1006.38, and 1006.39, F.S., to align terminology with the restructuring of the instructional materials adoption process.

Bonus Funding for Student Performance for Certain Courses and Diplomas

Section 1003.492, F.S., provides for students in career and professional academies to become professionally certified in high-demand fields. A list of high demand industry certifications is identified and approved by the state workforce board.²⁹ As specified in State Board of Education rule 6A-6.0573, the State Board of Education approves an annual "Industry Certification Funding List" which is comprised of industry certifications from the comprehensive list that meet certain criteria³⁰. If the career academy student takes the appropriate courses, earns an industry certification on the SBE approved funding list, and graduates from high school, the school district earns a bonus of 0.3 FTE, or roughly \$1,100 per student.³¹

The bill requires the DOE to identify variable bonus weights based on the difficulty of obtaining the industry certification and the value of having the industry certification in terms of employment and wage earning capability. The bill maintains the maximum bonus at 0.3 FTE for students earning industry certification. The new rates are expected to be within the existing funding levels.

School District Discretionary Non-voted Capital Improvement Millage

Section 1011.71(3)(b), F.S., provides school boards with the flexibility to levy an additional discretionary 0.25 millage for critical operation needs or fixed capital outlay based on supermajority vote of school board and passage of a voter approved referendum in the 2010 general election. The referendum provides the school board with the authority to annually approve by a supermajority vote for the 2011-

²⁹ This list is also known as the "Comprehensive Industry Certification List."

³⁰ State Board of Education rule 6A-6.0573

³¹ s. 1011.62(1)(p), F.S.

2012 and 2012-2013 fiscal years to levy 0.25 mills. There were 39 districts that submitted ballot language, and of those, 20 districts received voter approval. Of the 20 that were approved, 16 were approved for 0.25 mill for critical operations, 1 was approved for 0.25 mill for critical fixed capital outlay, and 3 were approved for 4-year voted millage as per section 1011.73(2), F.S.

For those districts that received voter approval for the 0.25 millage for critical operation needs or fixed capital outlay, the measure must be approved by a supermajority of the school board in the 2011-2012 and 2012-2013 fiscal years. The bill repeals the authority for school boards to levy the 0.25 mill additional levy for critical capital or operating needs after the 2010-2011 fiscal year, but allows the districts that received voter approval at the 2010 general election to levy the millage for the 2011-2012 and 2012-2013 fiscal years by supermajority vote of the school board. This millage will not be included in the FEFP for compression or for local funding.

B. SECTION DIRECTORY:

Section 1: Amends s. 1001.10, F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 2: Amends s. 1002.33, F.S., clarifying that capital outlay funds shared by school districts with a charter school in the workplace prior to July 1, 2010, have met the expenditure requirements for capital outlay funding.

Section 3: Amends s. 1002.45, F.S., requiring school districts to report contract prices for school district virtual instruction programs and requiring school districts to expend certain funds for technology infrastructure.

Section 4: Amends s. 1002.55, F.S., changing the maximum number of students per prekindergarten class in a private school-year VPK program from 18 to 20.

Section 5: Amends s. 1002.63, F.S., changing the maximum number of students per prekindergarten class in a private school-year VPK program from 18 to 20.

Section 6: Amends s. 1002.71, F.S., reducing the early learning coalition administrative percentage from 4.5 percent to 4.0 percent.

Section 7: Amends s. 1003.01, F.S., changing the definition of core courses to be counted for class size compliance.

Section 8: Amends s. 1003.03, F.S., allowing school districts to place new enrollments that come in after the October student membership count to be placed in existing classrooms provided that the district submits a plan to the Commissioner of Education that describes what the district will do to be in compliance the following school year.

Section 9: Amends s. 1003.492, F.S., authorizing, as part of the existing rulemaking authority used to specify the criteria for an "Industry Certification Funding List," the identification of variable FEFP bonus weights for the successful completion of industry-certified career and professional academy programs based on the difficulty of obtaining the industry certification and the value of having the industry certification in terms of employment and earning capability.

Section 10: Amends s. 1006.28, F.S., replacing the word "textbook" with "instructional material" to allow for multiple delivery options of instructional materials.

Section 11: Amends s. 1006.281, F.S., codifying and changing the name of learning management system to local instructional improvement system to align with the minimum standards of the Race to the Top grant.

Section 12: Amends s. 1006.29, F.S., restructuring the instructional materials adoption process to require reviewers to only evaluate electronic format of materials; defining electronic and digital formats; and providing dates to incorporate digital instructional materials in the classroom.

Section 13: Amends s. 1006.30, F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 14: Amends s. 1006.31, F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 15: Amends s. 1006.32, F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 16: Amends s. 1006.33, F.S., aligning terminology with the restructuring of the instructional materials adoption process and modifying bid specifications.

Section 17: Amends s. 1006.34, F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 18: Amends s. 1006.35, F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 19: Amends s. 1006.36., F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 20: Amends s. 1006.38., F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 21: Amends s. 1006.39., F.S., aligning terminology with the restructuring of the instructional materials adoption process.

Section 22: Amends s. 1006.40., F.S., requiring, by the 2012-13 school year, school districts to use 50% of the instruction materials categorical in the FEFP for the purchase of electronic or digital materials and providing flexibility in the materials purchased with the remaining 50% of funding.

Section 23: Amends s. 1011.62., F.S., incorporating, as part of the existing rulemaking authority used to specify the criteria for an "Industry Certification Funding List," the variable FEFP bonus weights for the successful completion of industry-certified career and professional academy programs based on the difficulty of obtaining the industry certification and the value of having the industry certification in terms of employment and earning capability.

Section 24: Repeals s. 1006.43, F.S., eliminating requirement for DOE to include a request for instructional materials funding in the legislative budget request.

Section 25: Amends s. 1011.685, F.S., allowing flexibility for districts to use their class size reduction categorical operating funds if they are compliant with class size requirements.

Section 26: Amends s. 1011.71, F.S., repealing school board supermajority voted 0.250 millage levy.

Section 27: Providing an effective date.

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:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill repeals the authority for school boards to levy the 0.25 mill additional levy for critical capital or operating needs after the 2010-2011 fiscal year, but allows the voter approved referendum at the 2010 general election to be levied for the 2011-2012 and 2012-2013 fiscal years. The levy is expected to generate \$32 million for the districts that received voter approval.

2. Expenditures:

See FISCAL COMMENTS section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a direct fiscal impact on the private sector.

D. FISCAL COMMENTS:

The bill conforms the statutes to the PreK-12 budget. The bill provides school districts additional fiscal flexibility by giving priority to funding for the core mission of classroom instruction and less emphasis on funding noncore functions. In addition, the bill makes a series of adjustments and reductions to special allocations in the FEFP funding formula to maximize funding in the base allocation for all districts. The bill also provides fiscal efficiencies and limits unnecessary spending.

The bill maximizes VPK funds and provides flexibility for VPK providers by changing the maximum number of students per voluntary prekindergarten (VPK) school-year program classroom from 18 to 20 students. This bill has no effect on per student funding, but would create an increase for the amount of funding per school year class room by \$5,124 in a classroom with 20 students.³²

In addition, the bill modifies the classroom teacher to student ratio for the regular school year voluntary prekindergarten (VPK) program from 1:10 to 1:11. For classrooms of 11 or fewer students the teacher must meet the requirement of s. 1002.55(3)(c) F.S. For school year program classrooms with at least 12, or up to 20 students, the second instructor is only required to pass a level 2 background screening.

The bill reduces the administrative rate for early learning coalitions from 4.5 percent to 4.0 percent providing an estimated savings of \$1.8 million.

The bill provides flexibility to school districts by requiring the difference in funds received by the school district from the FEFP and the amount negotiated with the school district virtual instruction providers to be used for the district's local instructional improvement system or other technological tools that are required to access electronic and digital instructional materials. There is an estimated 2,200 FTE participating in school district virtual instruction programs at an estimated average price of \$4,800³³.

The estimated per student funding saved is estimated to be \$6,025³⁴, creating a difference of \$1,225

³² Specific Appropriation 75, § 2, ch. 2010-152, L.O.F., sets the summer program BSA at \$2,179 and the school-year program BSA at \$2,562 for FY 2010-2011. Ss. 1002.55(2)(f) & 1002.63(7), F.S., sets the maximum number of students in a school year VPK program at 18 per classroom. $\$2,562 \times 18 = \$46,116$; $\$2,562 \times 20 = \$51,240$; $\$51,240 - \$46,116 = \$5,124$.

³³ Florida Senate Interim Report 2011-215, dated October 2010.

³⁴ Estimated per student funding saved is based on the per student amount of the 2010-11 Third FEFP Calculation components of: Base Funding, Discretionary Compression, Exception Student Education Guaranteed Allocation, Supplemental Academic Instruction Allocation, Reading Allocation, State Discretionary Lottery Funds, Instructional Materials, Student Transportation, and Class Size Reduction Allocation.

which is an estimated savings to the district of 20 percent. The savings is to be used for the district's local instructional improvement system or other technological tools that are required to access electronic and digital instructional materials. The actual amount available will vary by district and is unknown at this time. The bill also requires negotiated contract prices to be provided to the Department of Education by October 1 of each year.

The bill provides potential savings to school districts by clarifying the definition of core courses to be counted for class size compliance and allowing students enrolling in classes after the October student membership survey to be placed in existing classrooms provided that the district prepares a plan that describes how the district will be in compliance the following year. This year, there are 849 courses used in determining class size compliance. By clarifying the definition of core courses, there would be 288 courses resulting in savings to school districts due to a significant reduction to the non-compliance calculation due to the change in the number of classes counted toward class size compliance. The bill also continues to allow compliant districts flexibility in use of their class size reduction operation categorical funds.

The bill provides a financial incentive for career and professional academies to encourage students to obtain more difficult certifications by identifying variable bonus weights, to be incorporated in the FEFP industry certification bonus add-on, based on the difficulty of obtaining the industry certification and the value of having the industry certification in terms of employment and wage earning capability. The total add-on for this program continues to be capped at \$15 million.

The bill provides cost savings and flexibility to school districts by modifying the instructional materials statutes. The bill aligns language with the minimum standards of Race to the Top and expands the options for instructional materials to include electronic and digital formats which will provide savings due to no printing costs. The bill restructures the instructional materials adoption process to require reviewers to only evaluate electronic format of materials reducing travel expenses for the Department of Education and the school districts. The bill also provides cost savings to publishers and the school districts by not requiring Florida specific references in the materials (such as FCAT or Sunshine State Standards benchmark crosswalks) thereby allowing products to be sold to other states resulting in reduced production expenses.

The bill also requires, by the 2012-2013 school year, school districts to use 50% of the instruction materials categorical for the purchase of electronic or digital materials and flexibility in the materials purchased with the remaining 50% of funding. This change accommodates the inclusion of electronic or digital materials as part of the potential cost savings in the instructional materials categorical to school districts.

The bill provides an estimated \$8.3 million savings in state costs by clarifying that revenues from the 0.250 mill will not be included in the FEFP. The bill repeals the authority for school boards to levy the 0.25 mill additional levy for critical capital or operating needs after the 2010-2011 fiscal year, but allows the voter approved referendum at the 2010 general election to be levied for the 2011-2012 and 2012-2013 fiscal years.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

2. Other:

This bill may be subject to constitutional challenge, based on the class size provision contained in s. 1, Art. IX, state constitution. Specifically, a potential challenge could be made that this proposed language authorizes maximums in excess of the caps provided in the Florida constitution. In an advisory opinion to the Attorney General on the validity of the class size constitutional amendment, the Florida Supreme Court referred to the Legislature's role as intended by the initiative as follows:

Rather than restricting the Legislature, the proposed amendment gives the Legislature latitude in designing ways to reach the class size goal articulated in the ballot initiative.³⁵

The court also indicated that the primary purpose of the amendment is the legislative funding of reduced class size. This bill does not address the amount the Legislature appropriates for class size. Rather, it provides operational flexibility to school districts to meet the class size maximums, while assuring that children attending public schools obtain a high quality education.

B. RULE-MAKING AUTHORITY:

The bill provides the Department of Education the authority to establish guidelines for school districts to use when purchasing technological equipment from categorical funds within the FEFP.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the PreK-12 Appropriations Subcommittee reported the bill favorably with one amendment.

- Amendment 1 authorizes a reduction in the administrative rate for early learning coalitions from 4.5 percent to 4.0 percent.

³⁵ *Advisory Opinion to the Attorney General re: Florida's Amendment to Reduce Class Size*, 816 So.2d 580, 584-85 (S.Ct. 2002).

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1 A bill to be entitled

2 An act relating to prekindergarten through grade 12
3 education funding; amending s. 1001.10, F.S.; conforming
4 provisions to changes made by the act relating to the
5 review of instructional materials; amending s. 1002.33,
6 F.S.; revising provisions relating to charter school
7 capital outlay funding; amending s. 1002.45, F.S.,
8 relating to school district virtual instruction programs;
9 requiring school districts to expend certain funds for the
10 district's local instructional improvement system or other
11 technological tools; amending s. 1002.55, F.S.; revising
12 requirements for school-year private prekindergarten
13 program providers; amending s. 1002.63, F.S.; revising
14 requirements for school-year prekindergarten programs
15 delivered by public schools; amending s. 1002.71, F.S.;
16 revising provisions relating to the amount of funds
17 retained by an early learning coalition for administration
18 of prekindergarten education programs; amending s.
19 1003.01, F.S.; redefining the terms "core-curricula
20 courses" and "extracurricular courses"; amending s.
21 1003.03, F.S.; revising class size requirements; providing
22 requirements for the assignment of a student to a class
23 that exceeds the class size maximum; amending s. 1003.492,
24 F.S.; requiring State Board of Education rules to
25 establish a process for weighting the value of industry
26 certifications for career education programs; amending s.
27 1006.28, F.S.; revising school district duties to provide
28 instructional materials; replacing references to the term

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29 "textbooks" with the term "instructional materials";
 30 amending s. 1006.281, F.S.; defining the term "local
 31 instructional improvement system"; providing system
 32 requirements for managing instructional improvement and
 33 student learning; requiring each school district to
 34 provide access to its system; requiring State Board of
 35 Education rules and minimum standards for local
 36 instructional improvement systems; amending s. 1006.29,
 37 F.S.; replacing references to the term "state
 38 instructional materials committees" with the term "state
 39 instructional materials reviewers"; requiring the
 40 Commissioner of Education to appoint state or national
 41 experts to review and evaluate instructional materials;
 42 providing for school district reviewers to review
 43 recommendations for state adoption; requiring adopted
 44 instructional materials to be provided in an electronic or
 45 a digital format; amending s. 1006.30, F.S.; revising
 46 provisions relating to the affidavit of state
 47 instructional materials reviewers to conform to changes
 48 made by the act; amending s. 1006.31, F.S.; revising
 49 provisions relating to the duties of each state
 50 instructional materials reviewer to conform to changes
 51 made by the act; amending s. 1006.32, F.S.; revising
 52 provisions relating to prohibited acts to conform to
 53 changes made by the act; amending s. 1006.33, F.S.,
 54 relating to bids or proposals and advertisements of
 55 instructional materials; providing requirements for
 56 digital specifications; amending s. 1006.34, F.S.;

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57 revising powers and duties of the commissioner and the
58 Department of Education in selecting and adopting
59 instructional materials; providing an exemption from the
60 requirement that a rule having certain regulatory costs be
61 ratified by the Legislature; amending s. 1006.35, F.S.;
62 conforming provisions relating to the accuracy of
63 instructional materials to changes made by the act;
64 amending s. 1006.36, F.S.; reducing the term of adoption
65 of instructional materials from a 6-year period to a 5-
66 year period; amending s. 1006.38, F.S.; revising
67 provisions relating to the duties, responsibilities, and
68 requirements of instructional materials publishers and
69 manufacturers; requiring electronic delivery of copies of
70 instructional materials to the department; amending s.
71 1006.39, F.S.; revising provisions relating to the
72 production and dissemination of educational materials and
73 products by the department to conform to changes made by
74 the act; amending s. 1006.40, F.S.; revising provisions
75 relating to the use of the annual allocation for the
76 purchase of instructional materials; repealing s. 1006.43,
77 F.S., relating to department expenses and its annual
78 legislative budget request; amending s. 1011.62, F.S.;
79 revising provisions relating to the value of student
80 membership for certain students in career and professional
81 academy programs for purposes of education funding;
82 amending s. 1011.685, F.S.; revising provisions relating
83 to the use of class size reduction operating categorical
84 funds; amending s. 1011.71, F.S.; conforming provisions to

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changes made by the act; repealing provisions relating to the levy of additional millage for critical capital outlay or operating needs; authorizing the levy in certain school districts; providing restrictions; providing an effective date.

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

Section 1. Paragraph (o) of subsection (6) of section 1001.10, Florida Statutes, is amended to read:

1001.10 Commissioner of Education; general powers and duties.—

(6) Additionally, the commissioner has the following general powers and duties:

(o) To develop criteria for use by state instructional materials reviewers ~~committees~~ in evaluating materials submitted for adoption consideration. The criteria shall, as appropriate, be based on instructional expectations reflected in curriculum frameworks and student performance standards. The criteria for each subject or course shall be made available to publishers of instructional materials pursuant to the requirements of chapter 1006.

Section 2. Subsection (19) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(19) CAPITAL OUTLAY FUNDING.—Charter schools are eligible for capital outlay funds pursuant to s. 1013.62. Capital outlay funds authorized in ss. s. 1011.71(2) and 1013.62 that have been

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shared with a charter school-in-the-workplace prior to July 1, 2010, are deemed to have met the authorized expenditure requirements for such funds.

Section 3. Paragraph (e) is added to subsection (1) of section 1002.45, Florida Statutes, to read:

1002.45 School district virtual instruction programs.—

(1) PROGRAM.—

(e)1. Each school district shall provide to the department by October 1, 2011, and by each October 1 thereafter, a copy of each contract and the amounts paid per unweighted full-time equivalent student for services procured pursuant to paragraph (c).

2. Each school district shall expend the difference in funds provided for a student participating in the school district virtual instruction program pursuant to subsection (7) and the price paid for contracted services procured pursuant to paragraph (c) for the district's local instructional improvement system pursuant to s. 1006.281 or other technological tools that are required to access electronic and digital instructional materials.

Section 4. Paragraphs (c) and (f) of subsection (3) of section 1002.55, Florida Statutes, are amended to read:

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.—

(3) To be eligible to deliver the prekindergarten program, a private prekindergarten provider must meet each of the following requirements:

(c) The private prekindergarten provider must have, for

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each prekindergarten class of 11 children or fewer, at least one prekindergarten instructor who meets each of the following requirements:

1. The prekindergarten instructor must hold, at a minimum, one of the following credentials:

a. A child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition; or

b. A credential approved by the Department of Children and Family Services as being equivalent to or greater than the credential described in sub-subparagraph a.

The Department of Children and Family Services may adopt rules under ss. 120.536(1) and 120.54 which provide criteria and procedures for approving equivalent credentials under sub-subparagraph b.

2. The prekindergarten instructor must successfully complete an emergent literacy training course approved by the department as meeting or exceeding the minimum standards adopted under s. 1002.59. This subparagraph does not apply to a prekindergarten instructor who successfully completes approved training in early literacy and language development under s. 402.305(2)(d)5., s. 402.313(6), or s. 402.3131(5) before the establishment of one or more emergent literacy training courses under s. 1002.59 or April 1, 2005, whichever occurs later.

(f) Each of the private prekindergarten provider's prekindergarten classes must be composed of at least 4 students but may not exceed 20 ~~18~~ students. In order to protect the

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health and safety of students, each private prekindergarten provider must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 12 ~~11~~ or more students, must have, in addition to a prekindergarten instructor who meets the requirements of paragraph (c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of paragraph (d). This paragraph does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

Section 5. Subsection (7) of section 1002.63, Florida Statutes, is amended to read:

1002.63 School-year prekindergarten program delivered by public schools.—

(7) Each prekindergarten class in a public school delivering the school-year prekindergarten program must be composed of at least 4 students but may not exceed 18 students. In order to protect the health and safety of students, each school must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 12 ~~11~~ or more students, must have, in addition to a prekindergarten instructor who meets the requirements of s. 1002.55(3)(c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of subsection (5).

Section 6. Subsection (7) of section 1002.71, Florida Statutes, is amended to read:

1002.71 Funding; financial and attendance reporting.—

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(7) The Agency for Workforce Innovation shall require that administrative expenditures be kept to the minimum necessary for efficient and effective administration of the Voluntary Prekindergarten Education Program. Administrative policies and procedures shall be revised, to the maximum extent practicable, to incorporate the use of automation and electronic submission of forms, including those required for child eligibility and enrollment, provider and class registration, and monthly certification of attendance for payment. A school district may use its automated daily attendance reporting system for the purpose of transmitting attendance records to the early learning coalition in a mutually agreed-upon format. In addition, actions shall be taken to reduce paperwork, eliminate the duplication of reports, and eliminate other duplicative activities. Beginning with the 2011-2012 ~~2010-2011~~ fiscal year, each early learning coalition may retain and expend no more than 4.0 ~~4.5~~ percent of the funds paid by the coalition to private prekindergarten providers and public schools under paragraph (5)(b). Funds retained by an early learning coalition under this subsection may be used only for administering the Voluntary Prekindergarten Education Program and may not be used for the school readiness program or other programs.

Section 7. Subsections (14) and (15) of section 1003.01, Florida Statutes, are amended to read:

1003.01 Definitions.—As used in this chapter, the term:

(14) "Core-curricula courses" means:

(a) Language arts/reading, mathematics, and science courses in prekindergarten through grade 3.

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(b) Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level.

(c) Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level.

(d) Courses that are specifically identified by name in law as required for high school graduation and that are not measured by state assessment, excluding any extracurricular courses.

(e) Exceptional student education courses.

(f) English for Speakers of Other Languages courses.
~~courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and courses taught in traditional self-contained elementary school classrooms.~~

The term is limited in meaning and used for the sole purpose of designating classes that are subject to the maximum class size requirements established in s. 1, Art. IX of the State Constitution. This term does not include courses offered under ss. 1002.37, 1002.415, and 1002.45.

(15) "Extracurricular courses" means all courses that are not defined as "core-curricula courses," which may include, but are not limited to, physical education, fine arts, performing fine arts, ~~and~~ career education, and courses that may result in college credit. The term is limited in meaning and used for the sole purpose of designating classes that are not subject to the maximum class size requirements established in s. 1, Art. IX of

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the State Constitution.

Section 8. Subsections (1) and (2) of section 1003.03, Florida Statutes, are amended to read:

1003.03 Maximum class size.—

(1) ~~CONSTITUTIONAL~~ CLASS SIZE MAXIMUMS.—Each year, on or before the October student membership survey, school districts must be in compliance with the following class size requirements Pursuant to s. 1, Art. IX of the State Constitution, beginning in the 2010-2011 school year:

(a) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for prekindergarten through grade 3 may not exceed 18 students.

(b) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 4 through 8 may not exceed 22 students. The maximum number of students assigned to a core-curricula high school course in which a student in grades 4 through 8 is enrolled shall be governed by the requirements in paragraph (c).

(c) The maximum number of students assigned to each teacher who is teaching core-curricula courses in public school classrooms for grades 9 through 12 may not exceed 25 students.

These maximums shall be maintained after the October student membership survey, except as provided in paragraph (2)(b) or due to an extreme emergency beyond the control of the district school board.

(2) IMPLEMENTATION.—

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(a) The Department of Education shall annually calculate class size measures described in subsection (1) based upon the October student membership survey.

(b) A student who enrolls in a school after the October student membership survey may be assigned to an existing class that temporarily exceeds the maximum number of students in subsection (1) if the district school board determines it to be impractical, educationally unsound, or disruptive to student learning to not assign the student to the class. If the district school board makes this determination:

1. Up to three students above the maximum as provided in paragraph (1)(a) may be assigned to a teacher in kindergarten through grade 3.

2. Up to five students above the maximums as provided in paragraphs (1)(b) and (c), respectively, may be assigned to a teacher in grades 4 through 12.

3. The district school board must develop a plan for the school to be in full compliance with the maximum class size in subsection (1) by the next October student membership survey.

~~(b) Prior to the adoption of the district school budget for 2010-2011, each district school board shall hold public hearings and provide information to parents on the district's website, and through any other means by which the district provides information to parents and the public, on the district's strategies to meet the requirements in subsection (1).~~

Section 9. Subsection (2) of section 1003.492, Florida Statutes, is amended to read:

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309 1003.492 Industry-certified career education programs.—
 310 (2) The State Board of Education shall use the expertise
 311 of Workforce Florida, Inc., and Enterprise Florida, Inc., to
 312 develop and adopt rules pursuant to ss. 120.536(1) and 120.54
 313 for implementing an industry certification process. The rules
 314 must establish a process for weighting the value of industry
 315 certifications based on the rigor of the certification and its
 316 employment value to state businesses and industry. Industry
 317 certification shall be defined by the Agency for Workforce
 318 Innovation, based upon the highest available national standards
 319 for specific industry certification, to ensure student skill
 320 proficiency and to address emerging labor market and industry
 321 trends. A regional workforce board or a career and professional
 322 academy may apply to Workforce Florida, Inc., to request
 323 additions to the approved list of industry certifications based
 324 on high-demand job requirements in the regional economy. The
 325 list of industry certifications approved by Workforce Florida,
 326 Inc., and the Department of Education shall be published and
 327 updated annually by a date certain, to be included in the
 328 adopted rule.

329 Section 10. Subsection (1), paragraph (a) of subsection
 330 (2), and paragraphs (b) and (e) of subsection (3) of section
 331 1006.28, Florida Statutes, are amended to read:

332 1006.28 Duties of district school board, district school
 333 superintendent; and school principal regarding K-12
 334 instructional materials.—

335 (1) DISTRICT SCHOOL BOARD.—The district school board has
 336 the duty to provide adequate instructional materials for all

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337 students in accordance with the requirements of this part. The
338 term "adequate instructional materials" means a sufficient
339 number of student or site licenses ~~textbooks~~ or sets of
340 materials that are available in bound, unbound, kit, or package
341 form and may consist of hard-backed or soft-backed textbooks,
342 electronic content, consumables, learning laboratories,
343 manipulatives, electronic media, and computer courseware or
344 software that serve as the basis for instruction for each
345 student in the core courses of mathematics, language arts,
346 social studies, science, reading, and literature, ~~except for~~
347 ~~instruction for which the school advisory council approves the~~
348 ~~use of a program that does not include a textbook as a major~~
349 ~~tool of instruction.~~ The district school board has the following
350 specific duties:

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

353 (b) Instructional materials ~~Textbooks~~.—Provide for proper
354 requisitioning, distribution, accounting, storage, care, and use
355 of all instructional materials ~~furnished by the state~~ and
356 furnish such other instructional materials as may be needed. The
357 district school board shall ensure ~~assure~~ that instructional
358 materials used in the district are consistent with the district
359 goals and objectives and the curriculum frameworks adopted by
360 rule of the State Board of Education, as well as with the state
361 and district performance standards provided for in s.
362 1001.03(1).

363 (c) Other instructional materials.—Provide such other
364 teaching accessories and aids as are needed for the school

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district's educational program.

(d) School library media services; establishment and maintenance.—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 public, and, in addition such traveling or circulating libraries as may be needed for the proper operation of the district school system.

(2) DISTRICT SCHOOL SUPERINTENDENT.—

(a) The district school superintendent has the duty to recommend such plans for improving, providing, distributing, accounting for, and caring for instructional materials ~~textbooks~~ and other instructional aids as will result in general improvement of the district school system, as prescribed in this part, in accordance with adopted district school board rules prescribing the duties and responsibilities of the district school superintendent regarding the requisition, purchase, receipt, storage, distribution, use, conservation, records, and reports of, and management practices and property accountability concerning, instructional materials, and providing for an evaluation of any instructional materials to be requisitioned that have not been used previously in the district's schools. The district school superintendent must keep adequate records and accounts for all financial transactions for funds collected pursuant to subsection (3), as a component of the educational service delivery scope in a school district best financial management practices review under s. 1008.35.

(3) SCHOOL PRINCIPAL.—The school principal has the

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following duties for the management and care of instructional materials at the school:

(b) Money collected for lost or damaged instructional materials ~~books~~; enforcement.—The school principal shall collect from each student or the student's parent the purchase price of any instructional material the student has lost, destroyed, or unnecessarily damaged and to report and transmit the money collected to the district school superintendent. The failure to collect such sum upon reasonable effort by the school principal may result in the suspension of the student from participation in extracurricular activities or satisfaction of the debt by the student through community service activities at the school site as determined by the school principal, pursuant to policies adopted by district school board rule.

(e) Accounting for instructional materials ~~textbooks~~.— Principals shall see that all instructional materials ~~books~~ are fully and properly accounted for as prescribed by adopted rules of the district school board.

Section 11. Section 1006.281, Florida Statutes, is amended to read:

1006.281 Local instructional improvement ~~Learning management~~ systems.—

(1) A "local instructional improvement system" means a system that uses digital tools that provide teachers, administrators, students, and parents with data and resources to systematically manage continuous instructional improvement. The system supports relevant activities such as instructional planning, information gathering and analysis, rapid-time

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421 reporting, decisionmaking on appropriate instructional sequence,
422 and evaluating the effectiveness of instruction. The system
423 shall integrate instructional information with student-level
424 data to provide predictions of future student achievement.

425 (2)(1) Each school district shall provide teachers,
426 administrators, students, and parents ~~To ensure that all school~~
427 ~~districts have equitable access to a local instructional~~
428 improvement system. The system must provide access to electronic
429 and digital ~~digitally rich instructional materials, districts~~
430 ~~are encouraged to provide access to an electronic learning~~
431 ~~management system that allows teachers, students, and parents to~~
432 ~~access, organize, and use electronically available instructional~~
433 ~~materials and teaching and learning tools and resources,~~
434 including the ability for and that enables teachers and
435 administrators to manage, assess, and track student learning.

436 (3)(2) By June 30, 2014, a school district's local
437 instructional improvement system shall comply with minimum
438 standards published by the Department of Education. The system
439 must ~~To the extent fiscally and technologically feasible, a~~
440 ~~school district's electronic learning management system should~~
441 allow for a single, authenticated sign-on and include the
442 following functionality:

443 (a) Vertically searches for, gathers, and organizes
444 specific standards-based instructional materials.

445 (b) Enables teachers to prepare lessons, individualize
446 student instruction, and use best practices in providing
447 instruction, including the ability to connect student assessment
448 data with electronic and digital instructional materials.

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(c) Provides communication, including access to up-to-date student performance data, in order to help teachers and parents better serve the needs of students.

(d) Provides access for administrators to ensure quality of instruction within every classroom.

(e) Enables district staff to plan, create, and manage professional development and to connect professional development with staff information and student performance data.

(f)-(e) Provides access to multiple content providers and provides the ability to seamlessly connect the local instructional improvement system to electronic and digital content.

(4)-(3) The Department of Education shall provide advisory assistance as requested by school districts in their deployment of a local instructional improvement district electronic learning management system.

(5) The State Board of Education shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section, including rules that establish minimum standards for a local instructional improvement system.

Section 12. Section 1006.29, Florida Statutes, is amended to read:

1006.29 State instructional materials reviewers ~~committees.~~

~~(1) Each school year, not later than April 15, the commissioner shall appoint state instructional materials committees composed of persons actively engaged in teaching or in the supervision of teaching in the public elementary, middle,~~

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~~or high schools and representing the major fields and levels in which instructional materials are used in the public schools and, in addition, lay citizens not professionally connected with education. Committee members shall receive training pursuant to subsection (5) in competencies related to the evaluation and selection of instructional materials.~~

~~(a) There shall be 10 or more members on each committee: At least 50 percent of the members shall be classroom teachers who are certified in an area directly related to the academic area or level being considered for adoption, 2 shall be laypersons, 1 shall be a district school board member, and 2 shall be supervisors of teachers. The committee must have the capacity or expertise to address the broad racial, ethnic, socioeconomic, and cultural diversity of the state's student population. Personnel selected as teachers of the year at the school, district, regional, or state level are encouraged to serve on instructional materials committees.~~

~~(b) The membership of each committee must reflect the broad racial, ethnic, socioeconomic, and cultural diversity of the state, including a balanced representation from the state's geographic regions.~~

~~(1) (a) (e)~~ The commissioner shall determine annually the areas in which instructional materials shall be submitted for adoption, taking into consideration the desires of the district school boards. The commissioner shall also determine the number of titles to be adopted in each area.

(b) By April 15 of each school year, the commissioner shall appoint three state or national experts in the content

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areas submitted for adoption to review the instructional materials and evaluate the content for alignment with the applicable Next Generation Sunshine State Standards. These reviewers shall be designated as state instructional materials reviewers and shall review the materials for the level of instructional support and the accuracy and appropriateness of progression of introduced content. Instructional materials shall be made available to the reviewers in an electronic format. The initial review of the materials shall be made by only two of the three reviewers. If the two reviewers reach different results, the third reviewer shall determine which results shall be recommended. The reviewers shall independently make recommendations to the commissioner regarding materials that should be placed on the list of adopted materials through an electronic feedback review system.

(c) The commissioner shall request each district school superintendent to nominate one classroom teacher or district-level content supervisor to review two or three of the submissions recommended by the state instructional materials reviewers. School districts shall ensure that these district reviewers are provided with the support and time necessary to accomplish thorough review of the instructional materials. District reviewers shall independently rate the recommended submissions on the instructional usability of the resources.

~~(2)(a) All appointments shall be as prescribed in this section. No member shall serve more than two consecutive terms on any committee. All appointments shall be for 18-month terms. All vacancies shall be filled in the manner of the original~~

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~~appointment for only the time remaining in the unexpired term.
At no time may a district school board have more than one
representative on a committee. The commissioner and a member of
the department whom he or she shall designate shall be
additional and ex officio members of each committee.~~

~~(b) The names and mailing addresses of the members of the
state instructional materials committees shall be made public
when appointments are made.~~

~~(c) The district school board shall be reimbursed for the
actual cost of substitute teachers for each workday that a
member of its instructional staff is absent from his or her
assigned duties for the purpose of rendering service to the
state instructional materials committee. In addition, committee
members shall be reimbursed for travel expenses and per diem in
accordance with s. 112.061 for actual service in meetings of
committees called by the commissioner. Payment of such travel
expenses shall be made from the appropriation for the
administration of the instructional materials program, on
warrants to be drawn by the Chief Financial Officer upon
requisition approved by the commissioner.~~

~~(d) Any member of a committee may be removed by the
commissioner for cause.~~

~~(3) All references in the law to the state instructional
materials committee shall apply to each committee created by
this section.~~

(2)~~(4)~~ 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

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561 a subject or course. These items may be available in bound,
562 unbound, kit, or package form and may consist of hardbacked or
563 softbacked textbooks, electronic content, consumables, learning
564 laboratories, manipulatives, electronic media, and computer
565 courseware or software. A publisher or manufacturer providing
566 instructional materials as a single bundle shall also make the
567 instructional materials available as separate and unbundled
568 items, each priced individually. A publisher may also offer
569 sections of state-adopted instructional materials in digital or
570 electronic versions at reduced rates to districts, schools, and
571 teachers.

572 (3) Beginning in the 2014-2015 academic year, all adopted
573 Any instructional materials adopted after 2012-2013 for students
574 in kindergarten grades 9 through grade 12 must shall also be
575 provided in a digital an electronic format. For purposes of
576 state adoption, the term "digital format" means text-based or
577 image-based content in a form that provides the student with
578 various interactive functions; that can be searched, tagged,
579 distributed, and utilized for individualized and group learning;
580 that includes multimedia content such as video clips,
581 animations, and virtual reality; and that has the ability to be
582 accessed anytime and anywhere. Beginning in the 2012-2013
583 academic year for grades 9 through 12 and in the 2013-2014
584 academic year for kindergarten through grade 8, all adopted
585 instructional materials must be provided in an electronic or a
586 digital format. For purposes of state adoption, the term
587 "electronic format" means text-based or image-based content in a
588 form that is produced on, published by, and readable on

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computers or other digital devices and is an electronic version of a printed book, whether or not any printed equivalent exists. 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.

~~(4)-(5)~~ The department shall develop a training program for persons selected as state instructional materials reviewers and school district reviewers ~~to serve on state instructional materials committees~~. The program shall be structured to assist reviewers ~~committee members~~ in developing the skills necessary to make valid, culturally sensitive, and objective decisions regarding the content and rigor of instructional materials. All persons serving as ~~on~~ instructional materials reviewers ~~committees~~ must complete the training program prior to beginning the review and selection process.

Section 13. Section 1006.30, Florida Statutes, is amended to read:

1006.30 Affidavit of state instructional materials reviewers ~~committee members~~. Before transacting any business, each state instructional materials reviewer ~~member of a state committee~~ shall make an affidavit, to be filed with the department commissioner, that:

(1) The reviewer ~~member~~ will faithfully discharge the duties imposed upon him or her ~~as a member of the committee~~.

(2) The reviewer ~~member~~ has no interest, ~~and while a member of the committee he or she will assume no interest,~~ in any publishing or manufacturing organization that ~~which~~ produces or sells instructional materials.

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(3) The reviewer ~~member~~ is in no way connected, ~~and while a member of the committee he or she will assume no connection,~~ with the distribution of the instructional materials.

(4) The reviewer ~~does not have any direct or indirect pecuniary interest member is not pecuniarily interested, and while a member of the committee he or she will assume no pecuniary interest, directly or indirectly,~~ in the business or profits of any person engaged in manufacturing, publishing, or selling instructional materials designed for use in the public schools.

(5) The reviewer ~~member~~ will not accept any emolument or promise of future reward of any kind from any publisher or manufacturer of instructional materials or his or her agent or anyone interested in, or intending to bias his or her judgment in any way in, the selection of any materials to be adopted.

(6) The reviewer understands that it is unlawful for any ~~member of a state instructional materials committee to discuss matters relating to instructional materials submitted for adoption with any agent of a publisher or manufacturer of instructional materials, either directly or indirectly, except during the period when the publisher or manufacturer is providing a presentation for the reviewer during his or her review of committee has been called into session for the purpose of evaluating instructional materials submitted for adoption. Such discussions shall be limited to official meetings of the committee and in accordance with procedures prescribed by the commissioner for that purpose.~~

Section 14. Section 1006.31, Florida Statutes, is amended

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to read:

1006.31 Duties of each state instructional materials
reviewer ~~committee~~.—The duties of each state instructional
materials reviewer ~~committee~~ are:

~~(1) PLACE AND TIME OF MEETING. To meet at the call of the
commissioner, at a place in the state designated by him or her,
for the purpose of evaluating and recommending instructional
materials for adoption by the state. All meetings of state
instructional materials committees shall be announced publicly
in the Florida Administrative Weekly at least 2 weeks prior to
the date of convening. All meetings of the committees shall be
open to the public.~~

~~(2) ORGANIZATION. To elect a chair and vice chair for each
adoption. An employee of the department shall serve as secretary
to the committee and keep an accurate record of its proceedings.
All records of committee motions and votes, and summaries of
committee debate shall be incorporated into a publishable
document and shall be available for public inspection and
duplication.~~

(1)~~(3)~~ PROCEDURES.—To adhere to procedures prescribed by
the department ~~commissioner~~ for evaluating instructional
materials submitted by publishers and manufacturers in each
adoption.

(2)~~(4)~~ EVALUATION OF INSTRUCTIONAL MATERIALS.—To evaluate
carefully all instructional materials submitted, to ascertain
which instructional materials, if any, submitted for
consideration ~~best~~ implement the selection criteria developed by
the department ~~commissioner~~ and those curricular objectives

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673 included within applicable performance standards provided for in
674 s. 1001.03(1).

675 (a) When recommending instructional materials for use in
676 the schools, each reviewer ~~committee~~ shall include only
677 instructional materials that accurately portray the ethnic,
678 socioeconomic, cultural, and racial diversity of our society,
679 including men and women in professional, career, and executive
680 roles, and the role and contributions of the entrepreneur and
681 labor in the total development of this state and the United
682 States.

683 (b) When recommending instructional materials for use in
684 the schools, each reviewer ~~committee~~ shall include only
685 materials that ~~which~~ accurately portray, whenever appropriate,
686 humankind's place in ecological systems, including the necessity
687 for the protection of our environment and conservation of our
688 natural resources and the effects on the human system of the use
689 of tobacco, alcohol, controlled substances, and other dangerous
690 substances.

691 (c) When recommending instructional materials for use in
692 the schools, each reviewer ~~committee~~ shall require such
693 materials as he or she ~~it~~ deems necessary and proper to
694 encourage thrift, fire prevention, and humane treatment of
695 people and animals.

696 (d) When recommending instructional materials for use in
697 the schools, each reviewer ~~committee~~ shall require, when
698 appropriate to the comprehension of students, that materials for
699 social science, history, or civics classes contain the
700 Declaration of Independence and the Constitution of the United

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States. A reviewer may not recommend any ~~No instructional materials shall be recommended by any committee~~ for use in the schools which contain any matter reflecting unfairly upon persons because of their race, color, creed, national origin, ancestry, gender, or occupation.

(e) Any instructional material ~~All instructional materials recommended by a reviewer each committee~~ for use in the schools shall be, to the satisfaction of each reviewer committee, accurate, objective, and current and suited to the needs and comprehension of students at their respective grade levels. Reviewers ~~Instructional materials committees~~ shall consider for adoption materials developed for academically talented students such as those enrolled in advanced placement courses.

(3)-(5) REPORT OF REVIEWER COMMITTEE. ~~Each committee, After a thorough study of all data submitted on each instructional material, to submit an electronic and after each member has carefully evaluated each instructional material, shall present a written report to the department commissioner. The~~ Such report shall be made public, and must ~~shall~~ include responses to each section of the report format prescribed by the department.

~~(a) A description of the procedures used in determining the instructional materials to be recommended to the commissioner.~~

~~(b) Recommendations of instructional materials for each grade and subject field in the curriculum of public elementary, middle, and high schools in which adoptions are to be made. If deemed advisable, the committee may include such other information, expression of opinion, or recommendation as would~~

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~~be helpful to the commissioner. If there is a difference of
opinion among the members of the committee as to the merits of
any instructional materials, any member may file an expression
of his or her individual opinion.~~

~~The findings of the committees, including the evaluation of
instructional materials, shall be in sessions open to the
public. All decisions leading to determinations of the
committees shall be by roll call vote, and at no time will a
secret ballot be permitted.~~

Section 15. Section 1006.32, Florida Statutes, is amended
to read:

1006.32 Prohibited acts.—

(1) A ~~No~~ publisher or manufacturer of instructional
material, or any representative thereof, may not ~~shall~~ offer to
give any emolument, money, or other valuable thing, or any
inducement, to any district school board official or state
~~member of a state-level~~ instructional materials reviewer
~~committee~~ to directly or indirectly introduce, recommend, vote
for, or otherwise influence the adoption or purchase of any
instructional materials.

(2) A ~~No~~ district school board official or ~~member of a~~
state instructional materials reviewer may not ~~committee shall~~
solicit or accept any emolument, money, or other valuable thing,
or any inducement, to directly or indirectly introduce,
recommend, vote for, or otherwise influence the adoption or
purchase of any instructional material.

(3) A ~~No~~ district school board or publisher may not

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participate in a pilot program of materials being considered for adoption during the 18-month period before the official adoption of the materials by the commissioner. Any pilot program during the first 2 years of the adoption period must have the prior approval of the commissioner.

(4) Any publisher or manufacturer of instructional materials or representative thereof or any district school board official or state instructional materials reviewer ~~committee member~~, who violates any provision of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. Any representative of a publisher or manufacturer who violates any provision of this section, in addition to any other penalty, shall be banned from practicing business in the state for a period of 1 calendar year. ~~Any district school board official or state instructional materials committee member who violates any provision of this section, in addition to any other penalty, shall be removed from his or her official position.~~

(5) This section does not prohibit ~~Nothing in this section shall be construed to prevent~~ any publisher, manufacturer, or agent from supplying, for purposes of examination, necessary sample copies of instructional materials to any district school board official or state instructional materials reviewer ~~committee member~~.

(6) This section does not prohibit ~~Nothing in this section shall be construed to prevent~~ a district school board official or state instructional materials reviewer ~~committee member~~ from receiving sample copies of instructional materials.

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785 (7) This section does not ~~Nothing contained in this~~
 786 ~~section shall be construed to~~ prohibit or restrict a district
 787 school board official from receiving royalties or other
 788 compensation, other than compensation paid to him or her as
 789 commission for negotiating sales to district school boards, from
 790 the publisher or manufacturer of instructional materials
 791 written, designed, or prepared by such district school board
 792 official, and adopted by the commissioner or purchased by any
 793 district school board. No district school board official shall
 794 be allowed to receive royalties on any materials not on the
 795 state-adopted list purchased for use by his or her district
 796 school board.

797 (8) A ~~No~~ district school superintendent, district school
 798 board member, teacher, or other person officially connected with
 799 the government or direction of public schools may not ~~shall~~
 800 receive during the months actually engaged in performing duties
 801 under his or her contract any private fee, gratuity, donation,
 802 or compensation, in any manner whatsoever, for promoting the
 803 sale or exchange of any instructional material ~~school book~~, map,
 804 or chart in any public school, or be an agent for the sale or
 805 the publisher of any instructional material ~~school textbook~~ or
 806 reference work, or have direct or indirect pecuniary interest ~~be~~
 807 ~~directly or indirectly pecuniarily interested~~ in the
 808 introduction of any such instructional material ~~textbook~~, and
 809 any such agency or interest disqualifies ~~shall disqualify~~ any
 810 person so acting or interested from holding any district school
 811 board employment whatsoever, and the person commits a
 812 misdemeanor of the second degree, punishable as provided in s.

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775.082 or s. 775.083; however, ~~provided that~~ this subsection ~~does shall~~ not ~~prevent be construed as preventing~~ the adoption of any instructional material ~~book~~ written in whole or in part by a Florida author.

Section 16. Paragraphs (b) and (e) of subsection (1) and subsections (2) and (4) of section 1006.33, Florida Statutes, are amended to read:

1006.33 Bids or proposals; advertisement and its contents.—

(1)

(b) The advertisement shall state that, beginning in 2010-2011, each bidder shall furnish electronic sample ~~specimen~~ copies of all instructional materials submitted, at a time designated by the department, which ~~specimen~~ copies shall be identical with the copies approved and accepted by ~~the members of the~~ state instructional materials reviewers ~~committee~~, as prescribed in this section, and with the copies furnished to the department and district school superintendents, as provided in this part. A school district may not request ~~Any district school superintendent who requires~~ samples in addition to the electronic format ~~must request those samples through the~~ department.

(e) The advertisement shall give information regarding ~~digital as to how~~ specifications that ~~which~~ have been adopted by the department, including minimum format requirements that will enable electronic and digital content to be accessed through the district's local instructional improvement system and a variety of mobile, electronic, and digital devices. Beginning with

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specifications released in 2013, the digital specifications
shall require the capability for searching by state standards
and site and student-level licensing. The digital format
specifications shall be appropriate for the interoperability of
the content. The department may not adopt specifications that
require the instructional materials to include specific
references to FCAT standards or Next Generation Sunshine State
Standards and benchmarks at point of student use ~~in regard to~~
~~paper, binding, cover boards, and mechanical makeup can be~~
~~secured. In adopting specifications, the department shall make~~
~~an exception for instructional materials that are college-level~~
~~texts and that do not meet department physical specifications~~
~~for secondary materials, if the publisher guarantees replacement~~
~~during the term of the contract.~~

(2) The bids submitted shall be for furnishing the
designated materials in accordance with specifications of the
department. The bid shall state the lowest wholesale price at
which the materials will be furnished, at the time the adoption
period provided in the contract begins, ~~delivered f.o.b. to the~~
~~Florida depository of the publisher, manufacturer, or bidder.~~

(4) Sample Specimen copies of all instructional materials
that have been made the bases of contracts under this part
shall, upon request for the purpose of public inspection, be
made available by the publisher to the department and the
district school superintendent of each district school board
that adopts the instructional materials from the state list upon
request for the purpose of public inspection. ~~All contracts and~~
~~bonds executed under this part shall be signed in triplicate.~~

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~~One copy of each contract and an original of each bid, whether accepted or rejected, shall be preserved with the department for at least 3 years after termination of the contract.~~

Section 17. Subsections (1), (2), (3), and (7) of section 1006.34, Florida Statutes, are amended to read:

1006.34 Powers and duties of the commissioner and the department in selecting and adopting instructional materials.—

(1) PROCEDURES FOR EVALUATING INSTRUCTIONAL MATERIALS.—The State Board of Education shall adopt rules prescribing
~~commissioner shall prescribe~~ the procedures by which the department shall evaluate instructional materials submitted by publishers and manufacturers in each adoption. The rules shall be exempt from the legislative ratification requirement in s. 120.541(3). Included in these procedures shall be provisions affording ~~which afford~~ each publisher or manufacturer or his or her representative an opportunity to provide a virtual presentation to ~~present to members of the~~ state instructional materials reviewers on ~~committees~~ the merits of each instructional material submitted in each adoption.

(2) SELECTION AND ADOPTION OF INSTRUCTIONAL MATERIALS.—

(a) The department shall notify all publishers and manufacturers of instructional materials who have submitted bids that within 3 weeks after the deadline for receiving bids, at a designated time and place, it will open the bids submitted and deposited with it. At the time and place designated, the bids shall be opened, read, and tabulated in the presence of the bidders or their representatives. No one may revise his or her bid after the bids have been filed. When all bids have been

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897 | carefully considered, the commissioner shall, from the list of
 898 | suitable, usable, and desirable instructional materials reported
 899 | by the state instructional materials reviewers ~~committee~~, select
 900 | and adopt instructional materials for each grade and subject
 901 | field in the curriculum of public elementary, middle, and high
 902 | schools in which adoptions are made and in the subject areas
 903 | designated in the advertisement. The adoption shall continue for
 904 | the period specified in the advertisement, beginning on the
 905 | ensuing April 1. The adoption shall not prevent the extension of
 906 | a contract as provided in subsection (3). The commissioner shall
 907 | always reserve the right to reject any and all bids. The
 908 | commissioner may ask for new sealed bids from publishers or
 909 | manufacturers whose instructional materials were recommended by
 910 | the state instructional materials reviewers ~~committee~~ as
 911 | suitable, usable, and desirable; specify the dates for filing
 912 | such bids and the date on which they shall be opened; and
 913 | proceed in all matters regarding the opening of bids and the
 914 | awarding of contracts as required by this part. In all cases,
 915 | bids shall be accompanied by a cash deposit or certified check
 916 | of from \$500 to \$2,500, as the department ~~commissioner~~ may
 917 | direct. The department, in adopting instructional materials,
 918 | shall give due consideration both to the prices bid for
 919 | furnishing instructional materials and to the report and
 920 | recommendations of the state instructional materials reviewers
 921 | ~~committee~~. When the commissioner has finished with the report of
 922 | the state instructional materials reviewers ~~committee~~, the
 923 | report shall be filed and preserved with the department and
 924 | shall be available at all times for public inspection.

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(b) In the selection of instructional materials, library media ~~books~~, and other reading material used in the public school system, the standards used to determine the propriety of the material shall include:

1. The age of the students who normally could be expected to have access to the material.

2. The educational purpose to be served by the material. In considering instructional materials for classroom use, priority shall be given to the selection of materials which encompass the state and district school board performance standards provided for in s. 1001.03(1) and which include the instructional objectives contained within the curriculum frameworks approved by rule of the State Board of Education.

3. The degree to which the material would be supplemented and explained by mature classroom instruction as part of a normal classroom instructional program.

4. The consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the students of this state.

Any instructional material ~~No book or other material~~ containing ~~hard-core~~ pornography or otherwise prohibited by s. 847.012 may not ~~shall~~ be used or made available within any public school district.

(3) CONTRACT WITH PUBLISHERS OR MANUFACTURERS; BOND.—As soon as practicable after the commissioner has adopted any instructional materials and all bidders that have secured the adoption of any instructional materials have been notified

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953 thereof by registered letter, the department ~~of Legal Affairs~~
 954 shall prepare a contract in proper form with every bidder
 955 awarded the adoption of any instructional materials. Each
 956 contract shall be executed by the commissioner ~~Governor and~~
 957 ~~Secretary of State under the seal of the state~~, one copy to be
 958 kept by the contractor, ~~one copy to be filed with the Department~~
 959 ~~of State~~, and one copy to be filed with the department. After
 960 giving due consideration to comments by the district school
 961 boards, the commissioner, with the agreement of the publisher,
 962 may extend or shorten a contract period for a period not to
 963 exceed 2 years; and the terms of any such contract shall remain
 964 the same as in the original contract. Any publisher or
 965 manufacturer to whom any contract is let under this part must
 966 give bond in such amount as the department ~~commissioner~~
 967 requires, payable to the state, conditioned for the faithful,
 968 honest, and exact performance of the contract. The bond must
 969 provide for the payment of reasonable attorney's fees in case of
 970 recovery in any suit thereon. The surety on the bond must be a
 971 guaranty or surety company lawfully authorized to do business in
 972 the state; however, the bond shall not be exhausted by a single
 973 recovery but may be sued upon from time to time until the full
 974 amount thereof is recovered, and the department may at any time,
 975 after giving 30 days' notice, require additional security or
 976 additional bond. The form of any bond or bonds or contract or
 977 contracts under this part shall be prepared and approved by the
 978 department ~~of Legal Affairs~~. At the discretion of the department
 979 ~~commissioner~~, a publisher or manufacturer to whom any contract
 980 is let under this part may be allowed a cash deposit in lieu of

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a bond, conditioned for the faithful, honest, and exact performance of the contract. The cash deposit, payable to the department, shall be placed in the Textbook Bid Trust Fund. The department may recover damages on the cash deposit given by the contractor for failure to furnish instructional materials, the sum recovered to inure to the General Revenue Fund.

(7) FORFEITURE OF CONTRACT AND BOND.—If any publisher or manufacturer of instructional materials fails or refuses to furnish ~~a book, or books, or other~~ instructional materials as provided in the contract, the publisher's or manufacturer's ~~his or her~~ bond is forfeited and the commissioner must ~~department shall~~ make another contract ~~on such terms as it may find desirable, after giving due consideration to the recommendations of the commissioner.~~

Section 18. Subsection (2) of section 1006.35, Florida Statutes, is amended to read:

1006.35 Accuracy of instructional materials.—

(2) When errors in state-adopted materials are confirmed, the publisher of the materials shall provide to each district school board that has purchased the materials the corrections in a format approved by the department ~~commissioner~~.

Section 19. Section 1006.36, Florida Statutes, is amended to read:

1006.36 Term of adoption for instructional materials.—

(1) The term of adoption of any instructional materials must be a 5-year ~~6-year~~ period beginning on April 1 following the adoption, except that the commissioner may approve terms of adoption of less than 5 ~~6~~ years for materials in content areas

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1009 which require more frequent revision. Any contract for
1010 instructional materials may be extended as prescribed in s.
1011 1006.34(3).

1012 (2) The department shall publish annually an official
1013 schedule of subject areas to be called for adoption for each of
1014 the succeeding 2 years, and a tentative schedule for years 3, 4,
1015 and 5,~~and 6~~. If extenuating circumstances warrant, the
1016 commissioner may ~~order the department to~~ add one or more subject
1017 areas to the official schedule and,~~in which event the~~
1018 ~~commissioner~~ shall develop criteria for such additional subject
1019 area or areas and make them available to publishers as soon as
1020 practicable before the date on which bids are due. The schedule
1021 shall be developed so as to promote balance among the subject
1022 areas so that the required expenditure for new instructional
1023 materials is approximately the same each year in order to
1024 maintain curricular consistency.

1025 Section 20. Subsections (2), (3), (5), and (14) through
1026 (17) of section 1006.38, Florida Statutes, are amended to read:

1027 1006.38 Duties, responsibilities, and requirements of
1028 instructional materials publishers and manufacturers.—Publishers
1029 and manufacturers of instructional materials, or their
1030 representatives, shall:

1031 (2) Electronically deliver fully developed sample ~~specimen~~
1032 copies of all instructional materials upon which bids are based
1033 to the department pursuant to procedures adopted by the State
1034 Board of Education ~~each member of a state instructional~~
1035 ~~materials committee. At the conclusion of the review process,~~
1036 ~~manufacturers submitting samples of instructional materials are~~

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1037 ~~entitled to the return thereof, at the expense of the~~
 1038 ~~manufacturers; or, in the alternative, the manufacturers are~~
 1039 ~~entitled to reimbursement by the individual committee members~~
 1040 ~~for the retail value of the samples.~~

1041 (3) Submit, at a time designated in s. 1006.33, the
 1042 following information:

1043 (a) Detailed specifications of the physical
 1044 characteristics of the instructional materials, including any
 1045 software or technological tools required for use by the
 1046 district, school, teachers, or students. The publisher or
 1047 manufacturer shall comply with these specifications if the
 1048 instructional materials are adopted and purchased in completed
 1049 form.

1050 (b) Evidence ~~Written proof~~ that the publisher has provided
 1051 materials that address the written correlations to appropriate
 1052 ~~curricular objectives included within applicable performance~~
 1053 standards provided for in s. 1001.03(1) and that can be accessed
 1054 through the district's local instructional improvement system
 1055 and a variety of electronic, digital, and mobile devices.

1056 (5) Furnish the instructional materials offered by them at
 1057 a price in the state which, including all costs of electronic
 1058 transmission ~~transportation to their depositories, may~~ shall not
 1059 exceed the lowest price at which they offer such instructional
 1060 materials for adoption or sale to any state or school district
 1061 in the United States.

1062 ~~(14) For all other subject areas, maintain in the~~
 1063 ~~depository an inventory of instructional materials sufficient to~~
 1064 ~~receive and fill orders.~~

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(14)~~(15)~~ Accurately and fully disclose only the names of those persons who actually authored the instructional materials. In addition to the penalties provided in subsection (16) ~~(17)~~, the commissioner may remove from the list of state-adopted instructional materials those instructional materials whose publisher or manufacturer misleads the purchaser by falsely representing genuine authorship.

(15)~~(16)~~ Grant, without prior written request, for any copyright held by the publisher or its agencies automatic permission to the department or its agencies for the reproduction of instructional materials ~~textbooks~~ and supplementary materials in braille, ~~or~~ large print, or other appropriate format ~~in the form of sound recordings~~, for use by visually impaired students or other students with disabilities that would benefit from use of the materials.

(16)~~(17)~~ Upon the willful failure of the publisher or manufacturer to comply with the requirements of this section, be liable to the department in the amount of three ~~3~~ times the total sum which the publisher or manufacturer was paid in excess of the price required under subsections (5) and (6) and in the amount of three ~~3~~ times the total value of the instructional materials and services which the district school board is entitled to receive free of charge under subsection (7).

Section 21. Subsection (5) of section 1006.39, Florida Statutes, is amended to read:

1006.39 Production and dissemination of educational materials and products by department.—

(5) The department may ~~shall~~ not enter into the business

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1093 of producing or publishing instructional materials ~~textbooks, or~~
1094 ~~the contents therein,~~ for general use in classrooms.

1095 Section 22. Subsection (2), paragraph (a) of subsection
1096 (3), and subsection (4) of section 1006.40, Florida Statutes,
1097 are amended to read:

1098 1006.40 Use of instructional materials allocation;
1099 instructional materials, library books, and reference books;
1100 repair of books.-

1101 (2)~~(a)~~ Each district school board must purchase current
1102 instructional materials to provide each student with a ~~textbook~~
1103 ~~or other instructional materials as~~ a major tool of instruction
1104 in core courses of the ~~appropriate~~ subject areas of mathematics,
1105 language arts, science, social studies, reading, and literature
1106 for kindergarten through grade 12. Such purchase must be made
1107 within the first 2 years after the effective date of the
1108 adoption cycle; ~~however, this requirement is waived for the~~
1109 ~~adoption cycle occurring in the 2008-2009 academic year for~~
1110 ~~schools within the district which are identified in the top four~~
1111 ~~categories of schools pursuant to s. 1008.33, as amended by~~
1112 ~~chapter 2009-144, Laws of Florida. The Commissioner of Education~~
1113 ~~may provide a waiver of this requirement for the adoption cycle~~
1114 ~~occurring in the 2008-2009 academic year if the district~~
1115 ~~demonstrates that it has intervention and support strategies to~~
1116 ~~address the particular needs of schools in the lowest two~~
1117 ~~categories. Unless specifically provided for in the General~~
1118 ~~Appropriations Act, the cost of instructional materials~~
1119 ~~purchases required by this paragraph shall not exceed the amount~~
1120 ~~of the district's allocation for instructional materials,~~

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1121 ~~pursuant to s. 1011.67, for the previous 2 years.~~

1122 ~~(b) The requirement in paragraph (a) does not apply to~~
1123 ~~contracts in existence before April 1, 2000, or to a purchase~~
1124 ~~related to growth of student membership in the district or for~~
1125 ~~instructional materials maintenance needs.~~

1126 (3)(a) By the 2013-2014 fiscal year, each district school
1127 board shall use at least 50 percent of the annual allocation for
1128 the purchase of digital or electronic instructional materials
1129 included on the state-adopted list, except as otherwise
1130 authorized in paragraphs (b) and (c). ~~No less than 50 percent of~~
1131 ~~the annual allocation shall be used to purchase items which will~~
1132 ~~be used to provide instruction to students at the level or~~
1133 ~~levels for which the materials are designed.~~

1134 (4) Funds that are not used to purchase digital or
1135 electronic instructional materials may ~~The funds described in~~
1136 ~~subsection (3) which district school boards may use to purchase~~
1137 ~~materials not on the state-adopted list shall be used for the~~
1138 purchase of instructional materials or other items having
1139 intellectual content which assist in the instruction of a
1140 subject or course. These items may be available in bound,
1141 unbound, kit, or package form and may consist of hardbacked or
1142 softbacked textbooks, electronic content, replacements for items
1143 which were part of previously purchased instructional materials,
1144 consumables, learning laboratories, manipulatives, electronic
1145 media, computer courseware or software, and other commonly
1146 accepted instructional tools as prescribed by district school
1147 board rule. ~~The funds available to district school boards for~~
1148 ~~the purchase of materials not on the state-adopted list may not~~

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1149 ~~be used to purchase electronic or computer hardware even if such~~
 1150 ~~hardware is bundled with software or other electronic media~~
 1151 ~~unless the district school board has complied with the~~
 1152 ~~requirements in s. 1011.62(6)(b)5., nor may such funds be used~~
 1153 ~~to purchase equipment or supplies. However, when authorized to~~
 1154 ~~do so in the General Appropriations Act, a school or district~~
 1155 ~~school board may use a portion of the funds available to it for~~
 1156 ~~the purchase of materials not on the state-adopted list to~~
 1157 ~~purchase science laboratory materials and supplies.~~

1158 Section 23. Section 1006.43, Florida Statutes, is
 1159 repealed.

1160 Section 24. Paragraph (p) of subsection (1) and paragraph
 1161 (b) of subsection (6) of section 1011.62, Florida Statutes, are
 1162 amended to read:

1163 1011.62 Funds for operation of schools.—If the annual
 1164 allocation from the Florida Education Finance Program to each
 1165 district for operation of schools is not determined in the
 1166 annual appropriations act or the substantive bill implementing
 1167 the annual appropriations act, it shall be determined as
 1168 follows:

1169 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
 1170 OPERATION.—The following procedure shall be followed in
 1171 determining the annual allocation to each district for
 1172 operation:

1173 (p) Calculation of additional full-time equivalent
 1174 membership based on certification of successful completion of
 1175 industry-certified career and professional academy programs
 1176 pursuant to ss. 1003.491, 1003.492, and 1003.493 and identified

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1177 in the Industry Certified Funding List pursuant to rules adopted
 1178 by the State Board of Education.—A maximum value of 0.3 full-
 1179 time equivalent student membership shall be calculated for each
 1180 student who completes an industry-certified career and
 1181 professional academy program under ss. 1003.491, 1003.492, and
 1182 1003.493 and who is issued the highest level of industry
 1183 certification identified annually in the Industry Certification
 1184 Funding List approved under rules adopted by the State Board of
 1185 Education and a high school diploma. The value of the full-time
 1186 equivalent student membership shall be determined by weights
 1187 adopted by the State Board of Education pursuant to s. 1003.492.
 1188 Such value shall be added to the total full-time equivalent
 1189 student membership in secondary career education programs for
 1190 grades 9 through 12 in the subsequent year for courses that were
 1191 not funded through dual enrollment. The additional full-time
 1192 equivalent membership authorized under this paragraph may not
 1193 exceed 0.3 per student. Each district must allocate at least 80
 1194 percent of the funds provided for industry certification, in
 1195 accordance with this paragraph, to the program that generated
 1196 the funds. Unless a different amount is specified in the General
 1197 Appropriations Act, the appropriation for this calculation is
 1198 limited to \$15 million annually. If the appropriation is
 1199 insufficient to fully fund the total calculation, the
 1200 appropriation shall be prorated.

1201 (6) CATEGORICAL FUNDS.—

1202 (b) If a district school board finds and declares in a
 1203 resolution adopted at a regular meeting of the school board that
 1204 the funds received for any of the following categorical

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1205 appropriations are urgently needed to maintain school board
1206 specified academic classroom instruction, the school board may
1207 consider and approve an amendment to the school district
1208 operating budget transferring the identified amount of the
1209 categorical funds to the appropriate account for expenditure:

- 1210 1. Funds for student transportation.
- 1211 2. Funds for safe schools.
- 1212 3. Funds for supplemental academic instruction.
- 1213 4. Funds for research-based reading instruction.
- 1214 5. Funds for instructional materials if all instructional
1215 material purchases necessary to provide updated materials
1216 aligned to Next Generation Sunshine State Standards and
1217 benchmarks and that meet statutory requirements of content and
1218 learning have been completed for that fiscal year, but no sooner
1219 than March 1, ~~2011~~. Funds available after March 1 may be used to
1220 purchase hardware for student instruction.

1221 Section 25. Subsection (2) of section 1011.685, Florida
1222 Statutes, is amended to read:

1223 1011.685 Class size reduction; operating categorical
1224 fund.—

1225 (2) Class size reduction operating categorical funds shall
1226 be used by school districts to reduce class size as required in
1227 s. 1003.03. A school district that meets the maximum class size
1228 requirements may use the funds, ~~or the funds may be used~~ for any
1229 lawful operating expenditure; however, priority shall be given
1230 to increasing salaries of classroom teachers.

1231 Section 26. Paragraph (d) of subsection (2) and paragraph
1232 (b) of subsection (3) of section 1011.71, Florida Statutes, are

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1233 amended to read:

1234 1011.71 District school tax.—

1235 (2) In addition to the maximum millage levy as provided in
1236 subsection (1), each school board may levy not more than 1.5
1237 mills against the taxable value for school purposes for district
1238 schools, including charter schools at the discretion of the
1239 school board, to fund:

1240 (d) The purchase, lease-purchase, or lease of new and
1241 replacement equipment; computer hardware, including electronic
1242 hardware and other hardware devices necessary for gaining access
1243 to or enhancing the use of electronic content and resources or
1244 to facilitate the access to and the use of a school district's
1245 local instructional improvement ~~electronic learning management~~
1246 system pursuant to s. 1006.281, excluding software other than
1247 the operating system necessary to operate the hardware or
1248 device; and enterprise resource software applications that are
1249 classified as capital assets in accordance with definitions of
1250 the Governmental Accounting Standards Board, have a useful life
1251 of at least 5 years, and are used to support districtwide
1252 administration or state-mandated reporting requirements.

1253 (3)

1254 (b) In addition to the millage authorized in this section,
1255 each district school board may, by a super majority vote, levy
1256 an additional 0.25 mills for critical capital outlay needs or
1257 for critical operating needs. If levied for capital outlay,
1258 expenditures shall be subject to the requirements of this
1259 section. If levied for operations, expenditures shall be
1260 consistent with the requirements for operating funds received

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1261 pursuant to s. 1011.62. If the district levies this additional
 1262 0.25 mills for operations, the compression adjustment pursuant
 1263 to s. 1011.62(5) shall be calculated and added to the district's
 1264 FEFP allocation. Millage levied pursuant to this paragraph is
 1265 subject to the provisions of s. 200.065. In order to be
 1266 continued after the 2010-2011 fiscal year, millage levied
 1267 pursuant to this paragraph must be approved by the voters of the
 1268 district at the 2010 general election or at a subsequent
 1269 election held at any time, except that not more than one such
 1270 election shall be held during any 12-month period. Any millage
 1271 so authorized shall be levied for a period not in excess of 2
 1272 years or until changed by another millage election, whichever is
 1273 earlier. If any such election is invalidated by a court of
 1274 competent jurisdiction, such invalidated election shall be
 1275 considered not to have been held. This paragraph is repealed
 1276 effective June 30, 2011. However, for the 2011-2012 and 2012-
 1277 2013 fiscal years, the 0.25 mills may be levied in the districts
 1278 in which it was authorized by the voters of the district in the
 1279 2010 general election. Funds generated by this additional
 1280 millage may not be included in the calculation of the Florida
 1281 Education Finance Program in the 2011-2012 fiscal year or any
 1282 subsequent fiscal year and must not be incorporated in the
 1283 calculation of any hold-harmless or other component of the
 1284 Florida Education Finance Program in any fiscal year.

1285 Section 27. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 5101 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Appropriations Committee
Representative(s) Coley offered the following:

Amendment (with directory and title amendments)

Between lines 115 and 116, insert:

(25) Local Educational Agency Status for Certain Charter School Systems.—A charter school system shall be considered a local educational agency for the purpose of receiving federal funds, the same as though the charter school system were a school district if the governing board has adopted and filed a resolution with its sponsoring district school board and the Department of Education in which the board accepts the full responsibility for all local education agency requirements and the charter school system meets all of the following.

a. Includes both conversion charter schools and nonconversion charter schools;

b. Has all schools located in the same county;

c. Has a total enrollment exceeding the total enrollment of at least one school district in the state;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 5101 (2011)

Amendment No. 1

d. Has the same governing board; and

e. Does not contract with a for-profit service provider for
management of school operations.

Such designation shall not apply to other provisions unless
specifically provided in law.

D I R E C T O R Y A M E N D M E N T

Remove lines 107-108 and insert:

Section 2. Subsection (19) of section 1002.33, Florida
Statutes, is amended, and subsection (25) is added to that
section, to read:

T I T L E A M E N D M E N T

Remove lines 6-7 and insert:

F.S.; revising provisions relating to charter school capital
outlay funding; authorizing charter schools meeting certain
requirements to be considered a local educational agency for the
purpose of receiving federal funds; amending s. 1002.45, F.S.,

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 5101 (2011)

Amendment No. 2

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Appropriations Committee
2 Representative(s) Coley offered the following:

3
4 **Amendment (with directory and title amendments)**

5 Between lines 1200 and 1201, insert:

6 (q) Calculation of additional full-time equivalent
7 membership for the Florida Virtual School.—The reported full-
8 time equivalent student membership for the Florida Virtual
9 School for students who are also enrolled in a school district
10 shall be multiplied by 0.114, and such value shall be added to
11 the total full-time equivalent student membership.

12 (r)Notwithstanding the provisions of paragraph (p), for
13 the 2011-2012 fiscal year, the reported full-time equivalent
14 student membership for the Florida Virtual School for students
15 who are also enrolled in a school district shall be multiplied
16 by 0.228, and such value shall be added to the total full-time
17 equivalent student membership.

Amendment No. 2

D I R E C T O R Y A M E N D M E N T

Remove lines 1160-1162 and insert:

Section 24. Paragraph (p) of subsection (1) and paragraph (b) of subsection (6) of section 1011.62, Florida Statutes, are amended, and paragraph (r) is added to subsection (1) of that section, to read:

T I T L E A M E N D M E N T

Between lines 81 and 82, insert:
revising provisions relating to the value of student membership for certain students in the Florida Virtual School;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 5101 (2011)

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Appropriations Committee
Representative(s) Coley offered the following:

Amendment (with title amendment)

Remove lines 1284-1285 and insert:

Section 27. If the Commissioner of Education determines that a school district acted in good faith, he or she may waive the equal-dollar reduction required, required in s. 1011.71, Florida Statutes, for audit findings during the 2008-2009 and 2009-2010 fiscal years which were related to the purchase of software and property and casualty insurance premiums as defined in s. 624.605(1)(d), (f), (h), (g) and (m).

Section 28. This act shall take effect July 1, 2011

T I T L E A M E N D M E N T

Remove lines 88-89 and insert:

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 5101 (2011)

Amendment No. 3

20 districts; providing restrictions; authorizing the Commissioner
21 of Education to waive the equal-dollar reduction requirement for
22 expenditures made during a specified time for property and
23 casualty insurance and for the audit findings for a specified
24 fiscal year related to the purchase of software, if the
25 commissioner determines that a school district acted in good
26 faith; providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 5101 (2011)

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Appropriations Committee
Representative(s) Fresen offered the following:

Amendment (with directory and title amendments)

Between lines 1284 and 1285, insert:

(5) Effective July 1, 2008, a school district may expend,
subject to the provisions of s. 200.065, up to \$200 ~~\$100~~ per
unweighted full-time equivalent student from the revenue
generated by the millage levy authorized by subsection (2) to
fund, in addition to expenditures authorized in paragraphs
(2)(a)-(j), expenses for the following:

(a) The 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.

(b) Payment of the cost of premiums, as defined in s.
627.403, for property and casualty insurance necessary to insure
school district educational and ancillary plants. As used in

Amendment No. 4

20 this section, casualty insurance is as defined in s.
21 624.605(1)(d), (f), (h), (g) and (m). Operating revenues that are
22 made available through the payment of property and casualty
23 insurance premiums from revenues generated under this subsection
24 may be expended only for nonrecurring operational expenditures
25 of the school district.
26
27
28

29 -----
30 **D I R E C T O R Y A M E N D M E N T**

31 Remove lines 1231-1233 and insert:

32 Section 26. Paragraph (d) of subsection (2), paragraph (b)
33 of subsection (3), and subsection (5) of section 1011.71,
34 Florida Statutes, are amended to read:
35
36

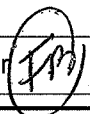

37 -----
38 **T I T L E A M E N D M E N T**

39 Remove lines 88-89 and insert:

40 districts; increasing the amount that school districts may
41 expend per unweighted full-time equivalent student from the
42 revenue generated by the levy of local capital improvement
43 millage; clarifying the types of insurance premiums that may be
44 paid from the revenue generated by the levy; providing
45 restrictions; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5201 **PCB HEAS 11-01** **Postsecondary Education Funding**
SPONSOR(S): Higher Education Appropriations Subcommittee, O'Toole
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Higher Education Appropriations Subcommittee	13 Y, 0 N	Butler	Heflin
1) Appropriations Committee		Butler 	Leznoff 

SUMMARY ANALYSIS

The bill provides substantive changes in law to conform to the proposed FY 2011-2012 House Appropriations Bill.

The bill provides several requirements for distance learning enhancements relating to implementing the streamlined, automated registration process required in law for undergraduate students currently enrolled and pursuing a degree at a public postsecondary educational institution and who want to take a distance learning course offered by a different public postsecondary education institution. The bill also requires State Universities and Florida College System institutions, by July 1, 2012, to interface their systems with the computer-assisted student advising system (FACTS.org) to electronically send, receive and process transient student admission applications.

The bill requires the Task Force on the Future of Academic Libraries in Florida to jointly develop a plan for consolidating the library technology organizational structures of the College Center for Library Automation and the Florida Center for Library Automation.

The bill makes several changes to provide savings and flexibility to Career and Adult Education Programs. The bill provides for a \$45 block tuition charge per half year or \$30 per term to students enrolled in adult education programs, and removes exemptions from the payment of fees for adult basic, adult secondary, and career preparatory instruction. The bill specifies the method to be used by school districts in determining residency of workforce students. The bill provides that capital improvement fees may be used to acquire improved real property. To offset budget reductions, the bill provides flexibility in the use of fee revenues. The bill authorizes a convenience fee charge for workforce education students who pay tuition and fees with a credit or debit card. The bill provides for use of an equitable formula which accounts for enrollment growth and program costs in reallocation of school districts' workforce education funding. The bill provides that a student co-enrolled in a K-12 education program and an adult education program may not be reported for funding in an adult education program.

The bill makes several changes to provide savings and flexibility to Florida Colleges. The bill provides flexibility to Florida Colleges' in their use of fee revenues; authorizes colleges to establish a transient student fee; specifies that certain funds are not eligible for state matching under the Dr. Phillip Benjamin Matching Grant Program for Community Colleges; reduces the amount of state funds that may be used for salaries of Florida College System presidents, and sets a limit on the amount of state funds that may be used for salaries of Florida College System employees.

The bill makes several changes to provide flexibility to the State University System. The bill authorizes state universities to establish a transient student fee; provides flexibility for the tuition differential fee; authorizes the use of certain fees for general education services; increases the excess credit hour surcharge for students at state universities; reduces the amount of salary from state funds for state university presidents for fiscal year 2011-2012; limits the amount of state funds for salary of state university administrative employees; terminates the University Concurrence Trust Fund.

The bill makes several changes to provide savings in Student Financial Aid programs. The bill increases test score eligibility requirements for the Florida Bright Futures Scholarship Program awards; includes acceleration credits received prior to entering postsecondary education institutions to be counted as part of the 120 hour limit on Bright Futures award credits; revises and creates requirements relating to community service hours for Bright Futures eligibility; provides specified eligibility limitations for the Florida Resident Access Award; and requires submission of a FAFSA on an annual basis in order to be eligible for Bright Futures, FRAG, and ABLE scholarships.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Distance Learning Consortium

Current Situation

In FY 2010-2011, legislation¹ required the Florida Distance Learning Consortium, in consultation with the Florida College System (FCS) and State University System (SUS), to develop a plan and submit recommendations to the Board of Governors, State Board of Education, the Governor, the President of the Senate and the Speaker of the House of Representatives for implementation of a streamlined, automated, online registration process for students who wish to enroll in courses listed in the Florida Higher Education Distance Learning catalog; particularly for those students who attend more than one institution in pursuit of a degree. This process is required to be implemented by the 2011-2012 academic year.

The implementation plan was also required to address the following substantive and fiscal policy issues:

- Student financial aid issues
- Variations in fees among institutions
- Admission and readmission
- Registration prioritization issues
- Transfer of credit
- Graduation requirements

Florida has established a single, statewide, computer-assisted student advising system (FACTS.org) which provides all Florida students with advising, registration, and grade certification for graduation². The system was developed to facilitate the progression of students towards their postsecondary educational goals. The system provides 24/7 access to students, and provides information related to career descriptions; assists students in determining courses needed to complete a degree; and provides corresponding educational requirements, admissions requirements and sources of financial assistance. Students may retrieve reports which document their status toward completion of a degree, and obtain verification that requirements have been completed for graduation.

FACTS.org also provides administrators with information pertaining to enrollment patterns, and course demands to assist in planning for corresponding course offerings, and the student registration process.

The Florida Distance Learning Consortium's plan for implementing a streamlined, automated, online registration process for students who wish to enroll in courses listed in the Florida Higher Education Distance Learning catalog, particularly those students who attend more than one institution in pursuit of a degree, recommended utilizing the transient student application process already available in FACTS.org. The consortium's plan also recommended the inclusion of a few additional data elements in FACTS.org transient student application process that would help to facilitate the streamlined registration process.

Effect of Proposed Changes

The bill requires the Distance Learning Consortium, beginning with the 2011-2012 academic year, to implement a streamlined, automated on-line registration process for transient students. For purposes of this section, a transient student is defined as a student currently enrolled and pursuing a degree at a public postsecondary educational institution who wants to enroll in a course listed in the Florida Higher

¹ Ch. 2010-155, Laws of Florida, Section 9, amending s. 1004.91, Florida Statutes

² Section 1007.28, F.S.

Education Distance Learning Catalog that is offered by a public postsecondary educational institution that is not the student's degree-granting institution. The consortium must work with the Florida College System (FCS) and State University System (SUS) to implement the application process which requires FCS and SUS institutions to:

- Use one standard transient student admissions application form, available through the Florida Academic Counseling and Tracking for Students system (FACTS.org);
- Implement financial aid procedures required by the transient student admissions application process;
- Transfer credit awarded by an institution offering the distance learning course to the transient student's degree-granting institution;
- Interface FCS and SUS systems, no later than July 1, 2012, to the FACTS.org system to electronically send, receive and process the transient admissions application; and
- Implement transient student fees.

The bill amends current law to require that the FACTS.org system include the transient student application process and that this application process allows for the electronic transfer and receipt of information and records for admissions and readmissions, financial aid, and transfer of credit awarded by the institution offering the distance learning course to the student's degree-granting institution.

Additionally, the bill clarifies that the central instructional content repository is for both public school and postsecondary educational users to search, locate, use and contribute digital and electronic instructional resources and content, including open access textbooks.

Block Tuition Charge for Adult General Education Students

Current Situation

The General Appropriations Act sets the standard tuition rate for residents and non-residents for students enrolled in adult general education programs. Few students enrolled in these programs pay any cost for this education because they are exempt under s. 1009.25(1), F.S.

Students currently exempt from paying tuition and fees include:

- Those who do not have a high school diploma or its equivalent, and
- Those who have a high school diploma, yet have academic skills at or below the eighth grade level as measured by a test administered in the English language and approved by the Department of Education, even if the student has skills above that level when tested in the student's native language.

Effect of Proposed Changes

The bill provides for a \$45 block tuition charge per half year or \$30 per term to students enrolled in general education programs. All funds received from the block tuition must be used for adult general education programs only.

The fee exemptions set forth in s. 1009.25(1), F.S., for students enrolled in adult basic, adult secondary and career-preparatory instruction from payment of tuition and fees are repealed.

Residency Determination for Workforce Education Postsecondary Fees

Current Situation

Current law requires that fees for workforce education postsecondary students who are nonresidents for tuition purposes must offset the full cost of instruction.³ In FY 2010-2011, statutory changes related to determination of resident status for tuition purposes were made to include postsecondary education programs offered by charter technical career centers or career centers operated by school districts⁴.

Because there is no statewide policy that specifies how districts are to determine a student's Florida residency, districts have developed their own policies governing determination. Some districts require documentation, while others rely on students' self-reporting⁵. Additional direction is needed to clearly establish the method by which workforce education students' residency is determined.

Effect of Proposed Changes

The bill requires residency of students to be determined according to s. 1009.21, F.S., for the purpose of charging tuition to offset the full cost of instruction for nonresident workforce education postsecondary students.

Convenience Fees for Postsecondary Workforce Education

Current Situation

The Florida College System is authorized to charge a service charge for the payment of tuition and fees in installments and a convenience fee for the purpose of recouping costs associated with processing automated or online credit card payments when such methods of payment are used.⁶ Because Florida Colleges' postsecondary programs include two and four year degree programs, as well as workforce programs, a consistent fee policy is necessary to distribute these costs to all students utilizing these payment methods.

Effect of Proposed Changes

The bill authorizes the assessment of a convenience fee to applicable workforce education students when tuition and fees are paid with a credit or debit card. This will allow school districts and colleges to recoup costs charged by credit card companies. It will also provide consistency within the Florida College System by applying the tuition and fee payment policy to all students.

Workforce Education Fee Flexibility

District school boards and Florida College System institutions are authorized in s. 1009.22, F.S., to charge fees in addition to tuition.

Section 1009.22(5), F.S., provides authorization for each district school board and Florida College board of trustees to establish a financial aid fee. All financial aid student fees collected are to be used to support students enrolled in workforce education programs. In FY 2009-2010, the financial aid fee generated \$1.9 million.

Section 1009.22(6)(a), F.S., provides authority for each district school board and Florida College board of trustees to establish a fee for capital improvements, technology enhancements, or equipping student buildings. Funds collected from this fee may be expended only to construct and equip, maintain, improve, or enhance educational facilities of the college. Revenues may be pledged as a dedicated revenue source to the repayment of debt, including lease-purchase agreements, with an overall term not to exceed seven years. In FY 2009-2010, the Capital Improvement Fee generated \$1.5 million.

³ Section 1009.22(3)(a), F.S.

⁴ Section 1009.21, F.S.

⁵ Office of Program Policy Analysis & Government Accountability (OPPAGA) Report 10-24, February 2010

⁶ Section 1009.23(15), F.S.

Section 1009.22(7), F.S., provides authorization for each district school board and Florida College board of trustees to establish a technology fee. Revenues generated from the technology fee must be used to enhance instructional technology resources for students and faculty. Per the Department of Education, FY 2009-2010 revenues generated by the technology fee are included with other student fees.

Additionally, section 1009.22(9), F.S., provides authority for each district school board and Florida College board of trustees to establish user fees and fines. User fees and fines may not exceed the cost of services provided and are only applied to persons receiving the services. Fees and fines that may be charged include: laboratory fees; parking fees and fines; library fees and fines; fees and fines related to facility use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; transcript fees; application fees; graduation fees; and late fees related to registration and payment. Parking fee revenues may be pledged as a dedicated revenue source to the repayment of debt, including lease-purchase agreements; however, the overall term cannot exceed seven years. In FY 2009-2010, laboratory fees, technology fees, and other student user fees, generated \$8.7 million.

Effect of Proposed Changes

To offset funding reductions, in FY 2011-2012, district school boards and Florida College System institutions are authorized to use up to 15 percent of the total funds generated from fee collections authorized in s. 1009.22(5), and (6)(a), (7) and (9), F.S., for adult general and career certificate programs. Total revenues in FY 2009-2010 for all fees authorized for flexibility equaled approximately \$46 million. Fees collected and pledged as a dedicated revenue source for the repayment of debt, including lease-purchase agreements may not be used for other purposes.

The bill revises s. 1009.23(11)(a) to authorize the use of capital improvement fee revenue collections for the acquisition of improved real property.

Florida College System Fee Flexibility

Current Situation

Florida Colleges are authorized in s. 1009.23, F.S., to charge fees in addition to tuition. Colleges may not charge any fee except as authorized by law.

Section 1009.23(7), F.S., provides authorization for colleges to establish an activity and service fee which may only be expended to benefit the student body in general. In FY 2009-2010, the activity and service fee generated \$58.0 million.

Section 1009.23(8)(a), F.S., provides authorization for colleges to establish a financial aid fee. Of this fee, 75 percent must be used to provide financial aid based on need. Up to 25 percent or \$600,000, whichever is greater, may be used for academic merit purposes, or to assist students who participate in athletics, public service cultural arts, and other extracurricular programs determined by the institution. Revenues from the financial aid fee cannot be used for direct or indirect administrative purposes or salaries. In FY 2009-2010, the financial aid fee generated \$36.5 million in revenue collections.

Section 1009.23(10), F.S., provides authorization for colleges to establish a technology fee. Revenues generated from the technology fee must be used to enhance instructional technology resources for students and faculty. In FY 2009-2010, the technology fee generated \$30.8 million.

Section 1009.23(11)(a), F.S., provides authority for colleges to establish a fee for capital improvements, technology enhancements, or equipping student buildings. Funds collected from this fee may be expended only to construct and equip, maintain, improve, or enhance educational facilities of the college. Revenues may be pledged as a dedicated revenue source to the repayment of debt, including lease-purchase agreements, with an overall term not to exceed seven years. In FY 2009-2010, the capital improvement fee generated \$65.8 million.

Additionally, Section 1009.23(12)(a), F.S., provides authority for colleges to establish user fees and fines. User fees and fines may not exceed the cost of services provided and are only applied to persons receiving the services. Fees and fines that may be charged include: laboratory fees, which do not apply to a distance learning course; parking fees and fines; library fees and fines; fees and fines related to facility use or damage; access or identification card fees; duplicating, photocopying, binding, or microfilming fees; standardized testing fees; diploma replacement fees; fees for transcripts; application fees; graduation fees; and late fees related to registration and payment. Parking fee revenues may be pledged as a dedicated revenue source to the repayment of debt, including lease-purchase agreements; however, the overall term cannot exceed seven years. In FY 2009-2010, laboratory fees, parking fees, and other user fees and fines generated \$69 million.

Effect of Proposed Changes

The bill provides Florida Colleges' authority to use up to 15 percent of the total funds generated from fee collections authorized in s. 1009.23(7), (8)(a), (10), (11)(a), and (12)(a) for general education services in associate degree and career certificate programs for one year only to offset funding reductions. Total revenues in FY 2009-2010 available for flexibility equaled approximately \$39 million. Fees collected and pledged as a dedicated revenue source for the repayment of debt, including lease-purchase agreements may not be used for other purposes.

The bill also revises s. 1009.23(11)(a), F.S., to authorize the use of capital improvement fee revenue collections for the acquisition of improved real property.

State University System Tuition Differential

Current Situation

Section 1009.24(16), F.S., authorizes each university board of trustees to establish a tuition differential for undergraduate courses upon approval from the Board of Governors. The combination of base tuition and tuition differential cannot increase more than 15 percent over the prior year, or exceed the national average. Seventy percent of the revenues from the tuition differential must be expended for the purposes of undergraduate education. The remaining 30 percent of the tuition differential must be used to provide financial assistance to undergraduate students who exhibit financial need.

Effect of Proposed Changes

The bill provides an exception for universities which have met the entire tuition and fee costs of all students who exhibit financial need. The bill allows these universities to expend the excess portion of the 30 percent in the same manner as required for the other seventy percent of the tuition differential revenues.

State University System Fee Flexibility

Current Situation

State universities are authorized in section 1009.24, F.S., to charge fees in addition to tuition.

Section 1009.24(8), F.S., establishes the Capital Improvement Trust Fund (CITF) fee at \$2.44 per credit hour, and the building fee at \$2.32 per credit hour. In FY 2009-2010 the CITF fee generated \$18.3 million and the building fee generated \$17.4 million.

Section 1009.24(9), F.S., provides authorization for universities to establish separate activity and service, health, and athletic fees. The revenues are retained by the university, and may be transferred to a direct-support organization of the university to be used only for the purpose of paying and securing debt on approved projects.

Section 1009.24(10), F.S., requires each university board of trustees to establish a student activity and service fee on the main campus of the university, and authorizes the boards to establish these fees on any branch campus or center. Subsequent increases in the activity and service fee must be recommended by an activity and service fee committee which is comprised of one half students appointed by the student body president and one half appointed by the university president. Fee

revenues may only be expended to benefit the student body in general as prescribed by the student government association of the university, primarily for student organizations. In FY 2009-2010 the student activity and service fee generated \$79.9 million.

Section 1009.24(11), F.S., requires each university board of trustees to establish a student health fee on the main campus of the university, and authorizes the boards to establish these fees on any branch campus or center. Subsequent increases in the health fee must be recommended by a health committee which is comprised of one half students appointed by the student body president and one half appointed by the university president. In FY 2009-2010 the student health fee generated \$57.7 million.

Section 1009.24(12), F.S., requires each university board of trustees to establish an athletic fee on the main campus of the university, and authorizes the boards to establish these fees on any branch campus or center. Subsequent increases in the athletic fee must be recommended by athletic fee committee which is comprised of one half students appointed by the student body president and one half appointed by the university president. In FY 2009-2010 the athletic fee generated \$77.8 million.

Section 1009.24(13), F.S., authorizes universities to establish a technology fee of up to five percent of tuition per credit hour. Revenues generated from the technology fee must be used to enhance instructional technology resources for students and faculty. In FY 2009-2010 the technology fee generated \$26.2 million.

Additionally, Section 1009.24(14), F.S., provides authority for colleges to establish user fees and fines. Fees and fines that may be charged include: a non-refundable application fee; an orientation fee, a fee for security, access, or identification cards; registration fees; a late-payment fee; fees for transcripts and diploma replacement; a nonrefundable admissions deposit; a fee for miscellaneous health-related charges for services provided at cost by the university health center which are not covered by the health fee set in subsection (11); fees for consumable materials or supplies; housing rental rates and charges; overdue accounts fees; service charge on university loans; a fee for off-campus course offerings; library fees and fines; duplicating, photocopying, binding, or microfilming fees; copyright services charges; standardized testing fees; fees and fines related to facility use or damage; returned check fees; traffic and parking fees; child care services fees. These fees, with the exception of housing, must be assessed based on reasonable costs of the services provided. These miscellaneous fees may be used for repayment of debt only as authorized under s. 1010.62, F.S.⁷

Effect of Proposed Changes

The bill provides state universities authority to use up to 15 percent of the total funds generated from fee collections authorized in s. 1009.23(8), (9), (10), (11), (12), (13), and (14), F.S., for general education services in undergraduate degree programs for one year only to offset funding reductions. Total revenues available in FY 2009-2010 for flexibility equaled in excess of \$39 million.⁸ This allows institutions to prioritize the funding needs of the institution without the restrictions of the aforementioned statutes. Fees collected and pledged as a dedicated revenue source for the repayment of debt, including lease-purchase agreements may not be used for other purposes.

State Universities Excess Credit Hour Surcharge

Current Situation

Section 1009.286, F.S., requires a surcharge of up to 50 percent of tuition be assessed for each credit hour in excess of 120 percent of the number of credit hours required for completion of the students' registered degree program.

⁷ s. 1010.62, F.S., provides the list of fees authorized for debt or bond pledges. These fees include the health, transportation access, housing, building, capital improvement and other fees as listed in the statute.

⁸ Revenues from the university user fees and fines are not available from the Board of Governors at this time.

Effect of Proposed Changes

The bill increases the tuition surcharge for excess credit hours from 50 percent of tuition for students who reach 120 percent of the credit hours required for their degree to 100 percent of tuition for students who reach 115 percent of the credit hours required for their degree. Students enrolling in these additional courses will be assessed an increased fee in an effort to encourage students to complete the necessary degree requirements and enter the job force in a timely manner.

Florida Bright Futures Scholarship Program Eligibility

Current Situation

Section 1009.531, F.S. provides eligibility criteria for the Florida Bright Futures Scholarship Programs.

Florida Academic Scholars award recipients graduating in the 2011-2012 academic year must earn an SAT score of 1270 or a concordant ACT score of 28. High school students graduating in the 2012-2013 academic year must earn an SAT score of 1280 which corresponds to the 88th SAT percentile rank or a concordant ACT score of 28. High school students graduating in the 2013-2014 academic year and thereafter must earn an SAT score of 1290 which corresponds to the 89th SAT percentile rank or a concordant ACT score of 29.⁹

Also, to be eligible for the Florida Academic Scholars award a student must complete a program of community service work, as approved by the district school board or the administrators of a nonpublic school, which shall include a minimum of 75 hours of service work and require the student to identify a social problem that interests him or her, develop a plan for his or her personal involvement in addressing the problem, and, through papers or other presentations, evaluate and reflect upon his or her experience.¹⁰

Florida Medallion Scholars award recipients graduating in the 2011-2012 academic year must earn an SAT score of 980 which corresponds to the 44th SAT percentile rank or a concordant ACT score of 21. The student in a home education program whose parent cannot document a college-preparatory curriculum for the 2011-2012 and 2012-2013 academic year eligibility must earn an SAT score of 1070 or a concordant ACT score of 23. High school students graduating in the 2012-2013 academic year must earn an SAT score of 1020 which corresponds to the 50th percentile rank or a concordant ACT score of 22. High school students graduating in the 2013-2014 academic year and thereafter must earn an SAT score of 1050 which corresponds to the 56th percentile rank or a concordant ACT score of 23. The student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1100 or a concordant ACT score of 24.

Currently there is not a requirement for the Florida Medallion Scholars or the Florida Gold Seal Vocational Scholars to complete a program of community service work. Also, students are not currently required to submit a Free Application for Federal Student Aid.

Effect of Proposed Changes

The bill revises eligibility requirements for receipt of the Bright Futures Scholarship awards and requires students to annually submit the Free Application for Federal Student Aid (FAFSA) in order to be eligible for this award.

The bill increases eligibility requirements for the Academic Scholars Award for the Scholastic Assessment Test (SAT) score from 1280 to 1290, or American College Test (ACT) score from 28 to 29 (89th percentile) for students graduating in 2012-2013 and thereafter. It also increases the community service hour requirement from 75 to 100 hours for students graduating in 2011-2012 and thereafter.

The bill increases eligibility requirements for the Medallion Scholars Award for the SAT score from 1020 to 1170, or ACT score from 22 to 26 (75th percentile) for students graduating in 2012-13. It also requires 75 hours of community service for students graduating in 2011-2012 and thereafter.

⁹ Section 1009.531(6)(a), F.S.

¹⁰ Section 1009.534(1)(e), F.S.

The bill increases eligibility requirements for the Gold Seal Vocational Award to require 30 hours of community service for students graduating in 2011-2012 and thereafter.

Florida Bright Futures Scholarship Program Award

Current Situation

Section 1009.532(3), F.S., limits the number of credit hours for which a student can receive a Bright Futures award to 100 percent of the number of credit hours required to complete an associate degree program or a baccalaureate degree program (60 credits and 120 credits respectively for most programs).

Section 1009.5341, F.S. provides the opportunity for Florida Bright Futures Scholarship award recipients who have earned a baccalaureate degree in seven semesters or fewer to apply the unused portion of their award toward one semester of graduate study of 15 semester hours or less at the undergraduate rate.

Effect of Proposed Changes

The bill provides that acceleration credits earned during high school shall be counted in the maximum credit hours eligible for a Bright Futures award. It also provides an exception for eligibility for graduate coursework provided in s. 1009.5341, F.S.

Florida Resident Access Grant Program (FRAG) Eligibility

Current Situation

Section 1009.89, F.S. provides eligibility requirements for institutions for the FRAG Program as outlined in the Office of Student Financial Assistance Annual Report to the Commissioner for 2009-2010.¹¹ In order to be eligible, the student must:

- Be a United States citizen or eligible non-citizen while meeting Florida's residency requirement for receipt of state student financial aid. A student's citizenship status and residency status are determined by the postsecondary institution.
- Not owe a repayment under any state or federal grant or scholarship program or be in default on any federal Title IV or state student loan program unless satisfactory arrangements to repay have been made.
- Not have previously received a bachelor's degree.
- Meet Florida's general eligibility requirements for receipt of state aid.
- Enroll for a minimum of 12 credit hours or the equivalent per term at an eligible Florida college or university in a baccalaureate degree program.
- Meet the application procedures established by the participating institution. Application information may be obtained at the financial aid offices of eligible Florida colleges and universities.
- Not be enrolled in a program of study leading to a degree in theology or divinity.

Effect of Proposed Changes

The bill provides that the funding for the Florida Resident Access Grant Program shall be provided as specified in the General Appropriations Act.

The bill also requires students to annually submit the Free Application for Federal Student Aid (FAFSA) in order to be eligible for this award in an effort to gather more comprehensive data on students who are provided state tuition assistance funds.

¹¹ 2009-10 Annual Report to the Commissioner. Rep. Florida Department of Education Office of Student Financial Assistance.
<<http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>>.

Access to Better Learning and Education Grant Program (ABLE) Eligibility

Current Situation

Section 1009.89, F.S. does not currently require ABLE applicants to submit a Free Application for Federal Student Aid (FAFSA).

Effect of Proposed Changes

The bill requires students to annually submit the Free Application for Federal Student Aid (FAFSA) in order to be eligible for this award in an effort to gather more comprehensive data on students who are provided state tuition assistance funds.

Equitable Funding of Workforce Education Programs

Current Situation

Current workforce education funding allocations are primarily based on outdated Fiscal Year 1996-1997 school district workforce program costs. Since that time, districts' workforce programs, costs, and enrollment levels have changed significantly. Inequitable funding has resulted because program funding levels have not been adjusted to account for these changes. Based on the funding model developed by the District Workforce Education Funding Steering Committee and Department of Education, 26 school districts receive more than 100 percent of current funding need, while 32 school districts receive less than 100 percent. Percentages range from 9.8 percent to 255.5 percent of total funding needs based on program costs and enrollments.

The Office of Program Policy and Government Accountability (OPPAGA) examined the model proposed by the Department of Education to allocate funds to school district workforce education programs. OPPAGA found the model's use of program weights were reasonable, and provided recommendations for modifications which were incorporated by the department.¹² Adjusting the base funding will alleviate "underfunding" of some school districts' workforce programs, by reallocating funding from "overfunded" districts; however, this will result in substantial funding losses by some school districts.

Effect of Proposed Changes

The bill provides that the funding model developed by the District Workforce Education Funding Steering Committee and the Department of Education, be used to recognize enrollment growth and program costs, and ensure equitable funding for all school district workforce education programs. To alleviate large funding losses by some school districts, a phased-in approach for reallocating the funds among districts will begin in FY 2011-2012, and continue for a three-year period, or until full reallocation is achieved.

Co-Enrollment of Adult Education Students

Current Situation

Florida statutes permit adult education programs to serve currently enrolled high school students. The definition of an "adult student" includes high school students who are taking an adult education course required for high school graduation.¹³ The majority of school districts' adult education programs offer the co-enrollment option to high school students. In the 2008-2009 school year, 60,000 high school students were also taking adult education courses. In the 2008-2009 school year, 33 of 56 districts providing adult education programs had 10 or more co-enrolled high school students. These 33 school districts spent approximately \$29 million on these programs.¹⁴

The Division of Career and Adult Education within the Department of Education, conducted a survey on district adult high school co-enrollment policies. Surveys returned represented 98 percent, or 58,960 of the 60,000 students co-enrolled in adult education programs. Reasons for providing the co-enrollment

¹² Office of Program Policy Analysis & Government Accountability (OPPAGA) Report 10-24, February 2010

¹³ Section 1004.02, F.S.

¹⁴ OPPAGA Research Memorandum, School District Co-Enrollment for 2008-09, February 14, 2011

option varied among districts. School districts reported that co-enrollment was offered as a dropout prevention measure, providing credit recovery to meet graduation requirements; or as grade replacement, which could also provide assistance to students in meeting Bright Futures eligibility requirements. Some districts limit the total number and type of courses, while others do not. Some districts limit participation by grade levels. 52 percent of the districts who responded allow course hours over standard diploma requirements.¹⁵

Effect of Proposed Changes

The bill prohibits co-enrolled high school students enrolled in an adult education programs to be reported for funding in adult education programs. This change eliminates the funding for this purpose (\$29 million).

Dr. Philip Benjamin Matching Grant Program for Community Colleges

Current Situation

The Dr. Philip Benjamin Matching Grant Program provides the opportunity for the Florida College System (FCS) to have contributions from private donors matched by state appropriations.

Florida law dictates that the program shall be administered according to rules of the State Board of Education. The matching ratio for contributions specifically designated to support scholarships, student loans, or need-based grants is \$1 of state funds to \$1 of contributions. The matching ratio for contributions for other eligible purposes is \$4 of state funds to \$6 of contributions with a minimum required contribution of \$4,500.¹⁶

According to preliminary findings in a state audit of Daytona State College by the Auditor General¹⁷, the College inappropriately certified, or reported to the State Board of Education that \$422,034 in cash contributions received, or anticipated to be received were eligible for state match. These funds, however, constituted repayment of debt, or an exchange transaction the college made to the Community Cultural Foundation, Inc. (CCF), a Florida not-for-profit corporation, formerly known as the Daytona Beach International Festival.

According to State Board of Education administrative rule¹⁸, "exchange transactions, in which each party receives goods or services of approximately equal value, are not contributions".

State matching funds had not been received at the time of audit, but could have resulted in \$281,356 being matching from state funds.

Effect of Proposed Changes

The bill provides that funds received from community events, or festivals are not eligible for state matching under the Dr. Philip Benjamin Matching Grant Program for Community Colleges.

College and University Limits on Salaries Paid from State Funds

Current Situation

Section 1012.885(2), F.S., provides a limitation on compensation for college presidents at \$225,000 from public funds. Section 1012.975(2), F.S., provides the same cap for university presidents. There is currently no restriction on the amount of remuneration from state funds for college or university employees.

Proposed Changes

The bill reduces the statutory cap, from \$225,000 to \$200,000, of appropriated state funds that can be used for salaries of state university and college presidents for fiscal year 2011-2012. It also requires a

¹⁵ School district survey by Career and Adult Education, Department of Education

¹⁶ Section 1011.85, F.S.

¹⁷ Letter from Auditor General to Daytona State College Interim President, Mr. Frank Lombardo; January 14, 2011

¹⁸ Rule 6A-14.0914(2), F.A.C.

statutory cap of \$200,000 of appropriated state funds that can be used for administrative salaries of university and college employees, excluding medical school faculty and staff.

University System Concurrency Trust Fund

Current Situation

Section 1013.63, F.S., provides the University Concurrency Trust Fund as a source for universities to fund offsite improvements required to meet concurrency standards. Also, up to 25 percent of the balance in the trust fund for that year may be used to defray the costs incurred in updating those campus master plans. The revenue source for this trust fund has been eliminated and the remaining balance of these funds has been expended.

Effect of Proposed Changes

The bill repeals statutory reference to the University Concurrency Fund. Universities will have to absorb the costs associated with local concurrency within their budgetary appropriations for fixed capital outlay projects.

K-12 Public School Bibliographic Database Transfer to College Center for Library Automation

Current Situation

In the Fiscal Year 2010-2011 General Appropriations Act, Specific Appropriation 80 appropriated \$100,000 with proviso that directed \$50,000 each to the College Center for Library Automation (CCLA) and the Department of Education to transfer the K-12 Public School bibliographic database to the CCLA for inclusion in its online discovery tool product and made publicly searchable by school district students, staff, and parents. As of this date, the transfer has not been completed and the K-12 Public School bibliographic database is not available to school district students, staff, or parents.

Proposed Changes

The bill requires the transfer of the K-12 Public School bibliographic database to the CCLA by September 1, 2011.

Single Postsecondary Education Union Catalog

Current Situation

In the Fiscal Year 2010-2011 General Appropriations Act, proviso required the Florida Center for Library Automation (FCLA) and the College Center for Library Automation (CCLA) to expand their online discovery tool products to allow a user to search simultaneously the combined holdings and applicable electronic resources of FCLA and CCLA. In addition, library holdings currently available in the K-12 Public School Bibliographic Database, as well as library holdings available in standard machine readable bibliographic records of the State Library of Florida and the public libraries should be included when and where feasible. FCLA and CCLA completed the expanded search function by the required September 1, 2010, deadline.

Proposed Changes

The bill requires FCLA and CCLA to develop and submit a plan by December 1, 2011, for establishing a single postsecondary education union catalog that includes the combined holdings and electronic resources of all state universities and institutions in the Florida College System. The plan must include projected costs for the development and ongoing maintenance of the union catalog and projected cost savings resulting from FCLA and CCLA no longer being required to maintain separate online discovery tool products and associated resources.

Establishment of Joint Library Technology Organizational Structure

Current Situation

The Florida Center for Library Automation (FCLA) is the library automation system for the state universities and assists the libraries in their support of teaching, learning, and research. FCLA implements and centrally supports the systems that help libraries acquire, manage, and provide access to information resources. Specifically FCLA provides the following services:

- Online catalog of all holdings and electronic resources of the state universities;
- Library management system;
- Acquisition of electronic databases and resources; and
- System administration.

The College Center for Library Automation (CCLA) is the library automation system for the institutions in the Florida College System. CCLA provides similar services to colleges and community colleges that FCLA provides to the state universities.

The Chancellors of the State University System and the Florida College System jointly established the Task Force on the Future of Academic Libraries in Florida and charged the task force to determine a vision and develop a strategic plan for the future of academic library access, resources and services in Florida that encompasses emerging trends and changing realities in the areas of instruction, research, technology and public services within the context of the academic mission. Recently the Chancellors expanded this charge to include recommendations for the establishment of a joint library technology organizational structure that will meet the needs of academic libraries in both the Florida College System and the State University System in a manner that must be more cost effective than the current organizational structure that includes FCLA and CCLA.

Proposed Changes

The bill requires the Task Force on the Future of Academic Libraries in Florida to develop and submit the plan for the establishment of a joint library technology organizational structure to the chairs of the appropriations committees of the Senate and the House of Representatives and the Executive Office of the Governor by January 1, 2012.

Electronic Library Resources

Current Situation

To ensure that electronic library resources were acquired in the most cost-efficient and cost-effective manner, in 2010, legislation¹⁹ was passed that requires the Florida colleges and state universities to collaborate with school districts and public libraries in the identification and acquisition of electronic library resources. It also requires the Florida Center for Library Automation (FCLA) and the College Center for Library Automation (CCLA) to collaborate on the licensing of electronic library resources that are acquired through funds appropriated to FCLA and CCLA for this purpose.

Proposed Changes

The bill requires the chancellors of the Florida College System and the State University System to annually report to the Governor and chairs of the House and Senate legislative appropriations committees, cost savings realized as a result of the collaborative licensing process required in 2010.

B. SECTION DIRECTORY:

Section 1. Amends s. 1004.091, F.S.; revising duties of the Florida Distance Learning Consortium, requiring the consortium to work with the Florida College System and State University System to implement a transient student application process. It also revises requirements for a central instructional content repository and use of open access textbooks.

¹⁹ Section 1004.091(2)(b), F.S.

Section 2. Amends s. 1006.72, F.S.; requiring an annual report on cost savings relating to the collaborative licensing of electronic library resources.

Section 3. Amends s. 1007.28, F.S.; requiring the computer-assisted student advising system (FACTS.org) to provide the admissions application for transient students.

Section 4. Amends s. 1009.22, F.S.; authorizing a block tuition charge of \$45 per half year or \$30 per term for students enrolled in adult basic education programs; providing residency requirements; authorizing a service charge for installment payments, and a convenience fee for credit and debit card payments for tuition and fee charges; authorizing district school boards and Florida College System institutions boards of trustees to acquire improved real property with capital improvement fee revenues.

Section 5. Amends s. 1009.23, F.S.; conforming a cross reference; authorizing district school boards and Florida College institution boards of trustees to acquire improved real property with capital improvement fee revenues; authorizing Florida College System institutions, when applicable, to charge a \$5 transient student fee; authorizing the use of certain fee revenues collected by a Florida Colleges for general education services.

Section 6. Amends s. 1009.24, F.S.; authorizing state universities, when applicable, to charge a \$5 transient student fee; revising requirements for expenditure of the tuition differential; authorizing the use of certain fee revenues collected by a state university for general education services.

Section 7. Amends s. 1009.25, F.S.; deleting the exemption from payment of tuition and fees for students enrolled in adult general education courses.

Section 8. Amends s. 1009.286, F.S.; revising the excess credit hour surcharge for students at state universities.

Section 9. Amends s. 1009.531, F.S.; increasing the test score eligibility requirement for the Florida Bright Futures Scholarship Program; providing an additional eligibility requirement relating to annual submission of the Free Application for Federal Student Aid.

Section 10. Amends s. 1009.532, F.S.; reducing the Florida Bright Futures Scholarship award by the amount of acceleration credits earned.

Section 11. Amends s. 1009.534, F.S.; increasing the community service requirement for receipt of a Florida Academic Scholars award.

Section 12. Amends s. 1009.535, F.S.; providing a community service requirement for receipt of a Florida Medallion Scholars award.

Section 13. Amends s. 1009.536, F.S.; providing a community service requirement for receipt of a Florida Gold Seal Vocational Scholars award.

Section 14. Amends s. 1009.89, F.S.; revising eligibility requirements and funding for the William L. Boyd, IV, Florida Resident Access Grant Program (FRAG).

Section 15. Amends s. 1009.891, F.S.; revising eligibility requirements for the Access to Better Learning and Education Grant Program (ABLE) relating to annual submission of the Free Application for Federal Student Aid.

Section 16. Amends s. 1011.80, F.S.; revising provisions relating to funding for workforce education programs; providing for allocation of funds based on funding needs; prohibiting a student enrolled in a K-12 education program and an adult education program from being reported for funding in an adult education program.

Section 17. Amends s. 1011.85, F.S.; providing that certain funds are not eligible for state match under the Dr. Philip Benjamin Matching Grant Program.

Section 18. Amends s. 1012.885, F.S.; reducing the amount of appropriated state funds which may be used for the remuneration of Florida College System institution presidents for fiscal year 2011-2012.

Section 19. Amends s. 1012.886, F.S.; reducing the amount of appropriated state funds which may be used for the remuneration of Florida College System institution administrative employees for fiscal year 2011-2012.

Section 20. Amends s. 1012.975, F.S.; reducing the amount of appropriated state funds which may be used for the remuneration of state university presidents for fiscal year 2011-2012.

Section 21. Amends s. 1012.976, F.S.; reducing the amount of appropriated state funds which may be used for the remuneration of state university administrative employees for fiscal year 2011-12.

Section 22. Amends s. 1013.33, F.S.; conforming provisions.

Section 23. Repealing s. 1013.63, F.S., which created the University Concurrency Trust Fund.

Section 24. Creating an unnumbered section of law; requiring the Department of Education to work with the College Center for Library Automation (CCLA) to transfer certain data; requiring the Florida Center for Library Automation (FCLA) and the CCLA to develop a plan for establishing a single postsecondary education union catalog; requiring the Task Force on the Future of Academic Libraries in Florida to develop a plan that describes the establishment of a joint library technology organization structure to meet postsecondary education library needs; requiring the submission of both plans to the Governor and Legislature by specified dates.

Section 25. Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

C. Expenditures:

D. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes a block tuition charge of \$45 per half year or \$30 per term for adult education programs and removes fee exemptions for adults enrolled in these programs. Students enrolled workforce programs will pay more for courses.

The bill also decreases student scholarship opportunities by increasing the level of difficulty for eligibility and decreasing the allowable uses for the Bright Futures Scholarship and Florida Resident Access Grant awards. This would result in an increased burden on students to cover a larger portion of the cost of attendance.

The fee increases within the bill will increase the costs associated with students attending post secondary institutions. The excess credit hour fee will double the fee amount for students who register for courses in excess of their required program of study.

E. FISCAL COMMENTS:

Block Tuition Charge for Adult General Education Students

The Department of Education has provided an estimated \$10.1 million that could be collected as a result of charging the block tuition of \$45 per half year or \$30 per term. This, however, is based on current enrollment and does not account for loss of student enrollment who may not attend if unable to pay, which could occur if this policy is adopted.

Residency for Tuition Purposes

According to OPPAGA Report 10-24, the establishment of consistent residency determination criteria for workforce education programs may result in savings to the state. Currently, the state subsidizes the cost of instruction for resident students enrolled in workforce education programs; however, nonresidents are required to pay the full cost of instruction through tuition. To the extent the new residency determination criteria results in fewer students being classified as residents for tuition purposes, the state may experience savings of an indeterminate amount. Some students classified as nonresidents may opt not to participate in workforce education programs if they are required to bear a greater share of the cost of instruction.

State Universities Excess Credit Hour Surcharge

Increasing the tuition surcharge for excess credit hours to 100 percent of tuition for students who reach 115 percent of the credit hours required for their degree allows institutions to double their anticipated revenues for this surcharge. The surcharge was first effective to students who entered a college or university for the first time in 2009-2010; therefore, the impact of the surcharge has not been realized to the full extent. OPPAGA has estimated that doubling this surcharge will generate additional revenue in of \$66.3 million for universities.²⁰ These revenues are anticipated to decrease as students modify their behavior in an effort to avoid having to pay for this charge.

Florida Bright Futures Scholarship Program Eligibility

Increasing the eligibility requirements for the Florida Bright Futures Scholarship have shown to be an effective cost savings method. OPPAGA recently estimated the cost savings for the increase in eligibility that is currently in statute to be over \$7.4 million.²¹ Increasing these requirements from their current level to be even more difficult would further increase the estimated savings by \$37.5 million in the 2013-2014 fiscal year and increasingly over time²².

²⁰ OPPAGA Research Memorandum, Excess Hours Fees, February 4, 2011; and confirmed figures through e-mail correspondence.

²¹ OPPAGA Presentation: Bright Futures Scholarship Program, February 15, 2011. Brian Underhill

< [http://www.oppaga.state.fl.us/monitor/docs/presentations/2-15-11_Bright_Futures/2-15-](http://www.oppaga.state.fl.us/monitor/docs/presentations/2-15-11_Bright_Futures/2-15-11_Bright_Futures_Scholarship_Program_frame.htm)

[11_Bright_Futures_Scholarship_Program_frame.htm](http://www.oppaga.state.fl.us/monitor/docs/presentations/2-15-11_Bright_Futures/2-15-11_Bright_Futures_Scholarship_Program_frame.htm)>

²² OPPAGA Research Memorandum, Increasing Bright Futures Eligibility Test Scores, March 22, 2011

Florida Bright Futures Scholarship Program Award

In a recent presentation to the Legislature, OPPAGA estimated the savings associated with including acceleration credits earned by students prior to entering postsecondary education programs within the 120 credit hour cap for Bright Futures awards to be \$26 million.²³ This estimate would be reduced by the amount of students further utilizing their awards for graduate school coursework per section 1009.5341, F.S., since this calculation does not consider the exception for this purpose.

Co-Enrollment of Adult Education Students

Based on FY 2010-2011 enrollment data, prohibiting school districts from reporting co-enrolled K-12 high school students also enrolled in adult education programs will result in approximately \$28.1 million savings in general revenue.²⁴

College and University Salary Limitations

The university president salary limitation (a decrease of \$25,000) reduces the amount of public funds expended by \$252,584 since all eleven university presidents are funded at the current cap amount of \$225,000. The bill also requires a statutory cap of \$200,000 from appropriated state funds that can be used for salaries of university administrative employees, excluding medical school faculty and staff, which would result in a savings of \$1.3 million.²⁵

By reducing, from \$225,000 to \$200,000, the amount of appropriated state funds that can be used for Florida college presidents' salaries, \$487,000 in general revenue can be saved. Currently, 21 of the 28 presidents' salaries are above \$200,000; 16 of these presidents' salaries are funded with general revenue at the current \$225,000 cap. By applying the same funding restriction for college administrative employees, \$40,000 can be saved. Currently, only two employees have salaries above \$200,000.²⁶

Electronic Library Resources

Establishing a joint library technology organizational structure that still meets the needs of academic libraries in both the Florida College System and the State University System will produce a consolidated administrative structure that will result in operational efficiencies and reductions of the Florida Center for Library Automation (FCLA) and College Center for Library Automation (CCLA) and the will result in an indeterminate savings to the State of Florida over several years. The FY 2011-2012 proposed appropriations bill includes a 15 percent reduction for both FCLA and CCLA; \$1.6 million is reduced from the FCLA budget, and \$1.9 million, from CCLA.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

²³ OPPAGA Presentation: Bright Futures Scholarship Program, February 15, 2011. Brian Underhill
< http://www.oppaga.state.fl.us/monitordocs/presentations/2-15-11_Bright_Futures/2-15-11_Bright_Futures_Scholarship_Program_frame.htm >

²⁴ E-Mail correspondence with the Career and Adult Education Program, Department of Education

²⁵ E-Mail correspondence with the Florida Board of Governors

²⁶ E-Mail correspondence with the Office of Financial Policy, Florida College System

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Amendment #1.

The amendment removes language that would have limited the number of eligible institutions to those which participated in the Florida Resident Access Grant Program (FRAG) in the 2010-2011 year, and limited the number of eligible students at Keiser University who would be eligible to receive the grant.

Amendment #2

The amendment makes a technical change to generically reference the K-12 Public School bibliographic database instead of referring to the database as SUNLINK.

Amendment #3

The amendment makes a technical change to incorporate new statutory language which was included in the original proposed committee bill into a current subsection of the bill which already contained a portion of the language.

Amendment #4

The amendment provides flexibility for school districts and Florida Colleges to assess an annual \$90 block tuition for adult general education courses at either \$45 per half year or \$30 per term.

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1 A bill to be entitled

2 An act relating to postsecondary education funding;
3 amending s. 1004.091, F.S.; revising duties of the Florida
4 Distance Learning Consortium; requiring the consortium to
5 work with the Florida College System and the State
6 University System in implementing the transient student
7 admissions application process; revising requirements for
8 a central instructional content repository and use of open
9 access textbooks; amending s. 1006.72, F.S.; requiring an
10 annual report relating to the licensing of electronic
11 library resources; amending s. 1007.28, F.S.; requiring
12 the computer-assisted student advising system to provide
13 the admissions application for transient students;
14 amending s. 1009.22, F.S.; requiring a block tuition
15 charge for students enrolled in adult general education
16 programs; providing residency requirements for workforce
17 education postsecondary students; authorizing district
18 school boards and Florida College System institution
19 boards of trustees to acquire improved real property for
20 use as educational facilities through the use of capital
21 improvement fee revenues; authorizing a convenience fee
22 for processing certain payments of tuition and fees;
23 authorizing the use of certain fees for general education
24 services; amending s. 1009.23, F.S.; conforming a cross-
25 reference; authorizing Florida College System institution
26 boards of trustees to acquire improved real property for
27 use as educational facilities through the use of capital
28 improvement fee revenues; authorizing certain Florida

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 College System institutions to establish a transient
 30 student fee; authorizing the use of certain fees for
 31 general education services; amending s. 1009.24, F.S.;
 32 authorizing state universities to establish a transient
 33 student fee; revising requirements for expenditure of the
 34 tuition differential; authorizing the use of certain fees
 35 for general education services; amending s. 1009.25, F.S.;
 36 deleting the exemption from payment of tuition and fees
 37 for certain students; amending s. 1009.286, F.S.; revising
 38 the excess credit hour surcharge for students at state
 39 universities; amending s. 1009.531, F.S.; increasing the
 40 test score eligibility requirement for the Florida Bright
 41 Futures Scholarship Program; providing an additional
 42 eligibility requirement; amending s. 1009.532, F.S.;
 43 reducing the Florida Bright Futures Scholarship award by
 44 the amount of acceleration credits earned; amending s.
 45 1009.534, F.S.; increasing the community service
 46 requirement for receipt of a Florida Academic Scholars
 47 award; amending s. 1009.535, F.S.; providing a community
 48 service requirement for receipt of a Florida Medallion
 49 Scholars award; amending s. 1009.536, F.S.; providing a
 50 community service requirement for receipt of a Florida
 51 Gold Seal Vocational Scholars award; amending s. 1009.89,
 52 F.S.; revising eligibility requirements and funding for
 53 the William L. Boyd, IV, Florida Resident Access Grant
 54 Program; amending s. 1009.891, F.S.; revising eligibility
 55 requirements for the Access to Better Learning and
 56 Education Grant Program; amending s. 1011.80, F.S.;

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57 | revising provisions relating to funding for workforce
58 | education programs; providing for allocation based on
59 | funding needs; restricting certain funding; amending s.
60 | 1011.85, F.S.; providing that certain funds are not
61 | eligible for state match under the Dr. Philip Benjamin
62 | Matching Grant Program; amending s. 1012.885, F.S.;
63 | providing a limitation on the amount of remuneration of
64 | Florida College System institution presidents for fiscal
65 | year 2011-2012; creating s. 1012.886, F.S.; limiting the
66 | remuneration of Florida College System institution
67 | administrative employees; providing exceptions; amending
68 | s. 1012.975, F.S.; providing a limitation on the amount of
69 | remuneration of state university presidents for fiscal
70 | year 2011-2012; creating s. 1012.976, F.S.; limiting the
71 | remuneration of state university administrative employees;
72 | providing exceptions; amending s. 1013.33, F.S.;
73 | conforming provisions; repealing s. 1013.63, F.S., which
74 | creates the University Concurrency Trust Fund; requiring
75 | the Department of Education to work with the College
76 | Center for Library Automation (CCLA) to transfer certain
77 | data; requiring the Florida Center for Library Automation
78 | (FCLA) and the CCLA to develop a plan for establishing a
79 | single postsecondary education union catalog; requiring
80 | the Task Force on the Future of Academic Libraries in
81 | Florida to develop a plan that describes the establishment
82 | of a joint library technology organizational structure to
83 | meet postsecondary education library needs; requiring the

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84 submission of both plans to the Governor and Legislature
85 by specified dates; providing an effective date.

86
87 Be It Enacted by the Legislature of the State of Florida:

88
89 Section 1. Subsection (2) of section 1004.091, Florida
90 Statutes, is amended to read:

91 1004.091 Florida Distance Learning Consortium.—

92 (2) The Florida Distance Learning Consortium shall:

93 (a) Manage and promote the Florida Higher Education
94 Distance Learning Catalog, established pursuant to s. 1004.09,
95 to help increase student access to undergraduate distance
96 learning courses and degree programs and to assist students
97 seeking accelerated access in order to complete their degrees.

98 (b) Beginning with the 2011-2012 academic year, implement
99 ~~Develop, in consultation with the Florida College System and the~~
100 ~~State University System, a plan to be submitted to the Board of~~
101 ~~Governors, the State Board of Education, the Governor, the~~
102 ~~President of the Senate, and the Speaker of the House of~~
103 ~~Representatives no later than December 1, 2010, for implementing~~
104 ~~a streamlined, automated, online registration process for~~
105 transient students who are undergraduate students currently
106 enrolled and pursuing a degree at ~~who have been admitted to a~~
107 ~~public postsecondary educational institution and who~~ want ~~wish~~
108 ~~to enroll in a course listed in the Florida Higher Education~~
109 ~~Distance Learning Catalog~~ which is offered by a public
110 postsecondary educational institution, ~~including courses offered~~
111 ~~by an institution~~ that is not the student's degree-granting ~~or~~

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112 | ~~home~~ institution. The consortium shall work with the Florida
113 | College System and the State University System to implement this
114 | process, which requires all Florida College System institutions
115 | and state universities to ~~The plan must describe how such a~~
116 | ~~registration process can be implemented by the 2011-2012~~
117 | ~~academic year as an alternative to the standard registration~~
118 | ~~process of each institution. The plan must also address:~~

119 | 1. Use the transient student admissions application
120 | available through the Florida Academic Counseling and Tracking
121 | for Students system established pursuant to s. 1007.28. This
122 | admissions application shall be the only application required
123 | for the enrollment of a transient student as described in this
124 | paragraph. ~~Fiscal and substantive policy changes needed to~~
125 | ~~address administrative, academic, and programmatic policies and~~
126 | ~~procedures. Policy areas that the plan must address include, but~~
127 | ~~need not be limited to, student financial aid issues, variations~~
128 | ~~in fees, admission and readmission, registration prioritization~~
129 | ~~issues, transfer of credit, and graduation requirements, with~~
130 | ~~specific attention given to creating recommended guidelines that~~
131 | ~~address students who attend more than one institution in pursuit~~
132 | ~~of a degree.~~

133 | 2. Implement the financial aid procedures required by the
134 | transient student admissions application, in accordance with
135 | published specifications, which must include the involvement of
136 | the appropriate staff from the Florida College System
137 | institutions and state universities, including, but not limited
138 | to, financial aid officers. ~~A method for the expedited transfer~~
139 | ~~of distance learning course credit awarded by an institution~~

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~~offering a distance learning course to a student's degree-~~
~~granting or home institution upon the student's successful~~
~~completion of the distance learning course.~~

3. Transfer credit awarded by the institution offering the
distance learning course to the transient student's degree-
granting institution. ~~Compliance with applicable technology~~
~~security standards and guidelines to ensure the secure~~
~~transmission of student information.~~

4. No later than July 1, 2012, interface their
institutional systems to the Florida Academic Counseling and
Tracking for Students system to electronically send, receive,
and process transient student admissions applications.

(c) Coordinate the negotiation of statewide licensing and
 preferred pricing agreements for distance learning resources and
 enter into agreements that result in cost savings with distance
 learning resource providers so that postsecondary educational
 institutions have the opportunity to benefit from the cost
 savings.

(d)1. Develop and operate a central instructional content
 repository that allows public school and public postsecondary
educational institution users ~~faculty~~ to search, locate, and
use, and contribute digital and electronic instructional
resources and content, including open access textbooks. In the
 development of the ~~a~~ repository, the consortium shall identify
 and seek partnerships ~~with similar national, state, and regional~~
~~repositories~~ for the purpose of sharing instructional content.
 The consortium shall collaborate with ~~the~~ public ~~postsecondary~~
 educational institutions to ensure that the repository:

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168 a. Is accessible by the ~~Integrates with multiple~~ learning
169 management systems used by the public postsecondary educational
170 institutions and the local instructional improvement systems
171 established pursuant to s. 1006.281.

172 b. Allows institutions to set appropriate copyright and
173 access restrictions and track content usage.

174 c. Allows for appropriate customization.

175 d. Supports established protocols to access instructional
176 content within other repositories.

177 2. Provide to Develop, ~~in consultation with the~~
178 chancellors of the Florida College System and the State
179 University System recommendations, ~~a plan~~ for promoting and
180 increasing the use of open access textbooks as a method for
181 reducing textbook costs. The recommendations ~~plan shall be~~
182 ~~submitted to the Board of Governors, the State Board of~~
183 ~~Education, the Office of Policy and Budget in the Executive~~
184 ~~Office of the Governor, the chair of the Senate Policy and~~
185 ~~Steering Committee on Ways and Means, and the chair of the House~~
186 ~~Full Appropriations Council on Education & Economic Development~~
187 ~~no later than March 1, 2010, and shall include:~~

188 a. ~~An inventory of existing open access textbooks.~~

189 a.b. ~~The A listing of~~ undergraduate courses, in particular
190 the general education courses, that would be recommended for the
191 use of open access textbooks.

192 b.e. A standardized process for the review and approval of
193 open access textbooks.

194 d. ~~Recommendations for encouraging and promoting faculty~~
195 ~~development and use of open access textbooks.~~

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~~e. Identification of barriers to the implementation of open access textbooks.~~

~~c.f.~~ Strategies for the production and distribution of open access textbooks to ensure such textbooks may be easily accessed, downloaded, printed, or obtained as a bound version by students at either reduced or no cost.

~~g. Identification of the necessary technology security standards and guidelines to safeguard the use of open access textbooks.~~

(e) Identify and evaluate new technologies and instructional methods that can be used for improving distance learning instruction, student learning, and the overall quality of undergraduate distance learning courses and degree programs.

(f) Identify methods that will improve student access to and completion of undergraduate distance learning courses and degree programs.

Section 2. Subsection (7) is added to section 1006.72, Florida Statutes, to read:

1006.72 Licensing electronic library resources.—

(7) REPORT.—The chancellors of the Florida College System and the State University System shall annually report to the Executive Office of the Governor and the chairs of the appropriations committees in the Senate and the House of Representatives the cost savings realized as a result of the collaborative licensing process identified in this section.

Section 3. Subsection (5) is added to section 1007.28, Florida Statutes, to read:

1007.28 Computer-assisted student advising system.—The

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Department of Education, in conjunction with the Board of Governors, shall establish and maintain a single, statewide computer-assisted student advising system, which must be an integral part of the process of advising, registering, and certifying students for graduation and must be accessible to all Florida students. The state universities and community colleges shall interface institutional systems with the computer-assisted advising system required by this section. The State Board of Education and the Board of Governors shall specify in the statewide articulation agreement required by s. 1007.23(1) the roles and responsibilities of the department, the state universities, and the community colleges in the design, implementation, promotion, development, and analysis of the system. The system shall consist of a degree audit and an articulation component that includes the following characteristics:

(5) The system must provide the admissions application for transient students who are undergraduate students currently enrolled and pursuing a degree at a public postsecondary educational institution and who want to enroll in a course listed in the Florida Higher Education Distance Learning Catalog which is offered by a public postsecondary educational institution that is not the student's degree-granting institution. This system must include the electronic transfer and receipt of information and records for the following functions:

(a) Admissions and readmissions.

(b) Financial aid.

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(c) Transfer of credit awarded by the institution offering the distance learning course to the transient student's degree-granting institution.

Section 4. Subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (6), and subsection (10) of section 1009.22, Florida Statutes, are amended, and subsection (13) is added to that section, to read:

1009.22 Workforce education postsecondary student fees.—

(2)(a) All students shall be charged fees except students who are exempt from fees or students whose fees are waived.

(b) Students enrolled in adult general education programs shall be charged a block tuition of \$45 per half year or \$30 per term. Each district school board and Florida College System institution board of trustees shall adopt policies and procedures for the collection of and accounting for the expenditure of the block tuition. All funds received from the block tuition shall be used for adult general education programs only.

(3)(a) Except as otherwise provided by law, fees for students who are nonresidents for tuition purposes must offset the full cost of instruction. Residency of students shall be determined as required in s. 1009.21. Fee-nonexempt students enrolled in vocational-preparatory instruction shall be charged fees equal to the fees charged for certificate career education instruction. Each community college that conducts college-preparatory and vocational-preparatory instruction in the same class section may charge a single fee for both types of instruction.

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280 (6)(a) Each district school board and community college
 281 board of trustees may establish a separate fee for capital
 282 improvements, technology enhancements, ~~or~~ equipping buildings,
 283 or the acquisition of improved real property which may not
 284 exceed 5 percent of tuition for resident students or 5 percent
 285 of tuition and out-of-state fees for nonresident students. Funds
 286 collected by community colleges through the fee may be bonded
 287 only for the purpose of financing or refinancing new
 288 construction and equipment, renovation, or remodeling of
 289 educational facilities or the acquisition of improved real
 290 property for use as educational facilities. The fee shall be
 291 collected as a component part of the tuition and fees, paid into
 292 a separate account, and expended only to acquire improved real
 293 property or construct and equip, maintain, improve, or enhance
 294 the certificate career education or adult education facilities
 295 of the school district or the educational facilities of the
 296 community college. Projects and acquisitions of improved real
 297 property funded through the use of the capital improvement fee
 298 must meet the survey and construction requirements of chapter
 299 1013. Pursuant to s. 216.0158, each district school board and
 300 community college board of trustees shall identify each project,
 301 including maintenance projects, proposed to be funded in whole
 302 or in part by such fee. Capital improvement fee revenues may be
 303 pledged by a board of trustees as a dedicated revenue source to
 304 the repayment of debt, including lease-purchase agreements, with
 305 an overall term of not more than 7 years, including renewals,
 306 extensions, and refundings, and revenue bonds with a term not
 307 exceeding 20 years and not exceeding the useful life of the

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asset being financed, only for the new construction and equipment, renovation, or remodeling of educational facilities. Bonds authorized pursuant to this paragraph shall be requested by the community college board of trustees and shall be issued by the Division of Bond Finance in compliance with s. 11(d), Art. VII of the State Constitution and the State Bond Act. The Division of Bond Finance may pledge fees collected by one or more community colleges to secure such bonds. Any project included in the approved educational plant survey pursuant to chapter 1013 is approved pursuant to s. 11(f), Art. VII of the State Constitution. Bonds issued pursuant to the State Bond Act may be validated in the manner provided by chapter 75. The complaint for such validation shall be filed in the circuit court of the county where the seat of state government is situated, the notice required to be published by s. 75.06 shall be published only in the county where the complaint is filed, and the complaint and order of the circuit court shall be served only on the state attorney of the circuit in which the action is pending. A maximum of 15 cents per credit hour may be allocated from the capital improvement fee for child care centers conducted by the district school board or community college board of trustees. The use of capital improvement fees for such purpose shall be subordinate to the payment of any bonds secured by the fees.

(10) Each school district and community college may assess a service charge for the payment of tuition and fees in installments and a convenience fee for the processing of automated or online credit card payments. However, the amount of

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the convenience fee for automated or online credit card payments
may not exceed the total cost charged by the credit card company
to the school district or Florida College System institution.

Such service charge or convenience fee must be approved by the
 district school board or community college board of trustees.

(13) To offset funding reductions, district school boards
and Florida College System institutions may use up to 15 percent
of the total funds generated from the fee collections authorized
in subsection (5), paragraph (6)(a), and subsections (7) and (9)
for general education services in adult general and career
certificate programs for the 2011-2012 fiscal year. Fee revenues
pledged by a district school board or a Florida College System
institution board of trustees as a dedicated revenue source for
the repayment of debt, including lease-purchase agreements, may
not be used for other purposes.

Section 5. Paragraph (c) of subsection (8) and paragraph
 (a) of subsection (11) of section 1009.23, Florida Statutes, are
 amended, subsection (17) is renumbered as subsection (19), and
 new subsections (17) and (18) are added to that section, to
 read:

1009.23 Community college student fees.—

(8)

(c) Up to 25 percent or \$600,000, whichever is greater, of
 the financial aid fees collected may be used to assist students
 who demonstrate academic merit; who participate in athletics,
 public service, cultural arts, and other extracurricular
 programs as determined by the institution; or who are identified
 as members of a targeted gender or ethnic minority population.

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364 The financial aid fee revenues allocated for athletic
365 scholarships and any fee exemptions provided to athletes
366 pursuant to s. 1009.25(2)~~(3)~~ must ~~for athletes shall~~ be
367 distributed equitably as required by s. 1000.05(3)(d). A minimum
368 of 75 percent of the balance of these funds for new awards shall
369 be used to provide financial aid based on absolute need, and the
370 remainder of the funds shall be used for academic merit purposes
371 and other purposes approved by the boards of trustees. Such
372 other purposes shall include the payment of child care fees for
373 students with financial need. The State Board of Education shall
374 develop criteria for making financial aid awards. Each college
375 shall report annually to the Department of Education on the
376 revenue collected pursuant to this paragraph, the amount carried
377 forward, the criteria used to make awards, the amount and number
378 of awards for each criterion, and a delineation of the
379 distribution of such awards. The report shall include an
380 assessment by category of the financial need of every student
381 who receives an award, regardless of the purpose for which the
382 award is received. Awards that ~~which~~ are based on financial need
383 shall be distributed in accordance with a nationally recognized
384 system of need analysis approved by the State Board of
385 Education. An award for academic merit requires ~~shall require~~ a
386 minimum overall grade point average of 3.0 on a 4.0 scale or the
387 equivalent for both initial receipt of the award and renewal of
388 the award.

389 (11)(a) Each community college board of trustees may
390 establish a separate fee for capital improvements, technology
391 enhancements, ~~or~~ equipping student buildings, or the acquisition

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392 of improved real property which may not exceed 10 percent of
393 tuition for resident students or 10 percent of the sum of
394 tuition and out-of-state fees for nonresident students. The fee
395 for resident students shall be limited to an increase of \$2 per
396 credit hour over the prior year. Funds collected by community
397 colleges through the fee may be bonded only as provided in this
398 subsection for the purpose of financing or refinancing new
399 construction and equipment, renovation, or remodeling of
400 educational facilities or the acquisition and renovation or
401 remodeling of improved real property for use as educational
402 facilities. The fee shall be collected as a component part of
403 the tuition and fees, paid into a separate account, and expended
404 only to acquire improved real property or construct and equip,
405 maintain, improve, or enhance the educational facilities of the
406 community college. Projects and acquisitions of improved real
407 property funded through the use of the capital improvement fee
408 shall meet the survey and construction requirements of chapter
409 1013. Pursuant to s. 216.0158, each community college shall
410 identify each project, including maintenance projects, proposed
411 to be funded in whole or in part by such fee.

412 (17) Each Florida College System institution that accepts
413 transient students, pursuant to s. 1004.091, may establish a
414 transient student fee not to exceed \$5 per distance learning
415 course for processing the transient student admissions
416 application.

417 (18) To offset funding reductions, Florida College System
418 institutions may use up to 15 percent of the total funds
419 generated from the fee collections authorized in subsection (7),

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420 | paragraph (8)(a), subsection (10), paragraph (11)(a), and
 421 | paragraph (12)(a) for general education services in associate
 422 | degree and career certificate programs for the 2011-2012 fiscal
 423 | year. Fee revenues pledged by a Florida College System
 424 | institution board of trustees as a dedicated revenue source for
 425 | the repayment of debt, including lease-purchase agreements, may
 426 | not be used for other purposes.

427 | Section 6. Paragraph (t) is added to subsection (14) of
 428 | section 1009.24, Florida Statutes, paragraph (a) of subsection
 429 | (16) is amended, and subsection (20) is added to that section,
 430 | to read:

431 | 1009.24 State university student fees.—

432 | (14) Except as otherwise provided in subsection (15), each
 433 | university board of trustees is authorized to establish the
 434 | following fees:

435 | (t) A transient student fee not to exceed \$5 per distance
 436 | learning course for accepting a transient student and processing
 437 | the transient student admissions application pursuant to s.
 438 | 1004.091.

439 |
 440 | With the exception of housing rental rates and except as
 441 | otherwise provided, fees assessed pursuant to paragraphs (h)-(s)
 442 | shall be based on reasonable costs of services. The Board of
 443 | Governors shall adopt regulations and timetables necessary to
 444 | implement the fees and fines authorized under this subsection.
 445 | The fees assessed under this subsection may be used for debt
 446 | only as authorized under s. 1010.62.

447 | (16) Each university board of trustees may establish a

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tuition differential for undergraduate courses upon receipt of approval from the Board of Governors. The tuition differential shall promote improvements in the quality of undergraduate education and shall provide financial aid to undergraduate students who exhibit financial need.

(a) Seventy percent of the revenues from the tuition differential shall be expended for purposes of undergraduate education. Such expenditures may include, but are not limited to, increasing course offerings, improving graduation rates, increasing the percentage of undergraduate students who are taught by faculty, decreasing student-faculty ratios, providing salary increases for faculty who have a history of excellent teaching in undergraduate courses, improving the efficiency of the delivery of undergraduate education through academic advisement and counseling, and reducing the percentage of students who graduate with excess hours. This expenditure for undergraduate education may not be used to pay the salaries of graduate teaching assistants. Except as otherwise provided in this subsection, the remaining 30 percent of the revenues from the tuition differential, or the equivalent amount of revenue from private sources, shall be expended to provide financial aid to undergraduate students who exhibit financial need, including students who are scholarship recipients under s. 1009.984, to meet the cost of university attendance. This expenditure for need-based financial aid may ~~shall~~ not supplant the amount of need-based aid provided to undergraduate students in the preceding fiscal year from financial aid fee revenues, the direct appropriation for financial assistance provided to state

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universities in the General Appropriations Act, or from private sources. The total amount of tuition differential waived under subparagraph (b)8. may be included in calculating the expenditures for need-based financial aid to undergraduate students required by this subsection. If the entire tuition and fee costs of all students who exhibit financial need have been met and the university has excess funds remaining from the 30 percent of the revenues from the tuition differential required to be used to assist students who exhibit financial need, the university may expend the unneeded portion of the 30 percent in the same manner as required for the other 70 percent of the tuition differential revenues.

(20) To offset funding reductions, state university boards of trustees may use up to 15 percent of the total funds generated from the fee collections authorized in subsections (8)-(14) for general education services in undergraduate degree programs for the 2011-2012 fiscal year. Fee revenues pledged by a state university board of trustees as a dedicated revenue source for the repayment of debt, including lease-purchase agreements, may not be used for other purposes.

Section 7. Section 1009.25, Florida Statutes, is amended to read:

1009.25 Fee exemptions.—

~~(1) The following students are exempt from any requirement for the payment of tuition and fees, including lab fees, for adult basic, adult secondary, or career preparatory instruction:~~

~~(a) A student who does not have a high school diploma or its equivalent.~~

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~~(b) A student who has a high school diploma or its equivalent and who has academic skills at or below the eighth grade level pursuant to state board rule. A student is eligible for this exemption from fees if the student's skills are at or below the eighth grade level as measured by a test administered in the English language and approved by the Department of Education, even if the student has skills above that level when tested in the student's native language.~~

(1)~~(2)~~ The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides postsecondary career programs, community college, or state university:

(a) A student enrolled in a dual enrollment or early admission program pursuant to s. 1007.27 or s. 1007.271.

(b) A student enrolled in an approved apprenticeship program, as defined in s. 446.021.

(c) A student who is or was at the time he or she reached 18 years of age in the custody of the Department of Children and Family Services or who, after spending at least 6 months in the custody of the department after reaching 16 years of age, was placed in a guardianship by the court. Such exemption includes fees associated with enrollment in career-preparatory instruction. The exemption remains valid until the student reaches 28 years of age.

(d) A student who is or was at the time he or she reached 18 years of age in the custody of a relative under s. 39.5085 or who was adopted from the Department of Children and Family Services after May 5, 1997. Such exemption includes fees

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532 associated with enrollment in career-preparatory instruction.
533 The exemption remains valid until the student reaches 28 years
534 of age.

535 (e) A student enrolled in an employment and training
536 program under the welfare transition program. The regional
537 workforce board shall pay the state university, community
538 college, or school district for costs incurred for welfare
539 transition program participants.

540 (f) A student who lacks a fixed, regular, and adequate
541 nighttime residence or whose primary nighttime residence is a
542 public or private shelter designed to provide temporary
543 residence for individuals intended to be institutionalized, or a
544 public or private place not designed for, or ordinarily used as,
545 a regular sleeping accommodation for human beings.

546 (g) A student who is a proprietor, owner, or worker of a
547 company whose business has been at least 50 percent negatively
548 financially impacted by the buyout of property around Lake
549 Apopka by the State of Florida. Such student may receive a fee
550 exemption only if the student has not received compensation
551 because of the buyout, the student is designated a Florida
552 resident for tuition purposes, pursuant to s. 1009.21, and the
553 student has applied for and been denied financial aid, pursuant
554 to s. 1009.40, which would have provided, at a minimum, payment
555 of all student fees. The student is responsible for providing
556 evidence to the postsecondary education institution verifying
557 that the conditions of this paragraph have been met, including
558 supporting documentation provided by the Department of Revenue.
559 The student must be currently enrolled in, or begin coursework

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within, a program area by fall semester 2000. The exemption is valid for a period of 4 years after the date that the postsecondary education institution confirms that the conditions of this paragraph have been met.

(2)~~(3)~~ Each community college is authorized to grant student fee exemptions from all fees adopted by the State Board of Education and the community college board of trustees for up to 40 full-time equivalent students at each institution.

Section 8. Subsections (2) and (7) of section 1009.286, Florida Statutes, are amended to read:

1009.286 Additional student payment for hours exceeding baccalaureate degree program completion requirements at state universities.—

(2) State universities shall require a student to pay an excess hour surcharge equal to 100 ~~50~~ percent of the tuition rate for each credit hour in excess of 115 ~~120~~ percent of the number of credit hours required to complete the baccalaureate degree program in which the student is enrolled.

(7) The provisions of this section become effective for students who enter a community college or a state university for the first time in the 2011-2012 ~~2009-2010~~ academic year and thereafter.

Section 9. Paragraphs (a) and (b) of subsection (6) of section 1009.531, Florida Statutes, are amended, and subsection (7) is added to that section, to read:

1009.531 Florida Bright Futures Scholarship Program; student eligibility requirements for initial awards.—

(6)(a) The State Board of Education shall publicize the

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examination score required for a student to be eligible for a Florida Academic Scholars award, pursuant to s. 1009.534(1)(a) or (b), as follows:

1. For high school students graduating in the 2010-2011 and 2011-2012 academic years, the student must earn an SAT score of 1270 or a concordant ACT score of 28.

2. For high school students graduating in the 2012-2013 academic year and each year thereafter, the student must earn an SAT score of 1290 ~~1280~~ which corresponds to the 89th ~~88th~~ SAT percentile rank or a concordant ACT score of 29 ~~28~~.

~~3. For high school students graduating in the 2013-2014 academic year and thereafter, the student must earn an SAT score of 1290 which corresponds to the 89th SAT percentile rank or a concordant ACT score of 29.~~

(b) The State Board of Education shall publicize the examination score required for a student to be eligible for a Florida Medallion Scholars award, pursuant to s. 1009.535(1)(a) or (b), as follows:

1. For high school students graduating in the 2010-2011 academic year, the student must earn an SAT score of 970 or a concordant ACT score of 20 or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1070 or a concordant ACT score of 23.

2. For high school students graduating in the 2011-2012 academic year, the student must earn an SAT score of 980 which corresponds to the 44th SAT percentile rank or a concordant ACT score of 21 or the student in a home education program whose

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parent cannot document a college-preparatory curriculum must earn an SAT score of 1070 or a concordant ACT score of 23.

3. For high school students graduating in the 2012-2013 academic year and each year thereafter, the student must earn an SAT score of 1170 ~~1020~~ which corresponds to the 75th ~~50th~~ SAT percentile rank or a concordant ACT score of 26 ~~22~~ or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1170 ~~1070~~ or a concordant ACT score of 26 ~~23~~.

~~4. For high school students graduating in the 2013-2014 academic year and thereafter, the student must earn an SAT score of 1050 which corresponds to the 56th SAT percentile rank or a concordant ACT score of 23 or the student in a home education program whose parent cannot document a college-preparatory curriculum must earn an SAT score of 1100 or a concordant ACT score of 24.~~

(7) To be eligible for an award under the Florida Bright Futures Scholarship Program, a student must annually submit the Free Application for Federal Student Aid.

Section 10. Subsection (3) of section 1009.532, Florida Statutes, is amended to read:

1009.532 Florida Bright Futures Scholarship Program; student eligibility requirements for renewal awards.—

(3) A student who is initially eligible prior to the 2010-2011 academic year and is enrolled in a program that terminates in an associate degree or a baccalaureate degree may receive an award for a maximum of 110 percent of the number of credit hours required to complete the program. A student who is enrolled in a

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644 program that terminates in a career certificate may receive an
645 award for a maximum of 110 percent of the credit hours or clock
646 hours required to complete the program up to 90 credit hours.
647 For a student who is initially eligible in the 2010-2011
648 academic term and thereafter, the student may receive an award
649 for a maximum of 100 percent of the number of credit hours
650 required to complete an associate degree program or a
651 baccalaureate degree program, or the student may receive an
652 award for a maximum of 100 percent of the credit hours or clock
653 hours required to complete up to 90 credit hours of a program
654 that terminates in a career certificate. Beginning in the 2011-
655 2012 school year, acceleration credits earned by a student prior
656 to entering a postsecondary education program shall be included
657 in the maximum number of credit hours for which a student may
658 earn an award, except for purposes of eligibility for the
659 maximum graduate credits allowable under s. 1009.5341. A student
660 who transfers from one of these program levels to another
661 becomes eligible for the higher of the two credit hour limits.

662 Section 11. Subsection (1) of section 1009.534, Florida
663 Statutes, is amended to read:

664 1009.534 Florida Academic Scholars award.—

665 (1) A student is eligible for a Florida Academic Scholars
666 award if the student meets the general eligibility requirements
667 for the Florida Bright Futures Scholarship Program and the
668 student:

669 (a) Has achieved a 3.5 weighted grade point average as
670 calculated pursuant to s. 1009.531, or its equivalent, in high
671 school courses that are designated by the State Board of

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672 Education as college-preparatory academic courses; and has
673 attained at least the score pursuant to s. 1009.531(6)(a) on the
674 combined verbal and quantitative parts of the Scholastic
675 Aptitude Test, the Scholastic Assessment Test, or the recentered
676 Scholastic Assessment Test of the College Entrance Examination,
677 or an equivalent score on the ACT Assessment Program;

678 (b) Has attended a home education program according to s.
679 1002.41 during grades 11 and 12 or has completed the
680 International Baccalaureate curriculum but failed to earn the
681 International Baccalaureate Diploma or has completed the
682 Advanced International Certificate of Education curriculum but
683 failed to earn the Advanced International Certificate of
684 Education Diploma, and has attained at least the score pursuant
685 to s. 1009.531(6)(a) on the combined verbal and quantitative
686 parts of the Scholastic Aptitude Test, the Scholastic Assessment
687 Test, or the recentered Scholastic Assessment Test of the
688 College Entrance Examination, or an equivalent score on the ACT
689 Assessment Program;

690 (c) Has been awarded an International Baccalaureate
691 Diploma from the International Baccalaureate Office or an
692 Advanced International Certificate of Education Diploma from the
693 University of Cambridge International Examinations Office;

694 (d) Has been recognized by the merit or achievement
695 programs of the National Merit Scholarship Corporation as a
696 scholar or finalist; or

697 (e) Has been recognized by the National Hispanic
698 Recognition Program as a scholar recipient.

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700 A student must complete a program of community service work, as
701 approved by the district school board or the administrators of a
702 nonpublic school, which shall include a minimum of 75 hours of
703 service work for high school students graduating in the 2010-
704 2011 academic year and 100 hours of service work for high school
705 students graduating in the 2011-2012 academic year and
706 thereafter, and must ~~and require the student to~~ identify a
707 social problem that interests him or her, develop a plan for his
708 or her personal involvement in addressing the problem, and,
709 through papers or other presentations, evaluate and reflect upon
710 his or her experience.

711 Section 12. Subsection (1) of section 1009.535, Florida
712 Statutes, is amended to read:

713 1009.535 Florida Medallion Scholars award.—

714 (1) A student is eligible for a Florida Medallion Scholars
715 award if the student meets the general eligibility requirements
716 for the Florida Bright Futures Scholarship Program and the
717 student:

718 (a) Has achieved a weighted grade point average of 3.0 as
719 calculated pursuant to s. 1009.531, or the equivalent, in high
720 school courses that are designated by the State Board of
721 Education as college-preparatory academic courses; and has
722 attained at least the score pursuant to s. 1009.531(6)(b) on the
723 combined verbal and quantitative parts of the Scholastic
724 Aptitude Test, the Scholastic Assessment Test, or the recentered
725 Scholastic Assessment Test of the College Entrance Examination,
726 or an equivalent score on the ACT Assessment Program;

727 (b) Has completed the International Baccalaureate

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728 curriculum but failed to earn the International Baccalaureate
729 Diploma or has completed the Advanced International Certificate
730 of Education curriculum but failed to earn the Advanced
731 International Certificate of Education Diploma, and has attained
732 at least the score pursuant to s. 1009.531(6)(b) on the combined
733 verbal and quantitative parts of the Scholastic Aptitude Test,
734 the Scholastic Assessment Test, or the recentered Scholastic
735 Assessment Test of the College Entrance Examination, or an
736 equivalent score on the ACT Assessment Program;

737 (c) Has attended a home education program according to s.
738 1002.41 during grades 11 and 12 and has attained at least the
739 score pursuant to s. 1009.531(6)(b) on the combined verbal and
740 quantitative parts of the Scholastic Aptitude Test, the
741 Scholastic Assessment Test, or the recentered Scholastic
742 Assessment Test of the College Entrance Examination, or an
743 equivalent score on the ACT Assessment Program, if the student's
744 parent cannot document a college-preparatory curriculum as
745 described in paragraph (a);

746 (d) Has been recognized by the merit or achievement
747 program of the National Merit Scholarship Corporation as a
748 scholar or finalist but has not completed a program of community
749 service as provided in s. 1009.534; or

750 (e) Has been recognized by the National Hispanic
751 Recognition Program as a scholar, but has not completed a
752 program of community service as provided in s. 1009.534.

753
754 A high school student graduating in the 2011-2012 academic year
755 and thereafter must complete a program of community service work

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756 approved by the district school board or the administrators of a
757 nonpublic school, which shall include a minimum of 75 hours of
758 service work, and must identify a social problem that interests
759 him or her, develop a plan for his or her personal involvement
760 in addressing the problem, and, through papers or other
761 presentations, evaluate and reflect upon his or her experience.

762 Section 13. Subsection (1) of section 1009.536, Florida
763 Statutes, is amended to read:

764 1009.536 Florida Gold Seal Vocational Scholars award.—The
765 Florida Gold Seal Vocational Scholars award is created within
766 the Florida Bright Futures Scholarship Program to recognize and
767 reward academic achievement and career preparation by high
768 school students who wish to continue their education.

769 (1) A student is eligible for a Florida Gold Seal
770 Vocational Scholars award if the student meets the general
771 eligibility requirements for the Florida Bright Futures
772 Scholarship Program and the student:

773 (a) Completes the secondary school portion of a sequential
774 program of studies that requires at least three secondary school
775 career credits taken over at least 2 academic years, and is
776 continued in a planned, related postsecondary education program.
777 If the student's school does not offer such a two-plus-two or
778 tech-prep program, the student must complete a job-preparatory
779 career education program selected by Workforce Florida, Inc.,
780 for its ability to provide high-wage employment in an occupation
781 with high potential for employment opportunities. On-the-job
782 training may not be substituted for any of the three required
783 career credits.

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(b) Demonstrates readiness for postsecondary education by earning a passing score on the Florida College Entry Level Placement Test or its equivalent as identified by the Department of Education.

(c) Earns a minimum cumulative weighted grade point average of 3.0, as calculated pursuant to s. 1009.531, on all subjects required for a standard high school diploma, excluding elective courses.

(d) Earns a minimum unweighted grade point average of 3.5 on a 4.0 scale for secondary career courses comprising the career program.

(e) Beginning with high school students graduating in the 2011-2012 academic year and thereafter, completes a program of community service work approved by the district school board or the administrators of a nonpublic school, which shall include a minimum of 30 hours of service work, and identifies a social problem that interests him or her, develops a plan for his or her personal involvement in addressing the problem, and, through papers or other presentations, evaluates and reflects upon his or her experience.

Section 14. Subsection (4) and paragraph (a) of subsection (5) of section 1009.89, Florida Statutes, are amended to read:

1009.89 The William L. Boyd, IV, Florida resident access grants.—

(4) A person is eligible to receive such William L. Boyd, IV, Florida resident access grant if:

(a) He or she meets the general requirements, including residency, for student eligibility as provided in s. 1009.40,

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812 | except as otherwise provided in this section; ~~and~~
 813 | (b)1. He or she is enrolled as a full-time undergraduate
 814 | student at an eligible college or university;
 815 | 2. He or she is not enrolled in a program of study leading
 816 | to a degree in theology or divinity; and
 817 | 3. He or she is making satisfactory academic progress as
 818 | defined by the college or university in which he or she is
 819 | enrolled; and
 820 | (c) He or she annually submits the Free Application for
 821 | Federal Student Aid.
 822 | (5)(a) Funding for the William L. Boyd, IV, Florida
 823 | Resident Access Grant Program shall be ~~based on a formula~~
 824 | ~~composed of planned enrollment and the state cost of funding~~
 825 | ~~undergraduate enrollment at public institutions pursuant to s.~~
 826 | ~~1011.90. The amount of the William L. Boyd, IV, Florida resident~~
 827 | ~~access grant issued to a full-time student shall be an amount as~~
 828 | specified in the General Appropriations Act. The William L.
 829 | Boyd, IV, Florida resident access grant may be paid on a
 830 | prorated basis in advance of the registration period. The
 831 | department shall make such payments to the college or university
 832 | in which the student is enrolled for credit to the student's
 833 | account for payment of tuition and fees. Institutions shall
 834 | certify to the department the amount of funds disbursed to each
 835 | student and shall remit to the department any undisbursed
 836 | advances or refunds within 60 days of the end of regular
 837 | registration. A student is ~~Students shall~~ not be eligible to
 838 | receive the award for more than 9 semesters or 14 quarters,
 839 | except as otherwise provided in s. 1009.40(3).

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Section 15. Subsection (4) of section 1009.891, Florida Statutes, is amended to read:

1009.891 The Access to Better Learning and Education Grant Program.—

(4) A person is eligible to receive an access grant if:

(a) He or she meets the general requirements, including residency, for student eligibility as provided in s. 1009.40, except as otherwise provided in this section; ~~and~~

(b)1. He or she is enrolled as a full-time undergraduate student at an eligible college or university in a program of study leading to a baccalaureate degree;

2. He or she is not enrolled in a program of study leading to a degree in theology or divinity; and

3. He or she is making satisfactory academic progress as defined by the college or university in which he or she is enrolled; and

(c) He or she annually submits the Free Application for Federal Student Aid.

Section 16. Subsections (6) and (10) of section 1011.80, Florida Statutes, are amended to read:

1011.80 Funds for operation of workforce education programs.—

(6)(a) A school district or a community college that provides workforce education programs shall receive funds in accordance with distributions for base and performance funding established by the Legislature in the General Appropriations Act. To ensure equitable funding for all school district workforce education programs and to recognize enrollment growth,

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868 | the Department of Education shall use the funding model
869 | developed by the District Workforce Education Funding Steering
870 | Committee to determine each district's workforce education
871 | funding needs. To assist the Legislature in allocating workforce
872 | education funds in the General Appropriations Act, the funding
873 | model shall annually be provided to the legislative
874 | appropriations committees no later than March 1. Beginning with
875 | the 2011-2012 fiscal year, and for a 3-year period thereafter or
876 | until full reallocation is achieved, the funding model shall be
877 | used to reallocate workforce education funds among districts to
878 | reflect each district's current programs and funding needs. If
879 | ~~the General Appropriations Act does not provide for the~~
880 | ~~distribution of funds, the following methodology shall apply:~~
881 | 1. ~~Base funding shall be allocated based on weighted~~
882 | ~~enrollment and shall not exceed 90 percent of the allocation.~~
883 | ~~The Department of Education shall develop a funding process for~~
884 | ~~school district workforce education programs that is comparable~~
885 | ~~with community college workforce programs.~~
886 | 2. ~~Performance funding shall be at least 10 percent of the~~
887 | ~~allocation, based on the previous fiscal year's achievement of~~
888 | ~~output and outcomes in accordance with formulas adopted pursuant~~
889 | ~~to subsection (10). Performance funding must incorporate~~
890 | ~~payments for at least three levels of placements that reflect~~
891 | ~~wages and workforce demand. Payments for completions must not~~
892 | ~~exceed 60 percent of the payments for placement. School~~
893 | ~~districts and community colleges shall be awarded funds pursuant~~
894 | ~~to this paragraph based on performance output data and~~
895 | ~~performance outcome data available in that year.~~

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896 (b) A program is established to assist school districts
 897 and community colleges in responding to the needs of new and
 898 expanding businesses and thereby strengthening the state's
 899 workforce and economy. The program may be funded in the General
 900 Appropriations Act. ~~A school district or community college may~~
 901 ~~expend funds under the program without regard to performance~~
 902 ~~criteria set forth in subparagraph (a)2.~~ The district or
 903 community college shall use the program to provide customized
 904 training for businesses which satisfies the requirements of s.
 905 288.047. Business firms whose employees receive the customized
 906 training must provide 50 percent of the cost of the training.
 907 Balances remaining in the program at the end of the fiscal year
 908 shall not revert to the general fund, but shall be carried over
 909 for 1 additional year and used for the purpose of serving
 910 incumbent worker training needs of area businesses with fewer
 911 than 100 employees. Priority shall be given to businesses that
 912 must increase or upgrade their use of technology to remain
 913 competitive.

914 (10) A high school student dually enrolled under s.
 915 1007.271 in a workforce education program operated by a
 916 community college or school district career center generates the
 917 amount calculated for workforce education funding, including any
 918 payment of performance funding, and the proportional share of
 919 full-time equivalent enrollment generated through the Florida
 920 Education Finance Program for the student's enrollment in a high
 921 school. If a high school student is dually enrolled in a
 922 community college program, including a program conducted at a
 923 high school, the community college earns the funds generated for

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924 workforce education funding, and the school district earns the
 925 proportional share of full-time equivalent funding from the
 926 Florida Education Finance Program. If a student is dually
 927 enrolled in a career center operated by the same district as the
 928 district in which the student attends high school, that district
 929 earns the funds generated for workforce education funding and
 930 also earns the proportional share of full-time equivalent
 931 funding from the Florida Education Finance Program. If a student
 932 is dually enrolled in a workforce education program provided by
 933 a career center operated by a different school district, the
 934 funds must be divided between the two school districts
 935 proportionally from the two funding sources. A student may not
 936 be reported for funding in a dual enrollment workforce education
 937 program unless the student has completed the basic skills
 938 assessment pursuant to s. 1004.91. A student who is coenrolled
 939 in a K-12 education program and an adult education program may
 940 not be reported for funding in an adult education program.

941 Section 17. Subsection (2) of section 1011.85, Florida
 942 Statutes, is amended to read:

943 1011.85 Dr. Philip Benjamin Matching Grant Program for
 944 Community Colleges.—

945 (2) Each community college board of trustees receiving
 946 state appropriations under this program shall approve each gift
 947 to ensure alignment with the unique mission of the community
 948 college. The board of trustees must link all requests for a
 949 state match to the goals and mission statement. The Florida
 950 Community College Foundation Board receiving state
 951 appropriations under this program shall approve each gift to

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ensure alignment with its goals and mission statement. Funds received from community events or festivals are not eligible for state match under this program.

Section 18. Subsection (4) is added to section 1012.885, Florida Statutes, to read:

1012.885 Remuneration of community college presidents; limitations.—

(4) LIMITATION.—Notwithstanding the provisions of this section, for the 2011-2012 fiscal year, a Florida College System institution president may not receive more than \$200,000 in remuneration from appropriated state funds. Only compensation, as defined in s. 121.021(22), provided to a Florida College System institution president may be used in calculating benefits under chapter 121.

Section 19. Section 1012.886, Florida Statutes, is created to read:

1012.886 Remuneration of Florida College System institution administrative employees; limitations.—

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

(a) "Appropriated state funds" means funds appropriated from the General Revenue Fund or funds appropriated from state trust funds.

(b) "Cash-equivalent compensation" means any benefit that may be assigned an equivalent cash value.

(c) "Remuneration" means salary, bonuses, and cash-equivalent compensation paid to a Florida College System institution administrative employee by his or her employer for work performed, excluding health insurance benefits and

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980 retirement benefits.

981 (2) LIMITATION ON COMPENSATION.—Notwithstanding any other
982 law, resolution, or rule to the contrary, a Florida College
983 System institution administrative employee may not receive more
984 than \$200,000 in remuneration annually from appropriated state
985 funds. Only compensation, as such term is defined in s.
986 121.021(22), provided to a Florida College System institution
987 administrative employee may be used in calculating benefits
988 under chapter 121.

989 (3) EXCEPTIONS.—This section does not prohibit any party
990 from providing cash or cash-equivalent compensation from funds
991 that are not appropriated state funds to a Florida College
992 System institution administrative employee in excess of the
993 limit in subsection (2). If a party is unable or unwilling to
994 fulfill an obligation to provide cash or cash-equivalent
995 compensation to a Florida College System institution
996 administrative employee as permitted under this subsection,
997 appropriated state funds may not be used to fulfill such
998 obligation.

999 (4) EXPIRATION.—This section expires June 30, 2012.

1000 Section 20. Subsection (4) is added to section 1012.975,
1001 Florida Statutes, to read:

1002 1012.975 Remuneration of state university presidents;
1003 limitations.—

1004 (4) LIMITATION.—Notwithstanding the provisions of this
1005 section, for the 2011-2012 fiscal year, a state university
1006 president may not receive more than \$200,000 in remuneration
1007 from public funds. Only compensation, as defined in s.

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1008 121.021(22), provided to a state university president may be
 1009 used in calculating benefits under chapter 121.

1010 Section 21. Section 1012.976, Florida Statutes, is created
 1011 to read:

1012 1012.976 Remuneration of state university administrative
 1013 employees; limitations.-

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

1015 (a) "Appropriated state funds" means funds appropriated
 1016 from the General Revenue Fund or funds appropriated from state
 1017 trust funds.

1018 (b) "Cash-equivalent compensation" means any benefit that
 1019 may be assigned an equivalent cash value.

1020 (c) "Remuneration" means salary, bonuses, and cash-
 1021 equivalent compensation paid to a state university
 1022 administrative employee by his or her employer for work
 1023 performed, excluding health insurance benefits and retirement
 1024 benefits.

1025 (2) LIMITATION ON COMPENSATION.-Notwithstanding any other
 1026 law, resolution, or rule to the contrary, a state university
 1027 administrative employee may not receive more than \$200,000 in
 1028 remuneration annually from appropriated state funds. Only
 1029 compensation, as such term is defined in s. 121.021(22),
 1030 provided to a state university administrative employee may be
 1031 used in calculating benefits under chapter 121.

1032 (3) EXCEPTIONS.-This section does not prohibit any party
 1033 from providing cash or cash-equivalent compensation from funds
 1034 that are not appropriated state funds to a state university
 1035 administrative employee in excess of the limit in subsection

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1036 | (2). If a party is unable or unwilling to fulfill an obligation
 1037 | to provide cash or cash-equivalent compensation to a state
 1038 | university administrative employee as permitted under this
 1039 | subsection, appropriated state funds may not be used to fulfill
 1040 | such obligation. This section does not apply to university
 1041 | medical school faculty or staff.

1042 | (4) EXPIRATION.—This section expires June 30, 2012.
 1043 | Section 22. Subsection (12) of section 1013.33, Florida
 1044 | Statutes, is amended to read:

1045 | 1013.33 Coordination of planning with local governing
 1046 | bodies.—

1047 | (12) As early in the design phase as feasible and
 1048 | consistent with an interlocal agreement entered pursuant to
 1049 | subsections (2)-(8), but no later than 90 days before commencing
 1050 | construction, the district school board shall in writing request
 1051 | a determination of consistency with the local government's
 1052 | comprehensive plan. The local governing body that regulates the
 1053 | use of land shall determine, in writing within 45 days after
 1054 | receiving the necessary information and a school board's request
 1055 | for a determination, whether a proposed educational facility is
 1056 | consistent with the local comprehensive plan and consistent with
 1057 | local land development regulations. If the determination is
 1058 | affirmative, school construction may commence and further local
 1059 | government approvals are not required, except as provided in
 1060 | this section. Failure of the local governing body to make a
 1061 | determination in writing within 90 days after a district school
 1062 | board's request for a determination of consistency shall be
 1063 | considered an approval of the district school board's

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application. Campus master plans and development agreements must comply with the provisions of s. ss. 1013.30 and 1013.63.

Section 23. Section 1013.63, Florida Statutes, is repealed.

Section 24. (1) The Department of Education shall work with the College Center for Library Automation (CCLA) to transfer the K-12 public school bibliographic database in standard library data format to the CCLA for inclusion in its online discovery tool product and make the database publicly searchable by school district students, staff, and parents no later than September 1, 2011. The department shall also develop an ongoing process to provide for the electronic updating of school district library holdings data to the CCLA in a manner that will ensure that the public school bibliographic database and searchable catalog remains current.

(2) The Florida Center for Library Automation (FCLA) and the College Center for Library Automation (CCLA) shall develop and submit a plan by December 1, 2011, to the Executive Office of the Governor and to the chairs of the appropriations committees of the Senate and the House of Representatives for establishing a single postsecondary education union catalog, which must include the combined holdings and electronic resources of all the state universities and institutions in the Florida College System, and that allows a user to search these holdings and electronic resources by either an individual state university or institution in the Florida College System, selected state universities or institutions in the Florida College System, or all state universities and institutions in

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1092 | the Florida College System. The plan must also include the
 1093 | projected costs for the development and ongoing maintenance of
 1094 | the postsecondary education union catalog; projected cost
 1095 | savings resulting from the FCLA and CCLA no longer being
 1096 | required to maintain separate online discovery tool products and
 1097 | associated resources; and timeline and implementation strategies
 1098 | for making the postsecondary education union catalog available
 1099 | for use.

1100 | (3) By January 1, 2012, the Task Force on the Future of
 1101 | Academic Libraries in Florida shall develop and submit a plan to
 1102 | the Executive Office of the Governor and to the chairs of the
 1103 | appropriations committees of the Senate and the House of
 1104 | Representatives that describes the establishment of a joint
 1105 | library technology organizational structure that will meet the
 1106 | needs of academic libraries in both the Florida College System
 1107 | and the State University System in a manner that must be more
 1108 | cost effective than the current organizational structure that
 1109 | includes the Florida Center for Library Automation (FCLA) and
 1110 | the College Center for Library Automation (CCLA). The plan must
 1111 | include the recommended governance and reporting structure,
 1112 | staffing, funding, and duties and responsibilities of the joint
 1113 | library technology organizational structure and provide
 1114 | recommendations for any substantive and fiscal changes needed to
 1115 | establish and fund the organizational structure.

1116 | Section 25. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5301 PCB HCAS 11-01 Agency for Persons with Disabilities

SPONSOR(S): Health Care Appropriations Subcommittee, Hudson

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	11 Y, 4 N	Perritti	Pridgeon
1) Appropriations Committee		Perritti <i>MPK</i>	Leznoff <i>JL</i>

SUMMARY ANALYSIS

The bill makes statutory changes to conform to decisions made in the House proposed General Appropriations Act (GAA) for Fiscal Year 2011-12 relating to the Agency for Persons with Disabilities. Specifically the bill:

- Amends section 393.0661, Florida Statutes, to specify certain rate reductions to the geographic differential given to providers of residential habilitation services to persons with developmental disabilities in Miami-Dade, Broward, Palm Beach, and Monroe Counties.
- Amends section 393.0661, Florida Statutes, to require the payment of a uniform reimbursement rate to all providers of companion care services.

The House proposed GAA for Fiscal Year 2011-12 reduces recurring general revenue expenditures by approximately \$16.3 million as a result of revising companion care rates to a uniform rate and reducing geographic differential residential rehabilitation rates.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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

APD contractors provide an array of services through the Home and Community Based Waiver. Home and Community-Based Services Waivers programs are the federally approved Medicaid programs authorized by Title XIX of the Social Security Act, Section 1915(c) that provide services in the home for persons who would otherwise require institutional care in a hospital, nursing facility, or intermediate care facility. As of March 2011, 30,033 individuals with developmental disability were served under the Home and Community-Based Services Waiver.

The bill will impact providers under the Home and Community Based Waiver who receive a geographic differential rate for residential habilitation services and agency providers of companion care services.

Geographic Differential Rate for Residential Habilitation Services

Residential habilitation services provide supervision and specific training activities that assist a person to acquire, maintain or improve skills related to activities of daily living. Individuals with challenging behavioral disorders may require more intense levels of residential habilitation services.

Currently, there is a geographic differential rate for residential habilitation services in Miami-Dade, Broward, and Palm Beach Counties of 7.5 percent.⁴ In addition, Monroe County has a geographic differential rate of 20 percent.⁵ The bill will reduce the geographic differential rate for residential habilitation services for Miami-Dade, Broward, Palm Beach and Monroe Counties to 3.5 percent.

Companion Care Services Provider Rate

Companion care services consist of nonmedical care, supervision, and goal-oriented activities provided to an adult when the caregiver is unavailable.

The current rate for companion care services for agency providers is higher than the rate for independent providers that do not have employees. The bill provides that APD must pay a uniform reimbursement rate to all providers of companion care services that will be set by the agency. Agency provider rates would be adjusted to be more uniform with independent provider rates. To offset the reduction agency providers may reduce services in the following areas: behavior analysis, companion, dietitian services, in home support, private duty nursing, residential habilitation, residential nursing, and respite, skilled nursing, specialized mental health, supported employment, and supported living. The bill authorizes APD to seek federal approval to amend current waivers in order to comply with this provision.

¹ s. 20.197, F.S.

² s. 393.063(9), F.S.

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

⁴ s. 393.0661(4), F.S.

⁵ s. 393.0661(f), F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 393.0661, F.S., related to Geographic Rates and Companion Services Rates.

Section 2. Amends s. 393.0661, F.S., provides the bill is effective July 1, 2011.

Section 3. Provides the bill is effective July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The following issues are included in the House proposed GAA for FY 2011-12:

FY 2011-12

Agency for Persons with Disabilities
Geographic Differential Rate for
Residential Habilitation Services

General Revenue	(1,287,000)
Operations and Maintenance Trust Fund	<u>(1,634,017)</u>
	(2,921,017)

Companion Care Services Provider
Rate

General Revenue	(14,978,830)
Operations and Maintenance Trust Fund	<u>(19,017,606)</u>
	(33,996,436)

NET REDUCTION (36,917,453)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The geographic differential rate for providers of residential habilitations services in Miami-Dade, Broward and Palm Beach Counties will be reduced from 7.5 percent to 3.5 percent. The geographic differential rate for providers of residential habilitations services in Monroe County will be reduced from 20.0 percent to 3.5 percent.

Companion care services rates will be adjusted to be more uniform between agency providers and individual providers. Current service rates for agency providers are higher than service rates for independent providers.

D. FISCAL COMMENTS:

The proposed change to the Companion Care Service Provider Rate will have an annualized savings of \$11,332,137 with \$4,992,939 in state general revenue savings in Fiscal Year 2012-13.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
An act relating to the Agency for Persons with
Disabilities; amending s. 393.0661, F.S.; reducing the
geographic differentials for residential habilitation
services in certain counties; specifying that the agency
shall pay a uniform reimbursement rate to all providers of
companion care services and authorizing the agency to seek
federal approval to amend current waivers to comply with
that requirement; providing an effective date.

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

Section 1. Subsections (4) and (5) of section 393.0661,
Florida Statutes, are amended, present subsection (8) is
renumbered as subsection (9), and a new subsection (8) is added
to that section, to read:

393.0661 Home and community-based services delivery
system; comprehensive redesign.—The Legislature finds that the
home and community-based services delivery system for persons
with developmental disabilities and the availability of
appropriated funds are two of the critical elements in making
services available. Therefore, it is the intent of the
Legislature that the Agency for Persons with Disabilities shall
develop and implement a comprehensive redesign of the system.

(4) The geographic differential for Miami-Dade, Broward,
and Palm Beach Counties for residential habilitation services
shall be 3.5 ~~7.5~~ percent.

(5) The geographic differential for Monroe County for



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2011

29 residential habilitation services shall be 3.5 ~~20~~ percent.
 30 (8) Beginning July 1, 2011, the agency shall pay a uniform
 31 reimbursement rate to all providers of companion care services.
 32 The rate shall be set by the agency. The agency is authorized to
 33 seek federal approval to amend current waivers in order to
 34 comply with this subsection.
 35 Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5303 PCB HCAS 11-02 Biomedical Research
SPONSOR(S): Health Care Appropriations Subcommittee, Hudson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	10 Y, 5 N	Clark	Pridgeon
1) Appropriations Committee		Clark 	Leznoff 

SUMMARY ANALYSIS

The bill makes statutory changes to conform to the funding decisions included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2011-2012.

The bill repeals provisions of statute related to the funding of the biomedical research programs for the James and Esther King Biomedical Research Program, the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program, and the H. Lee Moffitt Cancer Center and Research Institute from the state cigarette surcharge revenues collected pursuant to s. 210.011, Florida Statutes. This statute imposes a surcharge of \$1 per pack of cigarettes and is deposited into the Health Care Trust Fund.

During Fiscal Year 2010-11, these programs were appropriated \$50 million from the state cigarette surcharge revenues.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Cigarette Surcharge

The "Protecting Florida's Health Act" was passed during the 2009 legislative session. This bill levied a surcharge on the sale, receipt, purchase, possession, consumption, handling, distribution, and use of cigarettes in Florida.¹ The surcharge imposed on a standard 20-cigarette pack is \$1; and a proportionate surcharge is imposed on other sizes and quantities of cigarettes. The revenue produced from the cigarette surcharge is required to be deposited into the Health Care Trust Fund within the Agency for Health Care Administration.

Biomedical Research

In Fiscal Year 2009-10, s. 215.5602(12), F.S., was created and required 5 percent of the cigarette surcharge revenue to be deposited into the Health Care Trust Fund and reserved for research of tobacco-related or cancer-related illnesses; however the sum of revenue reserved was not to exceed \$50 million. Approximately 2.5 percent, not to exceed \$25 million, of the revenue deposited into the Health Care Trust Fund was required to be transferred to the Biomedical Research Trust Fund within the Department of Health for the James and Esther King Biomedical Research Program.

In Fiscal Year 2010-11, s. 215.5602(12), F.S., was amended to require \$50 million from the cigarette surcharge revenue deposited into the Health Care Trust Fund be transferred to the Biomedical Research Trust Fund within the Department of Health for the James and Esther King Biomedical Research Program, the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program, and the H. Lee Moffitt Cancer Center and Research Institute.

James and Esther King Biomedical Research Program

According to s. 215.5602, F.S., the purpose of the James and Esther King Biomedical Research program is to provide an annual and perpetual source of funding in order to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease. The goals of the program are to:

- Improve the health of Floridians by researching better prevention, diagnoses, treatments, and cures for tobacco-related diseases;
- Expand the foundation of biomedical knowledge related to the prevention, diagnosis, treatment, and cure of related to tobacco use;
- Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers;
- Increase the state's per capita funding for research by undertaking new initiatives in public health and biomedical research that will attract additional funding from outside the state; and
- Stimulate economic activity in the state in areas related to biomedical research.²

During Fiscal Year 2010-11, the program received \$20 million from the state cigarette surcharge plus \$2.2 million of interest earnings from the Lawton Chiles Endowment Fund, established with monies received from Florida's legal settlement with the tobacco industry in 1998. The Program is managed by the Florida Department of Health and an eleven-member Biomedical Research Advisory Council.³

¹ s. 210.011(1), F.S.

² s. 215.5602(1), F.S.

³ s. 215.5602(3), F.S.

The William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program

According to s. 381.922, F.S., the purpose of the Bankhead-Coley program is to advance progress towards cures for cancer through grants awarded through a peer-reviewed, competitive process. The goals of the program are to:

- Expand the cancer research capacity in Florida;
- Increase participation in cancer clinical trials networks; and
- Reduce the impact of cancer on disparate groups.

During Fiscal Year 2010-11, the program received \$20 million from the state cigarette surcharge. The Program is managed by the Florida Department of Health and the eleven-member Biomedical Research Advisory Council.

H. Lee Moffitt Cancer Center and Research Institute

According to s. 1004.43, F.S., the H. Lee Moffitt Cancer Center and Research Institute is a statewide resource for basic and clinical research and multidisciplinary approaches to patient care. During Fiscal Year 2010-11, the program received \$10 million from the state cigarette surcharge. Current law establishes the Moffitt Center at the University of South Florida.⁴ A not-for-profit corporation governs the Moffitt Center in accordance with an agreement with the State Board of Education. A board of directors manages the not-for-profit corporation, and a chief executive officer administers the Moffitt Center.

Currently, s. 215.5602, F.S. provides that beginning in the 2010-2011 fiscal year and thereafter, \$50 million from the revenue deposited into the Health Care Trust Fund must be reserved for research of tobacco related or cancer related illnesses. Of the revenue deposited into the Health Care Trust Fund, \$50 million must be transferred to the Biomedical Research Trust Fund within the Department of Health. This section of statute provides that subject to annual appropriations in the general appropriations act, \$20 million will be appropriated to the James and Esther King Biomedical Research Program, \$20 million will be appropriated to the Bankhead-Coley Program and \$10 million shall be appropriated to the H. Lee Moffitt Cancer Center and Research Institute.

This PCB repeals portions of statute which requires the transfer of \$50 million to the Biomedical Research Trust Fund from the state cigarette surcharge for research of tobacco related or cancer related illnesses. The bill also repeals provisions in statute establishing the funding for the James and Esther King Biomedical Research Program, the William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program, and the H. Lee Moffitt Cancer Center and Research Institute from proceeds from the state cigarette surcharge.

B. SECTION DIRECTORY:

Section 1. Amends s. 215.5602, F.S., relating to James and Esther King Biomedical Research Program.

Section 2. Amends s. 381.922, F.S., relating to William G. “Bill” Bankhead, Jr., and David Coley Cancer Research Program.

Section 3. Provides effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

⁴ s. 1004.43, F.S.

1. Revenues:

Revenues from the state cigarette surcharge will still be received; however, they will not be redirected to fund biomedical research programs. The funds will be used as state match for the state's Medicaid program.

2. Expenditures:

Repeal of the funding provisions in statute will result in no state cigarette surcharge funds being appropriated to the James and Esther King Biomedical Research Program, the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program, or the H. Lee Moffitt Cancer Center and Research Center.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to biomedical research; amending s.
 215.5602, F.S.; deleting provisions that specify amounts
 of revenue to be appropriated to the James and Esther King
 Biomedical Research Program, the William G. "Bill"
 Bankhead, Jr., and David Coley Cancer Research Program,
 and the H. Lee Moffitt Cancer Center and Research
 Institute; amending s. 381.922, F.S.; conforming a
 reference; providing an effective date.

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

Section 1. Subsection (12) of section 215.5602, Florida
 Statutes, is amended to read:

215.5602 James and Esther King Biomedical Research
 Program.—

(12) From funds appropriated to accomplish the goals of
 this section, up to \$250,000 shall be available for the
 operating costs of the Florida Center for Universal Research to
 Eradicate Disease. ~~Beginning in the 2010-2011 fiscal year and~~
~~thereafter, \$50 million from the revenue deposited into the~~
~~Health Care Trust Fund pursuant to ss. 210.011(9) and 210.276(7)~~
~~shall be reserved for research of tobacco-related or cancer-~~
~~related illnesses. Of the revenue deposited in the Health Care~~
~~Trust Fund pursuant to this section, \$50 million shall be~~
~~transferred to the Biomedical Research Trust Fund within the~~
~~Department of Health. Subject to annual appropriations in the~~
~~General Appropriations Act, \$20 million shall be appropriated to~~

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~~the James and Esther King Biomedical Research Program, \$20 million shall be appropriated to the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program created under s. 381.922, and \$10 million shall be appropriated to the H. Lee Moffitt Cancer Center and Research Institute established under s. 1004.43.~~

Section 2. Subsection (5) of section 381.922, Florida Statutes, is amended to read:

381.922 William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program.—

(5) ~~The William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program is funded pursuant to s. 215.5602(12).~~ Funds appropriated for the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program shall be distributed pursuant to this section to provide grants to researchers seeking cures for cancer and cancer-related illnesses, with emphasis given to the goals enumerated in this section. From the total funds appropriated, an amount of up to 10 percent may be used for administrative expenses. From funds appropriated to accomplish the goals of this section, up to \$250,000 shall be available for the operating costs of the Florida Center for Universal Research to Eradicate Disease.



Section 3. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5305 PCB HCAS 11-03 Correctional Medical Authority

SPONSOR(S): Health Care Appropriations Subcommittee, Hudson

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	12 Y, 3 N	Clark	Pridgeon
1) Appropriations Committee		Clark 	Leznoff 

SUMMARY ANALYSIS

The bill makes statutory changes to conform to the funding decisions included in the House proposed General Appropriations Act (GAA) for Fiscal Year 2011-2012.

Specifically, the bill repeals sections of statute creating and establishing the duties of the Correctional Medical Authority which monitors the quality of the physical and mental health care services provided to inmates in Florida's correctional institutions.

The House proposed GAA for FY 2011-2012 reduces recurring general revenue expenditures by \$717,680 and 6.0 FTE as a result of eliminating the Correctional Medical Authority.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Correctional Medical Authority (CMA) was created in 1986.¹ The CMA is housed within the Department of Health (DOH) for administrative purposes but is not subject to the control or supervision of DOH or the Department of Corrections.²

The governing board of the authority is composed of nine persons appointed by the Governor subject to confirmation by the Senate. Members of the CMA are not compensated for performance of their duties but are paid expenses incurred while engaged in the performance of such duties pursuant to s. 112.061, F.S.³

According to section 945.603, F.S.:

The purpose of the authority is to assist in the delivery of health care services for inmates in the Department of Corrections by advising the Secretary of Corrections on the professional conduct of primary, convalescent, dental, and mental health care and the management of costs consistent with quality care, by advising the Governor and the Legislature on the status of the Department of Corrections' health care delivery system, and by assuring that adequate standards of physical and mental health care for inmates are maintained at all Department of Corrections institutions.

Pursuant to this section, the CMA is authorized to:

1. Review and advise the Secretary of Corrections on cost containment measures the Department of Corrections could implement.
2. Review and make recommendations regarding health care for the delivery of health care services including, but not limited to, acute hospital-based services and facilities, primary and tertiary care services, ancillary and clinical services, dental services, mental health services, intake and screening services, medical transportation services, and the use of nurse practitioner and physician assistant personnel to act as physician extenders as these relate to inmates in the Department of Corrections.
3. Develop and recommend to the Governor and the Legislature an annual budget for all or part of the operation of the State of Florida prison health care system.
4. Review and advise the Secretary of Corrections on contracts between the Department of Corrections and third parties for quality management programs.
5. Review and advise the Secretary of Corrections on minimum standards needed to ensure that an adequate physical and mental health care delivery system is maintained by the Department of Corrections.
6. Review and advise the Secretary of Corrections on the sufficiency, adequacy, and effectiveness of the Department of Corrections' Office of Health Services' quality management program.
7. Review and advise the Secretary of Corrections on the projected medical needs of the inmate population and the types of programs and resources required to meet such needs.
8. Review and advise the Secretary of Corrections on the adequacy of preservice, inservice, and continuing medical education programs for all health care personnel and, if necessary, recommend changes to such programs within the Department of Corrections.
9. Identify and recommend to the Secretary of Corrections the professional incentives required to attract and retain qualified professional health care staff within the prison health care system.
10. Coordinate the development of prospective payment arrangements as described in s. 408.50 when appropriate for the acquisition of inmate health care services.

¹ Ch. 86-183, L.O.F.

² s. 945.602, F.S.

³ Id.

11. Review the Department of Corrections' health services plan and advise the Secretary of Corrections on its implementation.
12. Sue and be sued in its own name and plead and be impleaded.
13. Make and execute agreements of lease, contracts, deeds, mortgages, notes, and other instruments necessary or convenient in the exercise of its powers and functions under this act.
14. Employ or contract with health care providers, medical personnel, management consultants, consulting engineers, architects, surveyors, attorneys, accountants, financial experts, and such other employees, entities, or agents as may be necessary in its judgment to carry out the mandates of the Correctional Medical Authority and fix their compensation.
15. Recommend to the Legislature such performance and financial audits of the Office of Health Services in the Department of Corrections as the authority considers advisable.

Section 945.6031, F.S. requires the CMA to submit reports to the Governor and Legislature on the status of DOC's health care delivery system.⁴ This section also requires CMA to conduct surveys of the physical and mental health care system at each correctional institution and report the survey findings for each institution to the Secretary of Corrections. A process by which DOC must respond to such surveys is set forth in this section.

Sections 945.6035 and 945.6036, F.S.; sets forth a process to resolve any disputes which arise between the authority and the department regarding the physical and mental health care of inmates.

The PCB repeals sections of statute which establish and set forth the duties of the Correctional Medical Authority. The PCB also removes references to the CMA from various sections of statute.

B. SECTION DIRECTORY:

Section 1. Amends s. 381.90, F.S. relating to Health Information Systems Council; legislative intent; creation; appointment; duties.

Section 2. Amends s. 766.101, F.S. relating to medical review committee.

Section 3. Amends s. 944.8041, F.S. relating to elderly offenders; annual review.

Section 4. Amends s. 945.35, F.S. relating to requirement for education on human immunodeficiency virus, acquired immune deficiency syndrome, and other communicable diseases.

Section 5. Repeals s. 945.601, F.S. relating to Correctional Medical Authority.

Section 6. Repeals s. 945.602, F.S. relating to State of Florida Correctional Medical Authority; creation; members.

Section 7. Repeals s. 945.603, F.S. relating to powers and duties of authority.

Section 8. Repeals s. 945.6031, F.S. relating to required reports and surveys.

Section 9. Repeals s. 945.6032, F.S. relating to quality management program requirements.

Section 10. Amends s. 945.6034, F.S. relating to minimum health care standards

Section 11. Repeals s. 945.6035, F.S. relating to dispute resolution.

Section 12. Repeals s. 945.6036, F.S. relating to enforcement.

Section 13. Amends s. 951.27, F.S. relating to blood tests of inmates.

⁴ <http://www.doh.state.fl.us/cma/reports/index.html>

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Repeal of the Correctional Medical Authority will result in a reduction of 6.0 FTE and a General Revenue savings of \$717,680.

6.0 FTE with Salary Rate of \$376,338

Salaries/Benefits \$493,580

Expenses \$168,775

OPS \$52,145

OCO \$168

Contracted Services \$1,491

Transfer DMS/HR Svs \$1,521

TOTAL \$717,680

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appeal to affect county or municipal government.

2. Other:

Costello litigation: In 1972, a complaint was filed in the U.S. District Court of the Middle District of Florida, by inmates named Michael Costello and Roberto Celestineo. This is commonly referred to

as the *Costello v. Wainwright* case. The suit alleged violations of the Eighth and Fourteenth Amendments due to inadequate physical and mental health care by what was then the Division of Corrections within the Department of Health and Human Services. As a result of the case, the federal court oversaw the delivery of inmate health care in the Florida correctional system from 1972 to 1993.

In March 1993, Judge Susan Black signed an order closing the *Costello* lawsuit and relinquishing oversight of Florida's prison health care system. As part of the order, the judge stated the following:

Federal supervision of state functions is a difficult feature of federalism. The federal courts have struggled for years to disentangle themselves from state functions without jeopardizing resolution of the basic constitutional issues achieved by the litigation. The CMA is an innovative solution to the recurring problem of institutionalizing the changes effected by prison litigation, thereby permitting termination of federal involvement. The CMA provides independent, objective verification of the Department's activities and actions.

Florida's creation of an independent state entity to address potential problems in the delivery of physical and mental health care, as well as in overcrowding, made it possible two years ago for this Court to relinquish the prison monitoring and oversight function it had performed for the last twenty years. See Order Relinquishing Physical Health Care Survey and Monitoring Responsibilities to the Florida Correctional Medical Authority, entered on December 11, 1990. Furthermore, the CMA's statutory responsibility to report to the Governor, the Cabinet, and the Florida Legislature gives it a moral and legal authority which, as long as it is appropriately funded and staffed, should make future involvement of the federal courts unnecessary in the Florida correctional system.

It is exemplary that a major state such as Florida, with its significant prison population, would take such a creative step. Without innovations such as the CMA, there is little hope for satisfactory withdrawal of federal supervision.

Celestineo v. Singletary 147 F.R.D. 258, 263 (M.D.Fla.,1993)

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled
 An act relating to the Correctional Medical Authority;
 repealing ss. 945.601, 945.602, 945.603, 945.6031,
 945.6032, 945.6035, and 945.6036, F.S., relating to the
 Correctional Medical Authority definitions, creation,
 powers, reports and surveys, quality management, dispute
 resolution, and enforcement, respectively; amending ss.
 381.90, 766.101, 944.8041, 945.35, 945.6034, and 951.27,
 F.S.; conforming provisions to changes made by the act;
 providing an effective date.

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

Section 1. Sections 945.601, 945.602, 945.603, 945.6031,
945.6032, 945.6035, and 945.6036, Florida Statutes, are
repealed.

Section 2. Subsection (3) of section 381.90, Florida
 Statutes, is amended to read:

381.90 Health Information Systems Council; legislative
 intent; creation, appointment, duties.—

(3) The council shall be composed of the following members
 or their senior executive-level designees:

- (a) The State Surgeon General;
- (b) The Executive Director of the Department of Veterans'
 Affairs;
- (c) The Secretary of Children and Family Services;
- (d) The Secretary of Health Care Administration;
- (e) The Secretary of Corrections;

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(f) The Attorney General;
~~(g) The Executive Director of the Correctional Medical Authority;~~
(g)~~(h)~~ Two members representing county health departments, one from a small county and one from a large county, appointed by the Governor;
(h)~~(i)~~ A representative from the Florida Association of Counties;
(i)~~(j)~~ The Chief Financial Officer;
(j)~~(k)~~ A representative from the Florida Healthy Kids Corporation;
(k)~~(l)~~ A representative from a school of public health chosen by the Commissioner of Education;
(l)~~(m)~~ The Commissioner of Education;
(m)~~(n)~~ The Secretary of Elderly Affairs; and
(n)~~(o)~~ The Secretary of Juvenile Justice.

Representatives of the Federal Government may serve without voting rights.

Section 3. Paragraph (a) of subsection (1) of section 766.101, Florida Statutes, is amended to read:

766.101 Medical review committee, immunity from liability.—

(1) As used in this section:

(a) The term "medical review committee" or "committee" means:

1.a. A committee of a hospital or ambulatory surgical center licensed under chapter 395 or a health maintenance

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organization certificated under part I of chapter 641;7

b. A committee of a physician-hospital organization, a provider-sponsored organization, or an integrated delivery system;7

c. A committee of a state or local professional society of health care providers;7

d. A committee of a medical staff of a licensed hospital or nursing home, provided the medical staff operates pursuant to written bylaws that have been approved by the governing board of the hospital or nursing home;7

e. A committee of the Department of Corrections ~~or the Correctional Medical Authority as created under s. 945.602,~~ or employees, agents, or consultants of ~~either the department; or the authority or both,~~

f. A committee of a professional service corporation formed under chapter 621 or a corporation organized under chapter 607 or chapter 617, which is formed and operated for the practice of medicine as defined in s. 458.305(3), and which has at least 25 health care providers who routinely provide health care services directly to patients;7

g. A committee of the Department of Children and Family Services which includes employees, agents, or consultants to the department as deemed necessary to provide peer review, utilization review, and mortality review of treatment services provided pursuant to chapters 394, 397, and 916;7

h. A committee of a mental health treatment facility licensed under chapter 394 or a community mental health center, as defined in s. 394.907, provided the quality assurance program

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operates pursuant to the guidelines which have been approved by the governing board of the agency;7

i. A committee of a substance abuse treatment and education prevention program licensed under chapter 397 provided the quality assurance program operates pursuant to the guidelines which have been approved by the governing board of the agency;7

j. A peer review or utilization review committee organized under chapter 440;7

k. A committee of the Department of Health, a county health department, healthy start coalition, or certified rural health network, when reviewing quality of care, or employees of these entities when reviewing mortality records;7 or

l. A continuous quality improvement committee of a pharmacy licensed pursuant to chapter 465,

which committee is formed to evaluate and improve the quality of health care rendered by providers of health service, to determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care, or that the cost of health care rendered was considered reasonable by the providers of professional health services in the area; or

2. A committee of an insurer, self-insurer, or joint underwriting association of medical malpractice insurance, or other persons conducting review under s. 766.106.

Section 4. Section 944.8041, Florida Statutes, is amended to read:

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944.8041 Elderly offenders; annual review.—For the purpose of providing information to the Legislature on elderly offenders within the correctional system, the department ~~and the Correctional Medical Authority~~ shall ~~each~~ submit annually a report on the status and treatment of elderly offenders in the state-administered and private state correctional systems and the department's geriatric facilities and dorms. ~~In order to adequately prepare the reports, the department and the Department of Management Services shall grant access to the Correctional Medical Authority that includes access to the facilities, offenders, and any information the agencies require to complete their reports.~~ The report review shall ~~also~~ include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States. The report ~~reports~~, with specific findings and recommendations for implementation, shall be submitted to the President of the Senate and the Speaker of the House of Representatives on or before December 31 of each year.

Section 5. Subsections (3) and (9) of section 945.35, Florida Statutes, are amended to read:

945.35 Requirement for education on human immunodeficiency virus, acquired immune deficiency syndrome, and other communicable diseases.—

(3) When there is evidence that an inmate, while in the custody of the department, has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder or other communicable disease, the department may begin a testing program which is consistent with

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guidelines of the Centers for Disease Control and Prevention ~~and~~
~~recommendations of the Correctional Medical Authority~~. For
 purposes of this subsection, "high-risk behavior" includes:

- (a) Sexual contact with any person.
- (b) An altercation involving exposure to body fluids.
- (c) The use of intravenous drugs.
- (d) Tattooing.
- (e) Any other activity medically known to transmit the
 virus.

(9) The department shall establish policies consistent
 with guidelines of the Centers for Disease Control and
 Prevention ~~and recommendations of the Correctional Medical~~
~~Authority~~ on the housing, physical contact, dining, recreation,
 and exercise hours or locations for inmates with
 immunodeficiency disorders as are medically indicated and
 consistent with the proper operation of its facilities.

Section 6. Subsections (2) and (3) of section 945.6034,
 Florida Statutes, are amended to read:

945.6034 Minimum health care standards.—

~~(2) The department shall submit all health care standards~~
~~to the authority for review prior to adoption. The authority~~
~~shall review all department health care standards to determine~~
~~whether they conform to the standard of care generally accepted~~
~~in the professional health community at large.~~

(2)(3) The department shall comply with all adopted
 department health care standards. Failure of the department to
 comply with the standards ~~may result in a dispute resolution~~
~~proceeding brought by the authority pursuant to s. 945.6035, but~~

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169 shall not create a cause of action for any third parties,
170 including inmates or former inmates.

171 Section 7. Subsection (1) of section 951.27, Florida
172 Statutes, is amended to read:

173 951.27 Blood tests of inmates.—

174 (1) Each county and each municipal detention facility
175 shall have a written procedure developed, in consultation with
176 the facility medical provider, establishing conditions under
177 which an inmate will be tested for infectious disease, including
178 human immunodeficiency virus pursuant to s. 775.0877, which
179 procedure is consistent with guidelines of the Centers for
180 Disease Control and Prevention ~~and recommendations of the~~
181 ~~Correctional Medical Authority~~. It is not unlawful for the
182 person receiving the test results to divulge the test results to
183 the sheriff or chief correctional officer.



184 Section 8. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5307 PCB HCAS 11-04 Department of Children and Family Services

SPONSOR(S): Health Care Appropriations Subcommittee, Hudson

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	10 Y, 3 N	Perritti	Pridgeon
1) Appropriations Committee		Perritti 	Leznoff 

SUMMARY ANALYSIS

The bill creates or amends several statutes to conform to decisions made in the House proposed General Appropriations Act (GAA) for Fiscal Year 2011-12

- The bill amends Section 409.1451, Florida Statutes, changing the maximum age of eligibility from 23 to 21 for independent living transition services and for the road-to-independence award for former foster children. Independent living transition services and the road-to-independence award provide services and a monthly stipend to assist former foster children in obtaining training and education. The House proposed GAA for Fiscal Year 2011-12 reduces \$8.1 million from General Revenue funds by changing the maximum age of eligibility from 23 to 21 for independent living services.
- The bill creates Section 415.1114, Florida Statutes, allowing the Department of Children and Family Services to transfer responsibilities for adult protective investigations to the sheriff of a county. In order to implement such a transfer, the department of Children and Family Services and the appropriate Sheriff's Office will enter into a contract for the provision of these services. The House proposed General Appropriations Act (GAA) for Fiscal Year 2011-12 proposes transferring adult protective investigations in Citrus County to the Citrus County Sheriff's Office. This will result in the reduction of 3.00 positions and the transfer of \$187,243 in funding to the Citrus County Sheriff's Office through a contract to provide adult protective investigations.

The effective date of the bill is July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Independent Living

The Independent Living Program provides services to youth in foster care and young adults who were formerly in foster care. The program is designed to assist youth in obtaining life skills and education necessary to become self-sufficient, live independently and maintain employment.

In Fiscal Year 2010-11, the Legislature appropriated \$29.9 million to the Independent Living Program within the Department of Children and Family Services. This includes \$8.5 million in federal funds from the Chafee Foster Care Independence Program and Education and Training Voucher funds, and \$21.4 million in state general revenue funds.

The largest component of Florida's Independent Living Program is the Road-to- Independence stipend, which provides money to assist young adults ages 18 to 23 who are in high school, seeking a GED, or pursuing a postsecondary education. Section 409.1451, Florida Statutes provides that the amount of each young adult's Road-to-Independence stipend must be based on their living and educational needs, but shall not exceed the amount earned by working 40 hours a week at a job paying the federal minimum wage. In Fiscal Year 2009-10, the maximum Road-to-Independence stipend was \$1,256 per month, or \$15,072 per year.

In addition to the Road-to- Independence stipend, former foster children receive case management services, life skills training, aftercare support and transitional services.

The federal government provides funding and requirements for independent living programs through the Chafee Act. The Chafee Act requires that states serve young adults from age 16 until they reach their 21st birthday and provides flexibility to continue providing Education and Training Vouchers until their 23rd birthday. Florida is one of five states that provide independent living services to you ages 13 or younger.¹ In Fiscal Year 2009-10 the department served 1,100 young adults age 21 and older.

The bill changes the maximum age of eligibility for Independent Living Transition Services from 23 to 21. The House proposed GAA for Fiscal Year 2011-12 reduces \$8.1 million from general revenue by changing the maximum age of eligibility from 23 to 21.

Adult Protective Investigations

The Adult Protective Services Program within the Department of Children and Family Services is charged with protecting vulnerable adults from being harmed (Chapter 415, Florida Statutes.). These adults may experience abuse, neglect, or exploitation by second parties or may fail to take care of themselves adequately. The Florida Abuse Hotline screens allegations of child and adult abuse/neglect to determine whether the information meets the criteria of an abuse report. If the criteria are met, a protective investigation is initiated to confirm whether or not there is evidence that abuse, neglect, or exploitation occurred; whether there is an immediate or long-term risk to the victim; and whether the victim needs additional services to safeguard his or her well-being.

The bill provides for the transfer of adult protection services from the Department to County Sheriffs if agreed to by the sheriff. This language is similar to provisions in s. 39.3065, F.S. which authorize the department to transfer child protective services to a sheriff's office. To implement the transfer, the Department of Children and Family Services and the appropriate Sheriff's Office will enter into a contract for the provision of these services. The House proposed General Appropriations Act (GAA) for

¹ "Comparisons to Other States and Funding Options for the Independent Living Program" Research Memorandum, February 2, 2011, Office of Program Policy Analysis and Government Accountability.

Fiscal Year 2011-12 proposes transferring adult protective investigations in Citrus County to the Citrus County Sheriff's Office. This will result in the reduction of 3.00 positions and the transfer of \$187,243 in funding to the Citrus County Sheriff's Office through contract with the department to provide adult protective investigations.

B. SECTION DIRECTORY:

Section 1. Amends s. 409.1451, F.S., related to independent living services.

Section 2. Creates s. 415.1114, F.S., related to adult protection investigations.

Section 3. Provides the bill is effective July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

	<u>FY 2011-12</u>
Department of Children and Families	
<u>Independent Living Program</u>	
General Revenue	(8,214,576)
Total	<u>(8,214,576)</u>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

County Sheriffs who assume adult protective investigation services will receive funding through a contract with the Department of Children and Families.

2. Expenditures:

County Sheriffs who assume adult protective investigation services from the department will expend contracted funds as necessary to provide these services.

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 authorizes but does not require sheriffs to assume responsibilities relating to adult protective investigations. A participating sheriff's office will receive state funding for the provision of these services upon entering into a contract with the Department of Children and Family Services.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Children and Families has sufficient rule-making authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 5307

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A bill to be entitled

An act relating to the Department of Children and Family Services; amending s. 409.1451, F.S.; revising the age up to which young adults are eligible for independent living services; creating s. 415.1114, F.S.; transferring the responsibility for adult protective investigations from the Department of Children and Family Services to county sheriffs' offices under certain circumstances; providing contract requirements for implementation of the transfer of responsibilities; providing conditions for funding and performance evaluation; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) and subsection (5) of section 409.1451, Florida Statutes, are amended to read:

409.1451 Independent living transition services.—

(2) ELIGIBILITY.—

(b) The department shall serve young adults who have reached 18 years of age but are not yet 21 ~~23~~ years of age and who were in foster care when they turned 18 years of age or, after reaching 16 years of age, were adopted from foster care or placed with a court-approved dependency guardian and have spent a minimum of 6 months in foster care within the 12 months immediately preceding such placement or adoption, by providing services pursuant to subsection (5). Young adults to be served must meet the eligibility requirements set forth for specific services in this section.

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29 (5) SERVICES FOR YOUNG ADULTS FORMERLY IN FOSTER CARE.—
30 Based on the availability of funds, the department shall provide
31 or arrange for the following services to young adults formerly
32 in foster care who meet the prescribed conditions and are
33 determined eligible by the department. The department, or a
34 community-based care lead agency when the agency is under
35 contract with the department to provide the services described
36 under this subsection, shall develop a plan to implement those
37 services. A plan shall be developed for each community-based
38 care service area in the state. Each plan that is developed by a
39 community-based care lead agency shall be submitted to the
40 department. Each plan shall include the number of young adults
41 to be served each month of the fiscal year and specify the
42 number of young adults who will reach 18 years of age who will
43 be eligible for the plan and the number of young adults who will
44 reach 21 ~~23~~ years of age and will be ineligible for the plan or
45 who are otherwise ineligible during each month of the fiscal
46 year; staffing requirements and all related costs to administer
47 the services and program; expenditures to or on behalf of the
48 eligible recipients; costs of services provided to young adults
49 through an approved plan for housing, transportation, and
50 employment; reconciliation of these expenses and any additional
51 related costs with the funds allocated for these services; and
52 an explanation of and a plan to resolve any shortages or
53 surpluses in order to end the fiscal year with a balanced
54 budget. The categories of services available to assist a young
55 adult formerly in foster care to achieve independence are:
56 (a) Aftercare support services.—

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1. Aftercare support services are available to assist young adults who were formerly in foster care in their efforts to continue to develop the skills and abilities necessary for independent living. The aftercare support services available include, but are not limited to, the following:

- a. Mentoring and tutoring.
- b. Mental health services and substance abuse counseling.
- c. Life skills classes, including credit management and preventive health activities.
- d. Parenting classes.
- e. Job and career skills training.
- f. Counselor consultations.
- g. Temporary financial assistance.
- h. Financial literacy skills training.

The specific services to be provided under this subparagraph shall be determined by an aftercare services assessment and may be provided by the department or through referrals in the community.

2. Temporary assistance provided to prevent homelessness shall be provided as expeditiously as possible and within the limitations defined by the department.

3. A young adult who has reached 18 years of age but is not yet 21 ~~23~~ years of age who leaves foster care at 18 years of age but who requests services prior to reaching 21 ~~23~~ years of age is eligible for such services.

(b) Road-to-Independence Program.—

1. The Road-to-Independence Program is intended to help

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85 eligible students who are former foster children in this state
86 to receive the educational and vocational training needed to
87 achieve independence. The amount of the award shall be based on
88 the living and educational needs of the young adult and may be
89 up to, but may not exceed, the amount of earnings that the
90 student would have been eligible to earn working a 40-hour-a-
91 week federal minimum wage job.

92 2. A young adult who has earned a standard high school
93 diploma or its equivalent as described in s. 1003.43 or s.
94 1003.435, has earned a special diploma or special certificate of
95 completion as described in s. 1003.438, or has reached 18 years
96 of age but is not yet 21 years of age is eligible for the
97 initial award, ~~and a young adult under 23 years of age is~~
98 ~~eligible~~ for renewal awards, if he or she:

99 a. Was a dependent child, under chapter 39, and was living
100 in licensed foster care or in subsidized independent living at
101 the time of his or her 18th birthday or is currently living in
102 licensed foster care or subsidized independent living, or, after
103 reaching the age of 16, was adopted from foster care or placed
104 with a court-approved dependency guardian and has spent a
105 minimum of 6 months in foster care immediately preceding such
106 placement or adoption;

107 b. Spent at least 6 months living in foster care before
108 reaching his or her 18th birthday;

109 c. Is a resident of this state as defined in s. 1009.40;
110 and

111 d. Meets one of the following qualifications:

112 (I) Has earned a standard high school diploma or its

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equivalent as described in s. 1003.43 or s. 1003.435, or has earned a special diploma or special certificate of completion as described in s. 1003.438, and has been admitted for full-time enrollment in an eligible postsecondary education institution as defined in s. 1009.533;

(II) Is enrolled full time in an accredited high school; or

(III) Is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent.

3. A young adult applying for the Road-to-Independence Program must apply for any other grants and scholarships for which he or she may qualify. The department shall assist the young adult in the application process and may use the federal financial aid grant process to determine the funding needs of the young adult.

4. An award shall be available to a young adult who is considered a full-time student or its equivalent by the educational institution in which he or she is enrolled, unless that young adult has a recognized disability preventing full-time attendance. The amount of the award, whether it is being used by a young adult working toward completion of a high school diploma or its equivalent or working toward completion of a postsecondary education program, shall be determined based on an assessment of the funding needs of the young adult. This assessment must consider the young adult's living and educational costs and other grants, scholarships, waivers, earnings, and other income to be received by the young adult. An

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award shall be available only to the extent that other grants and scholarships are not sufficient to meet the living and educational needs of the young adult, but an award may not be less than \$25 in order to maintain Medicaid eligibility for the young adult as provided in s. 409.903.

5. The amount of the award may be disregarded for purposes of determining the eligibility for, or the amount of, any other federal or federally supported assistance.

6.a. The department must advertise the criteria, application procedures, and availability of the program to:

(I) Children and young adults in, leaving, or formerly in foster care.

(II) Case managers.

(III) Guidance and family services counselors.

(IV) Principals or other relevant school administrators.

(V) Guardians ad litem.

(VI) Foster parents.

b. The department shall issue awards from the program for each young adult who meets all the requirements of the program to the extent funding is available.

c. An award shall be issued at the time the eligible student reaches 18 years of age.

d. A young adult who is eligible for the Road-to-Independence Program, transitional support services, or aftercare services and who so desires shall be allowed to reside with the licensed foster family or group care provider with whom he or she was residing at the time of attaining his or her 18th birthday or to reside in another licensed foster home or with a

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group care provider arranged by the department.

e. If the award recipient transfers from one eligible institution to another and continues to meet eligibility requirements, the award must be transferred with the recipient.

f. Funds awarded to any eligible young adult under this program are in addition to any other services or funds provided to the young adult by the department through transitional support services or aftercare services.

g. The department shall provide information concerning young adults receiving funding through the Road-to-Independence Program to the Department of Education for inclusion in the student financial assistance database, as provided in s. 1009.94.

h. Funds are intended to help eligible young adults who are former foster children in this state to receive the educational and vocational training needed to become independent and self-supporting. The funds shall be terminated when the young adult has attained one of four postsecondary goals under subsection (3) or reaches 21 ~~23~~ years of age, whichever occurs earlier. In order to initiate postsecondary education, to allow for a change in career goal, or to obtain additional skills in the same educational or vocational area, a young adult may earn no more than two diplomas, certificates, or credentials. A young adult attaining an associate of arts or associate of science degree shall be permitted to work toward completion of a bachelor of arts or a bachelor of science degree or an equivalent undergraduate degree. Road-to-Independence Program funds may not be used for education or training after a young

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197 adult has attained a bachelor of arts or a bachelor of science
198 degree or an equivalent undergraduate degree.

199 i. The department shall evaluate and renew each award
200 annually during the 90-day period before the young adult's
201 birthday. In order to be eligible for a renewal award for the
202 subsequent year, the young adult must:

203 (I) Complete the number of hours, or the equivalent
204 considered full time by the educational institution, unless that
205 young adult has a recognized disability preventing full-time
206 attendance, in the last academic year in which the young adult
207 earned an award, except for a young adult who meets the
208 requirements of s. 1009.41.

209 (II) Maintain appropriate progress as required by the
210 educational institution, except that, if the young adult's
211 progress is insufficient to renew the award at any time during
212 the eligibility period, the young adult may restore eligibility
213 by improving his or her progress to the required level.

214 j. Funds may be terminated during the interim between an
215 award and the evaluation for a renewal award if the department
216 determines that the award recipient is no longer enrolled in an
217 educational institution as defined in sub-subparagraph 2.d., or
218 is no longer a state resident. The department shall notify a
219 recipient who is terminated and inform the recipient of his or
220 her right to appeal.

221 k. An award recipient who does not qualify for a renewal
222 award or who chooses not to renew the award may subsequently
223 apply for reinstatement. An application for reinstatement must
224 be made before the young adult reaches 21 ~~23~~ years of age, and a

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225 student may not apply for reinstatement more than once. In order
226 to be eligible for reinstatement, the young adult must meet the
227 eligibility criteria and the criteria for award renewal for the
228 program.

229 (c) Transitional support services.—

230 1. In addition to any services provided through aftercare
231 support or the Road-to-Independence Program, a young adult
232 formerly in foster care may receive other appropriate short-term
233 funding and services, which may include financial, housing,
234 counseling, employment, education, mental health, disability,
235 and other services, if the young adult demonstrates that the
236 services are critical to the young adult's own efforts to
237 achieve self-sufficiency and to develop a personal support
238 system. The department or community-based care provider shall
239 work with the young adult in developing a joint transition plan
240 that is consistent with a needs assessment identifying the
241 specific need for transitional services to support the young
242 adult's own efforts. The young adult must have specific tasks to
243 complete or maintain included in the plan and be accountable for
244 the completion of or making progress towards the completion of
245 these tasks. If the young adult and the department or community-
246 based care provider cannot come to agreement regarding any part
247 of the plan, the young adult may access a grievance process to
248 its full extent in an effort to resolve the disagreement.

249 2. A young adult formerly in foster care is eligible to
250 apply for transitional support services if he or she has reached
251 18 years of age but is not yet 21 ~~23~~ years of age, was a
252 dependent child pursuant to chapter 39, was living in licensed

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foster care or in subsidized independent living at the time of his or her 18th birthday, and had spent at least 6 months living in foster care before that date.

3. If at any time the services are no longer critical to the young adult's own efforts to achieve self-sufficiency and to develop a personal support system, they shall be terminated.

(d) Payment of aftercare, Road-to-Independence Program, or transitional support funds.—

1. Payment of aftercare, Road-to-Independence Program, or transitional support funds shall be made directly to the recipient unless the recipient requests in writing to the community-based care lead agency, or the department, that the payments or a portion of the payments be made directly on the recipient's behalf in order to secure services such as housing, counseling, education, or employment training as part of the young adult's own efforts to achieve self-sufficiency.

2. After the completion of aftercare support services that satisfy the requirements of sub-subparagraph (a)1.h., payment of awards under the Road-to-Independence Program shall be made by direct deposit to the recipient, unless the recipient requests in writing to the community-based care lead agency or the department that:

a. The payments be made directly to the recipient by check or warrant;

b. The payments or a portion of the payments be made directly on the recipient's behalf to institutions the recipient is attending to maintain eligibility under this section; or

c. The payments be made on a two-party check to a business

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or landlord for a legitimate expense, whether reimbursed or not.
A legitimate expense for the purposes of this sub-subparagraph shall include automobile repair or maintenance expenses; educational, job, or training expenses; and costs incurred, except legal costs, fines, or penalties, when applying for or executing a rental agreement for the purposes of securing a home or residence.

3. The community-based care lead agency may purchase housing, transportation, or employment services to ensure the availability and affordability of specific transitional services thereby allowing an eligible young adult to utilize these services in lieu of receiving a direct payment. Prior to purchasing such services, the community-based care lead agency must have a plan approved by the department describing the services to be purchased, the rationale for purchasing the services, and a specific range of expenses for each service that is less than the cost of purchasing the service by an individual young adult. The plan must include a description of the transition of a young adult using these services into independence and a timeframe for achievement of independence. An eligible young adult who prefers a direct payment shall receive such payment. The plan must be reviewed annually and evaluated for cost-efficiency and for effectiveness in assisting young adults in achieving independence, preventing homelessness among young adults, and enabling young adults to earn a livable wage in a permanent employment situation.

4. The young adult who resides with a foster family may not be included as a child in calculating any licensing

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restriction on the number of children in the foster home.

(e) Appeals process.—

1. The Department of Children and Family Services shall adopt by rule a procedure by which a young adult may appeal an eligibility determination or the department's failure to provide aftercare, Road-to-Independence Program, or transitional support services, or the termination of such services, if such funds are available.

2. The procedure developed by the department must be readily available to young adults, must provide timely decisions, and must provide for an appeal to the Secretary of Children and Family Services. The decision of the secretary constitutes final agency action and is reviewable by the court as provided in s. 120.68.

Section 2. Section 415.1114, Florida Statutes, is created to read:

415.1114 Adult protective investigations; procedures; funding.—

(1) The department may transfer all responsibility for adult protective investigations to the sheriff of a county in which the abuse, neglect, or exploitation of a vulnerable adult in need of services is alleged to have occurred. Each sheriff is responsible for the provision of adult protective investigations in his or her county. An individual who provides these services must complete the training required of protective investigators employed by the department.

(2) In order to implement the transfer of responsibilities for adult protective investigations, the department and a

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sheriff's office shall enter into a contract for the provision of these services. Funding for the services shall be appropriated to the department and the department shall transfer to the respective sheriff's office funding for the investigative responsibilities assumed by the sheriffs, including any federal funds for which a provider is eligible and agrees to receive and that portion of general revenue funds currently designated to provide those services, including, but not limited to, funding for all investigative positions, training, associated equipment and furnishings, and other fixed capital items. The contract must specify whether the department will continue to perform any adult protective investigations during the initial year and specify if services are to be performed by employees of the department or by persons appointed by the sheriff.

(3) A sheriff's office that is providing adult protective investigations shall operate in accordance with the performance standards and outcome measures established by the Legislature for protective investigations conducted by the department.

(4) Funds for adult protective investigations must be identified in the annual appropriation made to the department, which shall award grants for the full amount identified in the General Appropriations Act to the respective sheriffs' offices. Notwithstanding the provisions of ss. 216.181(16)(b) and 216.351, the department may advance payments to a sheriff's office for adult protective investigations. Funds for adult protective investigations may not be integrated into the regular budget of the sheriff's office. Budgetary data and other data relating to the performance of adult protective investigations

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365 must be maintained separately from all other records of the
366 sheriff's office and reported to the department as specified in
367 the grant agreement.

368 (5) The program performance evaluation shall be based on
369 criteria mutually agreed upon by the respective sheriffs'
370 offices and the department. The program performance evaluation
371 shall be conducted by the adult protective services program in
372 collaboration with the respective sheriff's office.

373 Section 3. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5309 PCB HCAS 11-05 Domestic Violence

SPONSOR(S): Health Care Appropriations Subcommittee, Hudson

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	13 Y, 2 N	Perritti	Pridgeon
1) Appropriations Committee		Perritti <i>AVP</i>	Leznoff <i>YL</i>

SUMMARY ANALYSIS

The bill makes statutory changes to conform to decisions made in the House proposed General Appropriations Act (GAA) for Fiscal Year 2011-12.

The bill amends the duties and functions of the Department of Children and Families relating to the domestic violence program as follows:

- The bill limits the Department's role in certification of domestic violence shelters to initial certification, suspension and revocation. Ongoing certification of domestic violence shelters will be performed by the Florida Coalition Against Domestic Violence (FCADV).
- The Department will partner with the FCADA to coordinate and administer the statewide activities related to the prevention of domestic violence.
- The bill eliminates certification of batterers' intervention programs as well as the authority to collect fees by the Department associated with the certification program.

The House proposed GAA for Fiscal Year 2010-11 reduces recurring general revenue expenditures by \$372,054 and \$762,276 in recurring trust funds and 11.0 FTE as a result of limiting the Department of Children and Families role to the domestic violence program and eliminating the Department's authority to certify batterer's intervention programs. The House proposed GAA for Fiscal Year 2010-11 also provides for a transfer of \$307,331 in recurring general revenue and \$644,520 in recurring trust funds to the FCADV for the certification program.

The bill repeals the Department's authority to assess and collect fees for the certification of batterers' intervention programs. This is estimated to have a negative fiscal impact to the Domestic Violence Trust Fund of \$117,738, however this loss is offset since the Department will no longer be required to certify the batterers' intervention programs and positions associated with this function are eliminated.

The bill provides an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Domestic Violence Program

Background:

The Department of Children and Families (department) is currently responsible for the statewide Domestic Violence Program, which provides supervision, direction, coordination, and administration of activities related to domestic violence prevention and intervention services.¹

Domestic Violence centers are community-based agencies that provide services to the victims of domestic violence. Minimum services include temporary emergency shelter; information and referrals; safety planning, counseling and case management; a 24-hour emergency hotline; educational services for community awareness; assessment and appropriate referral of resident children; and training for law enforcement and other professionals.²

The 1978 Florida Legislature enacted the certification of domestic violence centers.³ The department is responsible for monitoring certification on an annual basis to ensure that the certified centers continue to remain in compliance with the standards for certification.⁴ In order for a domestic violence center to receive funding, it must be certified.⁵

The Florida Coalition Against Domestic Violence serves as the professional association for the state's 42 certified domestic violence centers and is the primary representative of battered women and their children in the public policy arena. Funding sources for the coalition have included the federal Family Violence Prevention Services Act, the federal Violence Against Women Act, membership fees, private donations, and funds from the state. The Coalition administers state and federal funding earmarked to the 42 domestic violence centers in the state. Effective January 1, 2004, the Coalition became responsible for approving or rejecting applications for funding and contracting with certified centers. In order to receive state funds, a center must obtain certification by the State of Florida; however, the issuance of certification does not obligate the coalition to provide state funding. The Coalition monitors the centers fiscally and programmatically under their new authority to administer funds. This review process also includes compliance with rule and law.

Effect of bill:

The bill maintains the department's operation of the domestic violence program, but requires the department to partner with the Florida Coalition Against Domestic Violence to perform specific duties currently performed by the department. Pursuant to the bill, the department retains the responsibility of establishing certification standards for centers; however, ongoing certification activities would be performed by the Coalition. The department retains the authority to deny, suspend or revoke certification of a center. The bill provides that certification will be renewed annually by the department upon a favorable monitoring report by the Coalition.

The bill retains the authorization for the department to enter and inspect the premises of domestic violence centers applying for an initial certification after July 1, 2011. The bill removes the authority of the department to enter and inspect existing certified domestic violence centers and gives this authority to the Coalition.

¹ s. 39.903(3), F.S.

² s. 39.905, F.S.

³ Ch. 78-281, L.O.F.

⁴ s. 39.903(1)(d), F.S.

⁵ s. 39.905(6)(a), F.S.

The department will be required to contract with the Coalition to implement, administer and evaluate all services provided by the certified domestic violence centers and will have the ability to approve or reject funding and to determine compliance with certification minimum standards. Further, the Coalition will be required to report to the Legislature information that is currently reported by the department regarding the status and number of domestic violence cases.

The bill requires information relating to domestic violence advocates who are employed or who volunteer at a domestic violence center and may claim a privilege to refuse to disclose confidential communications to be reported to the Coalition rather than the department. The bill also requires a new center applying for certification in an area where a center already exists to demonstrate the unmet need by the existing center and describe efforts to reduce duplication of services.

The bill codifies that the department will serve as the lead agency application of relevant federal grants and coordinator of the State Violence Against Women STOP Implementation Plan that promotes domestic violence awareness, increases services to victims and strengthens perpetrator accountability. The bill requires the department to contract with the Coalition for the administration of contracts and grants associated with federal grants as directed by the department.

Batterer Intervention Program

Background:

Section 741.32, F.S. provides for certification of batterers' intervention programs by the department. According to that section of statute, the "purpose of certification of programs is to uniformly and systematically standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence."

Section 741.325, F.S. requires the department to promulgate rules setting forth certain requirements of the programs. Several sections of statute authorize or require judges to order an offender to participate in a batterers' intervention program. For example, section 948.038, F.S. provides that as a condition of probation, community control, or any other court-ordered community supervision, a judge must, with certain exceptions, order a person convicted of an offense of domestic violence to attend and successfully complete a batterers' intervention program. This section requires that the batterers' intervention program must be a program certified under s. 741.32, and the offender must pay the cost of attending the program.

Section 741.327, F.S. authorizes the department to assess and collect fees for the certification of batterers' intervention programs as follows:

- An annual certification fee not to exceed \$300 for the certification and monitoring of batterers' intervention programs.
- An annual certification fee not to exceed \$200 for the certification and monitoring of assessment personnel providing direct services to persons who:
 - Are ordered by the court to participate in a domestic violence prevention program;
 - Are adjudged to have committed an act of domestic violence as defined in s. 741.28;
 - Have an injunction entered for protection against domestic violence; or
 - Agree to attend a program as part of a diversion or pretrial intervention agreement by the offender with the state attorney.

Further, this section requires all persons required by the court to attend domestic violence programs certified by the department to pay an additional \$30 fee for each program to the department. The fees assessed and collected under this section are deposited in the Executive Office of the Governor's Domestic Violence Trust Fund established in s. 741.01 and directed to the Department of Children and Family Services to fund the cost of certifying and monitoring batterers' intervention programs. The Department has indicated that the current fee collections do not support the cost associated with the certifying and monitoring batterers' intervention programs.

Effect of bill:

The bill eliminates the department's certification role in the Batterer's Intervention program. The bill amends s. 741.325, F.S. to require that batterers' intervention programs meet the requirements currently in law but removes the authority for the department to promulgate rules to establish these requirements. The bill retains references to batterers' intervention programs elsewhere in statute but eliminates references to the programs being certified by the department.

The bill provides an effective date of July 1, 2011.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 39.303, F.S., relating to duties and functions of the Department of Children and Family Services with respect to domestic violence, specifically regarding certification of newly established domestic violence centers.
- Section 2.** Amends 39.904, F.S., relating to reports to the Legislature on the status of domestic violence cases. Requiring FCADV to report to the Legislature and changing the changing the information required in the report.
- Section 3.** Amends 39.905, F.S., relating to requirements for certification as a domestic violence center. Requires the center to file with the FCADV
- Section 4.** Amends 381.006(18), F.S., relating to environmental health to conform to the new duties delegated to FCADV.
- Section 5.** Amends s. 381.0072, F.S., relating to food service protection to conform to the new duties delegate to FCADV to monitor domestic violence centers.
- Section 6.** Amends s. 741.281, F.S., relating to court ordered batter's intervention programs. Removes the requirement that it must be a certified program.
- Section 7.** Amends s. 741.2902, F.S., relating to the legislative intent with respect to judiciary's role in domestic violence.
- Section 8.** Amends s. 741.316, F.S., to assign the domestic violence fatality review teams to the FCADV and remove from the department.
- Section 9.** Amends s. 741.32, F.S., relating to batterers' intervention programs. Removes the requirement that the program be certified by the department.
- Section 10.** Amends s. 41.325, F.S., relating to requirements for batterers' intervention programs, to remove the department's responsibility to create guidelines and conforming to removal of certification.
- Section 11.** Repeals s. 741.327, F.S.
- Section 12.** Amends s. 948.038, F.S. relating to batterers' intervention programs, conforming to removal of certification.
- Section 13.** Provides the bill is effective July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The Domestic Violence Trust Fund revenues will be reduced by approximately \$117,738 in fees associated with cost of certifying and monitoring batterers' intervention programs however this loss is offset since the Department will no longer be required to certify the batterers' intervention programs.

2. Expenditures:

	<u>FTE</u>	<u>FY 2011-12</u>
<u>Domestic Violence Program</u>		
Positions	(9.00)	
General Revenue		(307,331)
Trust Funds		(644,520)
Total	(9.00)	(951,851)
<u>Batterer's Intervention Program</u>		
Positions	(2.00)	
General Revenue		(64,741)
Trust Funds		(117,738)
Total	(2.00)	(182,479)
Total	(11.00)	(1,134,330)
<u>Transfer to FCADV</u>		
Positions		
General Revenue		307,331
Trust Funds		644,520
Total		951,851

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
2 An act relating to domestic violence; amending s. 39.903,
3 F.S.; revising provisions relating to certification of
4 domestic violence centers; providing specified additional
5 duties for and authority of the Florida Coalition Against
6 Domestic Violence; revising the duties of the Department
7 of Children and Family Services; requiring the department
8 to contract with the Florida Coalition Against Domestic
9 Violence for specified purposes; amending s. 39.904, F.S.;
10 requiring the Florida Coalition Against Domestic Violence
11 rather than the department to make a specified annual
12 report; revising the contents of the report; amending s.
13 39.905, F.S.; requiring the Florida Coalition Against
14 Domestic Violence rather than the department to perform
15 certain duties relating to certification of domestic
16 violence centers; revising provisions relating to
17 certification of domestic violence centers; requiring a
18 demonstration of need for certification of a new domestic
19 violence center; revising provisions relating to
20 expiration of a center's annual certificate; amending ss.
21 381.006, 381.0072, 741.281, 741.2902, 741.30, and 741.316,
22 F.S.; conforming provisions to changes made by the act;
23 amending s. 741.32, F.S.; deleting provisions relating to
24 certification of batterers' intervention programs by the
25 Department of Children and Family Services; amending s.
26 741.325, F.S.; revising the requirements for batterers'
27 intervention programs; repealing s. 741.327, F.S.,
28 relating to certification and monitoring of batterers'

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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intervention programs; amending ss. 948.038 and 938.01, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 39.903, Florida Statutes, is amended to read:

39.903 Duties and functions of the department with respect to domestic violence.—

(1) The department shall:

(a) Develop by rule criteria for the approval or rejection of domestic violence centers applying for initial certification after July 1, 2011 ~~certification or funding of domestic violence centers.~~

(b) Develop by rule minimum standards for domestic violence centers to ensure the health and safety of the clients in the centers.

(c) Receive and approve or reject applications for initial certification of domestic violence centers. Such certification shall be renewed annually thereafter by the department upon a favorable monitoring report by the Florida Coalition Against Domestic Violence. If any of the required services are exempted from certification by the department under s. 39.905(1)(c), the center may ~~shall~~ not receive funding from the Florida Coalition Against Domestic Violence for those services.

(d) ~~Have Evaluate each certified domestic violence center annually to ensure compliance with the minimum standards. The~~

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~~department has the right to enter and inspect the premises of~~
~~domestic violence centers applying for an initial certification~~
~~after July 1, 2011, certified domestic violence centers at any~~
~~reasonable hour in order to effectively evaluate the state of~~
~~compliance with minimum standards of these centers with this~~
~~part and rules relating to this part. The Florida Coalition~~
~~Against Domestic Violence has the right to enter and inspect the~~
~~premises of certified domestic violence centers for monitoring~~
~~purposes.~~

(e) Adopt rules to implement this part.

(f) Promote the involvement of certified domestic violence
centers in the coordination, development, and planning of
domestic violence programming in the circuits ~~districts and the~~
~~state.~~

~~(2) The department shall serve as a clearinghouse for~~
~~information relating to domestic violence.~~

~~(2)(3)~~ The department shall operate the domestic violence
program and partner with the Florida Coalition Against Domestic
Violence in, which provides supervision, direction,
~~coordination, and administration of statewide activities related~~
~~to the prevention of domestic violence.~~

~~(3)(4)~~ The department shall coordinate with state agencies
having health, education, or criminal justice responsibilities
to raise awareness of domestic violence and promote consistent
policy implementation ~~enlist the assistance of public and~~
~~voluntary health, education, welfare, and rehabilitation~~
~~agencies in a concerted effort to prevent domestic violence and~~
~~to treat persons engaged in or subject to domestic violence.~~

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~~With the assistance of these agencies, the department, within existing resources, shall formulate and conduct a research and evaluation program on domestic violence. Efforts on the part of these agencies to obtain relevant grants to fund this research and evaluation program must be supported by the department.~~

(4) The department shall serve as the lead agency for application of relevant federal grants and the coordinator of the state's STOP Implementation Plan pursuant to the federal Violence Against Women Act which promotes domestic violence awareness, increases services to victims, and strengthens perpetrator accountability.

~~(5) The department shall develop and provide educational programs on domestic violence for the benefit of the general public, persons engaged in or subject to domestic violence, professional persons, or others who care for or may be engaged in the care and treatment of persons engaged in or subject to domestic violence.~~

(5)(6) The department shall cooperate with, assist in, and participate in, programs of other properly qualified state agencies, federal agencies, private organizations including any agency of the Federal Government, schools of medicine, hospitals, and clinics, in planning and conducting research on the prevention of domestic violence and provision of services to clients, care, treatment, and rehabilitation of persons engaged in or subject to domestic violence.

(6)(7) The department shall contract with the Florida Coalition Against Domestic Violence, the a statewide association whose primary purpose is to represent and provide technical

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113 | assistance to certified domestic violence centers, for the
 114 | delivery and management of the delivery of services for the
 115 | state's domestic violence program. Services under this contract
 116 | shall include, but are not limited to, administration of
 117 | contracts and grants associated with the implementation of the
 118 | state's STOP Implementation Plan pursuant to the federal
 119 | Violence Against Women Act and the implementation of other
 120 | federal grants as directed by the department. As part of its
 121 | management of the delivery of services for the state's domestic
 122 | violence program, the coalition ~~This association~~ shall
 123 | implement, administer, and evaluate all services provided by the
 124 | certified domestic violence centers, ~~the association shall~~
 125 | receive and approve or reject applications for funding of
 126 | certified domestic violence centers, and evaluate certified
 127 | domestic violence centers to determine compliance with
 128 | certification minimum standards. When approving funding for a
 129 | newly certified domestic violence center, the association shall
 130 | make every effort to minimize any adverse economic impact on
 131 | existing certified domestic violence centers or services
 132 | provided within the same service area. In order to minimize
 133 | duplication of services, the association shall make every effort
 134 | to encourage subcontracting relationships with existing
 135 | certified domestic violence centers within the same service
 136 | area. In distributing funds allocated by the Legislature for
 137 | certified domestic violence centers, the association shall use a
 138 | formula approved by the department as specified in s.
 139 | 39.905(7)(a).

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(7) The department shall consider and award applications from certified domestic violence centers for capital improvement grants pursuant to s. 39.9055.

Section 2. Section 39.904, Florida Statutes, is amended to read:

39.904 Report to the Legislature on the status of domestic violence cases.—On or before January 1 of each year, the Florida Coalition Against Domestic Violence ~~department~~ shall furnish to the President of the Senate and the Speaker of the House of Representatives a report on the status of domestic violence in this state, which ~~report~~ shall include, but is not limited to, the following:

(1) The incidence of domestic violence in this state.

(2) An identification of the areas of the state where domestic violence is of significant proportions, indicating the number of cases of domestic violence officially reported, as well as an assessment of the degree of unreported cases of domestic violence.

(3) An identification and description of the types of programs in the state that assist victims of domestic violence or persons who commit domestic violence, including information on funding for the programs.

(4) The number of persons who receive services from ~~are treated by or assisted by~~ local certified domestic violence programs that receive funding through the Florida Coalition Against Domestic Violence ~~department~~.

(5) The incidence of domestic violence homicides in the state, including information and data collected from state and

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local domestic violence fatality review teams.

~~(5) A statement on the effectiveness of such programs in preventing future domestic violence.~~

~~(6) An inventory and evaluation of existing prevention programs.~~

~~(7) A listing of potential prevention efforts identified by the department; the estimated annual cost of providing such prevention services, both for a single client and for the anticipated target population as a whole; an identification of potential sources of funding; and the projected benefits of providing such services.~~

Section 3. Paragraphs (c), (g), and (i) of subsection (1), subsections (2), (3), and (5), paragraph (a) of subsection (6), and paragraph (b) of subsection (7) of section 39.905, Florida Statutes, are amended to read:

39.905 Domestic violence centers.—

(1) Domestic violence centers certified under this part must:

(c) Provide minimum services that ~~which~~ include, but are not limited to, information and referral services, counseling and case management services, temporary emergency shelter for more than 24 hours, a 24-hour hotline, training for law enforcement personnel, assessment and appropriate referral of resident children, and educational services for community awareness relative to the incidence of domestic violence, the prevention of such violence, and the services available ~~care, treatment, and rehabilitation~~ for persons engaged in or subject to domestic violence. If a 24-hour hotline, professional

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training, or community education is already provided by a certified domestic violence center within its designated service area ~~a district~~, the department may exempt such certification requirements for a new center serving the same service area ~~district~~ in order to avoid duplication of services.

(g) File with the Florida Coalition Against Domestic Violence ~~department~~ a list of the names of the domestic violence advocates who are employed or who volunteer at the domestic violence center who may claim a privilege under s. 90.5036 to refuse to disclose a confidential communication between a victim of domestic violence and the advocate regarding the domestic violence inflicted upon the victim. The list must include the title of the position held by the advocate whose name is listed and a description of the duties of that position. A domestic violence center must file amendments to this list as necessary.

(i) If its center is a new center applying for certification, demonstrate that the services provided address a need identified in the most current statewide needs assessment approved by the department. If the center applying for initial certification proposes providing services in an area where a certified domestic violence center exists, it must demonstrate the unmet need by the existing center and describe any efforts to reduce duplication of services.

(2) If the department finds that there is failure by a center to comply with the requirements established under this part or with the rules adopted pursuant thereto, the department may deny, suspend, or revoke the certification of the center. The grant, denial, suspension, or revocation of certification

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does not constitute agency action under chapter 120.

(3) The annual certificate ~~shall~~ automatically expires
~~expire~~ on December 31 unless the certification is temporarily
extended to allow the center to implement corrective action
plans the termination date shown on the certificate.

(5) Domestic violence centers may be established
throughout the state when private, local, state, or federal
funds are available and a need is demonstrated.

(6) In order to receive state funds, a center must:

(a) Obtain certification pursuant to this part. However,
the issuance of a certificate does ~~will~~ not obligate the Florida
Coalition Against Domestic Violence ~~department~~ to provide
funding.

(7)

(b) A contract between the Florida Coalition Against
Domestic Violence ~~statewide association~~ and a certified domestic
violence center shall contain provisions ensuring ~~assuring~~ the
availability and geographic accessibility of services throughout
the service area ~~district~~. For this purpose, a center may
distribute funds through subcontracts or to center satellites,
if provided such arrangements and any subcontracts are approved
by the Florida Coalition Against Domestic Violence ~~statewide~~
~~association.~~

Section 4. Subsection (18) of section 381.006, Florida
Statutes, is amended to read:

381.006 Environmental health.—The department shall conduct
an environmental health program as part of fulfilling the
state's public health mission. The purpose of this program is to

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detect and prevent disease caused by natural and manmade factors in the environment. The environmental health program shall include, but not be limited to:

(18) A food service inspection function for domestic violence centers that are certified and monitored by the Florida Coalition Against Domestic Violence ~~Department of Children and Family Services~~ under part XIII of chapter 39 and group care homes as described in subsection (16), which shall be conducted annually and be limited to the requirements in department rule applicable to community-based residential facilities with five or fewer residents.

The department may adopt rules to carry out the provisions of this section.

Section 5. Paragraph (b) of subsection (1) of section 381.0072, Florida Statutes, is amended to read:

381.0072 Food service protection.—It shall be the duty of the Department of Health to adopt and enforce sanitation rules consistent with law to ensure the protection of the public from food-borne illness. These rules shall provide the standards and requirements for the storage, preparation, serving, or display of food in food service establishments as defined in this section and which are not permitted or licensed under chapter 500 or chapter 509.

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

(b) "Food service establishment" means detention facilities, public or private schools, migrant labor camps, assisted living facilities, adult family-care homes, adult day

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care centers, short-term residential treatment centers, residential treatment facilities, homes for special services, transitional living facilities, crisis stabilization units, hospices, prescribed pediatric extended care centers, intermediate care facilities for persons with developmental disabilities, boarding schools, civic or fraternal organizations, bars and lounges, vending machines that dispense potentially hazardous foods at facilities expressly named in this paragraph, and facilities used as temporary food events or mobile food units at any facility expressly named in this paragraph, where food is prepared and intended for individual portion service, including the site at which individual portions are provided, regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include any entity not expressly named in this paragraph; nor does the term include a domestic violence center certified and monitored by the Florida Coalition Against Domestic Violence ~~Department of Children and Family Services~~ under part XIII of chapter 39 if the center does not prepare and serve food to its residents and does not advertise food or drink for public consumption.

Section 6. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has ~~had~~ adjudication withheld on, or pleads ~~has pled~~ nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and

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the court shall order that the defendant attend a batterers' intervention program as a condition of probation. The court must impose the condition of the batterers' intervention program for a defendant under this section, but the court, in its discretion, may determine not to impose the condition if it states on the record why a batterers' intervention program might be inappropriate. The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. ~~Effective July 1, 2002, the batterers' intervention program must be a certified program under s. 741.32.~~ The imposition of probation under this section does ~~shall~~ not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 7. Paragraph (g) of subsection (2) of section 741.2902, Florida Statutes, is amended to read:

741.2902 Domestic violence; legislative intent with respect to judiciary's role.—

(2) It is the intent of the Legislature, with respect to injunctions for protection against domestic violence, issued pursuant to s. 741.30, that the court shall:

(g) Consider requiring the perpetrator to complete a batterers' intervention program. It is preferred that such program include requirements as stated in s. 741.325 ~~be certified under s. 741.32.~~

Section 8. Paragraphs (a) and (e) of subsection (6) of section 741.30, Florida Statutes, are amended to read:

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741.30 Domestic violence; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.—

(6) (a) Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence as defined by s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in chapter 61, providing the petitioner with 100 percent of the time-sharing in a temporary parenting plan that shall remain in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

4. On the same basis as provided in chapter 61, establishing temporary support for a minor child or children or the petitioner. An order of temporary support remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action

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364 or proceeding affecting child support.

365 5. Ordering the respondent to participate in treatment,
366 intervention, or counseling services to be paid for by the
367 respondent. When the court orders the respondent to participate
368 in a batterers' intervention program, the court, or any entity
369 designated by the court, must provide the respondent with a list
370 of all certified batterers' intervention programs and all
371 programs that ~~which~~ have submitted an application ~~to the~~
372 ~~Department of Children and Family Services~~ to become certified
373 ~~under s. 741.32~~, from which the respondent must choose a program
374 in which to participate. If there are no certified batterers'
375 intervention programs in the circuit, the court shall provide a
376 list of acceptable programs from which the respondent must
377 choose a program in which to participate.

378 6. Referring a petitioner to a certified domestic violence
379 center. The court must provide the petitioner with a list of
380 certified domestic violence centers in the circuit which the
381 petitioner may contact.

382 7. Ordering such other relief as the court deems necessary
383 for the protection of a victim of domestic violence, including
384 injunctions or directives to law enforcement agencies, as
385 provided in this section.

386 (e) An injunction for protection against domestic violence
387 entered pursuant to this section, on its face, may order that
388 the respondent attend a batterers' intervention program as a
389 condition of the injunction. Unless the court makes written
390 factual findings in its judgment or order which are based on
391 substantial evidence, stating why batterers' intervention

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programs would be inappropriate, the court shall order the respondent to attend a batterers' intervention program if:

1. It finds that the respondent willfully violated the ex parte injunction;

2. The respondent, in this state or any other state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence; or

3. The respondent, in this state or any other state, has had at any time a prior injunction for protection entered against the respondent after a hearing with notice.

It is mandatory that such programs be certified under this part ~~s. 741.32~~.

Section 9. Subsection (5) of section 741.316, Florida Statutes, is amended to read:

741.316 Domestic violence fatality review teams; definition; membership; duties.—

(5) The domestic violence fatality review teams are assigned to the Florida Coalition Against Domestic Violence ~~Department of Children and Family Services~~ for administrative purposes.

Section 10. Section 741.32, Florida Statutes, is amended to read:

741.32 ~~Certification of~~ Batterers' intervention programs.—

~~(1)~~ The Legislature finds that the incidence of domestic violence in this state ~~Florida~~ is disturbingly high, and that, despite the efforts of many to curb this violence, ~~that~~ one

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person dies at the hands of a spouse, ex-spouse, or cohabitant approximately every 3 days. Further, a child who witnesses the perpetration of this violence becomes a victim as he or she hears or sees it occurring. This child is at high risk of also being the victim of physical abuse by the parent who is perpetrating the violence and, to a lesser extent, by the parent who is the victim. These children are also at a high risk of perpetrating violent crimes as juveniles and, later, becoming perpetrators of the same violence that they witnessed as children. The Legislature finds that there should be standardized programming available to the justice system to protect victims and their children and to hold the perpetrators of domestic violence accountable for their acts. Finally, the Legislature recognizes that in order for batterers' intervention programs to be successful in protecting victims and their children, all participants in the justice system as well as social service agencies and local and state governments must coordinate their efforts at the community level.

~~(2) There is hereby established in the Department of Children and Family Services an Office for Certification and Monitoring of Batterers' Intervention Programs. The department may certify and monitor both programs and personnel providing direct services to those persons who are adjudged to have committed an act of domestic violence as defined in s. 741.28, those against whom an injunction for protection against domestic violence is entered, those referred by the department, and those who volunteer to attend such programs. The purpose of certification of programs is to uniformly and systematically~~

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~~standardize programs to hold those who perpetrate acts of domestic violence responsible for those acts and to ensure safety for victims of domestic violence. The certification and monitoring shall be funded by user fees as provided in s. 741.327.~~

Section 11. Section 741.325, Florida Statutes, is amended to read:

741.325 Requirements for batterers' intervention programs
~~Guideline authority.~~

(1) A batterers' intervention program shall meet the following requirements ~~The Department of Children and Family Services shall promulgate guidelines to govern purpose, policies, standards of care, appropriate intervention approaches, inappropriate intervention approaches during the batterers' program intervention phase (to include couples counseling and mediation), conflicts of interest, assessment, program content and specifics, qualifications of providers, and credentials for facilitators, supervisors, and trainees. The department shall, in addition, establish specific procedures governing all aspects of program operation, including administration, personnel, fiscal matters, victim and batterer records, education, evaluation, referral to treatment and other matters as needed. In addition, the rules shall establish:~~

(a)-(1) ~~That~~ The primary purpose of the program ~~programs~~ shall be victim safety and the safety of the children, if present.

(b)-(2) ~~That~~ The batterer shall be held accountable for acts of domestic violence.

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476 (c)~~(3)~~ ~~That~~ The program ~~programs~~ shall be at least 29
477 weeks in length and shall include 24 weekly sessions, plus
478 appropriate intake, assessment, and orientation programming.

479 (d)~~(4)~~ ~~That~~ The program shall be a psychoeducational model
480 that employs a program content based on tactics of power and
481 control by one person over another.

482 ~~(5) That the programs and those who are facilitators,~~
483 ~~supervisors, and trainees be certified to provide these programs~~
484 ~~through initial certification and that the programs and~~
485 ~~personnel be annually monitored to ensure that they are meeting~~
486 ~~specified standards.~~

487 (e)~~(6)~~ ~~The intent that~~ The program shall ~~programs~~ be user-
488 fee funded with fees from the batterers who attend the program
489 as payment, which ~~for programs~~ is important to the batterer
490 taking responsibility for the act of violence, ~~and from those~~
491 ~~seeking certification~~. Exception shall be made for those local,
492 state, or federal programs that fund batterers' intervention
493 programs in whole or in part.

494 ~~(7) Standards for rejection and suspension for failure to~~
495 ~~meet certification standards.~~

496 (2)~~(8)~~ The requirements of this section ~~That these~~
497 ~~standards shall~~ apply only to programs that address the
498 perpetration of violence between intimate partners, spouses, ex-
499 spouses, or those who share a child in common or who are
500 cohabitants in intimate relationships for the purpose of
501 exercising power and control by one over the other. It will
502 endanger victims if courts and other referral agencies refer
503 family and household members who are not perpetrators of the

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type of domestic violence encompassed by these requirements
~~standards~~. Accordingly, the court and others who make referrals
should refer perpetrators only to programming that appropriately
addresses the violence committed.

Section 12. Section 741.327, Florida Statutes, is
repealed.

Section 13. Section 948.038, Florida Statutes, is amended
to read:

948.038 Batterers' intervention program as a condition of
probation, community control, or other court-ordered community
supervision.—As a condition of probation, community control, or
any other court-ordered community supervision, the court shall
order a person convicted of an offense of domestic violence, as
defined in s. 741.28, to attend and successfully complete a
batterers' intervention program unless the court determines that
the person does not qualify for the batterers' intervention
program pursuant to s. 741.325. ~~The batterers' intervention~~
~~program must be a program certified under s. 741.32, and The~~
offender must pay the cost of attending the program.

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

938.01 Additional Court Cost Clearing Trust Fund.—

(1) All courts created by Art. V of the State Constitution
shall, in addition to any fine or other penalty, require every
person convicted for violation of a state penal or criminal
statute or convicted for violation of a municipal or county
ordinance to pay \$3 as a court cost. Any person whose
adjudication is withheld pursuant to the provisions of s.

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532 318.14(9) or (10) shall also be liable for payment of such cost.
 533 In addition, \$3 from every bond estreature or forfeited bail
 534 bond related to such penal statutes or penal ordinances shall be
 535 remitted to the Department of Revenue as described in this
 536 subsection. However, no such assessment may be made against any
 537 person convicted for violation of any state statute, municipal
 538 ordinance, or county ordinance relating to the parking of
 539 vehicles.

540 (a) All costs collected by the courts pursuant to this
 541 subsection shall be remitted to the Department of Revenue in
 542 accordance with administrative rules adopted by the executive
 543 director of the Department of Revenue for deposit in the
 544 Additional Court Cost Clearing Trust Fund. These funds and the
 545 funds deposited in the Additional Court Cost Clearing Trust Fund
 546 pursuant to s. 318.21(2)(c) shall be distributed as follows:

547 1. Ninety-two percent to the Department of Law Enforcement
 548 Criminal Justice Standards and Training Trust Fund.

549 2. Six and three-tenths percent to the Department of Law
 550 Enforcement Operating Trust Fund for the Criminal Justice Grant
 551 Program.

552 3. One and seven-tenths percent to the Department of
 553 Children and Family Services Domestic Violence Trust Fund for
 554 the domestic violence program pursuant to s. 39.903(2)~~(3)~~.

555 Section 15. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5311 PCB HCAS 11-06 Medicaid Services
SPONSOR(S): Health Care Appropriations Subcommittee, Hudson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health Care Appropriations Subcommittee	10 Y, 5 N	Hicks	Pridgeon
1) Appropriations Committee		Hicks <i>abh</i>	Leznoff <i>jl</i>

SUMMARY ANALYSIS

This bill conforms statutes to the funding decisions included in the proposed General Appropriations Act (GAA) for Fiscal Year 2011-2012. The bill:

- Repeals the sunset of the Medically Needy for adults and the Medicaid Aged and Disabled (MEDS-AD) waiver, which will sunset June 30, 2011.
- Eliminates optional Medicaid coverage of chiropractic and hearing services for adult recipients.
- Modifies the formula used for calculating reimbursements to providers of prescribed drugs.
- Repeals the sunset date for the freeze on Medicaid institutional unit cost; and deletes obsolete workgroups and reporting requirements.
- Provides for the allowed aggregated amount of assessments for all nursing home facilities to increase to conform to federal regulations.
- Revises the years of audited data used in determining Medicaid and charity care days for hospitals in the Disproportionate Share Hospital (DSH) Program; and changes the distribution criteria for Medicaid DSH payments to implement funding decisions for the DSH program.
- Eliminates the requirement to implement a wireless handheld clinical pharmacology drug information database for practitioners; and allowing electronic access to certain pharmacology drug information.
- Authorizes the implementation of a home delivery of pharmacy products program; establishes the requirements for the procurement and the program; and eliminates the requirement for the expansion of the mail-order-pharmacy diabetes-supply program.
- Eliminates certain specific components of the prescription drug management system program.
- Authorizes an additional Program of All-inclusive Care for the Elderly (PACE) site in Palm Beach County and approves up to 150 initial enrollees, subject to a specific appropriation.

The House Proposed GAA appropriates:

- \$1,161.95 million to restore the Medically Needy program with recurring funds;
- \$889.3 million to restore the MEDS-AD waiver program with recurring funds; and
- \$246.6 million to implement the changes in DSH program funding.

The House Proposed GAA includes the following reductions:

- \$393.9 million due to the continuation of the institutional providers unit cost freeze;
- \$6.7 million due to an adjustment in the reimbursement formula for prescribed drugs;
- \$3.7 million for the elimination of chiropractic and hearing coverage for adults; and
- \$3.4 million due to elimination of certain contractual arrangements.

This bill has an effective date of July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Optional Medicaid Eligibility and Coverage

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

- **The Medicaid Aged and Disabled Program (MEDS-AD)** eligibility category is an optional Medicaid eligibility group. The program provides Medicaid coverage to individuals who are age 65 or older or totally and permanently disabled, have incomes less than 88 percent of the federal poverty level, not eligible for Medicare and meet asset limits. The 2005 Legislature through chapter 2005-60, L.O.F, directed the Agency for Health Care Administration (AHCA) to seek federal waiver authority to revise Medicaid eligibility coverage for the Medicaid MEDS-AD eligibility group beginning January 1, 2006. The AHCA received approval of the 1115 Research and Demonstration Waiver on November 22, 2005. The waiver was subsequently renewed on January 1, 2011. In accordance with the approved waiver, the revised program covers:
 - Individuals without Medicare residing in the community or receiving Medicaid-covered institutional care services, hospice services, or home and community based services (HCBS), and
 - Individuals eligible for Medicare and also eligible for and receiving Medicaid-covered institutional care services, hospice services, or home and community based waiver services.

Medicaid is required to provide Medicare “buy-in” coverage for aged and disabled individuals who are Medicare beneficiaries. Therefore, if Medicaid coverage is eliminated for persons eligible under the criteria for the MEDS-AD program, those who are eligible for Medicare will continue to have Medicaid coverage for Medicare premiums, deductibles, and coinsurance. This program is expected to have an average monthly enrollment of approximately 42,115 individuals in Fiscal Year 2011-12.

- **The Medically Needy** eligibility category is an optional Medicaid eligibility group. Title XIX of the Social Security Act specifies categories of individuals that the federal government gives state Medicaid programs the option of covering through their state plan. The Medically Needy program covers persons who have experienced a catastrophic illness and either have no health insurance, or have exhausted their benefits. On a month by month basis, the individual's medical expenses are subtracted from his or her income. If the remainder falls below Medicaid's income limits, the individual may qualify for Medicaid for the full or partial month depending on the date the medical expenses were incurred. The amount of expenses that must be deducted from the individual's income to make him or her eligible for Medicaid is called “share of cost.” A person eligible for the Medically Needy Program is eligible for all Medicaid services with the exception of skilled nursing facility, state mental hospital, intermediate care facility for the developmentally disabled, assistive care services, community-based waiver services, or the payment of Medicare premiums by Medicaid. This program is expected to serve an average monthly enrollment of approximately 46,096 individuals in Fiscal Year 2011-12.

Current law allows Medicaid reimbursement to providers for at least 27 optional services, including chiropractic and hearing services.

- **Chiropractic Services** – Medicaid reimburses chiropractic services rendered by a licensed, Medicaid participating chiropractic physician. Chiropractic services include manual manipulation of the spine, initial services and screening, and x-rays provided by a licensed chiropractic physician. For Fiscal Year 2011-2012, it is estimated that approximately 8,242 adult beneficiaries would be eligible for this Medicaid coverage.
- **Hearing Services** – Medicaid reimburses for hearing services rendered by licensed, Medicaid participating otolaryngologists, otologists, audiologists, and hearing aid specialists. Reimbursable hearing services include cochlear implant services, diagnostic audiological testing, hearing aids, hearing evaluations to determine hearing aid candidacy, hearing aid fitting and dispensing, hearing aid repairs and accessories, and mandatory newborn hearing screening. For Fiscal Year 2011-2012, it is estimated that approximately 880,184 adult beneficiaries would be eligible for this Medicaid coverage.

The bill repeals the June 30, 2011 sunset date for the MEDS-AD and Medically Needy programs, restoring Medicaid coverage to eligible individuals with recurring funds. The bill also eliminates Medicaid reimbursement for optional Medicaid chiropractic and hearing services for adult recipients effective September 30, 2011.

Reimbursement Rates for Medicaid Providers

Currently, Medicaid reimburses Medicaid providers in one of the following ways:

Capitated Rate Setting - Capitated reimbursement is provided for in ss. 409.9124, and 409.91211. F.S., and is a methodology used for managed care providers.

- **Fee-For-Service Method** -
Capitated rates are set annually based upon two years of fee-for-service claims and financial data for all recipients eligible for enrollment in a health maintenance organization (HMO) plan, and must be actuarially sound for comparable recipients. Thus, current rates are based upon data from State Fiscal Years 2007-2008 and 2008-2009, and are based upon 25 different service categories, such as hospital inpatient, laboratory, x-ray, etc. Actuarially sound rates are established for recipient categories, such as TANF, SSI without Medicare, SSI with Medicare Parts A and B, and SSI with Medicare Part B only; in all 11 AHCA areas for age/gender bands (birth to 2 months; 3-11 months, 1-5 years, 6-13 years, 14-20 years female; 14-20 years male; 21-54 years female; 21-54 years male; and 55+). Age and gender bands are only utilized in non-reform rate setting. Reform has composite rates.
- **Financial/Encounter Data Method** -
In addition to the Fee-for-Service data, plan financial data for Calendar Years 2008 and 2009 for non-pharmacy services was used. The non-pharmacy encounter data was used as a source for validation of the plan specific financial reporting. The Financial Data Method receives 24 percent weight for Non-Reform rates and 50 percent for Reform rates for non-pharmacy services in rate calculation for the TANF and SSI without Medicare categories for Fiscal Year 2010-2011.
- **Pharmacy Encounter Data Method** -
Pharmacy encounter data was used from State Fiscal Year 2008-2009. The pharmacy encounter data was submitted by the HMOs to develop the pharmacy component of the capitation rates. The Pharmacy Encounter Data Method received 100% weight for pharmacy services in the rate calculation for the TANF and SSI without Medicare categories.
- **Risk Adjustment** -
The Reform Area final rates are risk adjusted for age, gender, medical conditions and diagnosis.

Fee-For-Service - Fee-for-service reimbursement is accomplished through the assignment of an established fee for each service provided by specific Medicaid provider types, which is established by Medicaid based upon funding provided in the GAA. The types of services typically reimbursed through a fee for service payment are physician, nursing care, dental services, pharmaceuticals, laboratory services, durable medical equipment and supplies, home health agency services, dialysis center services, and emergency transportation services. Reimbursement rates for physicians are set for periodic adjustment pursuant to federal directive, which is based upon updates to the Resource Based Relative Value Scale that requires budget neutrality as part of adjustments.

Cost-based Reimbursement - Cost-based reimbursement is accomplished through periodically establishing fees for each provider type based upon the provider type's historic cost of providing services, which, for institutional providers, is generally indexed to pre-determined health care inflation indices (price level increases). AHCA collects the cost data from individual providers to use in calculating and setting cost-based reimbursement rates. Nursing homes, hospitals, intermediate care facilities for the developmentally disabled, rural health clinics, county health departments, hospices, and federally qualified health centers are the types of providers that are reimbursed using cost-based methodologies, and provider types may be subject to specified reimbursement ceilings and targets.

Section 5, chapter 2008-143, L.O.F., directed AHCA to establish provider rates for hospitals, nursing homes, community intermediate care facilities for the developmentally disabled and county health departments in a manner that would result in the elimination of automatic cost-based rate increases for a period of two fiscal years. The unit cost rate freeze is set to expire July 1, 2011.

The bill repeals the sunset date for unit cost rate freeze on Medicaid provider rates for hospitals, nursing homes, community intermediate care facilities for the developmentally disabled and county health departments. The bill also repeals an obsolete provision to establish workgroups to evaluate alternate reimbursement and payment methods for hospitals, nursing facilities, and managed care plans and the reporting requirement on its evaluation.

Medicaid Reimbursement for Prescribed Drugs Services

Reimbursement for prescribed drug claims is made in accordance with the provisions of 42 CFR 447.512-516; and ss. 409.906(20), 409.908, 409.912(39) (a), F.S. The current reimbursement for covered drugs dispensed by a licensed pharmacy, approved as a Medicaid provider, or an enrolled dispensing physician filling his own prescriptions, is the lesser of:

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

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

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

The settlement requires FDB and Medi-Span to reduce the AWP mark-up factor to a standard ceiling of 120 percent of WAC on all National Drug Codes (NDCs). This change took effect on September 26, 2009, and will affect all prescriptions where the reimbursement calculation was based on AWP. With

respect to Florida Medicaid, 25.39 percent of prescriptions are reimbursed based on AWP. These are primarily branded pharmaceuticals still under patent. Both FDB and Medi-Span have independently announced plans to discontinue publishing AWP by September, 2011.

This bill modifies the reimbursement formula for prescribed drugs by adjusting the WAC-based formula to WAC plus 3.75 percent. Upon the loss of the AWP-based formula, WAC plus 3.75 percent will be the reimbursement rate used to reimburse Medicaid pharmacy providers.

Disproportionate Share Program (DSH)

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

The bill amends several provisions of chapter 409, F.S., to update for the most recent years of audited data used to implement the changes in DSH program funding for Fiscal Year 2011-2012. The bill:

- Revises the method for calculating disproportionate share payments to hospitals for Fiscal Year 2011-2012 by changing the years of averaged audited data from 2003, 2004, and 2005 to 2004, 2005, and 2006;
- Revises the time period from Fiscal Year 2010-2011 to 2011-2012 during which the AHCA is prohibited from distributing funds under the Disproportionate Share Program for regional perinatal intensive care centers;
- Requires that funds for statutorily defined teaching hospitals in Fiscal Year 2011-2012 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for teaching hospitals in Fiscal Year 2003-2004, or as otherwise provided in the GAA; and
- Revises the time period from Fiscal Year 2010-2011 to Fiscal Year 2011-2012 during which the AHCA is prohibited from distributing funds under the primary care disproportionate share program.

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

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

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

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

¹ Centers for Medicare and Medicaid Services website: <http://www.cms.hhs.gov/PACE/> (last visited on March 17, 2011).

² *Id.*

³ *Id.*

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

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

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

Florida PACE Project

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

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

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

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

Section 14, chapter 2010-156, L.O.F., directed the AHCA to contract with a private health care organization to provide comprehensive services to frail and elderly persons residing in Polk, Highlands, Hardee, and Hillsborough Counties. This section also authorized 150 initial slots for the program.

Section 15, chapter 2010-156, L.O.F., directed AHCA to contract for a new PACE site in Southwest Miami-Dade County and approved 50 initial slots for the program.

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

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

⁵ *Id.*

The bill authorizes, subject to an appropriation, up to 150 initial enrollee slots for a new PACE project in Palm Beach County.

Modifications in Contractual Arrangements

- **Wireless Handheld Devices** – Pursuant to s. 409.912 (16)(b), F.S., the AHCA was directed to contract with an entity in the state to implement a wireless handheld clinical pharmacology drug information database for practitioners. The device was envisioned to provide continuous updates of clinical pharmacology information, reference to the Medicaid Preferred Drug List (PDL), specific patient medication history, and ongoing education and support. Initially, the vendor provided a pilot group of 1,000 high volume practitioners with the wireless handheld device. The objective with this pilot group was to prevent duplicate prescribing and improve clinical outcomes. The device gave the practitioners a specific patient drug profile and access to clinical drug information at the point of care. The 2004 Legislature expanded the program to 3,000 devices. In 2005, e-prescribing capability was added giving practitioners access to continuous updates of clinical pharmacology information, reference to the Medicaid PDL and specific patient medication history at the point of care. Prescriptions could also be submitted electronically to the patient's pharmacy of choice. However, utilization remained at less than capacity. In 2009, the number of handheld devices was reduced to 1,000 due to low utilization by practitioners. Currently, the vendor provides 555 handheld devices to high volume practitioners to support e-prescribing.

The bill removes the requirement for the AHCA to implement a wireless handheld program and grants the AHCA authority to provide electronic access to pharmacology drug information to Medicaid providers to ensure adequate access to e-prescribing in the most cost effective manner.

- **Therapy Management Contract (Prescribed Drugs)** - The 2005 Legislature directed the AHCA to implement a prescription drug management system with various components to reduce costs, waste, and fraud, while improving recipient safety. The drug management system implemented must rely on cooperation between physician and pharmacist to determine appropriate practice patterns and clinical guidelines to improve prescribing, dispensing, and medication usage for recipients in the Medicaid program. The AHCA entered into a contractual arrangement to reduce clinical risk, lower prescribed drug costs and the rate of inappropriate spending for certain Medicaid prescription drugs.

There are over 4,000 pharmacy providers in Florida. There are 841 pharmacies enrolled in the program and 200 of those pharmacies are actively participating in the program.

This bill eliminates specific components of the prescription drug management system, but continues general authority that allows the AHCA to implement a drug management system.

- **Home Delivery of Pharmacy Products** - During Special Session 2001C Session, the Legislature expanded the home delivery of pharmacy products. The AHCA was directed to expand the current mail-order-pharmacy diabetes supply program to include all generic and brand name drugs used by Medicaid patients with diabetes. The program was established as voluntary participation for Medicaid recipients with diabetes. Pharmacies were prohibited from charging higher reimbursement rate for this expansion in service. The initiative was limited to the geographic area covered by the current contract.

In 2010, the Legislature directed the AHCA, through specific proviso language, to issue an invitation to negotiate with a pharmacy or pharmacies to provide mail order delivery services at no cost to the patients who elect to receive their drugs by mail order delivery services for patients with chronic disease states. Participation was limited to 20,000 patients statewide.

This bill grants statutory authority to the AHCA to implement a mail order home delivery pharmacy program with a focus on serving recipients with chronic diseases. The bill also eliminates the requirement to expand the current mail-order-pharmacy diabetes-supply program.

Nursing Home Facility Providers Quality Assessment Program

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

Effective October 1, 2011, federal regulations will allow the total aggregate amount of assessment for all nursing home facilities to increase to 6.0 percent. This bill modifies statutory authority to conform to federal regulations.

B. SECTION DIRECTORY:

Section 1: Amends s. 409.904, F.S., repealing the sunset of provisions authorizing the Medically Aged and Disabled waiver and Medically Needy programs; and eliminating the limit to services placed on the Medically Needy program.

Section 2: Amends s. 409.906, F.S., eliminating adult Medicaid coverage for chiropractic and hearing services.

Section 3: Amends s. 409.908, F.S., updating the formula used for calculating reimbursements to providers for prescribed drugs; continuing the institutional providers reimbursement rate freeze; deleting an obsolete requirement; and eliminating the repeal date of the institutional providers reimbursement rate freeze.

Section 4: Amends s. 409.9082, F.S., revising the allowed aggregated amount of assessment for all nursing home facilities to conform to federal law.

Section 5: Amends s. 409.911, F.S., updating the share data used to calculate disproportionate share payments to hospitals.

Section 6: Amends s. 409.9112, F.S., prohibiting the distribution of disproportionate share payments to regional perinatal intensive care centers for Fiscal Year 2010-2011.

Section 7: Amends s. 409.9113, F.S., requiring the AHCA to distribute moneys provided in the GAA to statutorily defined teaching hospitals and family practice teaching hospitals under the teaching hospitals disproportionate share program for Fiscal Year 2010-2011.

Section 8: Amends s. 409.9117, F.S., prohibiting the distribution of moneys under the primary care disproportionate share program for Fiscal Year 2010-2011.

Section 9: Amends s. 409.912, F.S., allowing for the continuation of electronic access to certain pharmacology drug information; eliminating the requirement to implement a wireless handheld clinical pharmacology drug information database; updating the formula used for calculating reimbursements to providers of prescribed drugs; authorizing the implementation of a pharmacy products home delivery program; eliminating the requirement for the expansion of the mail order pharmacy diabetes supply program; and eliminating certain provisions of the Medicaid prescription drug management program.

Section 10: Amends s. 430.707, F.S., providing for an additional PACE site.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

\$138,178,151 million in federal Medicaid funds will be generated through the implementation of the DSH programs.

2. Expenditures:

FY 2011-12

OPTIONAL MEDICAID ELIGIBILITY AND COVERAGE

MEDS-AD Program

General Revenue	\$ 199,733,536
Grants and Donations Trust Fund	\$ 40,548,529
Public Medical Assistance Trust Fund	\$ 182,000,000
Medical Care Trust Fund	\$ 467,043,395
Total	\$ 889,325,460

Medically Needy Program

General Revenue	\$ 487,238,897
Grants and Donations Trust Fund	\$ 80,315,819
Medical Care Trust Fund	\$ 594,402,255
Total	\$1,161,956,971

Chiropractic Services

General Revenue	(\$ 438,965)
Medical Care Trust Fund	(\$ 557,097)
Refugee Assistance Trust Fund	(\$ 3,392)
Total	(\$ 999,454)

Hearing Services

General Revenue	(\$ 1,187,273)
Medical Care Trust Fund	(\$ 1,507,400)
Total	(\$ 2,694,673)

INSTITUTIONAL PROVIDERS UNIT COST FREEZE

General Revenue	(\$ 137,016,867)
Grants and Donations Trust Fund	(\$ 35,718,646)
Medical Care Trust Fund	(\$ 219,925,441)
Refugee Assistance Trust Fund	(\$ 1,226,741)
Total	(\$ 393,887,695)

PHARMACY PROGRAM REDUCTION

General Revenue	(\$ 2,961,900)
Medical Care Trust Fund	(\$ 3,760,524)
Refugee Assistance Trust Fund	(\$ 14,823)
Total	(\$ 6,737,247)

DISPROPORTIONATE SHARE PROGRAM

General Revenue	\$ 750,000
Grants and Donations Trust Fund	\$ 107,642,426
Medical Care Trust Fund	\$ 138,178,151
Total	\$ 246,570,577

PROGRAM OF ALL-INCLUSIVE CARE FOR THE ELDERLY

General Revenue	\$ 325,191
Operations & Maintenance Trust Fund	\$ 412,872
Total	\$ 738,063

MODIFICATIONS IN CONTRACTUAL SERVICESWireless Handheld Devices

General Revenue	(\$ 610,672)
Grants and Donations Trust Fund	(\$ 551,530)
Medical Care Trust Fund	(\$ 1,162,206)
Total	(\$ 2,324,408)

Therapy Management (Prescribed Drugs)

General Revenue	(\$ 520,000)
Medical Care Trust Fund	(\$ 520,000)
Total	(\$ 1,040,000)

BUDGETARY INCREASES

General Revenue	\$ 687,722,433
Grants and Donations Trust Fund	\$ 228,506,774
Public Medical Assistance Trust Fund	\$ 182,000,000
Medical Care Trust Fund	\$1,199,623,801
Grand Total – Increases	\$2,297,853,008

BUDGETARY DECREASES

General Revenue	(\$ 142,735,677)
Grants and Donations Trust Fund	(\$ 36,270,176)
Medical Care Trust Fund	(\$ 227,432,668)
Refugee Assistance Trust Fund	(\$ 1,244,956)
Grand Total – Decreases	(\$ 407,683,477)

TOTAL BUDGETARY IMPACT

General Revenue	\$ 544,986,756
Grants and Donations Trust Fund	\$ 192,236,598
Public Medical Assistance Trust Fund	\$ 182,000,000
Medical Care Trust Fund	\$ 972,191,133
Refugee Assistance Trust Fund	(\$ 1,244,956)
Grand Total – All	\$ 1,890,169,531

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments and other local political subdivisions may provide \$107,642,426 million in contributions for the DSH programs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Hospitals providing a disproportionate share of Medicaid or charity care services will receive additional reimbursements towards the cost of providing care to uninsured individuals.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

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

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled

2 An act relating to Medicaid services; amending s. 409.904,

3 F.S.; repealing the sunset of provisions authorizing the

4 federal waiver for certain persons age 65 and older or who

5 have a disability; repealing the sunset of provisions

6 authorizing a specified medically needy program;

7 eliminating the limit to services placed on the medically

8 needy program for pregnant women and children younger than

9 age 21; amending s. 409.906, F.S.; eliminating adult

10 Medicaid optional coverage for chiropractic services;

11 eliminating adult Medicaid optional coverage for hearing

12 services; amending s. 409.908, F.S.; updating the formula

13 used for calculating reimbursements to Medicaid providers

14 for prescribed drugs; continuing the requirement that the

15 Agency for Health Care Administration set certain

16 institutional provider reimbursement rates in a manner

17 that results in no automatic cost-based statewide

18 expenditure increase; deleting an obsolete requirement to

19 establish workgroups to evaluate alternate reimbursement

20 and payment methods; eliminating the repeal date of the

21 suspension of the use of cost data to set certain

22 institutional provider reimbursement rates; amending s.

23 409.9082, F.S.; revising the allowed aggregated amount of

24 assessments for all nursing home facilities to conform

25 with federal law; amending s. 409.911, F.S.; updating the

26 audited data specified for use in calculating

27 disproportionate share; amending s. 409.9112, F.S.;

28 continuing the prohibition against distributing moneys

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29 under the perinatal intensive care centers
 30 disproportionate share program; amending s. 409.9113,
 31 F.S.; continuing authorization for the distribution of
 32 moneys to certain teaching hospitals under the
 33 disproportionate share program; amending s. 409.9117,
 34 F.S.; continuing the prohibition against distributing
 35 moneys under the primary care disproportionate share
 36 program; amending s. 409.912, F.S.; allowing the agency to
 37 continue to contract for electronic access to certain
 38 pharmacology drug information; eliminating the requirement
 39 to implement a wireless handheld clinical pharmacology
 40 drug information database for practitioners; updating the
 41 formula used for calculating reimbursement to Medicaid
 42 providers for prescribed drugs; authorizing the agency to
 43 seek federal approval and to issue a procurement in order
 44 to implement a home delivery of pharmacy products program;
 45 establishing the provisions for the procurement and the
 46 program; eliminating the requirement for the expansion of
 47 the mail-order-pharmacy diabetes-supply program;
 48 eliminating certain provisions of the Medicaid
 49 prescription drug management program; authorizing the
 50 agency to contract with an organization to provide certain
 51 benefits under a federal program in Palm Beach County;
 52 providing an exemption from ch. 641, F.S., for the
 53 organization; authorizing, subject to appropriation,
 54 enrollment slots for the Program of All-inclusive Care for
 55 the Elderly in Palm Beach County; providing an effective
 56 date.

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

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

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

(1) Effective January 1, 2006, and subject to federal waiver approval, a person who is age 65 or older or is determined to be disabled, whose income is at or below 88 percent of the federal poverty level, whose assets do not exceed established limitations, and who is not eligible for Medicare or, if eligible for Medicare, is also eligible for and receiving Medicaid-covered institutional care services, hospice services, or home and community-based services. The agency shall seek federal authorization through a waiver to provide this coverage. ~~This subsection expires June 30, 2011.~~

(2)~~(a)~~ A family, a pregnant woman, a child under age 21, a person age 65 or over, or a blind or disabled person, who would be eligible under any group listed in s. 409.903(1), (2), or (3), except that the income or assets of such family or person exceed established limitations. For a family or person in one of

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85 | these coverage groups, medical expenses are deductible from
86 | income in accordance with federal requirements in order to make
87 | a determination of eligibility. A family or person eligible
88 | under the coverage known as the "medically needy," is eligible
89 | to receive the same services as other Medicaid recipients, with
90 | the exception of services in skilled nursing facilities and
91 | intermediate care facilities for the developmentally disabled.
92 | ~~This paragraph expires June 30, 2011.~~

93 | ~~(b) Effective July 1, 2011, a pregnant woman or a child~~
94 | ~~younger than 21 years of age who would be eligible under any~~
95 | ~~group listed in s. 409.903, except that the income or assets of~~
96 | ~~such group exceed established limitations. For a person in one~~
97 | ~~of these coverage groups, medical expenses are deductible from~~
98 | ~~income in accordance with federal requirements in order to make~~
99 | ~~a determination of eligibility. A person eligible under the~~
100 | ~~coverage known as the "medically needy" is eligible to receive~~
101 | ~~the same services as other Medicaid recipients, with the~~
102 | ~~exception of services in skilled nursing facilities and~~
103 | ~~intermediate care facilities for the developmentally disabled.~~

104 | Section 2. Subsections (7) and (12) of section 409.906,
105 | Florida Statutes, are amended to read:

106 | 409.906 Optional Medicaid services.—Subject to specific
107 | appropriations, the agency may make payments for services which
108 | are optional to the state under Title XIX of the Social Security
109 | Act and are furnished by Medicaid providers to recipients who
110 | are determined to be eligible on the dates on which the services
111 | were provided. Any optional service that is provided shall be
112 | provided only when medically necessary and in accordance with

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113 state and federal law. Optional services rendered by providers
114 in mobile units to Medicaid recipients may be restricted or
115 prohibited by the agency. Nothing in this section shall be
116 construed to prevent or limit the agency from adjusting fees,
117 reimbursement rates, lengths of stay, number of visits, or
118 number of services, or making any other adjustments necessary to
119 comply with the availability of moneys and any limitations or
120 directions provided for in the General Appropriations Act or
121 chapter 216. If necessary to safeguard the state's systems of
122 providing services to elderly and disabled persons and subject
123 to the notice and review provisions of s. 216.177, the Governor
124 may direct the Agency for Health Care Administration to amend
125 the Medicaid state plan to delete the optional Medicaid service
126 known as "Intermediate Care Facilities for the Developmentally
127 Disabled." Optional services may include:

128 (7) CHIROPRACTIC SERVICES.—Effective October 1, 2011, the
129 agency may pay for manual manipulation of the spine and initial
130 services, screening, and X rays provided to a recipient under
131 the age of 21 by a licensed chiropractic physician.

132 (12) HEARING SERVICES.—Effective October 1, 2011, the
133 agency may pay for hearing and related services, including
134 hearing evaluations, hearing aid devices, dispensing of the
135 hearing aid, and related repairs, if provided to a recipient
136 under the age of 21 by a licensed hearing aid specialist,
137 otolaryngologist, otologist, audiologist, or physician.

138 Section 3. Subsections (14) and (23) of section 409.908,
139 Florida Statutes, are amended to read:

140 409.908 Reimbursement of Medicaid providers.—Subject to

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141 specific appropriations, the agency shall reimburse Medicaid
 142 providers, in accordance with state and federal law, according
 143 to methodologies set forth in the rules of the agency and in
 144 policy manuals and handbooks incorporated by reference therein.
 145 These methodologies may include fee schedules, reimbursement
 146 methods based on cost reporting, negotiated fees, competitive
 147 bidding pursuant to s. 287.057, and other mechanisms the agency
 148 considers efficient and effective for purchasing services or
 149 goods on behalf of recipients. If a provider is reimbursed based
 150 on cost reporting and submits a cost report late and that cost
 151 report would have been used to set a lower reimbursement rate
 152 for a rate semester, then the provider's rate for that semester
 153 shall be retroactively calculated using the new cost report, and
 154 full payment at the recalculated rate shall be effected
 155 retroactively. Medicare-granted extensions for filing cost
 156 reports, if applicable, shall also apply to Medicaid cost
 157 reports. Payment for Medicaid compensable services made on
 158 behalf of Medicaid eligible persons is subject to the
 159 availability of moneys and any limitations or directions
 160 provided for in the General Appropriations Act or chapter 216.
 161 Further, nothing in this section shall be construed to prevent
 162 or limit the agency from adjusting fees, reimbursement rates,
 163 lengths of stay, number of visits, or number of services, or
 164 making any other adjustments necessary to comply with the
 165 availability of moneys and any limitations or directions
 166 provided for in the General Appropriations Act, provided the
 167 adjustment is consistent with legislative intent.

168 (14) A provider of prescribed drugs shall be reimbursed

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169 the least of the amount billed by the provider, the provider's
170 usual and customary charge, or the Medicaid maximum allowable
171 fee established by the agency, plus a dispensing fee. The
172 Medicaid maximum allowable fee for ingredient cost shall ~~will~~ be
173 based on the lowest ~~lower~~ of: the average wholesale price (AWP)
174 minus 16.4 percent, the wholesaler acquisition cost (WAC) plus
175 3.75 ~~4.75~~ percent, the federal upper limit (FUL), the state
176 maximum allowable cost (SMAC), or the usual and customary (UAC)
177 charge billed by the provider. Medicaid providers are required
178 to dispense generic drugs if available at lower cost and the
179 agency has not determined that the branded product is more cost-
180 effective, unless the prescriber has requested and received
181 approval to require the branded product. The agency is directed
182 to implement a variable dispensing fee for payments for
183 prescribed medicines while ensuring continued access for
184 Medicaid recipients. The variable dispensing fee may be based
185 upon, but not limited to, either or both the volume of
186 prescriptions dispensed by a specific pharmacy provider, the
187 volume of prescriptions dispensed to an individual recipient,
188 and dispensing of preferred-drug-list products. The agency may
189 increase the pharmacy dispensing fee authorized by statute and
190 in the annual General Appropriations Act by \$0.50 for the
191 dispensing of a Medicaid preferred-drug-list product and reduce
192 the pharmacy dispensing fee by \$0.50 for the dispensing of a
193 Medicaid product that is not included on the preferred drug
194 list. The agency may establish a supplemental pharmaceutical
195 dispensing fee to be paid to providers returning unused unit-
196 dose packaged medications to stock and crediting the Medicaid

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program for the ingredient cost of those medications if the ingredient costs to be credited exceed the value of the supplemental dispensing fee. The agency is authorized to limit reimbursement for prescribed medicine in order to comply with any limitations or directions provided for in the General Appropriations Act, which may include implementing a prospective or concurrent utilization review program.

(23)(a) The agency shall establish rates at a level that ensures no increase in statewide expenditures resulting from a change in unit costs ~~for 2 fiscal years~~ effective July 1, 2011 ~~2009~~. Reimbursement rates ~~for the 2 fiscal years~~ shall be as provided in the General Appropriations Act.

(b) This subsection applies to the following provider types:

1. Inpatient hospitals.
2. Outpatient hospitals.
3. Nursing homes.
4. County health departments.
5. Community intermediate care facilities for the developmentally disabled.
6. Prepaid health plans.

The agency shall apply the effect of this subsection to the reimbursement rates for nursing home diversion programs.

~~(c) The agency shall create a workgroup on hospital reimbursement, a workgroup on nursing facility reimbursement, and a workgroup on managed care plan payment. The workgroups shall evaluate alternative reimbursement and payment~~

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~~methodologies for hospitals, nursing facilities, and managed care plans, including prospective payment methodologies for hospitals and nursing facilities. The nursing facility workgroup shall also consider price-based methodologies for indirect care and acuity adjustments for direct care. The agency shall submit a report on the evaluated alternative reimbursement methodologies to the relevant committees of the Senate and the House of Representatives by November 1, 2009.~~

~~(d) This subsection expires June 30, 2011.~~

Section 4. Subsection (2) of section 409.9082, Florida Statutes, is amended to read:

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

(2) Effective April 1, 2009, there is imposed upon each nursing home facility a quality assessment. The aggregated amount of assessments for all nursing home facilities in a given year shall be an amount not exceeding the maximum percentage allowed under federal law ~~5.5 percent~~ of the total aggregate net patient service revenue of assessed facilities. The agency shall calculate the quality assessment rate annually on a per-resident-day basis, exclusive of those resident days funded by the Medicare program, as reported by the facilities. The per-resident-day assessment rate shall be uniform except as prescribed in subsection (3). Each facility shall report monthly to the agency its total number of resident days, exclusive of Medicare Part A resident days, and shall remit an amount equal to the assessment rate times the reported number of days. The

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agency shall collect, and each facility shall pay, the quality assessment each month. The agency shall collect the assessment from nursing home facility providers by no later than the 15th of the next succeeding calendar month. The agency shall notify providers of the quality assessment and provide a standardized form to complete and submit with payments. The collection of the nursing home facility quality assessment shall commence no sooner than 5 days after the agency's initial payment of the Medicaid rates containing the elements prescribed in subsection (4). Nursing home facilities may not create a separate line-item charge for the purpose of passing through the assessment to residents.

Section 5. Paragraph (a) of subsection (2) of section 409.911, Florida Statutes, is amended to read:

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

(2) The Agency for Health Care Administration shall use the following actual audited data to determine the Medicaid days and charity care to be used in calculating the disproportionate share payment:

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(a) The average of the 2004, 2005, and 2006 ~~2003, 2004,~~
~~and 2005~~ audited disproportionate share data to determine each
hospital's Medicaid days and charity care for the 2011-2012
~~2010-2011~~ state fiscal year.

Section 6. Section 409.9112, Florida Statutes, is amended
to read:

409.9112 Disproportionate share program for regional
perinatal intensive care centers.—In addition to the payments
made under s. 409.911, the agency shall design and implement a
system for making disproportionate share payments to those
hospitals that participate in the regional perinatal intensive
care center program established pursuant to chapter 383. The
system of payments must conform to federal requirements and
distribute funds in each fiscal year for which an appropriation
is made by making quarterly Medicaid payments. Notwithstanding
s. 409.915, counties are exempt from contributing toward the
cost of this special reimbursement for hospitals serving a
disproportionate share of low-income patients. For the 2011-2012
~~2010-2011~~ state fiscal year, the agency may not distribute
moneys under the regional perinatal intensive care centers
disproportionate share program.

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

$$TAE = HDSP/THDSP$$

Where:

TAE = total amount earned by a regional perinatal intensive

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309 | care center.

310 | HDSP = the prior state fiscal year regional perinatal
311 | intensive care center disproportionate share payment to the
312 | individual hospital.

313 | THDSP = the prior state fiscal year total regional
314 | perinatal intensive care center disproportionate share payments
315 | to all hospitals.

316 |

317 | (2) The total additional payment for hospitals that
318 | participate in the regional perinatal intensive care center
319 | program shall be calculated by the agency as follows:

320 |

321 | TAP = TAE x TA

322 | Where:

323 | TAP = total additional payment for a regional perinatal
324 | intensive care center.

325 | TAE = total amount earned by a regional perinatal intensive
326 | care center.

327 | TA = total appropriation for the regional perinatal
328 | intensive care center disproportionate share program.

329 |

330 | (3) In order to receive payments under this section, a
331 | hospital must be participating in the regional perinatal
332 | intensive care center program pursuant to chapter 383 and must
333 | meet the following additional requirements:

334 | (a) Agree to conform to all departmental and agency
335 | requirements to ensure high quality in the provision of
336 | services, including criteria adopted by departmental and agency

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rule concerning staffing ratios, medical records, standards of care, equipment, space, and such other standards and criteria as the department and agency deem appropriate as specified by rule.

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

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

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

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

(f) Agree to sponsor a program of continuing education in perinatal care for health care professionals within the region of the hospital, as specified by rule.

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

(h) Agree to arrange for transportation for high-risk obstetrical patients and neonates in need of transfer from the

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community to the hospital or from the hospital to another more appropriate facility.

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

Section 7. Section 409.9113, Florida Statutes, is amended to read:

409.9113 Disproportionate share program for teaching hospitals.—In addition to the payments made under ss. 409.911 and 409.9112, the agency shall make disproportionate share payments to statutorily defined teaching hospitals for their increased costs associated with medical education programs and for tertiary health care services provided to the indigent. This system of payments must conform to federal requirements and distribute funds in each fiscal year for which an appropriation is made by making quarterly Medicaid payments. Notwithstanding s. 409.915, counties are exempt from contributing toward the cost of this special reimbursement for hospitals serving a disproportionate share of low-income patients. For the 2011-2012 ~~2010-2011~~ state fiscal year, the agency shall distribute the moneys provided in the General Appropriations Act to statutorily defined teaching hospitals and family practice teaching hospitals under the teaching hospital disproportionate share

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393 program. The funds provided for statutorily defined teaching
394 hospitals shall be distributed in the same proportion as the
395 state fiscal year 2003-2004 teaching hospital disproportionate
396 share funds were distributed or as otherwise provided in the
397 General Appropriations Act. The funds provided for family
398 practice teaching hospitals shall be distributed equally among
399 family practice teaching hospitals.

400 (1) On or before September 15 of each year, the agency
401 shall calculate an allocation fraction to be used for
402 distributing funds to state statutory teaching hospitals.
403 Subsequent to the end of each quarter of the state fiscal year,
404 the agency shall distribute to each statutory teaching hospital,
405 as defined in s. 408.07, an amount determined by multiplying
406 one-fourth of the funds appropriated for this purpose by the
407 Legislature times such hospital's allocation fraction. The
408 allocation fraction for each such hospital shall be determined
409 by the sum of the following three primary factors, divided by
410 three:

411 (a) The number of nationally accredited graduate medical
412 education programs offered by the hospital, including programs
413 accredited by the Accreditation Council for Graduate Medical
414 Education and the combined Internal Medicine and Pediatrics
415 programs acceptable to both the American Board of Internal
416 Medicine and the American Board of Pediatrics at the beginning
417 of the state fiscal year preceding the date on which the
418 allocation fraction is calculated. The numerical value of this
419 factor is the fraction that the hospital represents of the total
420 number of programs, where the total is computed for all state

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421 | statutory teaching hospitals.

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

424 | 1. The number of trainees enrolled in nationally
425 | accredited graduate medical education programs, as defined in
426 | paragraph (a). Full-time equivalents are computed using the
427 | fraction of the year during which each trainee is primarily
428 | assigned to the given institution, over the state fiscal year
429 | preceding the date on which the allocation fraction is
430 | calculated. The numerical value of this factor is the fraction
431 | that the hospital represents of the total number of full-time
432 | equivalent trainees enrolled in accredited graduate programs,
433 | where the total is computed for all state statutory teaching
434 | hospitals.

435 | 2. The number of medical students enrolled in accredited
436 | colleges of medicine and engaged in clinical activities,
437 | including required clinical clerkships and clinical electives.
438 | Full-time equivalents are computed using the fraction of the
439 | year during which each trainee is primarily assigned to the
440 | given institution, over the course of the state fiscal year
441 | preceding the date on which the allocation fraction is
442 | calculated. The numerical value of this factor is the fraction
443 | that the given hospital represents of the total number of full-
444 | time equivalent students enrolled in accredited colleges of
445 | medicine, where the total is computed for all state statutory
446 | teaching hospitals.

447 |

448 | The primary factor for full-time equivalent trainees is computed

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as the sum of these two components, divided by two.

(c) A service index that comprises three components:

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

2. A volume-weighted service index, computed by applying the standard Service Inventory Scores established by the Agency for Health Care Administration to the volume of each service, expressed in terms of the standard units of measure reported on Worksheet A-2 for the last fiscal year reported to the agency before the date on which the allocation factor is calculated. The numerical value of this factor is the fraction that the given hospital represents of the total volume-weighted service index values, where the total is computed for all state statutory teaching hospitals.

3. Total Medicaid payments to each hospital for direct inpatient and outpatient services during the fiscal year preceding the date on which the allocation factor is calculated. This includes payments made to each hospital for such services by Medicaid prepaid health plans, whether the plan was administered by the hospital or not. The numerical value of this

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factor is the fraction that each hospital represents of the total of such Medicaid payments, where the total is computed for all state statutory teaching hospitals.

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

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

$$TAP = THAF \times A$$

Where:

TAP = total additional payment.

THAF = teaching hospital allocation factor.

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

Section 8. Section 409.9117, Florida Statutes, is amended to read:

409.9117 Primary care disproportionate share program.—For the 2011-2012 ~~2010-2011~~ state fiscal year, the agency shall not distribute moneys under the primary care disproportionate share program.

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

(2) The following formula shall be used by the agency to calculate the total amount earned for hospitals that participate

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505 in the primary care disproportionate share program:

506

507
$$TAE = HDSP / THDSP$$

508 Where:

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

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

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

515

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

519

520
$$TAP = TAE \times TA$$

521

522 Where:

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

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

525 TA = total appropriation for the primary care
526 disproportionate share program.

527

528 (4) In the establishment and funding of this program, the
529 agency shall use the following criteria in addition to those
530 specified in s. 409.911, and payments may not be made to a
531 hospital unless the hospital agrees to:

532 (a) Cooperate with a Medicaid prepaid health plan, if one

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exists in the community.

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

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

(d) Contract with any federally qualified health center, if one exists within the agreed geopolitical boundaries, concerning the provision of primary care services, in order to guarantee delivery of services in a nonduplicative fashion, and to provide for referral arrangements, privileges, and admissions, as appropriate. The hospital shall agree to provide at an onsite or offsite facility primary care services within 24 hours to which all Medicaid recipients and persons eligible under this paragraph who do not require emergency room services are referred during normal daylight hours.

(e) Cooperate with the agency, the county, and other entities to ensure the provision of certain public health

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561 services, case management, referral and acceptance of patients,
562 and sharing of epidemiological data, as the agency and the
563 hospital find mutually necessary and desirable to promote and
564 protect the public health within the agreed geopolitical
565 boundaries.

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

570 (g) Provide inpatient services to residents within the
571 area who are not eligible for Medicaid or Medicare, and who do
572 not have private health insurance, regardless of ability to pay,
573 on the basis of available space, except that hospitals may not
574 be prevented from establishing bill collection programs based on
575 ability to pay.

576 (h) Work with the Florida Healthy Kids Corporation, the
577 Florida Health Care Purchasing Cooperative, and business health
578 coalitions, as appropriate, to develop a feasibility study and
579 plan to provide a low-cost comprehensive health insurance plan
580 to persons who reside within the area and who do not have access
581 to such a plan.

582 (i) Work with public health officials and other experts to
583 provide community health education and prevention activities
584 designed to promote healthy lifestyles and appropriate use of
585 health services.

586 (j) Work with the local health council to develop a plan
587 for promoting access to affordable health care services for all
588 persons who reside within the area, including, but not limited

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to, public health services, primary care services, inpatient services, and affordable health insurance generally.

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

Section 9. Paragraph (b) of subsection (16) and paragraph (a) of subsection (39) of section 409.912, Florida Statutes, are amended to read:

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

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617 inpatient, custodial, and other institutional care and the
 618 inappropriate or unnecessary use of high-cost services. The
 619 agency shall contract with a vendor to monitor and evaluate the
 620 clinical practice patterns of providers in order to identify
 621 trends that are outside the normal practice patterns of a
 622 provider's professional peers or the national guidelines of a
 623 provider's professional association. The vendor must be able to
 624 provide information and counseling to a provider whose practice
 625 patterns are outside the norms, in consultation with the agency,
 626 to improve patient care and reduce inappropriate utilization.
 627 The agency may mandate prior authorization, drug therapy
 628 management, or disease management participation for certain
 629 populations of Medicaid beneficiaries, certain drug classes, or
 630 particular drugs to prevent fraud, abuse, overuse, and possible
 631 dangerous drug interactions. The Pharmaceutical and Therapeutics
 632 Committee shall make recommendations to the agency on drugs for
 633 which prior authorization is required. The agency shall inform
 634 the Pharmaceutical and Therapeutics Committee of its decisions
 635 regarding drugs subject to prior authorization. The agency is
 636 authorized to limit the entities it contracts with or enrolls as
 637 Medicaid providers by developing a provider network through
 638 provider credentialing. The agency may competitively bid single-
 639 source-provider contracts if procurement of goods or services
 640 results in demonstrated cost savings to the state without
 641 limiting access to care. The agency may limit its network based
 642 on the assessment of beneficiary access to care, provider
 643 availability, provider quality standards, time and distance
 644 standards for access to care, the cultural competence of the

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645 provider network, demographic characteristics of Medicaid
646 beneficiaries, practice and provider-to-beneficiary standards,
647 appointment wait times, beneficiary use of services, provider
648 turnover, provider profiling, provider licensure history,
649 previous program integrity investigations and findings, peer
650 review, provider Medicaid policy and billing compliance records,
651 clinical and medical record audits, and other factors. Providers
652 shall not be entitled to enrollment in the Medicaid provider
653 network. The agency shall determine instances in which allowing
654 Medicaid beneficiaries to purchase durable medical equipment and
655 other goods is less expensive to the Medicaid program than long-
656 term rental of the equipment or goods. The agency may establish
657 rules to facilitate purchases in lieu of long-term rentals in
658 order to protect against fraud and abuse in the Medicaid program
659 as defined in s. 409.913. The agency may seek federal waivers
660 necessary to administer these policies.

661 (16)

662 (b) The responsibility of the agency under this subsection
663 shall include the development of capabilities to identify actual
664 and optimal practice patterns; patient and provider educational
665 initiatives; methods for determining patient compliance with
666 prescribed treatments; fraud, waste, and abuse prevention and
667 detection programs; and beneficiary case management programs.

668 1. The practice pattern identification program shall
669 evaluate practitioner prescribing patterns based on national and
670 regional practice guidelines, comparing practitioners to their
671 peer groups. The agency and its Drug Utilization Review Board
672 shall consult with the Department of Health and a panel of

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673 practicing health care professionals consisting of the
674 following: the Speaker of the House of Representatives and the
675 President of the Senate shall each appoint three physicians
676 licensed under chapter 458 or chapter 459; and the Governor
677 shall appoint two pharmacists licensed under chapter 465 and one
678 dentist licensed under chapter 466 who is an oral surgeon. Terms
679 of the panel members shall expire at the discretion of the
680 appointing official. The advisory panel shall be responsible for
681 evaluating treatment guidelines and recommending ways to
682 incorporate their use in the practice pattern identification
683 program. Practitioners who are prescribing inappropriately or
684 inefficiently, as determined by the agency, may have their
685 prescribing of certain drugs subject to prior authorization or
686 may be terminated from all participation in the Medicaid
687 program.

688 2. The agency shall also develop educational interventions
689 designed to promote the proper use of medications by providers
690 and beneficiaries.

691 3. The agency shall implement a pharmacy fraud, waste, and
692 abuse initiative that may include a surety bond or letter of
693 credit requirement for participating pharmacies, enhanced
694 provider auditing practices, the use of additional fraud and
695 abuse software, recipient management programs for beneficiaries
696 inappropriately using their benefits, and other steps that will
697 eliminate provider and recipient fraud, waste, and abuse. The
698 initiative shall address enforcement efforts to reduce the
699 number and use of counterfeit prescriptions.

700 4. ~~By September 30, 2002,~~ The agency may ~~shall~~ contract

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with an entity in the state to provide electronic access to
Medicaid prescription refill data and information relating to
the Medicaid Preferred Drug List to Medicaid providers ~~implement~~
~~a wireless handheld clinical pharmacology drug information~~
~~database for practitioners~~. The initiative shall be designed to
 enhance the agency's efforts to reduce fraud, abuse, and errors
 in the prescription drug benefit program and to otherwise
 further the intent of this paragraph.

5. By April 1, 2006, the agency shall contract with an
 entity to design a database of clinical utilization information
 or electronic medical records for Medicaid providers. This
 system must be web-based and allow providers to review on a
 real-time basis the utilization of Medicaid services, including,
 but not limited to, physician office visits, inpatient and
 outpatient hospitalizations, laboratory and pathology services,
 radiological and other imaging services, dental care, and
 patterns of dispensing prescription drugs in order to coordinate
 care and identify potential fraud and abuse.

6. The agency may apply for any federal waivers needed to
 administer this paragraph.

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

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

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

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

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

2. Reimbursement to pharmacies for Medicaid prescribed drugs shall be set at the lowest ~~lesser~~ of: the average wholesale price (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC) plus 3.75 ~~4.75~~ percent, the federal upper

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757 limit (FUL), the state maximum allowable cost (SMAC), or the
758 usual and customary (UAC) charge billed by the provider.

759 3. The agency shall develop and implement a process for
760 managing the drug therapies of Medicaid recipients who are using
761 significant numbers of prescribed drugs each month. The
762 management process may include, but is not limited to,
763 comprehensive, physician-directed medical-record reviews, claims
764 analyses, and case evaluations to determine the medical
765 necessity and appropriateness of a patient's treatment plan and
766 drug therapies. The agency may contract with a private
767 organization to provide drug-program-management services. The
768 Medicaid drug benefit management program shall include
769 initiatives to manage drug therapies for HIV/AIDS patients,
770 patients using 20 or more unique prescriptions in a 180-day
771 period, and the top 1,000 patients in annual spending. The
772 agency shall enroll any Medicaid recipient in the drug benefit
773 management program if he or she meets the specifications of this
774 provision and is not enrolled in a Medicaid health maintenance
775 organization.

776 4. The agency may limit the size of its pharmacy network
777 based on need, competitive bidding, price negotiations,
778 credentialing, or similar criteria. The agency shall give
779 special consideration to rural areas in determining the size and
780 location of pharmacies included in the Medicaid pharmacy
781 network. A pharmacy credentialing process may include criteria
782 such as a pharmacy's full-service status, location, size,
783 patient educational programs, patient consultation, disease
784 management services, and other characteristics. The agency may

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785 impose a moratorium on Medicaid pharmacy enrollment when it is
786 determined that it has a sufficient number of Medicaid-
787 participating providers. The agency must allow dispensing
788 practitioners to participate as a part of the Medicaid pharmacy
789 network regardless of the practitioner's proximity to any other
790 entity that is dispensing prescription drugs under the Medicaid
791 program. A dispensing practitioner must meet all credentialing
792 requirements applicable to his or her practice, as determined by
793 the agency.

794 5. The agency shall develop and implement a program that
795 requires Medicaid practitioners who prescribe drugs to use a
796 counterfeit-proof prescription pad for Medicaid prescriptions.
797 The agency shall require the use of standardized counterfeit-
798 proof prescription pads by Medicaid-participating prescribers or
799 prescribers who write prescriptions for Medicaid recipients. The
800 agency may implement the program in targeted geographic areas or
801 statewide.

802 6. The agency may enter into arrangements that require
803 manufacturers of generic drugs prescribed to Medicaid recipients
804 to provide rebates of at least 15.1 percent of the average
805 manufacturer price for the manufacturer's generic products.
806 These arrangements shall require that if a generic-drug
807 manufacturer pays federal rebates for Medicaid-reimbursed drugs
808 at a level below 15.1 percent, the manufacturer must provide a
809 supplemental rebate to the state in an amount necessary to
810 achieve a 15.1-percent rebate level.

811 7. The agency may establish a preferred drug list as
812 described in this subsection, and, pursuant to the establishment

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of such preferred drug list, it is authorized to negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act and at no less than 14 percent of the average manufacturer price as defined in 42 U.S.C. s. 1936 on the last day of a quarter unless the federal or supplemental rebate, or both, equals or exceeds 29 percent. There is no upper limit on the supplemental rebates the agency may negotiate. The agency may determine that specific products, brand-name or generic, are competitive at lower rebate percentages. Agreement to pay the minimum supplemental rebate percentage will guarantee a manufacturer that the Medicaid Pharmaceutical and Therapeutics Committee will consider a product for inclusion on the preferred drug list. However, a pharmaceutical manufacturer is not guaranteed placement on the preferred drug list by simply paying the minimum supplemental rebate. Agency decisions will be made on the clinical efficacy of a drug and recommendations of the Medicaid Pharmaceutical and Therapeutics Committee, as well as the price of competing products minus federal and state rebates. The agency is authorized to contract with an outside agency or contractor to conduct negotiations for supplemental rebates. For the purposes of this section, the term "supplemental rebates" means cash rebates. Effective July 1, 2004, value-added programs as a substitution for supplemental rebates are prohibited. The agency is authorized to seek any federal waivers to implement this initiative.

8. The Agency for Health Care Administration shall expand home delivery of pharmacy products. The agency is authorized to

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841 amend the state plan and issue a procurement, as necessary, in
842 order to implement this program. The procurements shall include
843 agreements with a pharmacy or pharmacies located in the state to
844 provide mail order delivery services at no cost to the
845 recipients who elect to receive home delivery of pharmacy
846 products. The procurement shall focus on serving recipients with
847 chronic diseases for which pharmacy expenditures represent a
848 significant portion of Medicaid pharmacy expenditures or which
849 impact a significant portion of the Medicaid population. To
850 ~~assist Medicaid patients in securing their prescriptions and~~
851 ~~reduce program costs, the agency shall expand its current mail-~~
852 ~~order pharmacy diabetes supply program to include all generic~~
853 ~~and brand-name drugs used by Medicaid patients with diabetes.~~
854 ~~Medicaid recipients in the current program may obtain~~
855 ~~nondiabetes drugs on a voluntary basis. This initiative is~~
856 ~~limited to the geographic area covered by the current contract.~~
857 The agency may seek and implement any federal waivers necessary
858 to implement this subparagraph.

859 9. The agency shall limit to one dose per month any drug
860 prescribed to treat erectile dysfunction.

861 10.a. The agency may implement a Medicaid behavioral drug
862 management system. The agency may contract with a vendor that
863 has experience in operating behavioral drug management systems
864 to implement this program. The agency is authorized to seek
865 federal waivers to implement this program.

866 b. The agency, in conjunction with the Department of
867 Children and Family Services, may implement the Medicaid
868 behavioral drug management system that is designed to improve

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the quality of care and behavioral health prescribing practices based on best practice guidelines, improve patient adherence to medication plans, reduce clinical risk, and lower prescribed drug costs and the rate of inappropriate spending on Medicaid behavioral drugs. The program may include the following elements:

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

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

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

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

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

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

900 (VII) Disseminate electronic and published materials.

901 (VIII) Hold statewide and regional conferences.

902 (IX) Implement a disease management program with a model
903 quality-based medication component for severely mentally ill
904 individuals and emotionally disturbed children who are high
905 users of care.

906 11.a. The agency shall implement a Medicaid prescription
907 drug management system. The agency may contract with a vendor
908 that has experience in operating prescription drug management
909 systems in order to implement this system. Any management system
910 that is implemented in accordance with this subparagraph must
911 rely on cooperation between physicians and pharmacists to
912 determine appropriate practice patterns and clinical guidelines
913 to improve the prescribing, dispensing, and use of drugs in the
914 Medicaid program. The agency may seek federal waivers to
915 implement this program.

916 b. The drug management system must be designed to improve
917 the quality of care and prescribing practices based on best
918 practice guidelines, improve patient adherence to medication
919 plans, reduce clinical risk, and lower prescribed drug costs and
920 the rate of inappropriate spending on Medicaid prescription
921 drugs. The program must:

922 (I) Provide for the ~~development and~~ adoption of best
923 practice guidelines for the prescribing and use of drugs in the
924 Medicaid program, including translating best practice guidelines

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925 into practice; reviewing prescriber patterns and comparing them
 926 to indicators that are based on national standards and practice
 927 patterns of clinical peers in their community, statewide, and
 928 nationally; and determine deviations from best practice
 929 guidelines.

930 (II) Implement processes for providing feedback to and
 931 educating prescribers using best practice educational materials
 932 and peer-to-peer consultation.

933 (III) Assess Medicaid recipients who are outliers in their
 934 use of a single or multiple prescription drugs with regard to
 935 the numbers and types of drugs taken, drug dosages, combination
 936 drug therapies, and other indicators of improper use of
 937 prescription drugs.

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

942 ~~(V) Track spending trends for prescription drugs and~~
 943 ~~deviation from best practice guidelines.~~

944 ~~(VI) Use educational and technological approaches to~~
 945 ~~promote best practices, educate consumers, and train prescribers~~
 946 ~~in the use of practice guidelines.~~

947 ~~(VII) Disseminate electronic and published materials.~~

948 ~~(VIII) Hold statewide and regional conferences.~~

949 ~~(IX) Implement disease management programs in cooperation~~
 950 ~~with physicians and pharmacists, along with a model quality-~~
 951 ~~based medication component for individuals having chronic~~
 952 ~~medical conditions.~~

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

13. The agency may specify the preferred daily dosing form or strength for the purpose of promoting best practices with regard to the prescribing of certain drugs as specified in the General Appropriations Act and ensuring cost-effective prescribing practices.

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

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

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

15. The agency, in conjunction with the Pharmaceutical and Therapeutics Committee, may require age-related prior authorizations for certain prescribed drugs. The agency may preauthorize the use of a drug for a recipient who may not meet

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the age requirement or may exceed the length of therapy for use of this product as recommended by the manufacturer and approved by the Food and Drug Administration. Prior authorization may require the prescribing professional to provide information about the rationale and supporting medical evidence for the use of a drug.

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

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

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

c. Based on historic evidence and known characteristics of

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the patient and the drug, the drug is likely to be ineffective,
or the number of doses have been ineffective.

The agency shall work with the physician to determine the best
alternative for the patient. The agency may adopt rules waiving
the requirements for written clinical documentation for specific
drugs in limited clinical situations.

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

Section 10. Notwithstanding s. 430.707, Florida Statutes,
and subject to federal approval of the application to be a site
for the Program of All-inclusive Care for the Elderly, the
Agency for Health Care Administration shall contract with one
private health care organization, the sole member of which is a

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1037 private, not-for-profit corporation that owns and manages health
 1038 care organizations which provide comprehensive long-term care
 1039 services, including nursing home, assisted living, independent
 1040 housing, home care, adult day care, and care management, with a
 1041 board-certified, trained geriatrician as the medical director.
 1042 This organization shall provide these services to frail and
 1043 elderly persons who reside in Palm Beach County. The
 1044 organization shall be exempt from the requirements of chapter
 1045 641, Florida Statutes. The agency, in consultation with the
 1046 Department of Elderly Affairs and subject to an appropriation,
 1047 shall approve up to 150 initial enrollees in the Program of All-
 1048 inclusive Care for the Elderly established by this organization
 1049 to serve elderly persons who reside in Palm Beach County.

1050 Section 11. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. 5311 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Appropriations Committee
Representative(s) Hudson offered the following:

Amendment (with title amendment)

Between lines 264 and 265, insert:

Section 5. Subsection (8) of section 409.9083, Florida
Statutes, is amended to read:

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

~~(8) This section is repealed October 1, 2011.~~

T I T L E A M E N D M E N T

Remove line 25 and insert:
with federal law; amending s. 409.9083, F.S.; eliminating the
repeal date of the quality assessment on privately operated

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. 5311 (2011)

Amendment No. 1

19 intermediate care facilities for the developmentally disabled;
20 amending 409.911, F.S.; updating the